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Thursday
April 4, 1996

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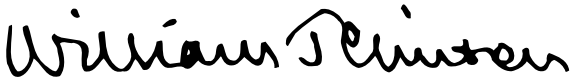
Title 3—

The President

Executive Order 12997 of April 1, 1996

Korean Peninsula Energy Development Organization

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1 of the International Organizations Immunities Act (59 Stat. 669, 22 U.S.C. 288), and having found that the Korean Peninsula Energy Development Organization is a public international organization in which the United States participates within the meaning of the International Organizations Immunities Act, I hereby designate the Korean Peninsula Energy Development Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect privileges, exemptions, or immunities that such organization may have acquired or may acquire by international agreements or by congressional action.



THE WHITE HOUSE,
April 1, 1996.

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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1208

[AMS–FV–96–702 IFR]

Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order; Suspension of Late Payment Charges

AGENCY: Agricultural Marketing Service (USDA).

ACTION: Interim final rule, suspension.

SUMMARY: This interim final rule suspends, until April 30, 1996, portions of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order) relating to assessment late payment charges. This action allows the National PromoFlor Council (Council) to cease levying late charges on past due assessments remitted by qualified handlers during the period January 15, 1995, through April 30, 1996. The suspension also permits the Council to refund late charges which have been collected since January 15, 1995. The Council recommended this suspension because it discovered that some qualified handlers were unfamiliar with the new fresh cut flowers and greens program.

EFFECTIVE DATE: January 15, 1995, through April 30, 1996.

Comments must be received by May 6, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule to: Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service (AMS), USDA, P.O. Box 96456, Room 2535–S, Washington, DC 20090–6456; fax (202) 205–2800. Three copies of all written material should be submitted, and they will be made available for public inspection at the Research and Promotion Branch during regular business hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535–S, Washington, D.C. 20090–6456; telephone (202) 720–9915.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 [Pub. L. 103–190], (7 U.S.C. 6801 *et seq.*) hereinafter referred to as the Act.

This interim final rule has been issued in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action suspends late charges on past due assessments remitted by qualified handlers during the period January 15, 1995, through April 30, 1996. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 8 of the Act, a person subject to the order may file a petition with the Secretary stating that the order or any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Only those wholesale handlers, retail distribution centers, producers, and importers who have annual sales of $750,000 or more of cut flowers and greens and who sell those products to exempt handlers, retailers, or consumers are considered qualified handlers and assessed under the Order. There are approximately 900 wholesaler handlers, 150 importers, and 200 domestic producers who are qualified handlers.

The majority of these qualified handlers would be classified as small businesses. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5 million.

The Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities. This action benefits qualified handlers by preventing the levy of later charges which they might otherwise be subject to.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], and OMB regulations [5 CFR Part 1320], the information collection and recordkeeping requirements contained in this action were submitted to the OMB and approved under OMB control number 0581–0093 and has an expiration date of January 31, 1997. This action adds no additional reporting burden.

Background

The Order became effective on December 29, 1994 [59 CFR 67139]. During the first year of operation, the National PromoFlor Council (Council) has discovered that some qualified handlers were unfamiliar with the new fresh cut flowers and greens program. Consequently, such qualified handlers have remitted their assessments late or failed to remit their assessments, unknowingly subjecting themselves to late payment charges. The Council believes that the late payment charges are not serving their intended purpose of stimulating timely remittance of assessments due. Instead the late payment charges have been applicable to persons having difficulty adjusting their operations to conform with the requirements of the new program and

those who were legitimately unaware of the program's existence.

This action suspends section 1208.52 of the Order and allows the Council to cease levying late charges on past due assessments remitted by handlers during the period January 15, 1995, through April 30, 1996. This suspension also permits the Council to refund late charges which have been collected since January 15, 1995.

Suspension of late charges only applies to past due assessments remitted to the Board postmarked prior to midnight April 30, 1996. Assessment payments postmarked and received after April 30, 1996, would be subject to the late charges that would have been due had these provisions not been suspended.

Based on available information, the Administrator of the AMS has determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

For the reasons set forth herein, the provisions of section 1208.52 of the Order are suspended for the period January 15, 1995, through April 30, 1996.

After consideration of all relevant material, it is found that the order provisions subject to this action do not tend to effectuate the declared policy of the Act and are suspended for the period provide for in this action.

Pursuant to the provisions in 5 U.S.C. 553, it is found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this action into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register, because: (1) This action removes an economic burden from qualified handlers; (2) this action will serve to encourage qualified handlers with past due assessments to remit such assessments before the April 30, 1996, close of the suspension period, thereby avoiding the payment of late charges; and (3) payment of past due assessments by such qualified handlers will enable them to come into compliance with the Act and the Order.

A 30-day comment period is provided to allow interested persons to respond to this action.

List of Subjects in 7 CFR Part 1208

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Cut flowers, Cut greens, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1208 is amended as follows:

PART 1208—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ORDER

1. The authority citation for 7 CFR part 1208 continues to read as follows:

Authority: 7 U.S.C. 6801 *et seq.*

§ 1208.52 [Suspended in part]

2. In Part 1208, section 1208.52 is suspended effective January 15, 1995, through April 30, 1996.

Dated: March 20, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96–8244 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–0903]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; official staff interpretation.

SUMMARY: The Board is publishing revisions to the official staff commentary to Regulation Z (Truth in Lending). The commentary applies and interprets the requirements of Regulation Z. The revisions provide guidance mainly on issues relating to reverse mortgages and mortgages bearing rates above a certain percentage or fees above a certain amount. The update also addresses issues of general interest, such as a card issuer's responsibilities when a cardholder asserts a claim or defense relating to a merchant dispute.

DATES: This rule is effective April 1, 1996. Compliance is optional until October 1, 1996.

FOR FURTHER INFORMATION CONTACT: For Subparts A and B (open-end credit), Jane Ahrens, Senior Attorney or Jane Jensen Gell, Staff Attorney; for Subparts A, C and E (closed-end credit, reverse mortgages, and mortgages bearing rates or fees above a certain percentage or amount), Ms. Ahrens or Michael Hentrel, Kurt Schumacher, or Manley Williams, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412. For users of Telecommunications Device for the Deaf (TDD) *only,* please contact Dorthea Thompson, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Truth in Lending Act (TILA; 15 U.S.C. 1601 et seq.) is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The act requires creditors to disclose credit terms and the cost of credit as an annual percentage rate (APR). The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. It also imposes limitations on some credit transactions secured by a consumer's principal dwelling. The act is implemented by the Board's Regulation Z (12 CFR part 226). The Board also has an official staff commentary (12 CFR part 226 (Supp. I)) that interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions. It is updated periodically to address significant questions that arise, and is a substitute for individual staff interpretations.

In December, the Board published proposed amendments to the commentary to Regulation Z (60 FR 62764, December 7, 1995). The Board received about 120 comments. Nearly 75 percent of the comments received were from financial institutions, mortgage lenders, credit or guarantee automobile protection (GAP) insurance providers, pawnbrokers or other creditors (or their representatives); the remainder were from consumer representatives, government officials, lawyers and individuals. Overall, commenters generally supported the proposed amendments. Views were mixed on a number of comments. In particular, nearly 60 percent of the commenters addressed the comment treating certain debt cancellation agreements as finance charges; most opposed the proposal. Except as discussed below, the update has been adopted as proposed. Technical amendments to proposed comments that respond to commenters' suggestions or concerns are not specifically addressed in these supplementary materials. Compliance with the commentary update is mandatory on October 1, 1996.

The revisions mainly incorporate guidance given in the supplementary information that accompanied an amendment to Regulation Z implementing the Home Ownership and Equity Protection Act of 1994 (HOEPA),

contained in the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, 108 Stat. 2160. These amendments, published on March 24, 1995, and which became effective the following October 1, impose new disclosure requirements and substantive limitations on certain closed-end mortgage loans bearing rates or fees above a certain percentage or amount (60 FR 15463). The amendments also impose new disclosure requirements for reverse mortgage transactions.

The update does not reflect changes to the commentary regarding recent amendments to the TILA concerning finance charge disclosures for home mortgage loans. The Truth in Lending Act Amendments of 1995 (1995 Amendments, Pub. L. 104–29, 109 Stat. 271) clarify the treatment of several fees typically associated with real estate-related lending. Some provisions exclude certain real estate-related closing costs from the finance charge, which generally codify interpretations already provided in this commentary. One provision categorizes all brokers fees paid by the consumer to the broker (or to the creditor for delivery to the broker) as finance charges. The 1995 Amendments also revise tolerances for finance charge calculations for loans secured by real estate or dwellings. The Board expects to publish proposed amendments to Regulation Z implementing the 1995 Amendments; corresponding revisions to the commentary will be proposed as part of that rulemaking.

II. Commentary Revisions

Subpart A—General

Section 226.4—Finance Charge

4(a) Definition

The Board received a substantial number of comments regarding proposed comment 4(a)–8, which addressed the treatment of fees charged in connection with debt cancellation agreements. Many commenters believed that debt cancellation fees should be treated as insurance premiums under § 226.4(d), which allows a creditor to exclude optional credit life and certain property insurance premiums from the finance charge if the creditor meets certain conditions, including disclosure of the premium. As proposed, the comment sought to clarify that, under the existing regulation, debt cancellation fees can be excluded from the finance charge only if they are ''insurance'' and all the requirements of § 226.4(d) are satisfied. The Board has not defined the term ''insurance'' for purposes of the rules governing insurance premiums in § 226.4(d), but has instead deferred to state law. The proposed comment was consistent with this approach.

The comments, mostly from creditors or their trade associations, expressed concern about the need to determine on a state-by-state basis whether debt cancellation fees should be treated as insurance premiums. Many commenters believed that a state law analysis would create a lack of uniformity in measuring the cost of credit, contrary to the purposes of the TILA, because debt cancellation fees would be included in the finance charge and APR in some states and not in others. Several commenters expressed concern about potential liability if state law is unclear.

In response to these concerns, the proposed comment regarding debt cancellation fees has been withdrawn. The issues raised by the commenters regarding equal treatment of such fees would be better addressed in the context of a regulatory amendment; it is anticipated that a proposed rule governing debt cancellation fees would be considered along with proposed regulations to implement the 1995 Amendments.

Subpart B—Open-End Credit

Section 226.6—Initial Disclosure Statement

6(b) Other Charges

Comment 6(b)–1 clarifies that a membership fee to join an organization is an ''other charge'' if the primary benefit of membership is the opportunity to apply for a credit card and other benefits are merely incidental. The comment clarifies that creditors cannot avoid disclosing a fee as an ''other charge'' by characterizing the fee as one entitling the consumer to belong to an organization, if the organization has no substantive benefits other than obtaining the credit. If an independent organization and a card issuer enter into an agreement offering the opportunity to apply for a credit card as one of several benefits of membership in the organization, these benefits would generally not be considered to be merely incidental to the credit feature.

Section 226.12—Special Credit Card Rules

12(c) Right of Cardholder To Assert Claims or Defenses Against Card Issuer

12(c)(2) Adverse Credit Reports Prohibited

Comments 12(c)(2)–1 and –2 address a card issuer's responsibilities in responding to a cardholder's right to assert a claim or defense.

Comment 12(c)(2)–2 provides guidance on when a card issuer may consider a dispute settled for purposes of reporting an amount in dispute as delinquent. Several commenters expressed concern that the proposed comment would not permit card issuers to terminate the investigation if the cardholder fails to respond to requests for information the card issuer can reasonably obtain only from the cardholder. A sentence has been added to clarify that in conducting an investigation, a card issuer's lack of knowledge resulting from the cardholder's failure or refusal to comply with a particular request may be used as a factor in resolving the dispute.

Card issuers cannot satisfy the requirement to conduct a reasonable investigation by accepting a merchant's view of the dispute without also giving the cardholder an opportunity to respond. The comment clarifies that a reasonable investigation includes an independent assessment of the cardholder's claim based on information from both the merchant and the cardholder, if possible. The card issuer's dispute resolution experience, if any, with the merchant would be a factor in that assessment.

Comment 12(c)(2)–1 also has been revised to clarify that a card issuer may continue its normal collection activities for the portion of the balance that is delinquent and undisputed. Some commenters believed that the regulation would permit card issuers to begin collection actions on an amount in dispute. Although the card issuer is not prohibited from undertaking its normal collection activities for delinquent accounts, amounts in dispute are not considered delinquent.

One commenter recommended that consumers be given notice of their rights under the claims and defenses provision. Such a notice requirement would be better addressed in the context of a regulatory amendment.

Section 226.14—Determination of Annual Percentage Rate

14(c) Annual Percentage Rate for Periodic Statements

Comment 14(c)–10 provides guidance on calculating the APR on periodic statements when a transaction occurs at the end of one cycle, but is posted to the account in a subsequent cycle. The comment clarifies how creditors using the date of the transaction to figure finance charges calculate the APR to reflect the delay in posting. Creditors using the posting date to calculate

finance charges are not affected by the comment. Creditors that calculate the APR in accord with comment 14(c)–10 for the billing cycle in which the transaction is posted need not furnish an amended statement for the previous cycle to reflect the missing transaction.

Subpart C—Closed-End Credit

Section 17—General Disclosure Requirements

17(c) Basis of Disclosure and Use of Estimates

Paragraph 17(c)(1)

Comment 17(c)(1)–10 is revised to clarify that if a contract for a variable-rate transaction provides for a delay in implementing changes in index values, the creditor may use any index in effect during the delay period. The last paragraph has been renumbered, and the first sentence in that paragraph is revised for clarity.

Comment 17(c)(1)–18 addresses pawn transactions. The comment clarifies that the term creditor may include pawnbrokers. The comment is adopted as proposed; it covers extensions of credit by pledging an item, or by selling an item with the opportunity to repurchase (which occurs seventy-five percent or more of the time, in the Board's understanding). Section 226.18 requires that creditors make certain disclosures as applicable, and this comment clarifies how some of the items required to be disclosed under § 226.18 (such as the amount financed, the finance charge, and the annual percentage rate) should be disclosed in a pawn transaction. The comment also provides guidance on when a separate itemization of the amount financed must be disclosed, and how to calculate the finance charge when fees are charged.

Section 18—Content of Disclosures

18(c) Itemization of Amount Financed

Paragraph 18(c)(1)(iii)

Comment 18(c)(1)(iii)–2 concerns the treatment of certain charges, such as finder's fees or commissions, that may sometimes be added to a fee charged by a third party for services such as extended warranties and service contracts on automobiles. The comment offers guidance on how creditors may itemize and disclose the amount charged for the service (including any amount the creditor may have retained).

For the most part, commenters agreed with the Board's proposed treatment. As proposed, the comment stated that a creditor could include in the ''amount paid to others,'' any amount retained by the creditor without itemizing or noting this fact. Concern is raised about the appropriateness of such treatment under the TILA where a substantial portion of a fee categorized as ''amounts paid to others,'' is in fact retained by the creditor. Accordingly, a sentence has been added to clarify that given the flexibility in itemizing the amount financed, creditors may reflect that they have retained a portion of the ''amount paid to others'' rather than disclosing the specific amount retained.

Section 226.20—Subsequent Disclosure Requirements

20(a) Refinancings

Comment 20(a)–3, as proposed, clarified that changing the index on a variable-rate transaction does not require new disclosures to consumers. Upon further analysis, the final comment provides that changing the index to a comparable index does not require new disclosures, whether the change replaces the existing index or substitutes an index for one that no longer exists.

Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 226.31—General Rules

31(c) Timing of Disclosures

31(c)(1) Disclosures for Certain Closed-End Home Mortgages

Comment 31(c)(1)–1 clarifies that for purposes of § 226.32, disclosures are furnished (that is, delivered) when received by the consumer, not when mailed by the creditor. The majority of the commenters opposed the proposal. Some suggested that the Board follow the timing requirements of § 226.19(a), which allows creditors to provide certain disclosures by mail. The timing rules in §§ 226.19(a) and 226.31 differ; however, the HOEPA requires a different interpretation of § 226.31(c)(1). The HOEPA's disclosure scheme is intended to ensure that consumers who have applied for a loan covered by § 226.32 are provided with basic cost information about the impending transaction, and have a period of time to consider whether to complete the transaction.

Comment 31(c)(1)–2 clarifies that while the definition of business days is the same as that for the right of rescission, the timing rules differ.

31(c)(1)(i) Change in Terms

Comment 31(c)(1)(i)–1 addresses a creditor's duty to provide new § 226.32(c) disclosures after a change in terms. As adopted, the comment incorporates the substance of proposed comment 31(d)–1, which provides that where there is a change in terms of disclosures labelled as estimates redisclosure is required. Further, language from the supplemental information accompanying the proposal has been added to clarify that a change in terms may result from a formal written agreement or otherwise.

31(c)(1)(ii) Telephone Disclosures

Based on comment and upon further analysis, comment 31(c)(1)(ii)–1, as adopted, uses business days for purposes of rescission, which is consistent with other timing requirements in § 226.31. The proposal would have allowed creditors to use calendar days to calculate the timing requirements for telephone disclosures which are permitted when a consumer initiates a change in terms.

31(c)(1)(iii) Consumer's Waiver of Waiting Period Before Consummation

Comment 31(c)(1)(iii)–1 provides guidance on circumstances in which the consumer may modify or waive the right to the three-day waiting period to meet bona fide personal financial emergencies. Language has been added to clarify that the impending sale of the consumer's home at foreclosure is an example of a bona fide personal financial emergency where foreclosure would occur during the three-day waiting period.

31(c)(2) Disclosures for Reverse Mortgages

To achieve consistency with other timing rules in § 226.31, comment 31(c)(2)–1 clarifies that for purposes of providing reverse mortgage disclosures to consumers, creditors are to use the definition of ''business day'' found in comment 31(c)(1)–2.

31(d) Basis of Disclosures and Use of Estimates

Comment 31(d)–1, as adopted, clarifies that, for purposes of Subpart E, the rule in § 226.31(c)(1)(i) requiring new disclosures when creditors change terms also applies to disclosures marked as estimates.

Section 226.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage

Paragraph 32(a)(1)(ii)

Comment 32(a)(1)(ii)–1, as adopted, includes an additional example illustrating the calculation of ''total loan amount.''

Creditors must follow the rules in § 226.32 if the total points and fees payable by the consumer at or before

loan closing exceed the greater of $400 or 8 percent of the total loan amount. The Board is required to adjust the $400 amount each year. Comment 32(a)(1)(ii)–2 states the adjusted amount for 1996 ($412), and addresses how the Board calculates the adjustment.

32(c)(3) Regular Payment

The substance of comments 32(c)(3)–1 and 32(c)(3)–2 are adopted as proposed, but the comments have been combined and reorganized to state more precisely the general rule and exceptions to that rule. The comment clarifies that creditors may rely on the rules in § 226.18(g) for determining the regular payment, with one exception. Section 18(g) provides flexibility to creditors in reflecting optional amounts such as voluntary credit life insurance in the payment schedule. Language has been added to clarify that only optional amounts to which the consumer has agreed at the time the disclosures are given may be disclosed as a part of the regular payment.

32(d) Limitations

32(d)(2) Negative Amortization

Comment 32(d)(2)–1 has been modified to clarify the interpretation of the prohibition against including negative amortization in a mortgage covered by § 226.32.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

For the reasons set forth in the preamble, the Board amends 12 CFR part 226 as follows:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. In Supplement I to Part 226, under *Section 226.4—Finance Charge,* under *4(d) Insurance.,* paragraph 5. is revised to read as follows:

Supplement I—Official Staff Interpretations

* * * * *

Subpart A—General

* * * * *

Section 226.4—Finance Charge

* * * * *

4(d) Insurance.

* * * * *

5. *Required credit life insurance.* Credit life, accident, health, or loss-of-income insurance must be voluntary in order for the premium or charges to be excluded from the finance charge. Whether the insurance is in fact required or optional is a factual question. If the insurance is required, the premiums must be included in the finance charge, whether the insurance is purchased from the creditor or from a third party. If the consumer is required to elect one of several options—such as to purchase credit life insurance, or to assign an existing life insurance policy, or to pledge security such as a certificate of deposit—and the consumer purchases the credit life insurance policy, the premium must be included in the finance charge. (If the consumer assigns a preexisting policy or pledges security instead, no premium is included in the finance charge. The security interest would be disclosed under § 226.6(c) or § 226.18(m). See the commentary to § 226.4(b) (7) and (8).)

* * * * *

3. In Supplement I to Part 226, under *Section 226.6—Initial Disclosure Statement,* under *6(b) Other charges.,* paragraph 1.v. is revised to read as follows:

* * * * *

Subpart B—Open-End Credit

* * * * *

Section 226.6—Initial Disclosure Statement

* * * * *

6(b) Other charges.

1. * * *

v. A membership or participation fee for a package of services that includes an open-end credit feature, unless the fee is required whether or not the open-end credit feature is included. For example, a membership fee to join a credit union is not an ''other charge,'' even if membership is required to apply for credit. For the fee to be excluded from disclosure as an ''other charge,'' however, the package of services must have some substantive purpose other than access to the credit feature. For example, if the primary benefit of membership in an organization is the opportunity to apply for a credit card, and the other benefits offered (such as a newsletter or a member information hotline) are merely incidental to the credit feature, the membership fee would have to be disclosed as an ''other charge.''

* * * * *

4. In Supplement I to Part 226, under *Section 226.12—Special Credit Card Provisions,* under *12(c)(2) Adverse credit reports prohibited.,* paragraph 1 is revised and paragraph 2 is added to read as follows:

* * * * *

Section 226.12—Special Credit Card Provisions

* * * * *

12(c)(2) Adverse credit reports prohibited.

1. *Scope of prohibition.* Although an amount in dispute may not be reported as delinquent until the matter is resolved:

i. That amount may be reported as disputed.

ii. Nothing in this provision prohibits the card issuer from undertaking its normal collection activities for the delinquent and undisputed portion of the account.

2. *Settlement of dispute.* A card issuer may not consider a dispute settled and report an amount disputed as delinquent or begin collection of the disputed amount until it has completed a reasonable investigation of the cardholder's claim. A reasonable investigation requires an independent assessment of the cardholder's claim based on information obtained from both the cardholder and the merchant, if possible. In conducting an investigation, the card issuer may request the cardholder's reasonable cooperation. The card issuer may not automatically consider a dispute settled if the cardholder fails or refuses to comply with a particular request. However, if the card issuer otherwise has no means of obtaining information necessary to resolve the dispute, the lack of information resulting from the cardholder's failure or refusal to comply with a particular request may lead the card issuer reasonably to terminate the investigation.

* * * * *

5. In Supplement I to Part 226, under *Section 226.14—Determination of Annual Percentage Rate,* under *14(c) Annual percentage rate for periodic statements.,* a new paragraph 10. is added to read as follows:

* * * * *

Section 226.14—Determination of Annual Percentage Rate

* * * * *

14(c) Annual percentage rate for periodic statements.

* * * * *

10. *Transactions at end of billing cycle.* The annual percentage rate reflects transactions and charges imposed during the billing cycle. However, it may be impracticable to post a transaction that occurs at the end of a billing cycle until the following cycle, such as a cash advance that occurs on the last day of a billing cycle and is posted to the account in the following cycle. A card issuer that uses the date of the transaction to figure finance charges should calculate the annual percentage rate as follows for the billing cycle in which the transaction and charges are posted:

i. The denominator is calculated as if the transaction occurred on the first day of the billing cycle; and

ii. The numerator includes the amount of the transaction charge plus all finance charges derived from the application of the periodic rate to the amount of the transaction (including all charges from a prior cycle).

* * * * *

6. In Supplement I to Part 226, under *Section 226.17—General Disclosure Requirements,* under *Paragraph 17(c)(1).,* paragraph 10. is revised and a new paragraph 18. is added to read as follows:

* * * * *

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

* * * * *

17(c) Basis of disclosures and use of estimates.

Paragraph 17(c)(1).

* * * * *

10. *Discounted and premium variable-rate transactions.* In some variable-rate transactions, creditors may set an initial interest rate that is not determined by the index or formula used to make later interest rate adjustments. Typically, this initial rate charged to consumers is lower than the rate would be if it were calculated using the index or formula. However, in some cases the initial rate may be higher. In a discounted transaction, for example, a creditor may calculate interest rates according to a formula using the six-month Treasury bill rate plus a 2 percent margin. If the Treasury bill rate at consummation is 10 percent, the creditor may forgo the 2 percent spread and charge only 10 percent for a limited time, instead of setting an initial rate of 12 percent.

i. When creditors use an initial interest rate that is not calculated using the index or formula for later rate adjustments, the disclosures should reflect a composite annual percentage rate based on the initial rate for as long as it is charged and, for the remainder of the term, the rate that would have been applied using the index or formula at the time of consummation. The rate at consummation need not be used if a contract provides for a delay in the implementation of changes in an index value. For example, if the contract specifies that rate changes are based on the index value in effect 45 days before the change date, creditors may use any index value in effect during the 45 day period before consummation in calculating a composite annual percentage rate.

ii. The effect of the multiple rates must also be reflected in the calculation and disclosure of the finance charge, total of payments, and payment schedule.

iii. If a loan contains a rate or payment cap that would prevent the initial rate or payment, at the time of the first adjustment, from changing to the rate determined by the index or formula at consummation, the effect of that rate or payment cap should be reflected in the disclosures.

iv. Because these transactions involve irregular payment amounts, an annual percentage rate tolerance of ¼ of 1 percent applies, in accordance with § 226.22(a)(3).

v. Examples of discounted variable-rate transactions include:

A. A 30-year loan for $100,000 with no prepaid finance charges and rates determined by the Treasury bill rate plus 2 percent. Rate and payment adjustments are made annually. Although the Treasury bill rate at the time of consummation is 10 percent, the creditor sets the interest rate for one year at 9 percent, instead of 12 percent according to the formula. The disclosures should reflect a composite annual percentage rate of 11.63 percent based on 9 percent for one year and 12 percent for 29 years. Reflecting those two rate levels, the payment schedule should show 12 payments of $804.62 and 348 payments of $1,025.31. The finance charge should be $266,463.32 and the total of payments $366,463.32.

B. Same loan as above, except with a 2 percent rate cap on periodic adjustments. The disclosures should reflect a composite annual percentage rate of 11.53 percent based on 9 percent for the first year, 11 percent for the second year, and 12 percent for the remaining 28 years. Reflecting those three rate levels, the payment schedule should show 12 payments of $804.62, 12 payments of $950.09, and 336 payments of $1,024.34. The finance charge should be $265,234.76 and the total of payments $365,234.76.

C. Same loan as above, except with a 7½ percent cap on payment adjustments. The disclosures should reflect a composite annual percentage rate of 11.64 percent, based on 9 percent for one year and 12 percent for 29 years. Because of the payment cap, five levels of payments should be reflected. The payment schedule should show 12 payments of $804.62, 12 payments of $864.97, 12 payments of $929.84, 12 payments of $999.58, and 312 payments of $1,070.04. The finance charge should be $277,040.60, and the total of payments $377,040.60.

vi. A loan in which the initial interest rate is set according to the index or formula used for later adjustments but is not set at the value of the index or formula at consummation is not a discounted variable-rate loan. For example, if a creditor commits to an initial rate based on the formula on a date prior to consummation, but the index has moved during the period between that time and consummation, a creditor should base its disclosures on the initial rate.

* * * * *

18. *Pawn Transactions.* When, in connection with an extension of credit, a consumer pledges or sells an item to a pawnbroker creditor in return for a sum of money and retains the right to redeem the item for a greater sum (the redemption price) within a specified period of time, disclosures are required. In addition to other disclosure requirements that may be applicable under § 226.18, for purposes of pawn transactions:

i. The amount financed is the initial sum paid to the consumer. The pawnbroker creditor need not provide a separate itemization of the amount financed if that entire amount is paid directly to the consumer and the disclosed description of the amount financed is ''the amount of cash given directly to you'' or a similar phrase.

ii. The finance charge is the difference between the initial sum paid to the consumer and the redemption price plus any other finance charges paid in connection with the transaction. (See § 226.4.)

iii. The term of the transaction, for calculating the annual percentage rate, is the period of time agreed to by the pawnbroker creditor and the consumer. The term of the transaction does not include a grace period (including any statutory grace period) after the agreed redemption date.

* * * * *

7. In Supplement I to Part 226, under *Section 226.18—Content of Disclosures*, under *Paragraph 18(c)(1)(iii).*, a new paragraph 2. is added to read as follows:

* * * * *

Section 226.18—Content of Disclosures

* * * * *

18(c) Itemization of amount financed.

* * * * *

Paragraph 18(c)(1)(iii).

* * * * *

2. *Charges added to amounts paid to others.* A sum is sometimes added to the amount of a fee charged to a consumer for a service provided by a third party (such as for an extended warranty or a service contract) that is payable in the same amount in comparable cash and credit transactions. In the credit transaction, the amount is retained by the creditor. Given the flexibility permitted in meeting the requirements of the amount financed itemization (see the commentary to § 226.18(c)), the creditor in such cases may reflect that the creditor has retained a portion of the amount paid to others. For example, the creditor could add to the category ''amount paid to others'' language such as ''(we may be retaining a portion of this amount).''

* * * * *

8. In Supplement I to Part 226, under *Section 226.20 Subsequent Disclosure Requirements*, under *Paragraph 20(a) Refinancings.*, paragraph 3. is revised to read as follows:

* * * * *

Section 226.20 Subsequent Disclosure Requirements

Paragraph 20(a) Refinancings.

* * * * *

3. *Variable-rate.*

i. If a variable-rate feature was properly disclosed under the regulation, a rate change in accord with those disclosures is not a refinancing. For example, no new disclosures are required when the variable-rate feature is invoked on a renewable balloon-payment mortgage that was previously disclosed as a variable-rate transaction.

ii. Even if it is not accomplished by the cancellation of the old obligation and substitution of a new one, a new transaction subject to new disclosures results if the creditor either:

A. Increases the rate based on a variable-rate feature that was not previously disclosed; or

B. Adds a variable-rate feature to the obligation. A creditor does not add a variable-rate feature by changing the index of a variable-rate transaction to a comparable index, whether the change replaces the existing index or substitutes an index for one that no longer exists.

iii. If either of the events in paragraph 20(a)3.ii.A. or ii.B. occurs in a transaction secured by a principal dwelling with a term longer than one year, the disclosures required under § 226.19(b) also must be given at that time.

* * * * *

9. In Supplement I to Part 226, a new *Subpart E—Special Rules for Certain Home Mortgage Transactions* is added following subpart D to read as follows:

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 226.31—General Rules

31(c) Timing of disclosure.

Paragraph 31(c)(1) Disclosures for certain closed-end home mortgages.

1. *Furnishing disclosures.* Disclosures are considered furnished when received by the consumer.

2. *Pre-consummation waiting period.* A creditor must furnish § 226.32 disclosures at least three business days prior to consummation. Under § 226.32, ''business day'' has the same meaning as the rescission rule in comment 2(a)(6)-2—all calendar days except Sundays and the federal legal holidays listed in 5 USC 6103(a). However, while the disclosure rule under §§ 226.15 and 226.23 extends to midnight of the third business day, the rule under § 226.32 does not. For example, under § 226.32, if disclosures were provided on a Friday, consummation could occur any time on Tuesday, the third business day following receipt of the disclosures. If the timing of the rescission rule were to be used, consummation could not occur until after midnight on Tuesday.

Paragraph 31(c)(1)(i) Change in terms.

1. *Redisclosure required.* Creditors must provide new disclosures when a change in terms makes disclosures previously provided under § 226.32(c) inaccurate, including disclosures based on and labeled as an estimate. A change in terms may result from a formal written agreement or otherwise.

Paragraph 31(c)(1)(ii) Telephone disclosures.

1. *Telephone disclosures.* Disclosures by telephone must be furnished at least three business days prior to consummation, calculated in accord with the timing rules under § 226.31(c)(1).

Paragraph 31(c)(1)(iii) Consumer's waiver of waiting period before consummation.

1. *Modification or waiver.* A consumer may modify or waive the right to the three-day waiting period only after receiving the disclosures required by § 226.32 and only if the circumstances meet the criteria for establishing a bona fide personal financial emergency under § 226.23(e). Whether these criteria are met is determined by the facts surrounding individual situations. The imminent sale of the consumer's home at foreclosure during the three-day period is one example of a bona fide personal financial emergency. Each consumer entitled to the three-day waiting period must sign the handwritten statement for the waiver to be effective.

Paragraph 31(c)(2) Disclosures for reverse mortgages.

1. *Business days.* For purposes of providing reverse mortgage disclosures, ''business day'' has the same meaning as in comment 31(c)(1)-2—all calendar days except Sundays and the federal legal holidays listed in 5 USC 6103(a). This means if disclosures are provided on a Friday, consummation could occur any time on Tuesday, the third business day following receipt of the disclosures.

2. *Open-end plans.* Disclosures for open-end reverse mortgages must be provided at least three business days before the first transaction under the plan (see § 226.5(b)(1)).

31(d) Basis of disclosures and use of estimates.

1. *Redisclosure.* Section 226.31(d) allows the use of estimates when information necessary for an accurate disclosure is unknown to the creditor, provided that the disclosure is clearly identified as an estimate. For purposes of Subpart E, the rule in § 226.31(c)(1)(i) requiring new disclosures when the creditor changes terms also applies to disclosures labeled as estimates.

Section 226.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage.

Paragraph 32(a)(1)(i).

1. *Application date.* An application is deemed received when it reaches the creditor in any of the ways applications are normally transmitted. (See § 226.19(a).) For example, if a borrower applies for a 10-year loan on September 30 and the creditor counteroffers with a 7-year loan on October 10, the application is deemed received in September and the creditor must measure the annual percentage rate against the appropriate Treasury security yield as of August 15. An application transmitted through an intermediary agent or broker is received when it reaches the creditor, rather than when it reaches the agent or broker. (See comment 19(b)-3 to determine whether a transaction involves an intermediary agent or broker.)

2. *When fifteenth not a business day.* If the 15th day of the month immediately preceding the application date is not a business day, the creditor must use the yield as of the business day immediately preceding the 15th.

3. *Calculating annual percentage rates for variable-rate loans and discount loans.* Creditors must use the rules set out in the commentary to § 226.17(c)(1) in calculating the annual percentage rate for variable-rate loans (assume the rate in effect at the time of disclosure remains unchanged) and for discount, premium, and stepped-rate transactions (which must reflect composite annual percentage rates).

4. *Treasury securities.* To determine the yield on a Treasury security for the annual percentage rate test, creditors may use the Board's Selected Interest Rates (statistical release H–15) or the actual auction results. Treasury auctions are held at regular intervals for the different types of securities. These figures are published by major financial and metropolitan newspapers, and are also available from Federal Reserve Banks. Creditors must use the yield on the security that has the nearest maturity at issuance to the loan's maturity. For example, if a creditor must compare the annual percentage rate to Treasury securities with either seven-year or ten-year maturities, the annual percentage rate for an eight-year loan is compared with securities that have a seven-year maturity; the annual percentage rate for a nine-year loan is compared with securities that have a ten-year maturity. If the loan maturity is exactly halfway between, the annual percentage rate is compared with the Treasury security that has the lower yield. For example, if the loan has a maturity of 20 years and comparable securities have maturities of 10 years with a yield of 6.501 percent and 30 years with a yield of 6.906 percent, the annual percentage rate is compared with 10 percentage points over the yield of 6.501 percent, the lower of the two yields.

Paragraph 32(a)(1)(ii).

1. *Total loan amount.* For purposes of the ''points and fees'' test, the total loan amount is calculated by taking the amount financed, as determined according to § 226.18(b), and deducting any cost listed in § 226.32(b)(1)(iii) that is both included as points and fees under § 226.32(b)(1) and financed by the creditor. Some examples follow, each using a $10,000 amount borrowed, a $300 appraisal fee, and $400 in points:

i. If the consumer finances a $300 fee for a creditor-conducted appraisal and pays $400 in points at closing, the amount financed under § 226.18(b) is $9,900 ($10,000 plus the $300 appraisal fee that is paid to and financed by the creditor, less $400 in prepaid finance charges). The $300 appraisal fee paid to the creditor is added to other points and fees under § 226.32(b)(1)(iii). It is deducted from the amount financed ($9,900) to derive a total loan amount of $9,600.

ii. If the consumer pays the $300 fee for the creditor-conducted appraisal in cash at closing, the $300 is included in the points and fees calculation because it is paid to the creditor. However, because the $300 is not financed by the creditor, the fee is not part of the amount financed under § 226.18(b) ($10,000, in this case). The total loan amount is $9,600 ($10,000, less $400 in prepaid finance charges).

iii. If the consumer finances a $300 fee for an appraisal conducted by someone other than the creditor or an affiliate, the $300 fee is not included with other points and fees under § 226.32(b)(1)(iii). The amount financed under § 226.18(b) is $9,900 ($10,000 plus the $300 fee for an independently-conducted appraisal that is financed by the creditor, less the $400 paid in cash and deducted as prepaid finance charges).

2. *Annual adjustment of $400 amount.* A mortgage loan is covered by § 226.32 if the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. The $400 figure is adjusted annually by the Board; the adjusted figure becomes effective on January 1 of the following year. The adjusted figure for 1996 is $412, reflecting a 3.00 percent increase in the CPI–U from June 1994 to June 1995, rounded to the nearest whole dollar. The Board will publish adjustments after the June figures become available each year. The adjustment for the upcoming year will be included in any proposed commentary published in the fall, and incorporated into the commentary the following spring.

32(b) Definitions

Paragraph 32(b)(1)(i).

1. *General.* Items defined as finance charges under § 226.4(a) and 226.(4)(b) are included under this paragraph as a component of the total ''points and fees.'' Items excluded from the finance charge

under other provisions of § 226.4 are not included under paragraph 32(b)(1)(i), although a fee may be included in ''points and fees'' under paragraphs 32(b)(1)(ii) and 32(b)(1)(iii).

Paragraph 32(b)(1)(ii).

1. *Mortgage broker fees.* In determining ''points and fees'' for purposes of this section, compensation paid by a consumer to a mortgage broker (directly or through the creditor for delivery to the broker) is included in the calculation whether or not the amount is disclosed as a finance charge. Mortgage broker fees that are not paid by the consumer are not included. Mortgage broker fees already included in the calculation as finance charges under § 226.32(b)(1)(i) need not be counted again under § 226.32(b)(1)(ii).

2. *Example.* Section 226.32(b)(1)(iii) defines ''points and fees'' to include all items listed in § 226.4(c)(7), other than amounts held for the future payment of taxes. An item listed in § 226.4(c)(7) may be excluded from the ''points and fees'' calculation, however, if the charge is reasonable, the creditor receives no direct or indirect compensation from the charge, and the charge is not paid to an affiliate of the creditor. For example, a reasonable fee paid by the consumer to an independent, third-party appraiser may be excluded from the ''points and fees'' calculation (assuming no compensation is paid to the creditor). A fee paid by the consumer for an appraisal performed by the creditor must be included in the calculation, even though the fee may be excluded from the finance charge if it is bona fide and reasonable in amount.

32(c) Disclosures.

1. *Format.* The disclosures must be clear and conspicuous but need not be in any particular type size or typeface, nor presented in any particular manner. The disclosures need not be a part of the note or mortgage document.

Paragraph 32(c)(3) Regular payment.

1. *General.* The regular payment is the amount due from the borrower at regular intervals, such as monthly, bimonthly, quarterly, or annually. There must be at least two payments, and the payments must be in an amount and at such intervals that they fully amortize the amount owed. In disclosing the regular payment, creditors may rely on the rules set forth in § 226.18(g); however, the amounts for voluntary items not agreed to by the consumer such as credit life insurance may not be included in the regular payment.

i. If the loan has more than one payment level, the regular payment for each level must be disclosed. For example:

A. In a 30-year graduated payment mortgage where there will be payments of $300 for the first 120 months, $400 for the next 120 months, and $500 for the last 120 months, each payment amount must be disclosed, along with the length of time that the payment will be in effect.

B. If interest and principal are paid at different times, the regular amount for each must be disclosed.

C. In discounted or premium variable-rate transactions where the creditor sets the initial interest rate and later rate adjustments are determined by an index or formula, the creditor must disclose both the initial payment based on the discount or premium and the payment that will be in effect thereafter. Additional explanatory material which does not detract from the required disclosures may accompany the disclosed amounts. For example, if a monthly payment is $250 for the first six months and then increases based on an index and margin, the creditor could use language such as the following: ''Your regular monthly payment will be $250 for six months. After six months your regular monthly payment will be based on an index and margin, which currently would make your payment $350. Your actual payment at that time may be higher or lower.''

Paragraph 32(c)(4) Variable-rate.

1. *Calculating ''worst-case'' payment example.* Creditors may rely on instructions in § 226.19(b)(2)(x) for calculating the maximum possible increases in rates in the shortest possible timeframe, based on the face amount of the note (not the hypothetical loan amount of $10,000 required by § 226.19(b)(2)(x)). The creditor must provide a maximum payment for each payment level, where a payment schedule provides for more than one payment level and more than one maximum payment amount is possible.

32(d) Limitations

Paragraph 32(d)(1)(i) Balloon payment.

1. *Regular periodic payments.* The repayment schedule for a § 226.32 mortgage loan with a term of less than five years must fully amortize the outstanding principal balance through ''regular periodic payments.'' A payment is a ''regular periodic payment'' if it is not more than twice the amount of other payments.

Paragraph 32(d)(2) Negative amortization.

1. *Negative amortization.* The prohibition against negative amortization in a mortgage covered by § 226.32 does not preclude reasonable increases in the principal balance that result from events permitted by the legal obligation unrelated to the payment schedule. For example, when a consumer fails to obtain property insurance and the creditor purchases insurance, the creditor may add a reasonable premium to the consumer's principal balance, to the extent permitted by the legal obligation.

Paragraph 32(d)(4) Increased interest rate.

1. *Variable-rate transactions.* The limitation on interest rate increases does not apply to rate increases resulting from changes in accordance with the legal obligation in a variable-rate transaction, even if the increase occurs after default by the consumer.

Paragraph 32(d)(5) Rebates.

1. *Calculation of refunds.* The limitation applies only to refunds of precomputed (such as add-on) interest and not to any other charges that are considered finance charges under § 226.4 (for example, points and fees paid at closing). The calculation of the refund of interest includes odd-days interest, whether paid at or after consummation.

Paragraph 32(d)(6) Prepayment penalties.

1. *State law.* For purposes of computing a refund of unearned interest, if using the actuarial method defined by applicable state law results in a refund that is greater than the refund calculated by using the method described in section 933(d) of the Housing and Community Development Act of 1992, creditors should use the state law definition in determining if a refund is a prepayment penalty.

32(d)(7) Prepayment penalty exception.

Paragraph 32(d)(7)(iii).

1. *Calculating debt-to-income ratio.* ''Debt'' does not include amounts paid by the borrower in cash at closing or amounts from the loan proceeds that directly repay an existing debt. Creditors may consider combined debt-to-income ratios for transactions involving joint applicants.

2. *Verification.* Verification of employment satisfies the requirement for payment records for employment income.

32(e) Prohibited acts and practices.

Paragraph 32(e)(1) Repayment ability.

1. *Determining repayment ability.* The information provided to the creditor in connection with § 226.32(d)(7) may be used to show that the creditor considered the consumer's income and obligations before extending the credit. Any expected income can be considered by the creditor, except equity income that the consumer would obtain through the foreclosure of a mortgage covered by § 226.32. For example, a creditor may use information about income other than regular salary or wages such as gifts, expected retirement payments, or income from housecleaning or childcare. The creditor also may use unverified income, as long as the creditor has a reasonable basis for believing that the income exists and will support the loan.

Paragraph 32(e)(2) Home-Improvement Contracts.

Paragraph 32(e)(2)(i).

1. *Joint payees.* If a creditor pays a contractor with an instrument jointly payable to the contractor and the consumer, the instrument must name as payee each consumer who is primarily obligated on the note.

Paragraph 32(e)(3) Notice to Assignee.

1. *Subsequent sellers or assignors.* Any person, whether or not the original creditor, that sells or assigns a mortgage subject to this section must furnish the notice of potential liability to the purchaser or assignee.

2. *Format.* While the notice of potential liability need not be in any particular format, the notice must be prominent. Placing it on the face of the note, such as with a stamp, is one means of satisfying the prominence requirement.

Section 226.33—Requirements for Reverse Mortgages

33(a) Definition.

1. *Nonrecourse transaction.* A nonrecourse reverse mortgage transaction limits the homeowner's liability to the proceeds of the sale of the home (or any lesser amount specified in the credit obligation). If a transaction structured as a closed-end reverse mortgage transaction allows recourse against the consumer, and the annual percentage rate or the points and fees exceed those specified under § 226.32(a)(1), the transaction is subject to all the requirements of § 226.32, including the limitations concerning balloon payments and negative amortization.

Paragraph 33(a)(2).

1. *Default.* Default is not defined by the statute or regulation, but rather by the legal obligation between the parties and state or other law.

2. *Definite term or maturity date.* To meet the definition of a reverse mortgage transaction, a creditor cannot require any principal, interest, or shared appreciation or equity to be due and payable (other than in the case of default) until after the consumer's death, transfer of the dwelling, or the consumer ceases to occupy the dwelling as a principal dwelling. Some state laws require legal obligations secured by a mortgage to specify a definite maturity date or term of repayment in the instrument. Stating a definite maturity date or term of repayment in an obligation does not violate the definition of a reverse mortgage transaction if the maturity date or term of repayment used would in no case operate to cause maturity prior to the occurrence of any of the events recognized in the regulation. For example, a provision that allows a reverse mortgage loan to become due and payable only after the consumer's death, transfer, or cessation of occupancy, *or* after a specified term, but which automatically extends the term for consecutive periods as long as none of the events specified in this section had yet occurred would be permissible.

33(c) Projected total cost of credit.

Paragraph 33(c)(1) Costs to consumer.

1. *Costs and charges to consumer—relation to finance charge.* All costs and charges to the consumer that are incurred in a reverse mortgage transaction are included in the projected total cost of credit, and thus in the total annual loan cost rates, whether or not the cost or charge is a finance charge under § 226.4.

2. *Annuity costs.* As part of the credit transaction, some creditors require or permit a consumer to purchase an annuity that immediately—or at some future time—supplements or replaces the creditor's payments. The amount paid by the consumer for the annuity is a cost to the consumer under this section, regardless of whether the annuity is purchased through the creditor or a third party, or whether the purchase is mandatory or voluntary.

3. *Disposition costs excluded.* Disposition costs incurred in connection with the sale or transfer of the property subject to the reverse mortgage are not included in the costs to the consumer under this paragraph. (However, see the definition of Val_n in appendix K to the regulation to determine the effect certain disposition costs may have on the total annual loan cost rates.)

Paragraph 33(c)(2) Payments to consumer.

1. *Payments upon a specified event.* The projected total cost of credit should not reflect contingent payments in which a credit to the outstanding loan balance or a payment to the consumer's estate is made upon the occurrence of an event (for example, a ''death benefit'' payable if the consumer's death occurs within a certain period of time). Thus, the table of total annual loan cost rates required under § 226.33(b)(2) would not reflect such payments. At its option, however, a creditor may put an asterisk, footnote, or similar type of notation in the table next to the applicable total annual loan cost rate, and state in the body of the note, apart from the table, the assumption upon which the total annual loan cost is made and any different rate that would apply if the contingent benefit were paid.

Paragraph 33(c)(3) Additional creditor compensation.

1. *Shared appreciation or equity.* Any shared appreciation or equity that the creditor is entitled to receive pursuant to the legal obligation must be included in the total cost of a reverse mortgage loan. For example, if a creditor agrees to a reduced interest rate on the transaction in exchange for a portion of the appreciation or equity that may be realized when the dwelling is sold, that portion is included in the projected total cost of credit.

Paragraph 33(c)(4) Limitations on consumer liability.

1. *In general.* Creditors must include any limitation on the consumer's liability (such as a nonrecourse limit or an equity conservation agreement) in the projected total cost of credit. These limits and agreements protect a portion of the equity in the dwelling for the consumer or the consumer's estate. For example, the following are limitations on the consumer's liability that must be included in the projected total cost of credit:

i. A limit on the consumer's liability to a certain percentage of the projected value of the home.

ii. A limit on the consumer's liability to the net proceeds from the sale of the property subject to the reverse mortgage.

2. *Uniform assumption for ''net proceeds'' recourse limitations.* If the legal obligation between the parties does not specify a percentage for the ''net proceeds'' liability of the consumer, for purposes of the disclosures required by § 226.33, a creditor must assume that the costs associated with selling the property will equal 7 percent of the projected sale price (see the definition of the Val_n symbol under appendix K(b)(6)).

* * * * *

10. In Supplement I to Part 226, a new *Appendix K—Total Annual Loan Cost Rate Computations for Reverse Mortgage Transactions* and a new *Appendix L—Assumed Loan Periods for Computations of Total Annual Loan Cost Rates* are added at the end of the supplement to read as follows:

* * * * *

Appendix K—Total Annual Loan Cost Rate Computations for Reverse Mortgage Transactions

1. *General.* The calculation of total annual loan cost rates under appendix K is based on the principles set forth and the estimation or ''iteration'' procedure used to compute annual percentage rates under appendix J. Rather than restate this iteration process in full, the regulation cross-references the procedures found in appendix J. In other aspects the appendix reflects the special nature of reverse mortgage transactions. Special definitions and instructions are included where appropriate.

(b) Instructions and equations for the total annual loan cost rate.

(b)(5) Number of unit-periods between two given dates.

1. *Assumption as to when transaction begins.* The computation of the total annual loan cost rate is based on the assumption that the reverse mortgage transaction begins on the first day of the month in which consummation is estimated to occur. Therefore, fractional unit-periods (used under appendix J for calculating annual percentage rates) are not used.

(b)(9) Assumption for discretionary cash advances.

1. *Amount of credit.* Creditors should compute the total annual loan cost rates for transactions involving discretionary cash advances by assuming that 50 percent of the initial amount of the credit available under the transaction is advanced at closing or, in an open-end transaction, when the consumer becomes obligated under the plan. (For the purposes of this assumption, the initial amount of the credit is the principal loan amount less any costs to the consumer under section 226.33(c)(1).)

(b)(10) Assumption for variable-rate reverse mortgage transactions.

1. *Initial discount or premium rate.* Where a variable-rate reverse mortgage transaction includes an initial discount or premium rate, the creditor should apply the same rules for calculating the total annual loan cost rate as are applied when calculating the annual percentage rate for a loan with an initial discount or premium rate (see the commentary to § 226.17(c)).

(d) Reverse mortgage model form and sample form.

(d)(2) Sample form.

1. *General.* The ''clear and conspicuous'' standard for reverse mortgage disclosures does not require disclosures to be printed in any particular type size. Disclosures may be made on more than one page, and use both the front and the reverse sides, as long as the pages constitute an integrated document and the table disclosing the total annual loan cost rates is on a single page.

Appendix L—Assumed Loan Periods for Computations of Total Annual Loan Cost Rates

1. *General.* The life expectancy figures used in appendix L are those found in the U.S. Decennial Life Tables for women, as rounded to the nearest whole year and as published by the U. S. Department of Health and Human Services. The figures contained in appendix L must be used by creditors for all consumers (men and women). Appendix L will be revised periodically by the Board to incorporate revisions to the figures made in the Decennial Tables.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, March 28, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–8045 Filed 4–3–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–141–AD Amendment 39–9560; AD 96–07–11]

Airworthiness Directives; Beech Model BAe 125–1000A and Hawker 1000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Beech Model BAe 125–1000A and Hawker 1000 series airplanes, that requires a detailed visual inspection to detect chafing damage to the hydraulic pipes adjacent to the hydraulic module, and various follow-on actions. This amendment is prompted by reports of chafing damage between hydraulic pipes at three locations in the rear equipment bay adjacent to the hydraulic module. The actions specified by this AD are intended to prevent such chafing damage to the hydraulic pipe and subsequent hydraulic fluid leakage, which could lead to failure of essential airplane systems.

DATES: Effective May 6, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 6, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Beech Aircraft Corporation, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Beech Model BAe 125–1000A and Hawker 1000 series airplanes was published in the Federal Register on December 19, 1995 (60 FR 65254). That action proposed to require a detailed visual inspection to detect chafing damage to the hydraulic pipes located aft of frame 21 and adjacent to the hydraulic module, and various follow-on actions (i.e., visual inspection, adjustment, replacement, pressure test).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 27 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,620, or $60 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

96–07–11 Beech Aircraft Corporation (Raytheon Aircraft Company) (Formerly DeHavilland; Hawker Siddeley; British Aerospace, plc; Raytheon Corporate Jets, Inc.): Amendment 39–9560. Docket 95–NM–141–AD.

Applicability: All Model BAe 125–1000A and Hawker 1000 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing damage to the hydraulic pipe and subsequent hydraulic fluid leakage; this condition may lead to failure of essential airplane systems, accomplish the following:

(a) Within 3 months after the effective date of this AD, perform a detailed visual inspection to detect chafing damage to the hydraulic pipes located aft of frame 21 and adjacent to the hydraulic module, in accordance with Hawker Service Bulletin SB.29–95, dated March 24, 1995.

(1) If no chafing damage is detected, prior to further flight, perform a visual inspection to determine if adequate clearance exists between the intersecting pipe runs, and between pipes and adjacent equipment or structure, in accordance with the service bulletin.

(i) If the clearance is adequate, no further action is required by this AD.

(ii) If the clearance is inadequate, prior to further flight, adjust the pipe connections and/or clipping to restore adequate clearance, in accordance with the service bulletin.

(iii) If any chafing damage to other equipment or structure is found, prior to

further flight, repair it in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) If any chafing damage is detected and it is beyond the limits specified in paragraph 2.B.(4) of the service bulletin, prior to further flight, replace the damaged pipe with a new pipe in accordance with the service bulletin.

(3) If any chafing damage is detected within the limits specified in paragraph 2.B.(4) of the service bulletin, prior to further flight, perform a pressure test or replace the damaged pipe with a new pipe in accordance with the service bulletin.

(i) If the pipes are satisfactory, no further action is required by this AD.

(ii) If any pipe leaks and/or if any distortion occurs in or around the area of chafing damage, prior to further flight, replace the pipe with a new pipe in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) The actions shall be done in accordance with Hawker Service Bulletin SB.29–95, dated March 24, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Beech Aircraft Corporation, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 6, 1996.

Issued in Renton, Washington, on March 27, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7960 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–93–AD; Amendment 39–9559; AD 96–07–10]

Airworthiness Directives; Boeing Model 747–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, –200, and –300 series airplanes, that requires an inspection to determine if hinge bolts and nuts are installed in the overhead stowage bins, and the installation of hinge bolts and nuts, if necessary. This amendment is prompted by reports that overhead stowage bins in the passenger compartment have fallen out of position due to missing hinge bolts. The actions specified by this AD are intended to ensure that hinge bolts are installed in the overhead stowage bins. Missing hinge bolts could result in the overhead stowage bins falling out of position and injuring airplane occupants.

DATES: Effective May 6, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 6, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Lundy, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–1675; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, -200, and -300 series airplanes was published as a supplemental notice of proposed rulemaking in the Federal Register on January 9, 1996 (61 FR 634). That action proposed to require an inspection to determine if hinge bolts and nuts are installed in the overhead stowage bins, and the installation of hinge bolts and nuts, if necessary.

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

One commenter supports the proposed rule.

One commenter states that the inspection required by the proposed rule is a relatively simple inspection, and the issuance of an AD should not be required. The FAA infers that the commenter requests the AD be withdrawn. The FAA does not concur. According to section 39.1 (''Airworthiness Directives'') of the Federal Aviation Regulations (14 CFR 39.1), the issuance of an AD is based on the finding that an unsafe condition exists or is likely to develop in aircraft of a particular type design. The responsibilities placed on the FAA by the Federal Aviation Act do not limit it from making any unsafe condition—whether resulting from maintenance, design defect, or otherwise—the proper subject of an AD. Regardless of whether the corrective action is easy or difficult to perform, the FAA has determined that the corrective action must be accomplished in order to eliminate or prevent the identified unsafe condition. Issuance of an AD is the appropriate vehicle for ensuring that the corrective action is accomplished on all affected airplanes.

Another commenter states that some stowage bin support panels separated due to damaged honeycomb cores (the connection point for the hinge bolts), not due to the absence of hinge bolts, as stated in the proposed AD. The commenter also states that it installed an enlarged blade assembly on the panels, and this corrected the problem. While this commenter does not request that the proposed rule be changed, the FAA infers that the commenter is requesting that the proposed rule be withdrawn. In that case, the FAA does not concur. Investigation of damaged stowage bin support panels in service revealed that the stowage bin support panel separated because the hinge bolts were not installed during maintenance; these occurrences prompted the issuance of the proposed rule. Missing hinge bolts could result in the overhead stowage bins falling out of position and injuring airplane occupants. Additionally, the stowage bin support panels themselves must be in good condition in order to support the interface of the hinge bolts. Prudent operators performing the inspection of

the hinge bolts required by this AD would likely address any damage found of the honeycomb cores of the panels or any damage detected of the bin. The FAA has been advised that Boeing is currently developing service information to address the repair of the bins. When this information is reviewed and approved, the FAA may consider further rulemaking.

One commenter requests that the compliance time for the inspection be extended from the proposed 90 days to 150 days. This commenter considers that extending it by another 60 days would allow operators to accomplish the inspection during regularly scheduled maintenance, and would prevent any disruption of service. The FAA does not concur. In developing the compliance time for this rulemaking action, the FAA took into consideration not only the safety implications associated with the addressed unsafe condition, but parts availability, fleet utilization rates, and normal maintenance schedules for the majority of affected operators. In consideration of these factors, the FAA finds that the 90-day compliance time is appropriate for the one-time inspection required by this AD. Additionally, the AD provides ''credit'' to operators who have performed this inspection within the last 18 months prior to the effective date of the AD. However, paragraph (b) of the final rule does provide affected operators the opportunity to apply for an adjustment of the compliance time if data are presented to justify such an adjustment.

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

There are approximately 573 Model 747–100, –200, and –300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 157 airplanes of U.S. registry would be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $9,420, or $60 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

96–07–10 Boeing: Amendment 39–9559. Docket 95–NM–93–AD.

Applicability: Model 747–100, –200, and –300 series airplanes, as listed in Boeing Alert Service Bulletin 747–25A3095, Revision 1, dated September 28, 1995; certificated in any category.

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

Compliance: Required as indicated.

To ensure that hinge bolts are installed in the overhead stowage bins, accomplish the following:

(a) Within 90 days after the effective date of this AD, unless accomplished previously within the last 18 months prior to the effective date of this AD, perform a one-time visual inspection to determine if hinge bolts and nuts are installed in the overhead stowage bins, in accordance with either Boeing Alert Service Bulletin 747–25A3095, dated April 27, 1995, or Revision 1, dated September 28, 1995.

(1) If the hinge bolts and nuts are installed, no further action is required by this AD.

(2) If any hinge bolt or nut is not installed, prior to further flight, install a hinge bolt and nut in accordance with either alert service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

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

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–25A3095, dated April 27, 1995, or Boeing Alert Service Bulletin 747–25A3095, Revision 1, dated September 28, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 6, 1996.

Issued in Renton, Washington, on March 27, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7984 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 960321088–6088–01]

RIN 0648–XX58

Zones and Access Routes Within the Monterey Bay National Marine Sanctuary Where the Operation of Motorized Personal Water Craft Is Allowed

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Correcting amendments; Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is correcting discrepancies in the coordinates of several points that mark the zones and access routes for operation of motorized personal water craft in the Monterey Bay National Marine Sanctuary. NOAA is also making several descriptive corrections to improve the descriptions of the zones and access routes. Additionally, NOAA is slightly moving one point of the boundary of the Moss Landing zone to make it coincide with an existing Coast Guard bell buoy and to meet navigational requirements.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Kathey at (408) 647–4251 or Elizabeth Moore at (301) 713–3141.

SUPPLEMENTARY INFORMATION:

I. Background

In recognition of the national significance of the unique marine environment centered around Monterey Bay, California, the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) was designated on September 18, 1992. SRD issued final regulations, effective January 1, 1993, to implement the Sanctuary designation (now at 15 CFR Part 922, Subpart M). The MBNMS regulations at 15 CFR 922.132 prohibit a relatively narrow range of activities and make it unlawful for any person to conduct them or cause them to be conducted. One of the regulations restricts the operation of motorized personal water craft within the Sanctuary to four zones and access routes located off the harbors of the Sanctuary. The zones and access routes are described in detail in 15 CFR Part 922, Subpart M, Appendix D.

NOAA is preparing to place buoys to mark the zones and make them easier for operators to identify. In preparing for placement operations, NOAA became aware of minor discrepancies in the coordinates for two points in the Pillar Point zone and in the coordinates for one point in the Santa Cruz zone. This document corrects those discrepancies. Corrections are made because the listed coordinates for identified Coast Guard navigational aids (identified in the zone descriptions as key boundary points) are in error and do not reflect the true position of those aids. Correcting the coordinates does not diminish and in fact slightly increases the areas of the affected zones compared to the incorrect coordinates. Also, in one instance, at Pillar Point, a Coast Guard navigational aid in the form of a breakwater entrance light and horn was misidentified as a breakwater buoy; this document corrects that.

This document also makes several descriptive corrections to improve the descriptions of the zones and access routes. For example, the approximate-size descriptions of the areas of the Santa Cruz and Moss Landing zones are corrected from three and five square nautical miles, respectively, to five and six. As another example, because the Sanctuary boundary does not include Pillar Point, Santa Cruz, Moss Landing or Monterey harbors shoreward from their International Collision at Sea regulation (Colreg.) demarcation lines (with the exception of Moss Landing Harbor, where all of Elkhorn Slough east of the Highway One Bridge is included within the Sanctuary boundary), NOAA is clarifying that any launch ramp in those harbors may be used.

This document also moves one point of the boundary of the Moss Landing zone approximately 300 yards northeast to make it coincide with an existing Coast Guard bell buoy. The coordinates of Subpart M, Appendix D (3)(e) are changed to those of the bell buoy that marks the center of the ship channel leading into the harbor. NOAA has consulted with the Coast Guard. This change is made because placement of a buoy at the originally prescribed coordinates would unreasonably obstruct the designed vessel traffic flow due to the very close proximity to the existing bell buoy. Further, (1) the existing buoy is already familiar to water craft operators and appears on NOAA nautical charts; (2) the existing buoy is substantially larger and more visible under inclement weather conditions than other marker buoys; (3) use of an existing buoy reduces deployment and maintenance costs; and (4) use of the existing buoy does not diminish and in fact slightly increases the area of the affected zone.

II. Miscellaneous Rulemaking Requirements

Executive Order 12612: Federalism Assessment

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant the preparation of a Federalism Assessment under Executive Order 12612.

Executive Order 12866: Regulatory Impact

This final rule has been determined to not be significant for the purposes of Executive Order 12866.

Paperwork Reduction Act

The correcting amendments and final rule do not impose any information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

Administrative Procedure Act

(1) Correcting Amendments

Because the correcting amendments are corrections, no useful purpose would be served by providing notice and opportunity for comment or a 30-day delay in effective date. Accordingly, the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management under 5 U.S.C. 553(b)(B) and (d) for good cause finds that providing notice and opportunity for comment and a 30-day delay in effective date are unnecessary.

(2) Final Rule (Moving One Point of Boundary of Moss Landing Zone)

No useful purpose would be served by providing notice and opportunity for comment on the minor movement of one point of the boundary of the Moss Landing zone for the following reason. NOAA has consulted with the Coast Guard, which has indicated it would not approve placement of a buoy at the originally prescribed coordinates because of the very close proximity to the existing bell buoy and the resulting unreasonable obstruction of the designed vessel traffic flow. NOAA concurs. Accordingly, NOAA, by

moving the point to the bell buoy, is moving the point the minimum distance it can be moved to achieve the goal of having the point marked by a buoy. The Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management under 5 U.S.C. 553(b)(B) for good cause accordingly finds that providing notice and opportunity for comment is unnecessary. Because this rule slightly increases the area of the affected zone, it relieves a restriction and under 5 U.S.C. 553(d)(1) is not subject to a 30-day delay in effective date.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 29, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart M—Monterey Bay National Marine Sanctuary

2. Appendix D to Subpart M of Part 922 is amended by revising paragraphs (1), (2), (3) and (4) to read as follows:

Appendix D to Subpart M of Part 922—Zones and Access Routes Within the Sanctuary Where the Operation of Motorized Personal Watercraft is Allowed

* * * * *

(1) The approximately one [1.0] NM^2 area off Pillar Point Harbor from harbor launch ramps, through harbor entrance to the northern boundary of Zone One bounded by (a) 37°29.6′ N (flashing 5-second breakwater entrance light and horn located at the seaward end of the outer west breakwater), 122°29.1′ W; (b) 37°28.9′ N (bell buoy), 122°29.0′ W; (c) 37°28.8′ N, 122°28′ W; and (d) 37°29.6′ N, 122°28′ W;

(2) The approximately five [5.0] NM^2 area off of Santa Cruz Small Craft Harbor from harbor launch ramps, through harbor entrance, and then along a 100 yard wide access route southwest along a true bearing of approximately 196° (180° magnetic) to the whistle buoy at 36°56.3′ N, 122°00.6′ W. Zone Two is bounded by (a) 36°55′ N, 122°02′ W; (b) 36°55′ N, 121°58′ W; (c) 36°56.5′ N, 121°58′ W; and (d) 36°56.5′ N, 122°02′ W;

(3) The approximately six [6.0] NM^2 area off of Moss Landing Harbor from harbor launch ramps, through harbor entrance, and then along a 100 yard wide access route due west to the eastern boundary of Zone Three bounded by (a) 36°50′ N, 121°49.3′ W; (b) 36°50′ N, 121°50.8′ W; (c) 36°46.7′ N, 121°50.8′ W; (d) 36°46.7′ N, 121°49′ W; (e) 36°47.9′ N (bell buoy), 121°48.1′ W; and (f) 36°48.9′ N, 121°48.2′ W; and

(4) The approximately five [5.0] NM^2 area off of Monterey Harbor from harbor launch ramps to the seaward end of the U.S. Coast Guard Pier, and then along a 100 yard wide access route due north to the southern boundary of Zone Four bounded by (a) 36°38.7′ N, 121°55.4′ W; (b) 36°36.9′ N, 121°52.5′ W; (c) 36°38.3′ N, 121°51.3′ W; and (d) 36°40′ N, 121°54.4′ W.

[FR Doc. 96–8335 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 88F–0339]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(oxy-1,2-ethanediyloxycarbonyl-2,6-naphthalenediylcarbonyl) as the basic resin in articles intended for use in contact with food. This action responds to a petition filed by the Eastman Chemical Co.

DATES: Effective April 4, 1996; written objections and requests for a hearing by May 6, 1996. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication listed in new § 177.1637(b)(2), effective April 4, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 26, 1988 (53 FR 43272), FDA announced that a food additive petition (FAP 8B4110) had been filed by the Eastman Kodak Co., Eastman Chemical Division, P.O. Box 511, Kingsport, TN 37662. The petition proposed to amend the food additive regulations in part 177 *Indirect Food Additives: Polymers* (21 CFR part 177) to provide for the safe use of poly(ethylene 2,6-naphthalene dicarboxylate) as a basic resin in articles or as a component of articles intended for single use or repeated use in contact with food.

Subsequent to the filing of the petition, the Eastman Kodak Co., Eastman Chemical Division, was reorganized to form Eastman Chemical Co., an independent corporation. As a result of this reorganization, FDA was informed that the Eastman Chemical Co. (same address) was the petitioner of record for this food additive petition.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use of the resin is safe and that the food additive regulations should be amended by adding new § 177.1637 as set forth below. The agency has also determined, with the petitioner's concurrence, that poly(oxy-1,2-ethanediyloxycarbonyl-2,6-naphthalenediylcarbonyl) is a more accurate and descriptive name for the resin that is the subject of the food additive petition. Therefore, FDA is using this name to identify the resin in the final rule.

In its review of this petition, the agency has also carefully considered the potential environmental effects of this action. In particular, the agency has considered the potential for effects on the management of municipal solid waste because this resin may replace other materials that are currently recycled. The petitioner provided the results of studies demonstrating that the resin can be recycled for use in food containers and submitted a recycling implementation plan for FDA's review. The agency is convinced that it is feasible for packaging made with this resin to be recovered from post-consumer waste and recycled, based upon the following factors: (1) The petitioner's recycling plan and stated

intention to recycle containers made with this resin; (2) the desirable barrier and heat-resistance properties of the resin (Ref. 1); (3) the high economic value of the resin (Ref. 2); and (4) recent steady increases in the recycling rates of many containers and packaging, which demonstrate that recycling has been accepted by both consumers and commercial interests as an important post-consumer waste management strategy (Ref. 3). However, the agency was concerned that unless articles made with the subject resin were distinctly marked to separate them from other plastic containers, the resin would not be recycled and might interfere with the recycling of plastic containers made with other resins. In response to this concern, the petitioner amended the petition to include a requirement that articles made with the resin be identified to facilitate collection and sorting.

The agency's regulation for this resin will contain a requirement that the manufacturers of articles made with the resin must mark or label these articles so that consumers and sorters will be able to recognize the articles easily and quickly as items to be recycled and collected separately. This requirement is intended to meet the agency's responsibility under section 101(b)(6) of the National Environmental Policy Act (42 U.S.C. 4331(b)(6)) to use its functions and programs to maximize the recycling of depletable resources. Depletable resources include those from which this resin is produced.

FDA recognizes that the requirement that poly(oxy-1,2-ethanediyloxycarbonyl-2,6-naphthalenediylcarbonyl) resin be marked for recycling may raise a question as to whether the recycled resin may be used in contact with food. Currently, FDA reviews recycling processes on a case-by-case basis to determine if the process will remove potential contaminants and produce a recycled resin that is suitably pure for food-contact use. When appropriate, the agency may limit the conditions of use of the recycled resin. The manufacturer of the recycled resin is notified by letter of the agency's determination regarding food-contact use of the recycled resin. In accordance with these procedures, FDA has evaluated studies submitted by Eastman Chemical Co. regarding its recycling process and is notifying Eastman Chemical Co. by letter that its proposed recycling process will produce poly(oxy-1,2-ethanediyloxycarbonyl-2,6-napthalenediylcarbonyl) resin that is safe for use in contact with food. This determination will not require an amendment to the food additive regulations.

FDA has concluded that this action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

Any person who will be adversely affected by this regulation may at any time on or before May 6, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

References

1. Ainsworth, S. J., ''PET Resins Maintain Strong Growth Despite Market Challenges,'' *Chemical & Engineering News*, pp. 11–12, April 18, 1994.

2. Miller, C., ''Saving the World for (From?) PEN,'' *Waste Age's Recycling Times*, vol. 7, No. 19: p. 15, September 19, 1995.

3. United States Environmental Protection Agency, *Characterization of Municipal Solid Waste in the United States*, 1994 update, EPA530–R–94–042, November 1994, Table 21, p. 70; document available from NTIS at telephone number 703–487–4650 with order number: PB 95–147690.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. New § 177.1637 is added to subpart B to read as follows:

§ 177.1637 Poly(oxy-1,2-ethanediyloxycarbonyl-2,6-naphthalenediylcarbonyl) resins.

Poly(oxy-1,2-ethanediyloxycarbonyl-2,6-naphthalenediylcarbonyl) resins identified in paragraph (a) of this section may be safely used as articles or components of articles intended for use in contact with food in accordance with the following conditions:

(a) *Identity*. For the purpose of this section, poly(oxy-1,2-ethanediyloxycarbonyl-2,6-naphthalenediylcarbonyl) resins (CAS Reg. No. 24968–11–4) are polymers formed by catalytic transesterification of 2,6-dimethylnaphthalene dicarboxylate with ethylene glycol followed by catalytic polycondensation.

(b) *Specifications*. (1) *Density*. The density of poly(oxy-1,2-ethanediyloxycarbonyl-2,6-naphthalenediylcarbonyl) resins shall be between 1.33 and 1.40 grams per cubic centimeter.

(2) *Inherent viscosity*. The finished food-contact article shall have a minimum inherent viscosity of 0.55 deciliter per gram in a solution of 0.1 gram of polymer in 100 milliliters of a 25/40/35 (weight/weight/weight) solution of *p*-chlorophenol/tetrachloroethane/phenol. The viscosity is determined by Eastman Chemical Co.'s method ECD-A-AC-G-V-1-5, ''Determination of Dilute Solution Viscosity of Polyesters,'' dated May 31, 1988, which is incorporated by reference in accordance with 5 U.S.C.

552(a) and 1 CFR part 51. Copies are available from the Office of Premarket Approval, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., Washington, DC.

(c) *Extraction limitations.* A 0.5 millimeter (0.02 inch) thick sheet of resin when extracted with water at 121 °C (250 °F) for 2 hours shall yield total nonvolatile extractives not exceeding 2.0 micrograms per square inch of exposed resin surface.

(d) *Conditions of use.* The finished food contact article shall be:

(1) Used in contact only with food of Types I, II, IVB, VIA, VIB, VIIB, and VIII identified in Table 1 of § 176.170(c) of this chapter, under conditions of use A through H described in Table 2 of § 176.170(c) of this chapter; and with food of Types III, IVA, V, VIC, VIIA, and IX identified in Table 1 of § 176.170(c) of this chapter, under conditions of use C through H described in Table 2 of § 176.170(c) of this chapter; and

(2) Identified in a manner that will differentiate the article from articles made of other polymeric resins to facilitate collection and sorting.

Dated: March 28, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–8148 Filed 4–3–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

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

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS MILIUS (DDG 69) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS MILIUS (DDG 69) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, paragraph 3(c) pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding the following entry:

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

* * * * *

Vessel	No.	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * *	*	*
USS MILIUS .	DDG 69	1.93 meters.

3. Table Four, Paragraph 16 of § 706.2 is amended by adding the following entry:

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

* * * * *

Vessel	No.	Obstruction angle relative ship's headings
* * *	*	*
USS MILIUS .	DDG 69	102.30 thru 112.50°

4. Table Five of § 706.2 is amended by adding the following entry:

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

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS MILIUS	DDG 69	X	X	X	20.4

Dated: March 20, 1996.

Approved:

R.R. Pixa,

CAPT, JAGC, U.S. Navy, Depty Assistant Judge Advocate General (Admiralty).

[FR Doc. 96–8213 Filed 4–3–96; 8:45 am]

BILLING CODE 3810–FF–P

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final Rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS PARCHE (SSN 683) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400; Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS PARCHE (SSN 683) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

2. Table One of § 706.2 is amended by revising the entry for USS PARCHE as follows:

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

* * * * *

Vessel	No.	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
* * *	*	*
USS PARCHE	SSN–683	3.58
* * *	*	*

3. Table Three of 706.2 is amended by revising the entry for USS PARCHE as follows:

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

* * * * *

TABLE 3

Vessel	No.	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters 3(b) annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; 2(K) annex 1	Anchor lights relationship of aft light to forward light in meters 2(K) annex 1
*	*	*	*	*	*	*	*	*
USS PARCHE	SSN–683	232°	112.5°	209°	4.1	6.8	2.2	0.2 below.
*	*	*	*	*	*	*	*	*

Dated: March 20, 1996.

R.R. Pixa,

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

[FR Doc. 96–8212 Filed 4–3–96; 8:45 am]

BILLING CODE 3810–FF–P

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS KISKA (AE 35) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 21, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA, 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has determined that certain navigation lights on USS KISKA (AE 35), previously certified as not in compliance with 72 COLREGS, now comply with the applicable 72 COLREGS requirements. Specifically, the forward masthead light has been relocated to comply with Annex I, paragraph 3(a).

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by deleting the following entry for USS KISKA (AE 35):

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

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS KISKA	AE 35			X	98.9
*	*	*	*	*	*

Dated: March 21, 1996.

R.R. Pixa,

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

[FR Doc. 96–8211 Filed 4–3–96; 8:45 am]

BILLING CODE 3810–FF–P

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS MOUNT HOOD (AE 29) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has determined that certain navigation lights on USS MOUNT HOOD (AE 29), previously certified as not in compliance with 72 COLREGS, now comply with the applicable 72 COLREGS requirements. Specifically, the forward masthead light has been relocated to comply with Annex I, paragraph 3(a).

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by deleting the following entry for USS MOUNT HOOD (AE 29):

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

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS MOUNT HOOD	AE 29			X	99
*	*	*	*	*	*

Dated: March 20, 1996.

R.R. Pixa,

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

[FR Doc. 96–8210 Filed 4–3–96; 8:45 am]

BILLING CODE 3810–FF–P

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS THE SULLIVANS (DDG 68) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS THE SULLIVANS (DDG 68) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, paragraph 3(c) pertaining to placement of task lights not less than two meters

from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

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

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding the following entry:

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

* * * * *

Vessel	No.	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
*	*	* * *
USS THE SULLIVANS.	DDG 68	1.87 meters.

3. Table Four, Paragraph 16 of § 706.2 is amended by adding the following entry:

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

* * * * *

Vessel	No.	Obstruction angle relative ship's headings
*	*	* * *
USS THE SULLIVANS.	DDG 68	103.06 thru 112.50°.

4. Table Five of § 706.2 is amended by adding the following entry:

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

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS THE SULLIVANS	DDG 68	X	X	X	20.5
* *	*	*	*	*	*

Dated: March 20, 1996.

R.R. Pixa,

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

[FR Doc. 96–8209 Filed 4–3–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–96–009]

RIN 2115–AE47

Drawbridge Operations; Eltham Drawbridge, Pamunkey River, West Point, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: At the request of the Virginia Department of Transportation (VDOT), Commander, Fifth Coast Guard District is suspending existing regulations for operation of the Eltham drawbridge on SR 33/30 across the Pamunkey River, mile 1.0, at West Point, Virginia and issuing this temporary final rule. This temporary final rule allows restricted drawbridge openings for all vessels seven days a week throughout the month of May. This is intended to help reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge while the George P. Coleman Memorial Bridge is closed to motor vehicle traffic while still providing for the reasonable needs of navigation.

DATES: This temporary final rule is effective from May 1, 1996 through May 31, 1996.

FOR FURTHER INFORMATION CONTACT:

Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (804) 398–6222.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not issued for this temporary final rule. This temporary final rule was requested by the Virginia Department of Transportation in order to minimize traffic delays during replacement of the Coleman Bridge. The Coast Guard believes that this temporary final rule will impose only a minimal burden of limited duration on navigation while reducing traffic delays. For these reasons, the Coast Guard for good cause finds, under 5 U.S.C. 553(b)(3), that notice and public procedure on the notice prior to the effective date of this temporary final rule would be contrary to the public interest and are therefore not necessary.

Background and Purpose

Currently, 33 CFR 117.1023 provides that the Eltham Bridge shall open on signal, except that, on Monday through Friday, it will open for recreational vessels and commercial fishing vessels

only on the hour, and that it need not open for those vessels from 7 to 9 a.m., 12 noon to 1 p.m., and from 4 to 6 p.m. The Virginia Department of Transportation (VDOT) has requested that the schedule be temporarily amended to reduce the periods during which the Eltham Bridge must open on signal. VDOT's request is based on the major rehabilitation project and replacement of the superstructure of the George P. Coleman Bridge (located downriver from the Eltham Bridge) across the York River at Yorktown, Virginia. The Coleman Bridge will be closed to highway traffic during the replacement of the twin main truss spans during the month of May 1996. Highway traffic currently crossing the Coleman Bridge will be detoured onto Route 33/30 to utilize the Eltham Bridge, causing a considerable increase in highway traffic. Scheduled openings of the bridge may result in significant traffic delays.

Discussion of Temporary Final Rule

Based on the above information, Commander, Fifth Coast Guard District is suspending current 33 CFR 117.1023 and issuing this temporary final rule, to be effective from May 1, 1996 through May 31, 1996. This temporary final rule will allow the Eltham drawbridge to remain closed to all vessel traffic from 4 a.m. to 8 p.m., except that it shall open at 10 a.m. and 2 p.m. for vessels waiting to pass. Public vessels and vessels in an emergency involving danger to life or property shall be passed at any time. The bridge will continue to open on signal at all other times. The Coast Guard believes that this temporary final rule will reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge during the period of shutdown of the George P. Coleman Memorial Bridge while still providing for the reasonable needs of navigation.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is a temporary final rule of only local applicability and limited duration, and it will not significantly disrupt maritime traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

This is a temporary final rule of only local applicability and limited duration, and it will not significantly disrupt maritime traffic. Because it expects the impact of this temporary final rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this temporary final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.1023 [Suspended]

2. Section 117.1023 is suspended.

3. A new temporary section, § 117.T1024 is added to read as follows:

§ 117.T1024 Pamunkey River.

The draw of the Eltham Bridge (SR 33/30), mile 1.0, located in West Point, Virginia, shall open on signal, except:

(a) From 4 a.m. to 8 p.m., the drawbridge need not open for the passage of commercial or recreational vessels, except that it shall open at 10 a.m. and 2 p.m. if one or more vessels are waiting to pass.

(b) Public vessels or vessels in an emergency involving danger to life or property shall be passed at any time.

Dated: March 14, 1996.

N.V. Scurria,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. 96–8356 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–14–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1253

RIN 3095–AA64

Suitland Research Room Closure

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: Effective May 6, 1996, the National Archives and Records Administration (NARA) will close the Suitland Research Room at the Washington National Records Center and establish an appointment system for using archival records remaining in the Washington National Records Center. NARA will also establish new public use hours for records center holdings at the Washington National Records Center. Use of the research room has been declining as the archival records are moved from the Washington National Records Center to archival facilities in Washington, DC, and College Park, MD. After May 1, researcher use of the remaining archival records is expected to be no more than three visits per week.

EFFECTIVE DATE: May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon Fawcett, Director, User Services Division, at (301) 713–6770.

SUPPLEMENTARY INFORMATION: Beginning May 6, 1996, researchers will be

required to make advance arrangements for the use of any archival Federal records remaining in the Washington National Records Center. The last archival records to be transferred from Suitland will close for their move on August 30, 1996. Information on the availability of archival records or advance arrangements to use archival records which have not yet been closed for move preparation may be made by calling the Suitland Reference Branch at (301) 457–7190, Monday through Friday, 8:00 a.m. to 4:30 p.m. Normally one day notice will be required. When feasible same day arrangements may be made. Agencies or researchers needing access to agency records stored at the Washington National Records Center should continue to call (301) 457–7010 or (301) 457–7061 for appointments.

Shuttle service for researchers from the National Archives Building in Washington, DC to the Washington National Records Center will be discontinued after May 3, 1996.

NARA finds that it has good cause under the Administrative Procedure Act (5 U.S.C. 553) to issue this regulation as a final rule without prior notice and comment. It will not be cost-effective to operate the research room on its current schedule, 8:00 a.m. to 4:30 p.m., Monday through Friday, for the expected use of the room. There will be little or no impact on the public because archival records will continue to be made available to researchers. In addition, NARA considers this rule to be akin to a procedural rule which is exempt from notice-and-comment under 5 U.S.C. 553b(3)(A).

This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that these regulatory amendments will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1253

Archives and records.

For the reasons set forth in the preamble, part 1253 of title 36 of the Code of Federal Regulations is amended as follows:

PART 1253—LOCATION OF RECORDS AND HOURS OF USE

1. The authority citation for Part 1253 continues to read:

Authority: 44 U.S.C. 2104(a).

2. Section 1253.4 is revised to read as follows:

§ 1253.4 Washington National Records Center.

Washington National Records Center, 4205 Suitland Road, Suitland, MD. Mailing address: Washington National Records Center, 4205 Suitland Road, Washington, DC 20409–0002. Hours: 8:30 a.m. to 4 p.m., Monday through Friday. From May 6, 1996, through August 30, 1996, appointments may be made to use archival records at the Center by calling the Suitland Reference Branch at (301) 457–7190.

Dated: March 27, 1996.

John W. Carlin,

Archivist of the United States.

[FR Doc. 96–8214 Filed 4–3–96; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI62–01–7145a; FRL–5422–7]

Approval and Promulgation of State Implementation Plan; Wisconsin; Wood Furniture Coating SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted on May 12, 1995, and later supplemented on June 14, 1995. This revision requires the control of volatile organic compound (VOC) emissions from facilities that perform wood furniture coating operations. This submittal was made to satisfy the requirement of the 1990 Clean Air Act (CAA) that all major VOC sources in moderate, or worse, ozone nonattainment areas have Reasonably Available Control Technology (RACT) applied to them. This regulation will also be used to generate reductions in VOC emissions, which the State will use to fulfill the requirement of the amended Clean Air Act to reduce VOC emissions by at least 15 percent from the 1990 baseline emissions.

In the proposed rules section of this Federal Register, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this Federal Register. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's rule that has been incorporated by reference.

DATES: The ''direct final'' is effective on June 3, 1996, unless EPA receives adverse or critical comments by May 6, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

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

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6960.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b) of the Clean Air Act sets forth the requirements for ozone nonattainment areas which have been classified as moderate or above. Section 182(b)(1)(A) requires those States with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from the 1990 baseline emissions. The 1990 baseline, as described by EPA's emission inventory guidance, is the amount of anthropogenic VOC emissions emitted on a typical summer day.

Section 182(b)(2) of the CAA requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above for both sources covered by Control Technology Guidance (CTG) documents issued by EPA and all major sources not covered by a CTG.

To fulfill the RACT requirement, and as a part of its 15 percent plan, the State of Wisconsin has developed and adopted a rule to reduce the VOC emissions from the wood furniture coating operations in those areas of the State that are classified as moderate or higher. Wood furniture coating

operations are covered by an EPA draft CTG document.

II. Evaluation of State Submittal

On November 15, 1993, the State of Wisconsin submitted its proposed 15 percent plan. The 15 percent plan submittal was followed by several submittals that contain regulations that will achieve the reductions required by the 15 percent plan. On May 12, 1995, Wisconsin submitted its wood furniture rule, which was later supplemented on June 14, 1995, as part of its 15 percent plan. The wood furniture coating portion of the 15 percent plan was found complete in a letter to Don Theiler, Director of the Wisconsin Department of Natural Resources' (WDNR) Bureau of Air Management, dated August 5, 1995. The WDNR followed the required legal procedures for adopting this rule which are the prerequisites for EPA to consider in approving this rule as part of Wisconsin's federally enforceable SIP. The WDNR held a public hearing for this rule on September 13, 1994 and submitted it to the EPA as a SIP revision under signature of the Governor's designee.

In developing the control requirements for this source category, WDNR consulted the EPA's draft CTG document. The WDNR adopted the same coating limits for VOC content found in the draft CTG. Wisconsin's rule, NR 422.125, provides for alternate compliance methods to meet these coating limits including emissions averaging and add-on control devices. In addition to coating limits, the State rule requires specific application technologies to be used to reduce the emission of VOCs. NR 422.125 (5) and (6) require initial certification of compliance from the affected facilities and continued recordkeeping. All of the requirements found in the State's rule are found to be consistent with EPA's draft CTG.

A more detailed analysis of the State's submittal is contained in a technical support document, which is available at the Regional Office listed above. In determining the approvability of this VOC rule, EPA evaluated the rule for consistency with Federal requirements, including section 110 and part D of the Clean Air Act.

III. Final Rulemaking Action

The EPA approves Wisconsin's wood furniture coating rule as being RACT for this source category, at this time, thereby making this rule federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on June 3, 1996. However, if we receive adverse comments by May 6, 1996, EPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

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

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

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

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

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

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

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*See* Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: February 2, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(90) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(90) A revision to the ozone State Implementation Plan (SIP) was submitted by the Wisconsin Department of Natural Resources on May 12, 1995 and later supplemented on June 14, 1995. This revision consists of volatile organic compound regulations which establish reasonably available control technology for facilities that perform wood furniture coating operations.

(i) Incorporation by reference. The following sections of the Wisconsin Administrative Code are incorporated by reference.

(A) NR 422.02(3e),(7m), (16g), (16i), (16k), (41w), (42o), (42u), (50e), (50m) and (52) as created and published in the (Wisconsin) Register, August, 1995, No. 476, effective September 1, 1995.

(B) NR 422.02(47) as amended and published in the (Wisconsin) Register, August, 1995, No. 476, effective September 1, 1995.

(C) NR 422.125 as created and published in the (Wisconsin) Register, August, 1995, No. 476, effective September 1, 1995.

(D) NR 422.15(1)(intro.) as amended and published in the (Wisconsin) Register, August, 1995, No. 476, effective September 1, 1995.

* * * * *

[FR Doc. 96–7915 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[AD–FRL–5446–7]

Arizona Visibility Federal Implementation Plan Corrective Revision

AGENCY: Environmental Protection Agency (U.S. EPA).

ACTION: Direct final rule.

SUMMARY: The EPA hereby promulgates revisions to the visibility Federal implementation plan (FIP) for the State of Arizona to correct errors in internal cross-references within the existing regulations addressing control requirements at the Navajo Generating Station, adopted to protect visibility at the Grand Canyon National Park. The rules being corrected were published in the Federal Register on October 3, 1991. The internal cross-reference errors occur in the compliance determination procedures at 40 CFR 52.145(d)(3).

DATES: This action will be effective on June 3, 1996 unless adverse or critical comments are received by May 6, 1996.

If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments must be submitted, in duplicate, to: Docket No. A–96–12, U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, Room M–1500 (6102), 401 M Street, SW, Washington, DC 20460. The public comments should address only the accuracy of EPA's corrections to the cross-referencing errors described below. The EPA is not requesting public comment on the underlying merits or substance of the final rules which are unaffected by the technical corrections announced today.

The public docket for the rules issued on October 3, 1991 is A–89–02A and the public docket for this corrective revision to the October 3, 1991 rules is A–96–12. The dockets are available for public inspection and copying between 8:00 a.m. to 4:00 p.m., Monday through Friday, at the U.S. Environmental Protection Agency's Air and Radiation Docket and Information Center listed above. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Damberg, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, North Carolina 27711, (919) 541–5592.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA previously issued rules establishing control requirements for the Navajo Generating Station to protect visibility in the Grand Canyon National Park (*see* 56 FR 50172–50187, October 3, 1991). The rules were codified at 40 CFR 52.145(d).

The Salt River Project Agricultural Improvement and Power District, the owner-operator of the Navajo Generating Station, subsequently discovered errors in internal cross-references in the regulations and notified EPA. The EPA reviewed the regulations and determined that the rules codified at 40 CFR 52.145(d)(3), which address compliance determination procedures, misidentify internal cross-references in five locations. Specifically, the references in 52.145(d)(3)(v)–(vii) to the outputs of 52.145(d)(3)(ii)–(v) should instead reference the outputs of 52.145(d)(3)(iii)–(vi), respectively. Accordingly, in this action, EPA is correcting the five cross-references in 52.145(d)(3)(v)–(vii).

II. Administrative Requirements

A. Executive Order (E.O.) 12866

Section 3(f) of E.O. 12866 defines ''significant regulatory action'' to mean any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, 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 entitlements, 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 E.O.

These corrective regulatory revisions are not a ''significant regulatory action'' under the terms of E.O. 12866, and this regulatory action was not reviewed by the Office of Management and Budget.

B. Paperwork Reduction Act

These corrective regulatory revisions do not contain any information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

C. Regulatory Flexibility Act (RFA)

Under the RFA, 5 U.S.C. sections 601–612, EPA must prepare, for rules subject to notice-and-comment rulemaking, initial and final regulatory flexibility analyses describing the impact on small entities. Small entities include small businesses, organizations, and governmental jurisdictions. However, the requirement of preparing such analyses is inapplicable if EPA certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities (*see* 5 U.S.C. 605(b)). These corrective regulatory revisions do not establish any new or additional regulatory requirements and will not impact small entities. Therefore, EPA certifies that these revisions do not have a significant impact on a substantial number of small entities, and the requirement to perform regulatory flexibility analyses is inapplicable.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. No.

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. Today's rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments or the private sector nor will today's rule have a significant or unique affect on small governments. Today's rule does not contain mandates, does not establish new regulatory requirements and does not change the stringency or scope of the existing regulations. Rather, as previously explained, today's rule solely corrects errors in internal regulatory cross-references within existing regulations.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Carbon monoxide, Ozone, Lead, Sulfur oxides, Reporting and recordkeeping requirements.

Dated: March 18, 1996.

Mary Nichols,

Assistant Administrator for Air and Radiation.

40 CFR part 52 is amended as follows:

PART 40—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

1. Section 52.145 is amended by revising paragraphs (d)(3)(v) through (vii) to read as follows:

§ 52.145 Visibility protection.

* * * * *

(d) * * *

(3) * * *

(v) Sum, for all affected units, the products of the daily SO_2 emission rate-electric energy generated (as calculated according to paragraph (d)(3)(iii) of this section) for the boiler operating days identified in paragraph (d)(3)(iv) of this section.

(vi) Sum, for all affected units, the daily electric energy generated (recorded according to paragraph (d)(3)(i)of this section) for the boiler operating days identified in paragraph (d)(3)(iv) of this section.

(vii) Calculate the weighted plant-wide annual average SO_2 emission rate by dividing the sum of the products determined according to paragraph (d)(3)(v) of this section by the sum of the electric energy generated determined according to paragraph (d)(3)(vi) of this section.

* * * * *

[FR Doc. 96–8221 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[RI–17–1–6968a; A–1–FRL–5405–1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Marine Vessel Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision contains a regulation to reduce volatile organic compound (VOC) emissions from marine vessel loading operations. The intended effect of this action is to approve this regulation into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective June 3, 1996, unless notice is received by May 6, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565–3166.

SUPPLEMENTARY INFORMATION: On March 17, 1994, EPA received a formal State Implementation Plan (SIP) submittal from the Rhode Island Department of Environmental Management (DEM) containing the following regulations:

—Regulation No. 30 ''Control of Volatile Organic Compounds (VOCs) from Automobile Refinishing Operations''

—Regulation No. 31 ''Control of VOCs from Commercial and Consumer Solvents''

—Regulation No. 32 ''Control of VOCs from Marine Vessel Loading Operations''

—Regulation No. 33 ''Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings''

These regulations had been recently adopted as state law pursuant to the reasonable further progress and VOC reasonably available control technology (RACT) requirements of the Clean Air Act (CAA) [Sections 182(b)(1) and 182(b)(2)]. This direct final rulemaking notice addresses only Rhode Island's marine vessel loading regulation. The other regulations included in Rhode Island's SIP submittal will be addressed in future rulemaking actions.

Background

Under the pre-amended Clean Air Act (i.e., the Clean Air Act before the enactment of the amendments of November 15, 1990), ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guideline (CTG) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were: (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under Section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under Section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Under the pre-amended Clean Air Act, the entire State of Rhode Island was designated as nonattainment for ozone and did not seek an extension of the attainment date under Section 172(a)(2). Therefore, the State was only required to adopt RACT for sources covered by the Group I and II CTGs. In lieu of adopting some of the Group II CTG regulations, however, Rhode Island adopted and submitted a regulation

covering all unregulated major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources. However, the State of Rhode Island did not attain the ozone standard by the approved attainment date. On May 25, 1988, EPA notified the Governor of Rhode Island that portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). Rhode Island adopted corrections to the State rules on December 10, 1989 which were approved into the State SIP on September 30, 1991. On November 15, 1990, amendments to the Clean Air Act were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In Section 182(a)(2)(A) of the amended Act, Congress adopted the requirement that pre-enactment ozone nonattainment areas that retained their designation of nonattainment and were classified as marginal or above fix their deficient RACT rules for ozone by May 15, 1991. All of Rhode Island was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991). The SIP revisions approved on September 30, 1991 made Rhode Island's RACT rules consistent with existing CTGs and no revisions were required to meet the fix-up requirements.

Section 182(b)(2) of the amended Act requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the Section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the 1990 amendments to the Act; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG, i.e., non-CTG sources. This RACT requirement applies to nonattainment areas that were previously exempt from certain RACT requirements to ''catch up'' to those nonattainment areas that became subject to such requirements during an earlier period. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas.

In response to the RACT ''catch-up'' requirement, on October 30, 1992, Rhode Island adopted/revised regulations for surface coating operations, cutback asphalt, and pharmaceutical products (Regulations 19, 25, and 26, respectively). These rules were approved into the State SIP on October 18, 1994 (59 FR 52427). However, under Section 182 of the Act, the major source definition for serious nonattainment areas was lowered to include sources that have a potential to emit 50 tons or greater of VOCs per year. In response to this requirement, Rhode Island lowered the applicability cutoff of its graphic arts and non-CTG regulations (Regulations 21 and 15, respectively) to include newly classified major sources in these categories. (See 60 FR 35361 for EPA's proposed rulemaking action on Regulations 21 and 15.)

Also in response to the Act's requirement to regulate major VOC sources, Rhode Island adopted Regulation No. 32 ''Control of VOCs from Marine Vessel Loading Operations'' and submitted this rule to EPA as a SIP revision on March 15, 1994. Rhode Island's Regulation No. 32, the subject of today's action, is briefly summarized below.

Regulation No. 32 ''Control of VOCs From Marine Vessel Loading Operations''

This regulation applies to any loading event in which an organic liquid is loaded into marine tank vessels and to loading events in which any liquid is loaded into a marine vessel's cargo tanks if the most recent cargo held in those tanks was an organic liquid. The regulation prohibits loading events to occur unless one of the following conditions is met:

(1) VOC emissions do not exceed 2 pounds per 1000 barrels of liquid loaded into the marine tank vessel; or

(2) VOC emissions are reduced by at least 95 percent by weight from uncontrolled conditions if a recovery device is used or by at least 98 percent by weight from uncontrolled conditions if a combustion device is used.

This regulation also limits the loading of marine tank vessels to those vessels that are vapor tight.

Regulation No. 32 will reduce VOC emissions. VOCs contribute to the production of ground level ozone and smog. This regulation was adopted as part of an effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following is EPA's evaluation of Rhode Island's Air Pollution Control Regulation Number 32.

EPA's Evaluation of Rhode Island's Submittal

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in Section 110 and Part D of the Act and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents. The specific guidance relied on for this action is referenced within the technical support document and this notice. For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify presumptive norms for RACT for specific source categories. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in, but not limited to, the following: (1) The proposed Post-1987 ozone and carbon monoxide policy, 52 FR 45044 (November 24, 1987); (2) the document entitled, ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice,'' otherwise known as the ''Blue Book'' (notice of availability was published in the Federal Register on May 25, 1988); and (3) the ''Model Volatile Organic Compound Rules for Reasonably Available Control Technology,'' (Model VOC RACT Rules) issued as a staff working draft in June of 1992. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

In addition, Section 183(f) of the amended Act specifically required EPA to promulgate RACT standards to reduce VOC emissions from the loading and unloading of marine tank vessels. On September 19, 1995 (60 FR 48388), EPA promulgated both RACT and MACT (maximum achievable control technology) standards for marine tank vessels.

EPA has evaluated Rhode Island's Regulation No. 32 and has found that it is generally consistent with EPA's national rule for marine tank vessels and other current EPA guidance. As such, EPA believes that this regulation constitutes RACT for marine vessel loading operations.

Rhode Island's regulation and EPA's evaluation are detailed in a memorandum, dated September 28, 1995, entitled ''Technical Support Document—Rhode Island—Marine Vessel Rule.'' Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to

approve the SIP revision should adverse or critical comments be filed. This action will be effective June 3, 1996 unless adverse or critical comments are received by May 6, 1996.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 3, 1996.

Final Action

EPA is approving Rhode Island's Regulation No. 32 ''Control of Volatile Organic Compounds from Marine Vessel Loading Operations'' into the Rhode Island SIP.

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

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

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

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 182(b) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because the affected sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 12, 1996.

John P. DeVillars,

Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart OO—Rhode Island

2. Section 52.2070 is amended by adding paragraph (c)(43) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(43) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on March 15, 1994.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management dated March 15, 1994 submitting a revision to the Rhode Island State Implementation Plan.

(B) Rhode Island Department of Environmental Management, Division of Air Resources, Air Pollution Control Regulation No. 32, ''Control of Volatile Organic Compounds from Marine Vessel Loading Operations'' effective in the State of Rhode Island on March 31, 1994, with the exception of Section 32.2.2 which Rhode Island did not submit as part of the SIP revision.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

3. In § 52.2081, Table 52.2081 is amended by adding a new state citation ''No. 32'' to read as follows:

§ 52.2081 EPA—approved Rhode Island state regulations

* * * * *

TABLE 52.2081.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/unapproved sections
*	*		*	*	*	*
No. 32	Marine Vessels	3/11/94	4/4/96	60 FR 14978	(c)(43)	All of No. 32 is approved with the exception of Section 32.2.2 which Rhode Island did not submit as part of the SIP revision.
*	*		*	*	*	*

[FR Doc. 96–8223 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–25

[FPMR Amendment E–277]

RIN 3090–AF91

Use and Replacement Standards for Electronic Typewriters and Electronic Office Machines

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations (FPMR) to delete the use and replacement standards for electronic typewriters and electronic office machines. Over time, these instructions have become obsolete. Hence, it is no longer necessary to retain these instructions in the FPMR. Removing these instructions from the FPMR will carry out the principles of the National Performance Review by unburdening all Federal agencies from unnecessary regulations. It should be noted that the instructions pertaining to office machines in §§ 101–25.104, 101–25.104–1 and 101–25.106 are being retained.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Nicholas Economou, FSS Acquisition Management Center at (703) 305–6936.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. In addition, Section 553 of the Administrative Procedures Act, requires that agencies publish a general notice of proposed rulemaking in the Federal Register so that the public has the opportunity to comment on the proposed rule. However, the requirements of section 553 do not apply to the extent that there is involved ''a matter relating to agency management or personnel or to public property, loans, grants, benefits or contracts. 5 U.S.C. 553(a)(2).'' Since the subparts affected by this change deal with property management, the exemption from publication for notice and comment applies.

Regulatory Flexibility Act

The final rule is not required to be published in the Federal Register for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101–25

Government property management.

For the reasons set out in the preamble, 41 CFR part 101–25 is amended as follows:

PART 101–25—GENERAL

1. The authority citation for part 101–25 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 101–25.301 is amended by revising paragraph (a) to read as follows:

§ 101–25.301 General.

(a) This subpart prescribes minimum use standards for certain Government-owned personal property which shall be applied by all executive agencies. Additional criteria above these minimum standards shall be established by each executive agency, limiting its property to the minimum requirements necessary for the efficient functioning of the particular office concerned. This subpart does not apply to automatic data processing equipment (ADPE) which is covered in the Federal Information Resources Management Regulation (FIRMR) (41 CFR Chapter 201).

* * * * *

3. Section 101–25.302–2 is amended by revising paragraph (d) to read as follows:

§ 101–25.302–2 Filing cabinets.

* * * * *

(d) Shifting less active files, not transferable to approved records centers, to fiberboard storage boxes, using filing cabinets only when files are constantly used.

* * * * * *

§ 101–25.302–3 [Reserved]

4. Section 101–25.302–3 is removed and reserved.

§ 101–25.302–6 [Reserved]

5. Section 101–25.302–6 is removed and reserved.

6. Section 101–25.302–7 is revised to read as follows:

§ 101–25.302–7 Draperies.

Draperies are authorized for use where justified over other types of window coverings on the basis of cost, insulation, acoustical control, or maintenance of an environment commensurate with the purpose for which the space is allocated. Determining whether the use of draperies is justified is a responsibility of the agency occupying the building or space involved after consultation with the agency operating or managing the building. Authorized draperies shall be of non-combustible or flame-resistant fabric as required in § 101–20.105–1.

§ 101–25.403 [Reserved]

7. Section 101–25.403 is removed and reserved.

8. Section 101–25.404–1 is revised to read as follows:

§ 101–25.404–1 Limitation.

Nothwithstanding the provisions in § 101–25.404, agencies shall limit acquisition of new office furniture to essential requirements as provided in § 101–25.104. Replacement of correspondence filing cabinets will be

governed by the provisions of § 101–26.308.

Dated: December 27, 1995.

Thurman M. Davis, Sr.,

Acting Administrator of General Services.

[FR Doc. 96–8256 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 95–08]

Service Contract Filing Requirements; Miscellaneous Revisions

AGENCY: Federal Maritime Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Maritime Commission is correcting errors in the Exhibit II to Part 514 served with the Final Rule in this proceeding.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION: On February 6, 1996 the Federal Maritime Commission (''Commission'') served its Final Rule in this proceeding, which was published in the February 12, 1996 Federal Register.[1] Appended to the Final Rule was an Exhibit II to 46 CFR Part 514 (''Exhibit''), which sets forth an example of the abbreviated format service contract provided for by the Final Rule.

There were errors in the Exhibit included with the Final Rule. A corrected copy reflecting the version published with the Proposed Rule and intended to be adopted by the Commission in this proceeding[2] is attached to this errata notice.

Joseph C. Polking,

Secretary.

Accordingly, the publication on February 12, 1996 of the final rule is corrected as follows:

On page 5311, Exhibit II to part 514 is corrected to read as follows:

Exhibit II to Part 514

Sample Abbreviated Format Service Contract

Service Contract No.: SC 1–95
FMC File No.: 50,000
Essentials Terms No.: ET 1–95
Amendment No.: _____
Service Contract Essential Terms Publication No.: 003
Tariff(s) of General Applicability No.: 001, 002
Carrier/Conference Name: Efficient Liner Transportation, Inc.
Carrier/Conference Address: 1227 Seaway Drive, Washington, DC 20573

and

Shipper Name: ABC Electronics Company
Shipper Address: 7221 Happiness Lane, New York, NY 10001

This is a service contract pursuant to the Shipping Act of 1984 (46 U.S.C. app. 1701 *et seq.*) and FMC rules at 46 CFR Part 514, between ''CARRIER/CONFERENCE'' and ''SHIPPER'' parties named herein. The contract parties certify that the terms set forth herein and the essential terms as published in Carrier/Conference Service Contract Essential Terms Tariff No. 003, ET No. 1–95, in the Federal Maritime Commission's Automated Tariff Filing and Information System, constitute the true and complete copy of all aspects of this contract and are hereby incorporated by reference.

Further, shipper party named herein certifies its status and that of any affiliate(s)/subsidiary(ies) named herein as (check appropriate box(es):

NVOCC _____
Shippers' Association _____
Owner of Cargo _____
Other (Please specify) _____

Records maintained to support shipments under this service contract are: bills of lading, shipping manifests, and other related written correspondence between contract parties.

Contact person for records in the event of a request by the Federal Maritime Commission: Efficient Liner Transportation, Inc., Traffic Manager, 1227 Seaway Drive, Washington, DC 20573, (202) 523–5856.

_____
(Carrier/Conference Signature)

_____
Date

Efficient Liner Transportation, Inc.

_____
(Shipper Signature)

_____
Date

ABC Electronics Company
Affiliate of shipper: Quality Compact Discs, Inc.
Affiliate's address: 7221–A Happiness Lane, New York, NY 10001

[FR Doc. 96–8201 Filed 4–3–96; 8:45 am]

BILLING CODE 6730–01–M

[1] 61 FR 5308.

[2] 60 FR 27248 (May 23, 1995).

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–158; FCC 96–75]

Operator Service Providers and Call Aggregators

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted a combined Report and Order and Further Notice of Proposed Rule Making which amends the Commission's rules and policies governing operator service providers (OSPs)[1] and call aggregators.[2] The Report and Order amends the Commission's rules to require branding[3] to the parties on both ends of a collect call. The Report and Order also amends the Commission's rules to establish minimum standards for aggregators to follow in routing and handling emergency telephone calls. In addition, the Commission has determined that it should not expand the definition of ''aggregator'' to apply to inmate-only phones at correctional institutions. The Commission also made two minor administrative amendments the rules to revise the title of Subpart G to include ''Telephone Operator Services'' and to amend the rule that lists the Commission's address to be posted at aggregator locations. These decisions are intended to increase protection to consumers and provide them with information necessary in making informed choices regarding operator service calls.

EFFECTIVE DATE: September 2, 1996.

FOR FURTHER INFORMATION CONTACT: Cathy Seidel, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 94–158 [FCC 96–75], adopted February 28, 1996 and released March 5, 1996. The full text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (202) 857–3800.

Paperwork Reduction Act

Public burden for collections of information is estimated to average 2

[1] ''Provider of operator services means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.'' 47 CFR § 64.708(i).

[2] An ''aggregator'' is ''any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.'' *Id.* § 64.708(b).

[3] ''Call branding'' is the process by which an OSP audibly and distinctly identifies itself to the consumer who uses its operator services. *See* 47 U.S.C. 226(b)(1)(A); 47 CFR § 64.703(a)(1).

seconds per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of the collections of information including suggestions for reducing the burden to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project (3060–0666), Washington, D.C. 20554.

Summary of Report and Order

I. Background

1. On February 28, 1996, the Commission adopted a combined Report and Order and Further Notice of Proposed Rule Making in Docket 94–158 (released March 5, 1996, FCC 96–75). The Report and Order amends the rules to require branding to the parties on both ends of a collect call. Prior rules required only branding to the party initiating an operator service call. In addition, as required by the Telecommunications Authorization Act of 1992 (TAA),[4] the order amends Commission rules to establish minimum standards for the routing and handling of emergency telephone calls by aggregators. The Commission also concluded that it should not expand the definition of aggregator to apply to correctional institutions and should make no changes in the treatment of entities that provide interstate telecommunications services to prisons and other correctional facilities. Finally, the Commission determined that it is in the public interest to make two minor administrative amendments to Part 64, one to expand the title of Subpart G and the other to change a portion of the Commission's address which is listed in Section 64.703(b)(3).

II. Discussion

A. Section 64.708—Definition of ''Consumer'' When Branding Collect Calls

2. *Background and Proposal.* Section 226(b)(1)(A) of the Act and section 64.703(a)(1) of the Commission's rules require an OSP to identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call.[5] This identification is known as ''call branding.'' Section 226(a)(4) of the Act and section 64.708(d) of the Commission's rules define a ''consumer'' as ''a person initiating any interstate telephone call using operator services.''[6] The question of which party to a collect call should be treated as the ''consumer,'' and is therefore entitled to branding, was not specifically addressed in section 226 and the implementing regulations.

3. After thoroughly considering the comments concerning its proposal to expand the definition of a ''consumer'' in the collect calling context to include both the calling party and the called party, the Commission decided to adopt its proposed amendment. The Commission recognized that collect calls involve two parties making choices: the calling party chooses to place a collect call from the particular telephone to the called party, while the called party decides whether to accept the call and thereby incur the charges. Both of these parties make decisions that require informed choices, and each may need protection from unfair and deceptive OSP practices that may have an impact on calling costs and call acceptance.[7]

4. Accordingly, the Commission modified section 64.708(d) of the Commission's rules concerning the definition of ''consumer'' to add that ''[i]n collect calling arrangements handled by a provider of operator services, both the party on the originating end of the call and the party on the terminating end of the call are consumers under this definition.''

B. Section 64.706—Routing and Handling of Emergency Telephone Calls

5. The Commission also modified section 64.706 of the Commission's rules concerning the minimum standards for the routing and handling of emergency telephone calls. As revised, this section requires aggregators, as well as providers of operator services, to ensure immediate connection of the emergency call to the appropriate service for the reported location of the emergency, if known, and, if not known, for the originating location of the call. As the Commission determined in CC Docket No. 90–313, it found here that it is not necessary to prescribe more specific rules delineating the responsibilities of OSPs and aggregators, and states are free to adopt more stringent requirements. The Commission saw no need at this time to impose more complex requirements on aggregators handling emergency calls than are currently established for operator services providers. The Commission noted, however, that responsibility for calls under this regulation ultimately remains with the party or parties who actually handle and route the calls rather than the parties who merely contract out the operation of its telephones.

C. Treatment of Inmate-Only Telephones in Correctional Institutions

6. The Commission considered the comments concerning modification of its regulatory treatment of inmate-only telephones in correctional institutions and concluded that changes now would be premature. The Commission stated that in view of the ''exceptional'' circumstances presented by the correctional environment, which have not changed since its *Report and Order* in CC Docket No. 90–313, 56 FR 18519 (April 23, 1991), it was not convinced that it should now require these services to operate like ones that serve the general public. The Commission expressed concern, however, about the apparently high rates that some providers charge, which are ultimately borne by members of the general public.[8] It concluded, however, that action to modify Commission rules so as to treat inmate-only phones in correctional institutions as aggregator locations was not supported by the record in this proceeding.

D. Administrative Amendments: Title of Subpart G, Part 64; Section 64.703(b)(3)—Commission Address

7. No comments were filed concerning the Commission's proposal to expand the Title of Subpart G, Part 64 to include ''Telephone Operator Services.'' The Commission, therefore, found that this amendment is in the public interest as a more complete description of the subject matter encompassed by Subpart G, Part 64 and adopted the proposal.

8. The Commission also concluded that amendment of section 64.703(b)(3) to change a portion of the Commission's address to be posted at aggregator locations from ''room 6202'' to ''Mail Stop 1600A2'' is in the public interest. This change is made necessary by the change of the official Enforcement Division address and will allow more efficient mail routing. Aggregators should make this address change on the posted signage when they next update

[4] Pub. L. No. 102–538, 106 Stat. 3533 (1992).

[5] 47 U.S.C. 226(b)(1)(A); 47 CFR § 64.703(a)(1).

[6] 47 U.S.C. 226(a)(4); 47 CFR § 64.708(d).

[7] Section 226 directed the Commission to conduct a rule making proceeding to prescribe regulations to ensure that consumers are protected from unfair and deceptive practices relating to their use of operator services and to ensure that consumers have the opportunity to make informed choices when placing operator service calls. 47 U.S.C. 226(d)(1)(A), (B).

[8] Calls from correctional institutions are usually made on a collect basis to family members or other members of the general public.

that signage for other purposes, such as for the change of a presubscribed OSP. This change is proper without prior public notice under 47 CFR section 1.412 and 5 U.S.C. 553(b).

III. Ordering Clauses

9. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 4(j). 201–205, 218, and 226 of the Communications Act, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 226, that Part 64 of the Commission's Rules, 47 CFR Part 64, are amended as set forth below.

10. It is further ordered that this Report and Order will be effective sixty (60) days after publication of a summary thereof in the Federal Register.

List of Subjects in 47 CFR Part 64

Communication common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

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

Authority: Sec. 4, 48 Stat. 1066, as amended, 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201–4, 218, 225, 226, 227, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225, 226, 227, unless otherwise noted.

2. The title of Subpart G, Part 64 is revised to read as follows:

Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Communications Common Carriers; Telephone Operator Services

3. Section 64.703(b)(3) is revised to read as follows:

§ 64.703 Consumer information.

* * * * *

(b) * * *

(3) The name and address of the Enforcement Division of the Common Carrier Bureau of the Commission (FCC, Enforcement Division, CCB, Mail Stop 1600A2, Washington, DC 20554), to which the consumer may direct complaints regarding operator services.

* * * * *

4. Section 64.706 is revised to read as follows:

§ 64.706 Minimum standards for the routing and handling of emergency telephone calls.

Upon receipt of any emergency telephone call, providers of operator services and aggregators shall ensure immediate connection of the call to the appropriate emergency service of the reported location of the emergency, if known, and, if not known, of the originating location of the call.

5. Section 64.708 is amended by revising paragraph (d) to read as follows:

§ 64.708 Definitions.

* * * * *

(d) *Consumer* means a person initiating any interstate telephone call using operator services. In collect calling arrangements handled by a provider of operator services, both the party on the originating end of the call and the party on the terminating end of the call are consumers under this definition.

* * * * *

[FR Doc. 96–8200 Filed 4–3–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 73

[MM Docket No. 93–17; RM–8170]

Radio Broadcasting Services; Rosendale, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Reconsideration filed by State University of New York, licensee of noncommercial educational Station WFNP, Channel *204A, Rosendale, New York, directed to the *Report and Order* in this proceeding which denied its proposal to modify the Station license to specify operation on Channel 273A. *See* 60 FR 54954, October 27, 1995. This document also dismisses a related Emergency Request for Stay of FM Application Window. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 93–17, adopted March 14, 1996, and released March 28, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–8198 Filed 4–3–96; 8:45 am]

BILLING CODE 6712–01–F

Proposed Rules

Federal Register
Vol. 61, No. 66
Thursday, April 4, 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

Animal and Plant Health Inspection Service

9 CFR Parts 77 and 91

[Docket No. 92–076–1]

RIN 0579–AA53

Tuberculosis in Cervids

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the regulations concerning tuberculosis and the interstate movement of animals by adding provisions regarding testing, identification, and interstate movement of captive cervids, such as deer and elk. We also propose to amend the regulations concerning exportation of animals and animal products to require that, to be eligible for export, captive cervids be accompanied by a certificate stating that they have tested negative for tuberculosis within 90 days prior to export. Captive cervids have been determined to be a source of tuberculosis infection. The proposed amendments appear necessary to help prevent the spread of tuberculosis and facilitate the eradication of tuberculosis in livestock in the United States.

DATES: Consideration will be given only to comments received on or before June 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 92–076–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 92–076–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph VanTiem, Staff Veterinarian, Cattle Diseases and Surveillance, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–8715.

SUPPLEMENTARY INFORMATION:

Background

Tuberculosis Eradication Program

Bovine tuberculosis is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis.* It affects cattle, bison, deer, elk, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other bodily parts, causes weight loss and general debilitation, and can be fatal.

At the beginning of this century, bovine tuberculosis was causing more losses of livestock than all other livestock diseases combined. This prompted the institution of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock. (For the remainder of this document, bovine tuberculosis will be referred to as TB).

The eradication program for TB in livestock provides for testing of cattle and bison for TB and regulates the interstate movement of cattle and bison. Most of the regulations governing the eradication program are found in 9 CFR part 77 (referred to below as the regulations), including provisions for conferring or removing ''accredited-free State'' status, a key feature of the TB eradication program. To establish or maintain status as an accredited-free State, a State must have no findings of TB in any cattle or bison in the State for at least 5 years. The State must also comply with all of the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' (UMR for TB) regarding accredited-free States. The UMR for TB is incorporated into the Code of Federal Regulations by reference at § 77.1. Detection of TB in any cattle or bison in the State will result in suspension of accredited-free State status. Detection of TB in two or more herds of cattle or bison in the State within 48 months will result in revocation of accredited-free State status.

The advantage of maintaining status as an accredited-free State is that buyers from other States and countries prefer to buy cattle and bison, as well as cattle and bison byproducts, from an accredited-free State. Many States and nations ban cattle imports from regions that are not certified as accredited-free for TB. Loss of accredited-free State status can cause losses in interstate and international trade for the State in question.

Cervid Industry Information and Bovine Tuberculosis

Breeding and production of deer, elk, and other exotic *Cervidae* (cervids) has taken place in the United States since at least the 1930's. U.S. production of cervids has increased over the decades and is expected to continue to grow. Currently, there are more than 1,600 deer and elk owners in the United States, raising about 250,000 head of captive cervids.

TB affects cervids similarly to the way it affects cattle and bison. Cervids infected with TB can and have been known to spread the disease to cattle and bison. In 1984, 24 bison herds were discovered to be infected with TB in 10 States, 7 of which were accredited-free States. The source of this outbreak proved to be their association with TB-infected elk that had been purchased by an elk rancher from an exotic animal collection in another State. In 1992, New York slaughtered 2 dairy herds that were found to be infected with TB by being exposed to a tuberculous cervid herd, and tested and quarantined 18 additional dairy herds because of TB. Also in 1992, TB was found in a beef cattle herd in Pennsylvania that had been in contact with a tuberculous cervid herd. As a result of these outbreaks, New York and Pennsylvania lost their accredited-free State status. Since January 1, 1991, TB has been confirmed in 29 herds of elk and deer in 15 States.

In addition to concerns over livestock health, another issue of concern to the United States is the considerable impact TB would have on the nation's wild cervids and other wildlife if the disease were to become established. Captive cervids are maintained within fenced areas. However, captive cervids have been known to escape their enclosures and mingle with wild cervids. At present, there are two confirmed

instances of TB in wild cervids (each involving only one animal), and it has been determined that at least one of those incidences resulted from contact with a captive cervid herd. We believe that if a widespread outbreak of TB were to occur in wild cervids or in other wildlife, it would be very costly to manage, would reduce wildlife populations, and would pose a serious human health risk.

Proposal

The regulations in 9 CFR part 77 restrict the interstate movement of cattle and bison to help prevent the interstate spread of TB. We propose to divide 9 CFR part 77 into two subparts: ''Subpart A—Cattle and Bison'' and ''Subpart B—Captive Cervids.'' ''Subpart A—Cattle and Bison'' would contain the regulations currently in part 77 plus a new § 77.7, ''Cleaning and disinfection of premises, conveyances, and materials,'' regarding the cleaning and disinfection of premises, conveyances, and materials used in the interstate movement of tuberculous cattle or bison. ''Subpart B—Captive Cervids'' would add provisions concerning testing, identification, and interstate movement of captive cervids to help prevent the interstate spread of TB and facilitate the eradication of TB in livestock in the United States.

Cervid industry associations recognize the importance of controlling TB and endorse participation in a testing and control program at the Federal level. The North American Elk Breeders Association (NAEBA), for example, through a unanimous vote of its board of directors, has set as a major goal the inclusion of members' herds of elk and deer within the scope of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program. NAEBA members number more than 650, and own about 85 percent of the 20,000 captive elk in North America.

We modeled the proposed subpart B for cervids after the regulations in part 77 for cattle and bison, and after the UMR for TB for cattle and bison.

Following is a description of and rationale behind each section of the proposed regulations:

Proposed § 77.8 Definitions

This section would establish definitions of terms used throughout the subpart. The definitions of ''Administrator,'' ''Animal and Plant Health Inspection Service (APHIS),'' and ''USDA'' are consistent with our use of these terms in other regulations in 9 CFR chapter I. The definitions of ''Accredited veterinarian,'' ''Approved slaughtering establishment,'' ''Herd,'' ''Official eartag,'' ''Permit,'' ''Suspect,'' ''Tuberculin,'' and ''Tuberculosis'' are consistent with our use of these terms in either §§ 77.1 through 77.6 of the regulations or with our use of these terms in the UMR for TB.

We propose to define additional terms, which are used in these proposed regulations, in § 77.8 as follows:

Accredited herd. A herd of captive cervids that has tested negative to at least three consecutive official tuberculosis tests of all eligible cervids in accordance with § 77.10(f), and that meets the standards set forth in § 77.12 of this subpart. The tests must be conducted at 10–14 month intervals.

A herd of cattle and bison is only required to pass two annual official tuberculin tests in order to be qualified as an accredited herd. However, livestock industry associations have requested that we require three official tuberculosis tests to qualify a cervid herd as an accredited herd, because of a lack of testing history and the present seriousness of the TB situation concerning cervids. Classification as an accredited herd would allow cervids from the herd to move freely interstate. This classification is part of our proposed regulations for interstate movement of cervids, which will be explained in detail later in this document.

Affected herd. A herd of captive cervids that contains, or that has been identified as the source of, one or more cervids infected with *Mycobacterium bovis* (determined by bacterial isolation of *M. bovis*) and that has not tested negative to the tests prescribed in § 77.16(d) of this subpart.

This definition is in accordance with the definition of affected herd that appears in the UMR for TB, with the addition of an explanation of how infection of cervids with *M. bovis* is to be determined.

Captive cervid. All species of deer, elk, and moose raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag with which to trace the animal back to a herd of origin.

This definition excludes wild cervids, which we do not propose to regulate under this proposed rule.

Classified herd. An accredited, qualified, or monitored herd.

See the definitions for these terms, below.

Cooperating State and Federal animal health officials. The State and Federal animal health officials responsible for overseeing and implementing the National Cooperative State/Federal Bovine Tuberculosis Eradication Program.

Depopulate. To destroy all cervids in a herd by slaughter or by death otherwise.

Designated accredited veterinarian. An accredited veterinarian who is trained and approved by cooperating State and Federal animal health officials to conduct the single cervical tuberculin (SCT) test on cervids.

This definition would differentiate accredited veterinarians who have been trained to perform the SCT test on cervids from those who have not.

Exposed cervid. Any cervid that has been exposed to tuberculosis by reason of associating with tuberculous cervids, cattle, or bison.

This definition is in accordance with the definition of exposed animals that appears in the UMR for TB.

Monitored herd. A herd on which identification records are maintained on captive cervids inspected for tuberculosis at an approved slaughtering establishment or an approved diagnostic laboratory, and which meets the standards set forth in § 77.14 of this subpart.

Moved directly. Moved without unloading en route if moved in a means of conveyance, or without stopping if moved in any other manner, and without stopover or diversion to assembly points of any type.

We will propose to require throughout the subpart that cervids be ''moved directly'' to slaughter, or that cervids be ''moved directly'' from a classified herd, for example. Requiring in these instances that the cervids be moved directly, as defined above, would minimize the risk of the cervids spreading tuberculosis to other animals, should any of them have tuberculosis, and would minimize the risk of healthy cervids becoming diseased through contact with tuberculous animals en route to their destination.

Negative. Showing no response to an official tuberculosis test or classified negative for tuberculosis by the testing veterinarian based upon history, supplemental tests, examination of the carcass, or laboratory results.

This definition is consistent with our use of the term ''negative animals'' as it appears in the UMR for TB.

No gross lesions (NGL). Having no visible lesion or lesions of bovine tuberculosis detected upon necropsy or slaughter.

Cervids can react to tuberculosis tests, but upon necropsy or slaughter, show no physical signs (lesions) of tuberculosis. Proposed § 77.16 would

require testing of tissue samples from NGL cervids to determine whether or not the cervids are infected with tuberculosis.

Official tuberculosis test. Any of the following tests for bovine tuberculosis in cervids, applied and reported in accordance with this subpart:

(1) The single cervical tuberculin (SCT) test; (2) the comparative cervical tuberculin (CCT) test; and (3) the blood tuberculosis (BTB) test.

We call these tests official tuberculosis tests (as opposed to the official tuberculin tests for cattle and bison) because of the inclusion of the BTB test, which is not a tuberculin test. The definitions of the SCT test and the CCT test are consistent with our use of these terms in the UMR for TB as they relate to cattle and bison, and would read as follows:

Comparative cervical tuberculin (CCT) test. The intradermal injection of biologically balanced USDA bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area to determine the probable presence of bovine tuberculosis (*M. bovis*) by comparing the response of the two tuberculins 72 hours (plus or minus 6 hours) following injection.

Single cervical tuberculin (SCT) test. The intradermal injection of 0.1 mL (5,000 tuberculin units) of USDA PPD bovis tuberculin in the mid-cervical area with reading by visual observation and palpation in 72 hours (plus or minus 6 hours) following injection.

The definition of the BTB test would read as follows:

Blood tuberculosis (BTB) test. A supplemental test for tuberculosis in cervids.

The BTB test is a relatively new TB test and is explained in detail under the description of proposed § 77.11 later in this document.

Qualified herd. A herd of captive cervids that has tested negative to at least one official tuberculosis test of all eligible cervids (described in § 77.10 (f)) within the past 12 months, and that is not classified as an accredited herd.

Quarantine. A prohibition from any interstate movement, except for interstate movement to slaughter or necropsy in accordance with § 77.17.

Proposed § 77.17 concerns necropsy procedures, approved slaughtering establishments, and permits and identification requirements for reactor, suspect, and exposed cervids moving interstate to slaughter or necropsy.

Reactor. Any cervid that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian; or any suspect cervid that is classified a reactor upon slaughter or necropsy by the USDA or State veterinarian performing or supervising the necropsy.

A cervid that shows a response to an official tuberculosis test would be classified as a reactor in accordance with criteria discussed later in this document under proposed § 77.11, ''Official Tuberculosis Tests.'' This definition of a reactor cervid is consistent with our definition for reactor cattle, bison, or dairy goats in the UMR for TB, with the clarification that a cervid may be classified as reactor upon slaughter or necropsy. A cervid that is not classified as reactor upon testing, but that is classified as reactor upon slaughter or necropsy would have had a response to an official tuberculosis test, but would have been classified as suspect by the testing veterinarian. If evidence of tuberculosis is found upon slaughter or necropsy, the suspect's response to the official tuberculosis test would be reclassified as a reactor response, and the owner of the cervid could then claim reactor indemnity for the slaughter of the animal.

Regular-kill slaughter animal. An animal that is slaughtered for food or any reason other than because of a disease regulated under 9 CFR chapter I (such as tuberculosis, brucellosis, or any other livestock disease for which movement of animals is restricted under 9 CFR chapter I).

This term is used in § 77.10(b), concerning approved diagnostic laboratories.

Tuberculous. Infected with, exposed to, or having lesions indicative of tuberculosis, or classified as suspect or reactor based on an official tuberculosis test.

Whole herd test. An official tuberculosis test of all test eligible animals in the herd.

Whole herd testing would be necessary in herds containing reactors, in affected herds, and in other situations, as described in the proposed regulations below.

Proposed § 77.9 General Restrictions

This section would establish general requirements for interstate movement of cervids that would apply to all captive cervids, regardless of their classification status.

Under this proposed section, no captive cervid may be moved interstate unless it has been tested using an official tuberculosis test, and it is moved in compliance with the regulations of proposed subpart B. No captive cervid with a response to any official tuberculosis test would be eligible for interstate movement unless the cervid subsequently tests negative to an official tuberculosis test or is moved directly to slaughter or necropsy under permit in accordance with proposed § 77.17 (which is discussed below). A response to an official tuberculosis test does not mean that the cervid has TB—a response means that the cervid is not negative for TB, and *may* be infected with TB. For example, a cervid may respond to an official tuberculosis test because the tuberculin was cross reactive with a microbacterial disease or immune stimulant present in the animal that is not *M. bovis.* Many animals that respond to a tuberculosis test are not found to be infected with *M. bovis* upon necropsy and bacterial culture. Therefore, an animal is not considered to positively have tuberculosis until *M. bovis* has been isolated from a bacterial culture. As discussed later, a cervid in an affected herd that responds to the SCT will be considered a reactor for several reasons.

Also, this section would require that, except for captive cervids moving under permit directly to slaughter or necropsy, each cervid or shipment of cervids to be moved interstate must be accompanied by a certificate issued by a State or Federal animal health official or an accredited veterinarian before movement. The certificate would have to state the official eartag number of each captive cervid to be moved, the number of cervids covered by the certificate, the purpose of movement, the origin and destination of the cervids, the consignor, and the consignee. If a cervid is moving under permit directly to slaughter or necropsy, it would not need a certificate because the permit would include virtually the same information as a certificate. The permit and certificate in this proposal are virtually identical to the permit and certificate for movement required for cattle and bison under current part 77.

This section would exempt cervids in zoological parks that are accredited by the American Association of Zoological Parks and Aquariums (AAZPA) from these regulations when the cervids are moved directly interstate between AAZPA member facilities. Any cervids moved interstate that are not moved directly from an AAZPA member facility to another AAZPA member facility would have to be moved in accordance with these proposed regulations. AAZPA facilities monitor their animals for tuberculosis and other diseases, and interstate movement between the parks would not involve contact with animals that are not in the respective parks. Zoos that are not AAZPA members are not required to conform to a standardized animal health

system, and would therefore need to comply with these proposed regulations to ensure that tuberculous animals are not moved interstate.

Proposed § 77.10 Testing Procedures for Tuberculosis in Cervids

This section would set forth testing procedures to be followed when using the official tuberculosis tests. Paragraph (a) would require that, with two exceptions, official tuberculosis tests may only be given by a veterinarian employed full-time by the State in which the test is administered or by a veterinarian employed full-time by USDA. The exceptions are that a designated accredited veterinarian may conduct the SCT test (except with affected herds, suspected source herds, and herds that have received cervids from affected herds; see proposed §§ 77.11(a)(2) and 77.16 (e) and (f)), and any accredited veterinarian may conduct the BTB test.

Proposed paragraph (b) concerns approved diagnostic laboratories, and states that, with one exception, results for all laboratory diagnoses would only be accepted from the National Veterinary Services Laboratories (NVSL) in Ames, Iowa. The exception would be histopathological results from a laboratory of the Food Safety and Inspection Service (FSIS), USDA, which would be acceptable for tissue examination of regular-kill slaughter animals in those cases where no submission was made to NVSL. NVSL and FSIS laboratories are the official reference laboratories for the U.S. Department of Agriculture. We also propose to require that BTB test samples must be sent for diagnosis to the laboratory at Texas A&M University in College Station, Texas. This is the only laboratory in the United States equipped to evaluate the BTB test.

Proposed paragraph (c) would require that any captive cervid tested with an official tuberculosis test be individually identified by an official eartag at the time of the official tuberculosis test. As stated in the definitions, an official eartag would provide unique identification for each cervid by conforming to the alpha-numeric National Uniform Eartagging System. In the event that a cervid is found to be infected with tuberculosis, the official eartag identification would help State and Federal animal health officials to trace the history of ownership of the animal and find the source of the infection.

Paragraph (d) would require that the testing veterinarian submit a report to cooperating State and Federal animal health officials of the State in which the captive cervid is tested. The report would have to include the following information for all official tuberculosis tests administered: the individual eartag number; the age, sex, and breed of each captive cervid tested; a record of all responses; the size of each response (if appropriate for that test); and the test interpretation.

Paragraph (e) would provide for interpretation of an SCT test to be based upon the judgment of the testing veterinarian after observation and palpation of the injection site, in accordance with the classification requirements described in proposed § 77.11(a) (discussed below). The SCT test is subjective by nature. A veterinarian determines the response to the tuberculin by observing and palpating the injection site and evaluating the increase (if any) in skin thickness. Also, the TB history of the herd and the individual cervid, and the tester's own experience must be factored into the interpretation. Paragraph (e) would require that interpretation of the CCT test be in accordance with proposed § 77.11(b), which prescribes standards for classifying a cervid based on measuring the response to the tuberculins. Further, paragraph (e) would require that interpretation of a BTB test be in accordance with patented standards for the BTB test,[1] and the classification requirements described in proposed § 77.11(c). The laboratory at Texas A&M University in College Station, Texas, has purchased the right to use the patented software that interprets the BTB test and is, therefore, equipped to evaluate the BTB test (see proposed § 77.10(b)(2)).

Paragraph (f) would require that testing of herds for classification include all captive cervids 1 year of age or over and any captive cervids other than natural additions (cervids born into the herd) under 1 year of age. Natural additions under 1 year of age would not need testing since, if we know the TB status of the rest of the herd, we can surmise that cervids under 1 year of age have the same TB status. Any cervid under 1 year of age that is not a natural addition would require testing, since we would not necessarily know the TB status of the herd from which it came. All natural additions under 1 year of age would have to be individually identified by an official eartag and recorded in the test report as members of the herd at the time of the herd test, even though they are not tested.

Proposed § 77.11 Official Tuberculosis Tests

This section describes each of the three official tuberculosis tests, when each could be used, and the classification the testing veterinarian would have to confer depending upon a cervid's response to each test.

Single Cervical Tuberculin (SCT) Test

The SCT test is one of two tuberculin tests that this proposal designates as official tuberculosis tests. (A tuberculin test requires the injection of tuberculin into the cervid's skin. A visible reaction to the tuberculin, such as swelling, may indicate the presence of *M. bovis*.) Of the two tuberculin tests, the SCT is the most sensitive. Under this proposal, the SCT test would be the primary test to be used in individual captive cervids, and in captive cervid herds of unknown tuberculous status. Because the SCT test is very sensitive, it is more likely than other tuberculin tests to detect *M. bovis* in an animal. It is also, however, more likely to react to other microbacterial diseases or immune stimulants present in the animal that are not *M. bovis*. For this reason, we would require that each cervid in a herd of unknown tuberculous status that responds to the SCT test be classified as a suspect for tuberculosis until it is retested with either the CCT test or the BTB test and is either found negative for tuberculosis or is classified as a reactor, unless the testing veterinarian determines that the cervid should be classified as a reactor based on its response to the SCT test, the circumstances under which the cervid is being tested, and any previous association with TB the cervid has had.

However, we would require that a designated accredited veterinarian could only classify a cervid as a reactor with the concurrence of the State and/or regional tuberculosis epidemiologist for the State in which the animal is being tested. Classifying an animal as a reactor always necessitates further serious regulatory actions, including quarantine, traceback, and usually, the slaughter of the reactor and other cervids in the herd. It is for this reason that, as explained below, we would require that official tuberculosis tests must be conducted by a State or USDA veterinarian in cases where it is highly probable that reactor animals will be found (for example, affected herds and herds containing suspects that are being retested with the CCT). It is also for this reason that we would require designated accredited veterinarians to obtain the concurrence of a State and/or regional

[1] The patented standards for the BTB test may be obtained from the Deer Research Laboratory, Department of Microbiology, University of Otago, P.O. Box 56, Dunedin, New Zealand, or from the Texas Veterinary Medical Center, College of Veterinary Medicine, Texas A&M University, College Station, Texas.

tuberculosis epidemiologist in those unusual cases where a designated accredited veterinarian determines that a cervid should be judged a reactor instead of a suspect.

As explained previously in this document, the testing veterinarian may interpret the SCT test based upon his or her own professional judgment, taking into account the circumstances under which the cervid is being tested, any previous association with TB the cervid or herd has had, and the veterinarian's own experience with conducting the SCT test. These factors could cause the testing veterinarian to determine a cervid is a reactor instead of a suspect. Before conducting an SCT test, the testing veterinarian would inform the owner of the cervids of the possibility that cervids responding to the test may be classified as suspects or reactors. For example, if the testing veterinarian is using the SCT test for annual routine tuberculosis testing of a herd, the veterinarian would classify cervids that respond to the test as suspects. However, if the SCT test is being conducted on a herd considered to be at a high risk for tuberculosis (such as a herd newly assembled on premises where a tuberculous herd had been depopulated, a herd suspected of being a source of a tuberculous animal found at slaughter, or a herd recently released from quarantine for tuberculosis) the testing veterinarian may classify cervids that respond to the SCT test as reactors. This proposed rule would require that the testing veterinarian classify a cervid that responds to the SCT test as a reactor if the herd being tested is an affected herd (discussed below), or if it is a herd that has received cervids from an affected herd (discussed under proposed § 77.16). In individual cervids, a testing veterinarian may classify an individual cervid as a reactor if, for example, the cervid is being tested as part of a traceback investigation and there is strong evidence that the cervid is the source of tuberculosis.

This section would also designate the SCT test as the primary test to be used in affected herds and herds that have received cervids from affected herds. When used with affected herds or herds that have received cervids from an affected herd, the SCT test could only be administered by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. In affected herds, each cervid that responds to the SCT test must be classified as a reactor. In other cases, a cervid that responds to the SCT test would be classified as a suspect and retested with either the CCT test or the BTB test. However, in an affected herd, it is known that the cervid has been exposed to TB. That, combined with the fact that the SCT test is more sensitive than the CCT test or the BTB test, makes it more likely that a response to the SCT test indicates an animal with TB. Therefore, we would require that a cervid that is in an affected herd and that responds to the SCT be classified as a reactor.

Comparative Cervical Tuberculin (CCT) Test

The CCT test is the second of the two tuberculin tests designated as official tuberculosis tests under this proposal. As discussed previously, the CCT test is less sensitive than the SCT test. The CCT test would not be used as a primary test for cervid herds because the fact that it is less sensitive makes it more likely that it may not detect some *M. bovis* infections in herds of unknown tuberculous status. However, it is also more likely that a cervid responding to the CCT test is actually infected with *M. bovis*. For this reason, we propose to use the CCT test as a supplemental test that may only be used for retesting captive cervids classified as suspects. The CCT test may be used in affected herds only after the herd has tested negative to two whole herd SCT tests, and only with the prior written consent of cooperating State or Federal animal health officials. The CCT test may not be used as a primary test for herds of unknown tuberculous status. Any cervid with a response to bovine PPD tuberculin that is less than 1 mm would be classified as negative for TB. Any cervid with a response to the avian PPD tuberculin that is greater than the response to the bovine PPD tuberculin would be classified as negative for tuberculosis. Any cervid with a response to the bovine PPD tuberculin which is 2 mm or greater and that is equal to the response to the avian PPD tuberculin would be classified as a suspect, unless the testing veterinarian determines that the cervid should be classified as a reactor. Any cervid with a response to the bovine PPD tuberculin that is 2 mm or greater and that is at least 0.5 mm greater than the response to the avian PPD tuberculin would be classified as a reactor. Animals classified as suspects on two successive CCT tests would be classified as reactors. Any exceptions to reactor classification under the conditions described above would have to be justified by the testing veterinarian in writing and have the concurrence of cooperating State or Federal animal health officials.

Blood Tuberculosis (BTB) Test

Unlike the two tuberculin tests described above, the BTB test requires the laboratory analysis of a blood sample taken from the cervid. Under this proposal, the BTB test would be a supplemental test that may be used in place of the CCT test for retesting captive cervids classified as suspects. Based on a cervid's response to the BTB test, a cervid is classified by the testing laboratory as either ''*M. bovis* positive,'' ''avian,'' ''equivocal,'' or ''negative.'' This proposal would require that any cervid classified by the testing laboratory as ''equivocal'' be classified as a suspect, and any cervid classified by the testing laboratory as ''*M. bovis* positive'' be classified as a reactor. Any cervid classified by the testing laboratory as ''avian'' or ''negative'' would be considered negative for TB. Copies of the BTB test results would have to be submitted by the person, firm, or corporation responsible for the management of the herd to the cooperating State and Federal animal health officials.

Since this proposal would not require that the BTB test be used for diagnosis of a cervid or cervid herd, we propose to require that the cost of the BTB test be born by the owner of the tested animal(s). The BTB test costs approximately $100 per cervid to perform and evaluate. We have included the BTB test within the scope of these proposed regulations because some herd owners prefer to use the BTB test on their animals. However, APHIS does not have the funds to bear the cost of this test, and we believe that the SCT and the CCT tuberculin tests provide results as reliable as the BTB test.

Proposed §§ 77.12, 77.13, 77.14, and 77.15 Interstate Movement of Cervids

Unlike the TB eradication program for cattle and bison, we are not proposing at this time that the TB status of cervids affect the TB status of a State. There are 15 States that have had TB-infected herds of deer and elk. Of these, eight are accredited-free States, and would lose or have suspended their accredited-free State status if we required that cervids be TB-free in order for States to maintain their accredited-free status. Further, although we do offer indemnity payments for cervids under 9 CFR part 50, we do not at this time have sufficient funds to pay indemnity to all cervid owners so that herd depopulation would be an affordable option for their infected herds. Without depopulation of TB-infected cervid herds, it would be difficult for many States to maintain their accredited-free status. For these

reasons, we are proposing herd accreditation for cervids which would be separate from the State herd accreditation for cattle and bison. The herd accreditation for cervids would help prevent the spread of TB from cervids without allowing the TB status of an individual cervid herd to affect the TB status of an entire State. The provisions for herd accreditation would be found in §§ 77.12 through 77.15 of proposed subpart B. After 3 years, the regulations we are proposing here will be subject to review, and States that have infected cervid herds will have their State TB status reviewed. If at that time, we determine that the TB infection rate of cervid herds is at a level which would make it appropriate for the TB status of cervids to affect the TB status of States, we will revise the regulations accordingly.

Participation in the herd accreditation plan for cervids would be voluntary. However, interstate movement of cervids would be easier for an animal from a classified herd. We propose to create three classes of herds—accredited, qualified, and monitored. A captive cervid that is not known to be infected or exposed to TB could be moved interstate from an unclassified herd—a herd not participating in the herd accreditation plan or a herd that has not yet been classified as accredited, qualified, or monitored—only if accompanied by a certificate stating that: (1) The cervid has tested negative to two official tuberculosis tests, which were conducted no less than 90 days apart; (2) the second tuberculosis test was conducted within 90 days prior to the date of movement; and (3) the cervid was isolated from all other animals during the testing period (the period beginning at the time of the first test and ending at the time of interstate movement). (These provisions are located in proposed § 77.15.)

The herd classifications we propose are described below:

Accredited Herds

These provisions are located in proposed § 77.12. To be recognized as an accredited herd, all captive cervids in the herd that are eligible for testing must have tested negative to at least three consecutive official tuberculosis tests conducted at 10–14 month intervals. If a herd meets this requirement, the owner of the herd must obtain a document issued by cooperating State and Federal animal health officials stating that the herd meets the requirement above and that the herd is classified as an accredited herd.

A captive cervid from an accredited herd would be allowed to move interstate without further TB testing, provided it is accompanied by a certificate, as described in proposed § 77.9, that includes a statement that the cervid is from an accredited herd. If a group of captive cervids from an accredited herd is being moved interstate together to the same destination, all cervids in the group could be moved under one certificate.

Captive cervids could be added to an accredited herd if: (1) The cervid to be added is moved directly from an accredited herd; or (2) the cervid to be added is moved directly from a qualified or monitored herd and has tested negative to an official tuberculosis test within 90 days prior to movement to the premises of the accredited herd; or (3) if the cervid to be added is not moved directly from a classified herd, it must be isolated from all other members of the unclassified herd and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart and the second test must be conducted within 90 days prior to movement to the premises of the new herd.

In addition, a herd addition that is not being moved directly from an accredited or qualified herd must be kept isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. Such herd additions would not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation. A cervid to be added may not have been exposed for 90 days prior to its movement to a cervid with a lower classification status than its own.

To maintain accredited herd status, all cervids in the herd that are eligible for testing must test negative to an official tuberculosis test within 22–26 months from the anniversary date of the third consecutive test (that is, the test on which the herd was recognized as accredited, or the accrediting test). Each time the herd is tested for reaccreditation, it must be tested 22–26 months from the anniversary date of the accrediting test, not from the last date of reaccreditation (for example, if a herd is accredited on January 1 of a given year, the anniversary date will be January 1 of every second year). Accredited herd status would be valid for 24 months (730 days) from the anniversary date of the accrediting test.

The 22–26 month leeway time for retesting would be necessary to allow for some flexibility to accommodate herds that cannot be tested, for whatever reason, at exactly 24 month intervals. However, this also means there may be a lapse in accreditation. For example, if the date of a herd's accrediting test is January 1, 1996 (making the anniversary date January 1 of every second year), the status would be valid until January 1, 1998 (24 months). If the herd is not retested until March 1, 1998 (26 months), its accredited herd status would be suspended for the 2-month interim between the anniversary date and the reaccreditation. During the suspension period, the herd would be considered ''unclassified'' and cervids moved from the herd would have to comply with the proposed regulations for unclassified herds (found in proposed § 77.15).

Qualified Herds

These provisions are located in proposed § 77.13. To be recognized as a qualified herd, all captive cervids in the herd that are eligible for testing must have tested negative to one official tuberculosis test. If a herd meets this requirement, the owner of the herd must obtain a document from cooperating State and Federal animal health officials stating that the herd meets the requirement above and is classified as a qualified herd.

A captive cervid from a qualified herd would be allowed to move interstate only if the cervid is not known to be infected with or exposed to TB and the cervid is accompanied by a certificate, as described in proposed § 77.9(c), that includes a statement that: (1) The cervid is from a qualified herd; and (2) the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a qualified herd is being moved interstate together to the same destination, all cervids in the group could be moved under one certificate.

Captive cervids could be added to a qualified herd if: (1) The cervid to be added is moved directly from an accredited herd; or (2) the cervid to be added is moved directly from a qualified or monitored herd and has tested negative to an official tuberculosis test within 90 days prior to movement to the premises of the qualified herd; or (3) if the cervid to be added is not moved directly from a classified herd, the cervid must be kept isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test.

The tests must be conducted at least 90 days apart and the second test must be conducted within 90 days prior to movement to the premises of the new herd. The cervid must then be kept isolated from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the qualified herd. Such herd additions would not receive status as members of the qualified herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation. Any cervid to be added may not have been exposed for 90 days prior to its movement to a cervid with a lower classification status than its own.

To maintain status as a qualified herd, all cervids in the herd that are eligible for testing must test negative to an official tuberculosis test within 10–14 months from the anniversary date of the first test with no evidence of TB disclosed (this is the qualifying test). Each time the herd is retested for qualified status, it must be tested 10–14 months from the anniversary date of the qualifying test, not from the last date of requalification (for example, if a herd is qualified on January 1 of a given year, the anniversary date will be January 1 of each consecutive year). Status as a qualified herd would remain in effect for 12 months (365 days) following the anniversary date of the qualifying test. As with accredited herds, qualified herd status would be suspended between the anniversary date and the date of retest. If the herd owner waits longer than 12 months to retest, the herd would be considered unclassified during the suspension period.

Monitored Herds

These provisions are found in proposed § 77.14. The provisions for monitored herds have been included mainly to accommodate very large cervid herds raised under range conditions. These herds are extremely difficult to gather at one time for whole herd testing. This section allows them to be monitored for tuberculosis according to their slaughter records, as explained below.

To be recognized as a monitored herd, identification records must be maintained by the person, firm, or corporation responsible for the management of the herd on all cervids in the herd that are slaughtered, inspected, and found negative for TB at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory. A sufficient number of cervids in the herd must be slaughtered, as determined by the Administrator, to ensure that TB infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. This would require that a maximum number of 148 cervids be slaughtered over a 3-year period, no matter the size of the herd. We would include a footnote in this paragraph to state that information and a chart concerning how many cervids would have to be slaughtered depending on the size of a herd would be available by contacting APHIS.

A captive cervid that is from a monitored herd would be allowed to move interstate only if the cervid is not known to be infected with or exposed to TB and the cervid is accompanied by a certificate, as described in proposed § 77.9, that includes a statement that: (1) The cervid is from a monitored herd; and (2) the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a monitored herd is being moved interstate together to the same destination, all cervids in the group could be moved under one certificate.

The requirements for herd additions to a monitored herd would be the same as the requirements for herd additions to a qualified herd.

To maintain status as a monitored herd, the person, firm, or corporation responsible for the management of the herd would have to submit an annual report to cooperating State or Federal animal health officials prior to the anniversary date of classification to give the number of captive cervids currently in the herd and the number of captive cervids over 1 year of age identified, slaughtered, and inspected at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory during the preceding year. We would require the report to include only slaughtered cervids over 1 year of age because animals younger than 1 year do not develop lesions adequately to serve as a true indication of the TB infection rate. The number of slaughter inspections reported in any given year would have to be at least 25 percent of the total number of slaughter inspections required over a 3-year period to qualify a herd for monitored herd status. During each consecutive 3-year period, however, 100 percent of the qualifying total would have to be reported.

Proposed § 77.16 Other Interstate Movements

This section would regulate the interstate movement of captive cervids from herds containing reactors, suspects, or exposed cervids, and from herds that have been identified as the possible source of a tuberculous cervid. This section would also establish testing to be administered under those circumstances. In most cases, we would require that a herd be ''quarantined'' until the results of tests are known. Quarantine is defined in proposed § 77.8 to mean ''a prohibition from any interstate movement, except for interstate movement to slaughter or necropsy in accordance with § 77.17.'' Tuberculous herds may also be subject to State quarantines, which could prohibit cervids from being moved intrastate.

Proposed paragraph (a) concerns herds containing a suspect, and paragraph (a)(1) provides that a suspect on the SCT test would have to be quarantined until it is retested with the CCT test or the BTB test and found negative for tuberculosis. If the suspect is retested using the CCT test, the CCT test would have to be administered within 10 days following the SCT test, or at least 90 days after the SCT test. If the CCT test is administered within 10 days of the SCT test, the testing veterinarian would have to inject the neck on the side opposite the injection for the SCT test. If the suspect is retested with the BTB test, the sample for the BTB test would have to be taken at least 12 days after the injection for the SCT test. However, we would also recommend that the BTB sample be taken within 30 days following the SCT test. The antibody production stimulated by the SCT reaches its highest level 12–30 days after the SCT injection. Therefore, the antibody levels during this period may produce more reliable results for the BTB test than might be possible after 30 days. However, we would not require that the sample for the BTB test be drawn within 30 days following the SCT injection to allow for situations in which it is impossible to test the animal within that time (this is often the case with very large herds or herds permitted to graze on very large areas).

Paragraph (a)(1) also provides that a suspect on the CCT test or the BTB test would be quarantined until the suspect on the CCT test is retested with the CCT test at least 90 days after the previous test and found negative for TB, or the suspect on the BTB test is retested with the BTB test 30–60 days after the previous test and is found negative for TB.

Paragraph (a)(2) provides that the remainder of the herd containing a suspect would be quarantined until the suspect is found negative for TB upon retesting, slaughter, or necropsy. If the suspect is found negative for

tuberculosis, the herd would be released from quarantine and would return to the herd classification status in effect before the herd was quarantined. If the suspect is classified as a reactor upon retesting, slaughter, or necropsy, the herd could be released from quarantine only in accordance with proposed paragraph (b), which concerns herds containing a reactor.

Proposed paragraph (b)(1) provides that captive cervids classified as reactors would have to be quarantined. Proposed paragraph (b)(2) provides that the remainder of the herd containing a reactor would be quarantined until the reactors are slaughtered or necropsied in accordance with proposed § 77.17, and in accordance with one of the following scenarios:

1. If upon slaughter or necropsy any reactors exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without isolation of *M. bovis*, the remainder of the herd will be subject to the provisions of proposed § 77.16(c), which concerns herds found to have only lesions of tuberculosis (discussed below).

2. If *M. bovis* is isolated from any reactors, the remainder of the herd would be considered an affected herd, and would be subject to the provisions of proposed § 77.16(d), which concerns affected herds (discussed below).

3. If upon slaughter or necropsy all reactors exhibit no gross lesions (NGL) of tuberculosis and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals, the remainder of the herd would be released from quarantine, and cervids from the herd could be moved interstate in accordance with the herd classification status in effect before the herd was quarantined if one of the following conditions are met: (1) The remainder of the herd is given a whole herd test and is found negative for tuberculosis; or (2) The remainder of the herd is given a whole herd test, and all reactors to the whole herd test exhibit no gross lesions (NGL) of tuberculosis upon slaughter or necropsy and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals.

4. If no evidence of tuberculosis is found in any reactor upon slaughter or necropsy, but it is not possible to conduct a whole herd test on the remainder of the herd, the herd would be evaluated, based on criteria such as the testing history of the herd and the State history of tuberculosis infection, by the State and/or regional tuberculosis epidemiologist to determine whether or not the herd may be released from quarantine.

Proposed paragraph (c) of § 77.16 concerns herds in which captive cervids with lesions compatible with or suggestive of tuberculosis are found by histopathology without the isolation of *M. bovis*. These herds would already have been quarantined under paragraphs (a), (b), or (d) for herds containing a reactor, a suspect, or an exposed cervid, or under paragraph (e) for source herds. Paragraph (c) would provide that if a herd is found to have only lesions of tuberculosis, the herd could be released from quarantine and return to the herd classification status in effect before the herd was quarantined, with the concurrence of the regional tuberculosis epidemiologist, if the herd tests negative to tuberculosis on a whole herd test conducted 90 days following the removal of the lesioned cervid, provided the herd has not been exposed to *M. bovis* during the 90 days. In order to maintain its herd classification status, the herd would have to test negative to two annual whole herd tests beginning 10–12 months after the herd is released from quarantine. If any cervids in the herd respond to one of the tests, the herd would be subject to the provisions of § 77.16 (a) or (b). If the herd is not given the two annual whole herd tests, it would become an unclassified herd.

Proposed paragraph (d) of § 77.16 provides that a herd determined to be an affected herd would be quarantined until it has tested negative to three whole herd tests in succession, with the first test given 90 days or more after the last test yielding a reactor and the last two tests given at intervals of not less than 180 days. (As stated earlier in this document, an affected herd would be defined as a herd of cervids that contains, or that has been identified as the source of, one or more cervids infected with *M. bovis* and that has not tested negative to the required tests prescribed in this paragraph). If the herd tests negative to the three whole herd tests, it would be considered an unclassified herd, and cervids could only be moved interstate from the herd in accordance with the provisions for unclassified herds in § 77.15, discussed previously in this document. In addition, the herd would have to be given an additional five consecutive annual whole herd tests after release from quarantine. These five tests would count towards qualifying the herd for herd classification. As an alternative to testing, the herd could be depopulated.

Proposed paragraph (e) of § 77.16 concerns herds that have received cervids from an affected herd. It provides that if a herd has received cervids from an affected herd, the cervids would be considered exposed, and the exposed cervids and the receiving herd would be quarantined. The exposed cervids would have to be slaughtered, necropsied, or tested with the SCT test by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. The BTB test could be used simultaneously with the SCT test as an additional diagnostic test.

Paragraphs (e)(1), (e)(2), (e)(3), and (e)(4) of § 77.16 would describe the disposition of the receiving herd depending on what disease status the exposed cervids are determined to have. Paragraph (e)(1) states that if any exposed cervid tests positive to either the SCT test or the BTB test, it would be classified as a reactor, and would be considered as part of the affected herd of origin for purposes of testing, quarantine, and the five annual whole herd tests required for affected herds in § 77.16(d). The receiving herd would then be subject to the provisions of § 77.16(b), for herds containing a reactor. If bovine tuberculosis is confirmed in any of the exposed cervids by bacterial isolation of *M. bovis*, the receiving herd would be classified as an affected herd and would be subject to § 77.16(d), for affected herds. If any of the exposed cervids are found to exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the herd would be subject to § 77.16(c) for herds found to have only lesions of tuberculosis. If all of the exposed cervids test negative for tuberculosis, paragraph (e)(2) provides that the receiving herd could be released from quarantine, and would return to the herd classification in effect before the herd was quarantined. In addition, the herd would have to be given a whole herd test with the SCT test 1 year after release from quarantine in order for cervids from the herd to continue to be moved interstate. Supplemental diagnostic tests could be used if any cervids in the herd show a response to the SCT test.

Paragraph (f) of § 77.16 concerns source herds, and would provide that a herd suspected of being the source of tuberculous animals based on a slaughter traceback investigation would be quarantined upon notification (by the person conducting the investigation) to the USDA Area Veterinarian-in-Charge for the State in which the herd resides, and a whole herd test would have to be scheduled. If the herd is suspected of being the source of slaughter animals having lesions of tuberculosis, the whole herd test would have to be done

by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA.

If the herd is positively identified as the source of animals having lesions of tuberculosis and *M. bovis* has been confirmed by bacterial isolation from the slaughter animal, the herd would be considered affected and would have to be prohibited from interstate movement and tested in accordance with the provisions for affected herds in §§ 77.11(a)(2) and 77.16(d).

If the herd is positively identified as the source of cervids that exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the herd would be subject to the provisions for herds found to have only lesions of tuberculosis in § 77.16(c).

If the herd is not positively identified as the source herd, the herd would be released from quarantine if the herd is given a whole herd test and is found negative for tuberculosis. The herd would then return to the herd classification status in effect before the herd was quarantined.

Proposed paragraph (g) of § 77.16 concerns herds newly assembled on premises where a tuberculous herd has been depopulated. Such herds would have to be given two consecutive annual whole herd tests. The first test would have to be administered at least 6 months after the assembly of the new herd. If the whole herd tests are not conducted within the indicated timeframe, the herd would be quarantined. If the herd tests negative to the whole herd tests, there would be no further requirements. If any cervids in the herd respond to one of the whole herd tests, the herd would be subject to the provisions of § 77.16 (a) or (b). If the premises has been vacant for more than 1 year preceding the assembly of the new herd on the premises, these requirements could be waived in accordance with the judgment of cooperating State and Federal animal health officials.

Proposed § 77.17 Procedures for and Interstate Movement to Necropsy and Slaughter

Under this proposal, necropsy and slaughter are listed as options for the disposition of suspects, reactors, and exposed cervids. Paragraph (a) of this section would set forth required procedures for necropsy and slaughter. It would require that necropsies be performed by or under the supervision of a veterinarian who is employed full-time by USDA or employed full-time by the State in which the cervid was classified, and who is trained in tuberculosis necropsy procedures. This requirement would allow for necropsy to be performed anywhere, as long as the required USDA or State veterinarian is available to perform or supervise the procedure. If, upon necropsy, a cervid is found without evidence of *M. bovis* infection by histopathology or culture (including specimens from cervids having no gross lesions indicative of tuberculosis), the cervid would be considered negative for tuberculosis.

Paragraph (a) would also require that reactors, suspects, and exposed cervids may only be slaughtered at an approved slaughtering establishment, as defined in § 77.8. As defined, approved slaughtering establishments operate under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), or have inspection by a State inspector at the time of slaughter. Most often, owners of reactors, suspects, and exposed cervids would send their animals to slaughter in an attempt to recover some value from the animal (meat or other byproducts). Requiring the animals to be slaughtered only at approved slaughtering establishments would ensure that carcasses of tuberculous cervids are properly examined and disposed of in accordance with Federal Meat Inspection Act requirements to protect public health. If reactors, suspects, or exposed cervids are not slaughtered, but are necropsied at a diagnostic laboratory or other location that is not an approved slaughtering establishment, the disposal of the cervid carcasses would be subject to State or county laws and regulations.

Paragraph (b) of this section would concern interstate movement to necropsy or slaughter, and would require that any reactor, suspect, or exposed cervid to be moved interstate to necropsy or slaughter be accompanied by a permit issued by a cooperating State or Federal animal health official or an accredited veterinarian. The cervid would have to remain on the premises where it was identified as a reactor, suspect, or exposed cervid until a permit for its interstate movement is obtained. The permit would have to list: The reactor eartag number (if applicable) or the official eartag number; the owner's name and address; the origin and destination of the cervids; the number of cervids covered by the permit; and the purpose of the movement. No stopover or diversion from the destination listed on the permit would be permitted. If a change in destination would become necessary, a new permit would have to be obtained from a cooperating State or Federal animal health official or an accredited veterinarian before the interstate movement begins.

Paragraph (b) would also require specific identification for reactors and exposed cervids moving interstate to slaughter. The identification we propose is identical to identification already required for cervids moving interstate to slaughter under 9 CFR part 50 (see interim rule Docket No. 94–133–1, 60 FR 37804–37810, published July 24, 1995). Reactors would have to be tagged with an official eartag attached to the left ear and bearing a serial number and the inscription ''U.S. Reactor,'' and branded with the letter ''T'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size. Reactors could be moved interstate without branding if they are permanently identified by the letters ''TB'' tattooed legibly in the left ear, sprayed with yellow paint on the left ear, and either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals would have to be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

Exposed cervids would have to be identified by an official eartag and branded with the letter ''S'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size. Exposed cervids could be moved interstate without branding if they are either accompanied directly to necropsy or slaughter by an APHIS or State representative, or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals would have to be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

Proposed § 77.18 Cleaning and Disinfection of Premises, Conveyances, and Materials

This proposed section would establish requirements for cleaning and disinfecting premises, conveyances, and materials that may be contaminated with TB because they were used in handling tuberculous cervids. These requirements would help prevent cervids or other livestock (such as cattle, bison, or horses) from becoming infected with tuberculosis. Similar requirements are contained 9 CFR part 50 for animals destroyed because of tuberculosis, and in part 76 for swine to

prevent the spread of hog cholera and other communicable diseases of swine.

Under this proposed section, all conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering captive cervids in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous cervids must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting would have to be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. These procedures may vary by State, but would include removing all litter and manure from floors and other surfaces, cleaning interior and exterior surfaces, emptying all feeding or watering appliances, and saturating surfaces with a disinfectant. Cleaning and disinfection would have to be completed before the premises, conveyances, or materials could again be used to convey, hold, or in any way come in contact with any livestock.

We are also proposing to add a new § 77.7 to the regulations in subpart A, ''Cattle and Bison,'' that would contain requirements for cleaning and disinfecting premises, conveyances, and materials that may be contaminated with TB because they were used in handling tuberculous cattle or bison. These requirements would be identical to those described above for captive cervids. Currently, cleaning and disinfection requirements concerning TB in cattle and bison are contained in the UMR for TB. Hence, the requirements we are proposing to add to part 77 for cattle and bison would not be an addition to the tuberculosis eradication program for cattle and bison. We are only adding these requirements to the regulations so that any person reading the regulations is aware that premises, conveyances, and materials that may be contaminated with TB because they were used in handling tuberculous cattle or bison must be cleaned and disinfected. This is necessary to ensure the effectiveness of the tuberculosis eradication program.

Revisions to Existing Regulations in Part 77

We are proposing to make several nonsubstantive changes to the regulations in part 77 in order to allow for the creation of a subpart B and to make it clear that the existing regulations refer only to cattle and bison. To do this, we propose to title §§ 77.1–77.7 as ''Subpart A—Cattle and Bison.'' We also propose to add the phrase ''cattle and bison'' to some sentences and to replace the word ''part'' with ''subpart'' in those sentences where the word occurs. Additionally, we propose to correct a typographical error in the heading of § 77.5.

We are also proposing to amend the regulations in part 77 to update the incorporation by reference of the Uniform Methods and Rules—Bovine Tuberculosis Eradication. This action is necessary because the regulations refer to the 1985 edition of the Uniform Methods and Rules—Bovine Tuberculosis Eradication. This edition has been superseded by the edition (for cattle and bison only) adopted by the United States Animal Health Association (USAHA) in October, 1988, and approved by APHIS' Veterinary Services on February 3, 1989. APHIS has also approved an addendum to this edition that includes the provisions for interstate movement of cervids that we are proposing in this document. The addendum was adopted by the USAHA on October 29, 1993, and approved by APHIS' Veterinary Services on May 15, 1994. Copies of the new edition of the Uniform Methods and Rules—Bovine Tuberculosis Eradication and the addendum can be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.**

International Movement

Finally, we propose to revise the regulations in 9 CFR part 91, which concern exportation of animals and animal products, by adding a new § 91.7, *Captive cervids,* to regulate the exportation of captive cervids. The new section would require that, to be eligible for export, a captive cervid be accompanied by an origin health certificate (as already defined in § 91.1) stating that the captive cervid has tested negative to an official single cervical tuberculin test for tuberculosis, as described in part 77, subpart B, of this chapter, within 90 days prior to export. The origin health certificate would have to specify the date the test was conducted and the test results. We would also add ''captive cervids'' to the list of animals included in the definition of *Animals* in part 91. This would make the general export requirements in part 91 (which now apply to horses, cattle, bison, sheep, swine, and goats) also apply to captive cervids.

These requirements would help ensure that captive cervids exported from the United States are not infected with tuberculosis.

Executive Order 12866 and Regulatory Flexibility Act

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

Breeding and production of captive deer, elk, and other *Cervidae* (cervids) has taken place in the United States since at least the 1930's. The first owners were ranchers who kept these animals as novelties. While cervids continue to be raised for their aesthetic value, most herds also earn income for their owners in the venison and antler markets. U.S. production of cervids has increased over the decades and is expected to continue to grow. In a 1990 survey of existing herd owners, over 70 percent of the respondents planned to expand their operations; only 3 percent intended to decrease or discontinue production.[2] The industry's combined sales probably exceed $10 million. Most cervid holdings are either small businesses or are parts of larger agricultural enterprises.

There are more than 1,600 captive cervid (elk and deer) producers in the United States today, raising about 250,000 head of captive cervids. Holdings vary in size and degree of commercialization, with most producers relying on other sources of income, particularly dairy farming or cattle ranching, for their livelihoods. Elk and deer farming yield a higher return on investment than do most other types of livestock enterprises, but also require larger initial investment and operating costs.

Industry-wide, elk producers are building up their herds, with almost all newborns sold as breeding stock. A heifer elk is worth about $3,500. Annual income is also earned from the sale of antlers cut in the velvet stage of growth. The antlers sell for about $70 per pound. A bull elk can produce up to 18 pounds each year, for more than 10 years. Thus, a gross income of $1200–1300 can be earned per year from one bull elk.

The value per animal for deer is lower than for elk. Currently, good quality fallow does are sold for about $400 per head, and slaughter bucks can be sold for $150–200 each. Fallow does will produce one offspring per year, valued at about $200 per head.

This proposed rule, if adopted, would include captive cervids in the National

[2] Mjelde, James. ''Exotic Ungulate Production: Summary of Survey Results.'' Department of Agricultural Economics, Texas A&M University.

Cooperative State/Federal Bovine Tuberculosis (TB) Eradication Program. APHIS considered the alternative of not adding provisions concerning captive cervids to this program. Under this alternative, the interstate movement of captive cervids would remain unregulated, increasing the risk for further spread of TB from captive cervids to cattle, bison, and other livestock, as well as to wildlife. Therefore, this alternative was rejected.

Under this proposal, producers of captive cervids would bear certain costs of testing the animals. Routine testing with the SCT test would be paid for by the owner of the herd, and would cost about $25–30 per cervid, based on a herd of about 200 cervids over 6 months of age. Approximately two-fifths of this cost would be for additional labor needed to assist in the testing (rounding up the herd, holding animals for injection, etc.), and three-fifths of the cost would be for a veterinarian's professional services. Owners would not be responsible for the cost of the CCT test, retesting affected herds with the SCT test, or any other testing with the SCT test other than routine testing. Cervid owners would also bear costs of the BTB test (approximately $100 per cervid) if they desire to use this test. However, the test would only be an option under this proposed rule, and would not be required.

Individual owners would benefit from the regulations by having a way to ensure only TB-free cervids are added to their herds, and in the long run, by a decrease in the incidence of TB. Also, current TB testing and transport restrictions for cervids vary by State. National disease control standards, effective as a result of this rule, would facilitate interstate trade.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 92–076–1. Please send a copy of your comments to: (1) Docket No. 92–076–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This rule would require that, to be eligible for export, captive cervids must be accompanied by a certificate stating that they have tested negative for tuberculosis within 90 days of export. This rule would also introduce various information collection requirements to enable us to accurately monitor the interstate movement of captive cervids, and to ensure that captive cervids being moved interstate are properly tested and identified. We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

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

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

Estimate of burden: Public reporting burden for this collection of information is estimated to average 2.34 hours per response.

Respondents: Importers and veterinarians.

Estimated number of respondents: 238.

Estimated number of responses per respondent: 5.8.

Estimated total annual burden on respondents: 557 hours.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects

9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR parts 77 and 91 would be amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 would continue to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. In part 77, a subpart heading, ''Subpart A—Cattle and Bison'', would be added before § 77.1.

3. Section 77.1 would be amended as follows:

a. The introductory sentence would be amended by removing the word ''part'' and adding the word ''subpart'' in its place.

b. The definition of *Permit* would be amended by removing the word ''animals'' the first time it appears and adding the words ''cattle or bison'' in its place, and by removing the word ''part'' each time it appears and adding the word ''subpart'' in its place.

c. The definition of *Transportation document* would be amended by adding the phrase ''of cattle or bison'' immediately after ''interstate movement''.

d. The definition for *Uniform Methods and Rules—Bovine Tuberculosis Eradication* would be revised to read as follows:

§ 77.1 Definitions.

* * * * *

Uniform Methods and Rules—Bovine Tuberculosis Eradication. Uniform

methods and rules for eradicating bovine tuberculosis in the United States, adopted by the United States Animal Health Association (USAHA) in October, 1988, and approved by APHIS on February 3, 1989, and also including an addendum adopted by the USAHA on October 29, 1993, and approved by APHIS on May 15, 1994. The *Uniform Methods and Rules—Bovine Tuberculosis Eradication* were approved for incorporation by reference into the Code of Federal Regulations by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.[1]

* * * * *

§ 77.6 [Amended]

4. In § 77.6, in the first sentence, the word ''part'' would be removed and the word ''subpart'' would be added in its place.

5. A new § 77.7 would be added to read as follows:

§ 77.7 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering cattle or bison in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous cattle and bison must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

6. In part 77, a new subpart B would be added following § 77.7 to read as follows:

Subpart B—Captive Cervids

Sec.

77.8 Definitions.
77.9 General restrictions.
77.10 Testing procedures for tuberculosis in cervids.
77.11 Official tuberculosis tests.
77.12 Interstate movement from accredited herds.
77.13 Interstate movement from qualified herds.
77.14 Interstate movement from monitored herds.
77.15 Interstate movement from unclassified herds.
77.16 Other interstate movements.
77.17 Procedures for and interstate movement to necropsy and slaughter.
77.18 Cleaning and disinfection of premises, conveyances, and materials.

Subpart B—Captive Cervids

§ 77.8 Definitions.

Accredited herd. A herd of captive cervids that has tested negative to at least three consecutive official tuberculosis tests of all eligible cervids in accordance with § 77.10(f), and that meets the standards set forth in § 77.12 of this subpart. The tests must be conducted at 10–14 month intervals.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform the functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Affected herd. A herd of captive cervids that contains, or that has been positively identified as the source of, one or more cervids infected with *Mycobacterium bovis* (determined by bacterial isolation of *M. bovis*) and that has not tested negative to the required tests prescribed in § 77.16(d) of this subpart.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Approved slaughtering establishment. A slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq*.) or a slaughtering establishment that has inspection by a State inspector at the time of slaughter.

Blood tuberculosis (BTB) test. A supplemental test for tuberculosis in cervids.

Captive cervid. All species of deer, elk, and moose raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag with which to trace the animal back to a herd of origin.

Classified herd. An accredited, qualified, or monitored herd.

Comparative cervical tuberculin (CCT) test. The intradermal injection of biologically balanced USDA bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area to determine the probable presence of bovine tuberculosis (M. bovis) by comparing the response of the two tuberculins 72 hours (plus or minus 6 hours) following injection.

Cooperating State and Federal animal health officials. The State and Federal animal health officials responsible for overseeing and implementing the National Cooperative State/Federal Bovine Tuberculosis Eradication Program.

Depopulate. To destroy all cervids in a herd by slaughter or by death otherwise.

Designated accredited veterinarian. An accredited veterinarian who is trained and approved by cooperating State and Federal animal health officials to conduct the single cervical tuberculin (SCT) test on cervids.

Exposed cervid. Any cervid that has been exposed to tuberculosis by reason of associating with tuberculous cervids, cattle, or bison.

Herd. A group of captive cervids or a group of captive cervids and other hoof stock maintained on common ground, or two or more groups of captive cervids or cervids and other hoof stock under common ownership or supervision that are geographically separated but that have movement of animals between groups without regard to health status. (A group means one or more animals.)

Monitored herd. A herd on which identification records are maintained on captive cervids inspected for tuberculosis at an approved slaughtering establishment or an approved diagnostic laboratory, and which meets the standards set forth in § 77.14.

Moved directly. Moved without unloading en route if moved in a means of conveyance, or without stopping if moved in any other manner, and without stopover or diversion to assembly points of any type.

Negative. Showing no response to an official tuberculosis test or classified negative for tuberculosis by the testing veterinarian based upon history, supplemental tests, examination of the carcass, or laboratory results.

No gross lesions (NGL). Having no visible lesion or lesions of bovine tuberculosis detected upon necropsy or slaughter.

Official eartag. An eartag that provides unique identification for each individual cervid by conforming to the alpha-numeric National Uniform Eartagging System.

[1] Copies may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, Cattle Diseases and Surveillance, 4700 River Road Unit 36, Riverdale, Maryland 20737–1231.

Official tuberculosis test. Any of the following tests for bovine tuberculosis in cervids, applied and reported in accordance with this subpart:

(1) The single cervical tuberculin (SCT) test;

(2) The comparative cervical tuberculin (CCT) test; and

(3) The blood tuberculosis (BTB) test.

Permit. An official document issued by a representative of APHIS, a State representative, or an accredited veterinarian that must accompany any reactor, suspect, or exposed cervid moved interstate to slaughter or necropsy.

Qualified herd. A herd of captive cervids that has tested negative to at least one official tuberculosis test of all eligible cervids (described in § 77.10(f)) within the past 12 months, and that is not classified as an accredited herd.

Quarantine. A prohibition from any interstate movement, except for interstate movement to slaughter or necropsy in accordance with § 77.17.

Reactor. Any cervid that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian; or any suspect cervid that is classified a reactor upon slaughter or necropsy by the USDA or State veterinarian performing or supervising the necropsy.

Regular-kill slaughter animal. An animal that is slaughtered for food or any reason other than because of a disease regulated under 9 CFR chapter I (such as tuberculosis, brucellosis, or any other livestock disease for which movement of animals is restricted under 9 CFR chapter I).

Single cervical tuberculin (SCT) test. The intradermal injection of 0.1 mL (5,000 tuberculin units) of USDA PPD bovis tuberculin in the mid-cervical area with reading by visual observation and palpation in 72 hours (plus or minus 6 hours) following injection.

Suspect. Any cervid that is not negative to any official tuberculosis test and that is not classified as a reactor by the testing veterinarian.

Tuberculin. A product that is approved by and produced under USDA license for injection into cervids and other animals for the purpose of detecting bovine tuberculosis.

Tuberculosis. The contagious, infectious, and communicable disease caused by *Mycobacterium bovis.* (Also referred to as bovine tuberculosis.)

Tuberculous. Infected with, exposed to, or having lesions indicative of tuberculosis, or identified as a suspect or reactor based on an official tuberculosis test.

USDA. The United States Department of Agriculture.

Whole herd test. An official tuberculosis test of all test eligible animals in the herd.

§ 77.9 General restrictions.

(a) No captive cervid may be moved interstate unless it has been tested using an official tuberculosis test, and it is moved in compliance with this subpart.

(b) No captive cervid with a response to any official tuberculosis test is eligible for interstate movement unless the cervid subsequently tests negative to a supplemental official tuberculosis test or is moved interstate directly to slaughter or necropsy in accordance with § 77.17.

(c) Except for captive cervids moving interstate under permit directly to slaughter or necropsy, each cervid or shipment of cervids to be moved interstate must be accompanied by a certificate issued before the movement by a State or Federal animal health official or an accredited veterinarian. The certificate must state the official eartag number of each captive cervid to be moved, the number of cervids covered by the certificate, the purpose of movement, the origin and destination of the cervids, the consignor, and the consignee.

(d) Cervids in zoological parks that have been accredited by the American Association of Zoological Parks and Aquariums (AAZPA) are exempt from the regulations in this subpart when the cervids are moved directly interstate between AAZPA member facilities. Any cervids moved interstate that are not moved directly from an AAZPA member facility to another AAZPA member facility must be moved in accordance with the regulations in this subpart.

§ 77.10 Testing procedures for tuberculosis in cervids.

(a) *Approved testers.* Except as explained in paragraphs (a)(1) and (a)(2) of this section, official tuberculosis tests may only be given by a veterinarian employed full-time by the State in which the test is administered or by a veterinarian employed full-time by USDA.

(1) A designated accredited veterinarian may conduct the SCT test, except as provided in § 77.11(a)(2) and § 77.16(e) and (f).

(2) Any accredited veterinarian may conduct the BTB test.

(b) *Approved diagnostic laboratories.* (1) With one exception, histopathology and culture results for all tuberculosis diagnoses will be accepted only from the National Veterinary Services Laboratories (NVSL) in Ames, Iowa. The exception is that results will be accepted from a laboratory of the Food Safety and Inspection Service, USDA, for tissue examination of regular-kill slaughter animals in those cases where no submission is made to NVSL.

(2) BTB test samples must be sent for diagnosis to the Texas Veterinary Medical Center laboratory at Texas A&M University in College Station, Texas.

(c) *Identification.* Any captive cervid tested with an official tuberculosis test must be individually identified by an official eartag at the time of the official tuberculosis test.

(d) *Reporting of tests.* The testing veterinarian must submit a report to cooperating State and Federal animal health officials of the State in which the captive cervid is tested. The report must include the following information for all official tuberculosis tests administered: the individual eartag number; the age, sex, and breed of each captive cervid tested; a record of all responses; the size of each response (if appropriate for that test); and the test interpretation.

(e) *Test interpretation.* (1) Interpretation of an SCT test will be based upon the judgment of the testing veterinarian after observation and palpation of the injection site, in accordance with the classification requirements described in § 77.11(a).

(2) Interpretation of a CCT test will be in accordance with the classification requirements described in § 77.11(b).

(3) Interpretation of a BTB test will be in accordance with the patented standards for the BTB test [1] and the classification requirements described in § 77.11(c).

(f) *Captive cervids eligible for testing.* Testing of herds for classification must include all captive cervids 1 year of age or over and any captive cervids other than natural additions (cervids born into the herd) under 1 year of age. All natural additions under 1 year of age must be individually identified by an official eartag and recorded in the test report as members of the herd at the time of the herd test, even though they are not tested.

§ 77.11 Official tuberculosis tests.

(a) *Single cervical tuberculin (SCT) test.* (1) The SCT test is the primary test to be used in individual captive cervids and in herds of unknown tuberculous status. Each cervid that responds to the SCT test must be classified as a suspect until it is retested with either the CCT test or the BTB test and is either found

[1] The patented standards for the BTB test may be obtained from the Deer Research Laboratory, Department of Microbiology, University of Otago, P.O. Box 56, Dunedin, New Zealand, or from the Texas Veterinary Medical Center, College of Veterinary Medicine, Texas A&M University, College Station, Texas.

negative for tuberculosis or is classified as a reactor, unless the testing veterinarian judges that the cervid should be classified as a reactor based on its response to the SCT test. A designated accredited veterinarian may only classify a cervid as a reactor with the concurrence of the State and/or regional tuberculosis epidemiologist for the State in which the animal is being tested.

(2) The SCT test is the primary test to be used in affected herds and in herds that have received cervids from an affected herd. When used with affected herds or in herds that have received cervids from an affected herd, the SCT test may only be administered by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. In affected herds or herds that have received cervids from an affected herd, each cervid that responds to the SCT test must be classified as a reactor.

(b) *Comparative cervical tuberculin (CCT) test.* (1) The CCT test is a supplemental test that may only be used for retesting captive cervids classified as suspects. The CCT test may be used in affected herds only after the herd has tested negative to two whole herd SCT tests, and only with the prior written consent of cooperating State or Federal animal health officials. The CCT test may not be used as a primary test for herds of unknown tuberculous status.

(2) A captive cervid tested with the CCT test must be classified as negative if:

(i) It has a response to the bovine PPD tuberculin that is less than 1 mm; or

(ii) It has a response to the avian PPD tuberculin that is greater than the response to the bovine PPD tuberculin.

(3) A captive cervid tested with the CCT test must be classified as a suspect if it has a response to the bovine PPD tuberculin that is 2 mm or greater and that is equal to the response to the avian PPD tuberculin, unless the testing veterinarian judges that the cervid should be classified as a reactor.

(4) A captive cervid tested with the CCT test must be classified as a reactor if:

(i) It has a response to the bovine PPD tuberculin that is 2 mm or greater and that is at least 0.5 mm greater than the response to the avian PPD tuberculin; or

(ii) It has been classified as a suspect on two successive CCT tests.

(iii) Any exceptions to reactor classification under the conditions in paragraph (b)(4)(i) and (ii) of this section must be justified by the testing veterinarian in writing and have the concurrence of cooperating State or Federal animal health officials.

(c) *Blood tuberculosis (BTB) test.* (1) The BTB test is a supplemental test that may be used in place of the CCT test for retesting captive cervids classified as suspects.

(2) Any captive cervid classified by the testing laboratory as ''equivocal'' must be classified as a suspect.

(3) Any captive cervid classified by the testing laboratory as ''*M. bovis* positive'' must be classified as a reactor.

(4) Any captive cervid classified by the testing laboratory as ''avian'' or ''negative'' will be considered negative for TB.

(5) Copies of the BTB test results must be submitted by the testing laboratory to the person, firm, or corporation responsible for the management of the herd, cooperating State and Federal animal health officials, and the testing veterinarian.

(6) The owner of the captive cervid tested is responsible for the cost of the BTB test.

§ 77.12 Interstate movement from accredited herds.

(a) *Qualifications.* To be recognized as an accredited herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.10(f) must have tested negative to at least three consecutive official tuberculosis tests, conducted at 10–14 month intervals.

(2) The owner of the herd must have a document issued by cooperating State and Federal animal health officials stating that the herd has met the requirements in paragraph (a)(1) of this section and is classified as an accredited herd.

(b) *Movement allowed.* A captive cervid from an accredited herd may be moved interstate without further tuberculosis testing if it is accompanied by a certificate, as provided in § 77.9, that includes a statement that the cervid is from an accredited herd. If a group of captive cervids from an accredited herd is being moved interstate together to the same destination, all cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to an accredited herd except in accordance with paragraphs (c)(4) and (c)(5), and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the accredited herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the cervid must be isolated from all other members of the herd of origin and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the accredited herd.

(4) If the captive cervid to be added is not being moved directly from an accredited or qualified herd, the cervid must be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. Such herd additions will not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(5) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to a cervid with a lower classification status than its own.

(d) *Maintenance of accredited herd status.* To maintain status as an accredited herd, the herd must test negative to an official tuberculosis test within 22–26 months from the anniversary date of the third consecutive test with no evidence of tuberculosis disclosed (that is, the test on which the herd was recognized as accredited, or the accrediting test). Each time the herd is tested for reaccreditation, it must be tested 22–26 months from the anniversary date of the accrediting test, not from the last date of reaccreditation (for example, if a herd is accredited on January 1 of a given year, the anniversary date will be January 1 of every second year). Accredited herd status is valid for 24 months (730 days) from the anniversary date of the accrediting test. If the herd is tested between 24 and 26 months after the anniversary date, its accredited herd status will be suspended for the interim between the anniversary date and the reaccreditation test. During the suspension period, the herd will be considered ''unclassified'' and cervids may be moved interstate from the herd only in accordance with § 77.15.

§ 77.13 Interstate movement from qualified herds.

(a) *Qualifications.* To be recognized as a qualified herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.10(f) must have tested negative to one official tuberculosis test.

(2) The owner of the herd must have a document issued by cooperating State and Federal animal health officials stating that the herd has met the requirement in paragraph (a)(1) of this section and is classified as a qualified herd.

(b) *Movement allowed.* A captive cervid from a qualified herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.9(c), that includes a statement that the cervid is from a qualified herd. The certificate must also state that the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a qualified herd is being moved interstate together to the same destination, all cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to a qualified herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the qualified herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the cervid must be isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the qualified herd. The cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date it arrives at the premises of the qualified herd. Such herd additions will not receive status as members of the qualified herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) During the 90 days prior to its movement, a captive cervid to be added may not have been exposed to a cervid with a lower classification status than its own.

(d) *Maintenance of qualified herd status.* To maintain status as a qualified herd, the herd must test negative to an official tuberculosis test within 10–14 months from the anniversary date of the first test with no evidence of tuberculosis disclosed (this is the qualifying test). Each time the herd is retested for qualified status, it must be tested 10–14 months from the anniversary date of the qualifying test, not from the last date of requalification (for example, if a herd is qualified on January 1 of a given year, the anniversary date will be January 1 of each consecutive year). Qualified herd status remains in effect for 12 months (365 days) following the anniversary date of the qualifying test. Qualified herd status will be suspended between the anniversary date and the requalifying test, if the herd is not tested within 12 months. During the suspension period, the herd will be considered ''unclassified'' and cervids may be moved interstate from the herd only in accordance with § 77.15.

§ 77.14 Interstate movement from monitored herds.

(a) *Qualifications.* To be recognized as a monitored herd:

(1) Identification records must be maintained by the person, firm, or corporation responsible for the management of the herd on all captive cervids in the herd that are slaughtered, inspected, and found negative for tuberculosis at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory; and

(2) A sufficient number of cervids in the herd must be slaughtered, as determined by the Administrator, to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. This requires a maximum number of 148 cervids slaughtered over a 3-year period, no matter the size of the herd.[2]

(b) *Movement allowed.* A captive cervid from a monitored herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.9(c), that includes a statement that the cervid is from a monitored herd. The certificate must also state that the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a monitored herd is being moved interstate together to the same destination, all cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to a monitored herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the monitored herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the cervid must be isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the monitored herd. The cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date it arrives at the premises of the monitored herd. Such herd additions will not receive status as members of the monitored herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) During the 90 days prior to its movement, a captive cervid to be added may not have been exposed to a cervid with a lower classification status than its own.

(d) *Maintenance of monitored herd status.* The person, firm, or corporation responsible for the management of the herd must submit an annual report to cooperating State or Federal animal health officials prior to the anniversary date of classification to give the number of captive cervids currently in the herd and the number of captive cervids from the herd over 1 year of age identified,

[2] Information and a chart concerning how many cervids would need to be slaughtered depending on the size of a herd to meet this requirement may be obtained from the Cattle Diseases and Surveillance staff, Veterinary Services, APHIS, Suite 3B03, 4700 River Road Unit 36, Riverdale, MD 20737–1231.

slaughtered, and inspected at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory during the preceding year. The number of slaughter inspections reported in any given year must be at least 25 percent of the total number of slaughter inspections required over a 3-year period to qualify a herd for monitored herd status. During each consecutive 3-year period, 100 percent of the qualifying total must be reported.

§ 77.15 Interstate movement from unclassified herds.

A captive cervid that is not known to be infected with or exposed to tuberculosis and that is from a herd not classified as accredited, qualified, or monitored, may be moved interstate if the cervid is accompanied by a certificate that states that:

(a) The cervid has tested negative to two official tuberculosis tests conducted no less than 90 days apart;

(b) The second tuberculosis test was conducted within 90 days prior to the date of movement; and

(c) The cervid was isolated from all other animals during the testing period (the period beginning at the time of the first test and ending at the time of interstate movement).

§ 77.16 Other interstate movements.

(a) *Herds containing a suspect.*—(1) *The suspect.* (i) A captive cervid classified as a suspect on the SCT test must be quarantined until it is retested by the CCT test or the BTB test and found negative for tuberculosis. Retesting must be as follows:

(A) The CCT test must be administered within 10 days following the SCT test or at least 90 days after the SCT test. If the CCT test is administered within 10 days of the SCT test, the injection must be on the side of the neck opposite the injection for the SCT test.

(B) The sample for the BTB test may not be taken until at least 12 days after the injection for the SCT test. It is recommended that the sample be taken within 30 days following the SCT test.

(ii) A captive cervid classified as a suspect on the CCT test or the BTB test must be quarantined until the following has occurred:

(A) A suspect on the CCT test is retested with the CCT test at least 90 days after the previous test and is found negative for tuberculosis; or

(B) A suspect on the BTB test is retested with the BTB test 30–60 days after the previous test and is found negative for tuberculosis.

(2) *The remainder of the herd.* Any herd containing a suspect to an official tuberculosis test must be quarantined until the suspect is retested by the CCT test or the BTB test and found negative for tuberculosis, or the suspect is slaughtered and found negative for tuberculosis, or the suspect is necropsied and found negative for tuberculosis. If the suspect is found negative for tuberculosis upon testing, slaughter, or necropsy, the herd may be released from quarantine and will return to the herd classification status in effect before the herd was quarantined. If the suspect is classified as a reactor upon testing, slaughter, or necropsy, the herd may be released from quarantine only in accordance with § 77.16(b) for herds containing a reactor.

(b) *Herds containing a reactor*—(1) *The reactor.* Captive cervids classified as reactors must be quarantined.

(2) *The remainder of the herd.* Any herd containing reactors must be quarantined until the reactors are slaughtered or necropsied in accordance with § 77.17 and:

(i) If upon slaughter or necropsy any reactors exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the remainder of the herd will be subject to the provisions of § 77.16(c).

(ii) If *M. bovis* is isolated from any reactors, the remainder of the herd will be considered an affected herd, and will be subject to the provisions of § 77.16(d).

(iii) If upon slaughter or necropsy all reactors exhibit no gross lesions (NGL) of tuberculosis and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals, the remainder of the herd may be released from quarantine, and cervids from the herd may be moved interstate in accordance with the herd classification status in effect before the herd was quarantined if one of the following conditions is met:

(A) The remainder of the herd is given a whole herd test and is found negative for tuberculosis.

(B) The remainder of the herd is given a whole herd test, and all reactors to the whole herd test exhibit no gross lesions (NGL) of tuberculosis upon slaughter or necropsy and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals.

(iv) If no evidence of tuberculosis is found in any reactor upon slaughter or necropsy, but it is not possible to conduct a whole herd test on the remainder of the herd, the herd will be evaluated, based on criteria such as the testing history of the herd and the State history of tuberculosis infection, by the State and/or regional tuberculosis epidemiologist to determine whether or not the herd may be released from quarantine.

(c) *Herds found to have only lesions of tuberculosis.* A herd in which captive cervids with lesions compatible with or suggestive of tuberculosis are found by histopathology without the isolation of M. bovis may be released from quarantine and return to the herd classification status in effect before the herd was quarantined, with the concurrence of the regional tuberculosis epidemiologist, if the herd tests negative to tuberculosis on a whole herd test conducted 90 days following the removal of the lesioned cervid, provided the herd has not been exposed to *M. bovis* during the 90 days. To maintain its herd classification status, the herd must test negative to two annual whole herd tests beginning 10–12 months after the herd is released from quarantine. If any cervids in the herd respond to one of the tests, the herd will be subject to the provisions of § 77.16 (a) or (b). If the herd is not given the two annual whole herd tests, it will become an unclassified herd.

(d) *Affected herds.* A herd determined to be an affected herd must be quarantined until the herd has tested negative to three whole herd tests in succession, with the first test given 90 days or more after the last test yielding a reactor and the last two tests given at intervals of not less than 180 days. If the herd tests negative to the three whole herd tests, it will be released from quarantine, but will be considered an unclassified herd, and cervids may only be moved interstate from the herd in accordance with § 77.15. In addition, the herd must be given five consecutive annual whole herd tests after release from quarantine. (These five tests will count towards qualifying the herd for herd classification.) As an alternative to testing, the herd may be depopulated.

(e) *Herd that have received cervids from an affected herd.* If a herd has received cervids from an affected herd, the cervids from the affected herd of origin will be considered exposed. The exposed cervids and the receiving herd must be quarantined. The exposed cervids must be slaughtered, necropsied, or tested with the SCT test by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. The BTB test may be used simultaneously with the SCT test as an additional diagnostic test.

(1) If any exposed cervid tests positive to either the SCT test or the BTB test, it must be classified as a reactor, and will be considered as part of the affected

herd of origin for purposes of testing, quarantine, and the five annual whole herd tests required for affected herds in § 77.16(d). The receiving herd will be subject to the provisions of § 77.16(b).

(i) If bovine tuberculosis is confirmed in any of the exposed cervids by bacterial isolation of *M. bovis,* the receiving herd will be classified as an affected herd and will be subject to the provisions for affected herds in § 77.16(d).

(ii) If any of the exposed cervids are found to exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the receiving herd will be subject to the provisions of § 77.16(c).

(2) If all of the exposed cervids test negative for tuberculosis, the exposed cervids and the receiving herd may be released from quarantine, and will return to the herd classification in effect before the herd was quarantined. In addition, the receiving herd must be given a whole herd test with the SCT test 1 year after release from quarantine in order for cervids from the herd to continue to be moved interstate. Supplemental diagnostic tests may be used if any cervids in the herd show a response to the SCT test.

(f) *Source herds.* A herd suspected of being the source of tuberculous animals based on a slaughter traceback investigation must be quarantined upon notification (by the person conducting the investigation) to the USDA Area Veterinarian-in-Charge for the State in which the herd resides, and a whole herd test must be scheduled. If the herd is suspected of being the source of slaughter animals having lesions of tuberculosis, the whole herd test must be done by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA.

(1) If the herd is positively identified as the source of animals having lesions of tuberculosis and *M. bovis* has been confirmed by bacterial isolation from the slaughter animal, the herd will be considered affected and will be subject to the provisions of § 77.11(a)(2) and § 77.16(d).

(2) If the herd is positively identified as the source of cervids that exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the herd will be subject to the provisions of § 77.16(c).

(3) If the herd is not positively identified as the source herd, the herd will be released from quarantine if the herd is given a whole herd test and is found negative for tuberculosis. The herd will then return to the herd classification status in effect before the herd was quarantined.

(g) *Newly assembled herds.* A herd newly assembled on premises where a tuberculosis herd has been depopulated must be given two consecutive annual whole herd tests. The first test must be administered at least 6 months after the assembly of the new herd. If the whole herd tests are not conducted within the indicated timeframe, the herd will be quarantined. If the herd tests negative to the two whole herd tests, there are no further requirements. If any cervid in the herd responds to one of the whole herd tests, the herd will be subject to the provisions of § 77.16 (a) or (b). If the premises has been vacant for more than 1 year preceding the assembly of the new herd on the premises, these requirements may be waived in accordance with the judgment of cooperating State and Federal animal health officials.

§ 77.17 Procedures for and interstate movement to necropsy and slaughter.

(a) *Procedures for necropsy and slaughter.* (1) A necropsy must be performed by or under the supervision of a veterinarian who is employed full-time by USDA or employed full-time by the State in which the cervid was classified, and who is trained in tuberculosis necropsy procedures.

(2) If, upon necropsy, a cervid is found without evidence of *M. bovis* infection by histopathology or culture, the cervid will be considered negative for tuberculosis.

(3) Reactors, suspects, and exposed cervids may only be slaughtered at an approved slaughtering establishment, as defined in § 77.8.

(b) *Interstate movement to necropsy or slaughter.*—(1) *Permit.* Any reactor, suspect, or exposed cervid to be moved interstate to necropsy or slaughter must be accompanied by a permit issued by a representative of APHIS, a State representative, or an accredited veterinarian. The cervid must remain on the premises where it was identified as a reactor, suspect, or exposed cervid until a permit for its movement is obtained. No stopover or diversion from the destination listed on the permit is allowed. If a change in destination becomes necessary, a new permit must be obtained from a cooperating State or Federal animal health official or an accredited veterinarian before the interstate movement begins. The permit must list:

(i) The reactor eartag number, or, for suspects and exposed cervids, the official eartag number;

(ii) The owner's name and address;

(iii) The origin and destination of the cervids;

(iv) The number of cervids covered by the permit; and

(v) The purpose of the movement.

(2) *Identification of reactors.* Reactors must be tagged with an official eartag attached to the left ear and bearing a serial number and the inscription ''U.S. Reactor,'' and either:

(i) Branded with the letter ''T'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Permanently identified by the letters ''TB'' tattooed legibly in the left ear, sprayed on the left ear with yellow paint, and either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals.

Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(3) *Identification of exposed cervids.* Exposed cervids must be identified by an official eartag and either:

(i) Branded with the letter ''S'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Either accompanied directly to necropsy or slaughter by an APHIS or State representative, or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

§ 77.18 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering captive cervids in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculosis cervids must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey,

hold, or in any way come in contact with any livestock.

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

7. The authority citation for part 91 would continue to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, and 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.22, 2.80, and 371.2(d).

§ 91.1 [Amended]

8. In § 91.1, the definition of *Animals* would be amended by adding ''captive cervids,'' immediately after ''cattle (including American bison),''.

9. Section 91.7 would be added to read as follows:

§ 91.7 Captive cervids.

To be eligible for export, a captive cervid must be accompanied by an origin health certificate stating that the cervid has tested negative to an official single cervical tuberculin test for tuberculosis, as described in part 77, subpart B, of this chapter, within 90 days prior to export. The origin health certificate must specify the date the test was conducted and the test results.

Done in Washington, DC, this 29th day of March 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–8303 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 94

[Docket No. 96–014–1]

Change in Disease Status of The Netherlands Because of Hog Cholera and Swine Vesicular Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare The Netherlands free of hog cholera and swine vesicular disease. As part of this proposed action, we would add The Netherlands to the list of countries that, although declared free of hog cholera and swine vesicular disease, are subject to restrictions on pork and pork products offered for importation into the United States. Declaring The Netherlands free of hog cholera and swine vesicular disease appears to be appropriate because there have been no confirmed outbreaks of hog cholera and swine vesicular disease in The Netherlands since 1992 and 1994, respectively. This proposed rule would relieve certain restrictions on the importation of pork and pork products into the United States from The Netherlands. However, because The Netherlands shares common land borders with countries affected by swine vesicular disease, the importation into the United States of pork and pork products from The Netherlands would continue to be restricted.

DATES: Consideration will be given only to comments received on or before June 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–014–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–014–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–8688; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease (SVD). These are dangerous and destructive communicable diseases of ruminants and swine.

Sections 94.9(a) and 94.10(a) of the regulations provide that hog cholera exists in all countries of the world except those listed in §§ 94.9(a) and 94.10(a), which are declared to be free of hog cholera.

Section 94.12(a) of the regulations provides that SVD is considered to exist in all countries of the world except those listed in § 94.12(a), which are declared to be free of SVD.

The last outbreaks of hog cholera and SVD in The Netherlands occurred in 1992 and 1994, respectively. This information has been confirmed by the Government of The Netherlands.

The Netherlands has applied to the U.S. Department of Agriculture (USDA) to be recognized as free of hog cholera and SVD. The Animal and Plant Health Inspection Service (APHIS) has reviewed the documentation submitted by the Government of The Netherlands in support of its request. A team of APHIS officials recently conducted an on-site evaluation of the animal health program in The Netherlands in regard to the hog cholera and SVD situation in that country. The evaluation consisted of a review of the capability of The Netherlands veterinary services, laboratory and diagnostic procedures, disease reporting and surveillance procedures, vaccination practices, and the administration of laws and regulations to prevent the introduction into The Netherlands of hog cholera and SVD through the importation of animals, meat, and other animal products.

Based on our review and on-site evaluation, we are proposing to add The Netherlands to the lists of countries in §§ 94.9(a), 94.10(a), and 94.12(a) of the regulations that have been declared free of hog cholera and SVD. This action would relieve certain restrictions on the importation of pork and pork products into the United States from The Netherlands.

At the same time, we are proposing to add The Netherlands to the list of countries in § 94.13 that have been declared free of SVD, but from which the importation of pork and pork products is restricted.

The countries listed in § 94.13 are subject to these restrictions because at least one of the following conditions applies: (1) They supplement their national meat supply by importing fresh, chilled, or frozen pork from countries where SVD is considered to exist; (2) They have a common land border with countries where SVD is considered to exist; or (3) They have certain trade practices that are less restrictive than are acceptable to the United States.

The Netherlands has common land borders with Belgium, which is designated in § 94.12(a) as a country in which SVD is considered to exist, and it supplements its meat supply by importing fresh, chilled, or frozen pork from countries where SVD is considered to exist. As a result, even though we propose to designate The Netherlands free of hog cholera and SVD, the pork and pork products produced in The Netherlands may be commingled with fresh, chilled, or frozen meat of animals from a country in which SVD is

considered to exist, resulting in some risk of contamination.

Therefore, we are proposing that pork and pork products, as well as any ship's stores, airplane meals, and baggage containing such pork, offered for importation into the United States from The Netherlands be subject to the restrictions specified in § 94.13 of the regulations and to the applicable requirements contained in the regulations of the USDA's Food Safety and Inspection Service at 9 CFR chapter III. Section 94.13 requires, in part, that pork and pork products be: (1) Prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) accompanied by a foreign meat inspection certificate as well as a certification issued by a full-time salaried veterinary official of the national government of the exporting country, stating that certain precautions have been satisfied so that the pork or pork product has not been commingled with or exposed to animals, pork, or pork products originating in, or transported through, a country in which SVD is considered to exist.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This proposed rule would amend the regulations in part 94 by adding The Netherlands to the lists of countries that have been declared free of hog cholera and SVD. This action would relieve certain restrictions on the importation of pork and pork products into the United States from The Netherlands. However, the importation of pork and pork products into the United States from The Netherlands would continue to be restricted because The Netherlands shares a common land border with Belgium, where SVD is considered to exist. While there are inspection and certification procedures for ensuring that commingling of pork and pork products from the two countries does not take place, these procedures are not without cost. Therefore, recognition of The Netherlands as free of hog cholera and SVD is not expected to significantly affect pork exports to the United States. The total value of pork exported to the United States from The Netherlands in 1994 was $13.2 million (less than two percent of the value of all U.S. pork imports). There were no live swine exported from The Netherlands to the U.S. in 1994.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S. C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.9 [Amended]

2. In § 94.9, paragraph (a) would be amended by adding ''The Netherlands,'' immediately after ''Iceland,''.

§ 94.10 [Amended]

3. In § 94.10, paragraph (a) would be amended by adding ''The Netherlands,'' immediately after ''Iceland,''.

§ 94.12 [Amended]

4. In § 94.12, paragraph (a) would be amended by adding ''The Netherlands,'' immediately after ''Mexico,''.

§ 94.13 [Amended]

5. In § 94.13, the introductory text, the first sentence would be amended by adding ''The Netherlands,'' immediately after ''Luxembourg''.

Done in Washington, DC, this 1st day of April 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–8302 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–231–AD]

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require replacement of a bus power control unit (BPCU) and two generator control units (GCU) with new improved units. This proposal is prompted by results of the manufacturer's re-certification and laboratory testing of a BPCU, which revealed abnormal functions of the BPCU and the GCU. The actions specified by the proposed AD are intended to prevent such abnormal functions, which could result in electrical short circuits in the electrical power distribution systems and a subsequent fire.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–231–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Gary Lium, Aerospace Engineer,

Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–231–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–231–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that results of the manufacturer's re-certification and laboratory testing of an upgraded/modified bus powered control unit (BPCU) revealed certain abnormal functions. These abnormalities include extended duration of the transfer of the essential bus (ESS BUS), chattering of contacts, and various problems that occurred during a cold cross start. Subsequent observations also revealed abnormal functions of two generator control units (GCU); these abnormalities included unsatisfactory engine starting with reduced battery voltage, and improper separation of the DC generator. Such abnormal functioning, if not corrected, could cause electrical short circuits in the electrical power distribution systems, and a subsequent fire.

Dornier has issued Service Bulletin SB–328–24–061, Revision 1, dated November 3, 1994, which describes procedures for replacement of GCU's 2PC and 12PC with new improved units having part number 118–000–1. The service bulletin also describes procedures for replacement of BPCU 20PC with a new improved unit having part number 106–000–3. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 94–349, dated November 14, 1994, in order to assure the continued airworthiness of these airplanes in Germany.

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require replacement of the GCU's 2PC and 12PC with new improved units having part number 118–000–1. The proposed AD would also require replacement of the BPCU 20PC with a new improved unit having part number 106–000–3. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer would provide required parts at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $720, or $60 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Dornier: Docket 95–NM–231–AD.

Applicability: Model 328–100 series airplanes having serial numbers 3005 through 3024 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

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

Compliance: Required as indicated, unless accomplished previously.

To prevent abnormal functions of the bus power control units and the generator control units, which could result in electrical short circuits in the electrical power distribution systems and a subsequent fire; accomplish the following:

(a) Within 3 months after the effective date of this AD, perform the requirements of paragraph (a)(1) and (a)(2) of this AD, in accordance with Dornier Service Bulletin SB–328–24–061, Revision 1, dated November 3, 1994.

(1) Remove the generator control units 2PC and 12PC and replace them with new improved units having part number 118–000–1. And,

(2) Remove bus power control unit 20PC and replace it with a new improved unit having part number 106–000–3.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on March 29, 1996.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–8294 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–152–AD]

Airworthiness Directives; Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Fokker Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes. This proposal would require modification of the passenger door lock warning system. This proposal is prompted by reports that the passenger door opened during flight due to an improperly locked door; additionally, the door warning signal was not sufficiently visible to alert the flight crew of this condition. The actions specified by the proposed AD are intended to ensure that the flight crew is aware of an unlocked passenger door prior to takeoff of the airplane. This condition, if not corrected, could result in inadvertent opening of the passenger door while the airplane is in flight.

DATES: Comments must be received by May 10, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–152–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–152–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–152–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on all Fokker Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes. The RLD advises that it has received reports indicating that the passenger door of the airplane opened during flight on several occasions. Investigation revealed that the door had been improperly locked, and a door warning signal was not sufficiently visible to alert the flight crew that the door was unsecured. This condition, if not corrected, could result in inadvertent opening of the passenger door while the airplane is in flight.

Fokker has issued Service Bulletins F28/52–112, dated February 1, 1995, and F28/52–101, Revision 1, dated August 24, 1992, which describe procedures for modification of the passenger door lock warning system. The modification specified in Fokker Service Bulletin F28/52–112 (for airplanes on which the passenger door lock warning system is in a pre-SBF28/

52–72 configuration) entails modifying the electrical wiring, replacing the switch operating cam in the pedestal, and modifying the warning annunciator panels on the central warning panels. The modification described in Fokker Service Bulletin F28/52–101 (for airplanes on which the passenger door lock warning system is in a post-SBF28/52–72 configuration) involves installing an additional signal from the door lock circuit to the central warning system. Accomplishment of the modification described in these service bulletins will enhance the door lock warning system by ensuring that the master warning is activated when the airplane is about to take off with an unlocked passenger door.

The RLD classified these service bulletins as mandatory and issued Dutch airworthiness directive BLA 1992–117/3 (A), dated Febuary 28, 1995, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require modification of the passenger door lock warning system. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 37 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 22 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $865 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $80,845, or $2,185 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Fokker: Docket 95–NM–152–AD.

Applicability: All Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent opening of the passenger door while the airplane is in flight, accomplish the following:

(a) Modify the passenger door lock warning system at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes in post-Fokker Service Bulletin F28/52–72 configuration: Accomplish the modification within 9 months after the effective date of this AD, in accordance with Fokker Service Bulletin F28/52–101, Revision 1, dated August 24, 1992.

(2) For airplanes in pre-Fokker Service Bulletin F28/52–72 configuration: Accomplish the modification within 1,500 landings after the effective date of this AD, in accordance with Fokker Service Bulletin F28/52–112, dated February 1, 1995.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on March 29, 1996.

Bill R. Boxwell,

Acting Manager Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–8296 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. 96N–0007]

Labeling of Drugs for Use in Milk-Producing Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise two animal drug regulations to allow greater flexibility in the labeling of drugs for use in milk-producing animals. The 96-hour withdrawal time limitation would be removed from the regulations. The animal drug regulations would be further modified so that the withdrawal time is based only on hours after last treatment, not on a 12-hour milking schedule. This proposal is aligned with the goals stated by the National Performance Review.

DATES: Written comments by June 18, 1996.

ADDRESSES: Written comments to the Dockets Managements Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1642.

SUPPLEMENTARY INFORMATION:

I. Background

Under § 510.105(c)(2) (21 CFR 510.105(c)(2)), information is provided regarding the labeling of drugs used in milk-producing animals. Specifically, the regulation states that: ''The label should bear the warning, 'Milk that has been taken from animals during treatment and within — hours (—— milkings) after the latest treatment must not be used for food,' the blanks to be filled in with the number of hours (not to exceed 96) * * *. '' Under § 510.106, information is provided regarding the labeling of antibiotic and antibiotic-containing drugs intended for use in milk-producing animals. The regulation states that:

> * * * the label of such drugs shall bear * * * the statement ''Warning: Milk that has been taken from animals during treatment and for — hours (—— milkings) after the latest treatment must not be used for food'', the first blank being filled in with the figure, which shall not be greater than 96, that the Commissioner has authorized the manufacturer of the drug to use, and the second figure shall be the first number divided by 12.

II. Proposed Actions

The maximum 96-hour limitation was based on FDA's perception of a practical withdrawal time for the dairy industry. However, FDA now recognizes that a withdrawal time longer than 96 hours may be desirable and practical in certain circumstances. FDA is proposing to remove the 96-hour limitation to allow the possibility of longer withdrawal times to be considered for milk-producing animals. Withdrawal periods longer than 96 hours may be considered on a case-by-case basis depending on the use and safety of the drug.

In addition, a 12-hour milking schedule is used in § 510.106 to calculate the number of milkings that occur during the withdrawal period. While a 12-hour milking interval was reflective of dairy practice when this regulation was written, an 8-hour milking schedule also is in common use in the dairy industry today. FDA is proposing to revise the regulation so that the length of the milking cycle is not specified. This revision would allow any reasonable milking interval to be used as long as milk is discarded for the assigned number of hours after the latest drug treatment.

This proposal is aligned with the goals stated by the National Performance Review. This proposed rule is a result of the President's directive to conduct a comprehensive review of all rules to identify those that are obsolete and burdensome and to delete or revise them. The agency has determined that this rule is in need of revision as described herein.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule clarifies FDA policy and simplifies the process for submitting certain applications, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirements proposed in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the proposed warning statements are ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

VI. Federalism

FDA has analyzed this proposal in accordance with the principles and criteria set forth in Executive Order 12612 and has determined that this proposal does not warrant the preparation of a Federalism Assessment.

VII. Request for Comments

Interested persons may, on or before June 18, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 510

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 510 be amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

2. Section 510.105 *Labeling of drugs for use in milk-producing animals* is amended in the first sentence of paragraph (c)(2) by removing the phrase, ''(not to exceed 96)''.

3. Section 510.106 is amended by revising the first sentence to read as follows:

§ 510.106 Labeling of antibiotic and antibiotic-containing drugs intended for use in milk-producing animals.

Whenever the labeling of an antibiotic drug included in the regulations in this chapter suggests or recommends its use in milk-producing animals, the label of such drugs shall bear either the statement ''Warning: Not for use in animals producing milk, since this use will result in contamination of the milk'' or the statement ''Warning: Milk that has been taken from animals during treatment and for — hours after the latest treatment must not be used for food'', the blank being filled in with the figure that the Commissioner has authorized the manufacturer of the drug to use. * * *

Dated: March 28, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–8247 Filed 4–3–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 745, 900, 901, 906, 913, 926, 931, 934, 935, 936, 944, 946, 948, and 950

RIN 1029–AB84

State-Federal Cooperative Agreements

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to amend its regulations by revising the procedures for approval of State-Federal cooperative agreements, so as to remove from the Code of Federal Regulations (CFR) the entire text of these agreements. This removal of the full text of the State-Federal cooperative agreements would reduce the number of unnecessary pages in the CFR. The CFR would continue, however, to provide notice of the existence of a cooperative agreement and the date it became effective. Although the full text of previously approved cooperative agreements would be removed, the cooperative agreements remain in effect and will continue to delineate State and Federal responsibilities with regard to surface coal mining and reclamation operations on Federal lands.

DATES: *Written comments*: OSM will accept written comments on the proposed rule until 5:00 p.m. eastern time on June 3, 1996.

Public hearings: Anyone wishing to testify at a public hearing must submit a request on or before 5:00 p.m. eastern time on April 25, 1996. Because OSM will hold a public hearing only if one is requested, hearing arrangements, dates and times, if any, will be announced in a subsequent Federal Register notice. Any disabled individual who has need for special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: *Written comments*: Mail or hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 117, 1951 Constitution Avenue, NW., Washington, DC 20240. Comments also may be sent by e-mail via the Internet to: osmrules@osmre.gov.

Requests for public hearings: Contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the time specified under **DATES**. Because OSM will hold a public hearing only if one is requested, hearing locations, if any, will be announced in a subsequent Federal Register notice.

FOR FURTHER INFORMATION CONTACT: Andy DeVito, Rules and Legislation, Office of Surface Mining Reclamation and Enforcement, Room 117, South Interior Building, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone (202) 208–2701. E-Mail/Internet: adevito@osmre.gov.

SUPPLEMENTARY INFORMATION:

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I. Public Comment Procedures

Written Comments

Written comments should be specific and confined to issues pertinent to the proposed rule. They also should include explanations in support of the commenter's recommendations. OSM appreciates any and all comments, but those most useful and likely to influence decisions on the content of a final rule will be those that either involve personal experience or include citations to and analyses of the Act, its legislative history, its implementing regulations, case law, and other pertinent State or Federal laws or regulations.

Where practicable, commenters should submit two copies of their comments. Comments received after the time indicated under **DATES** or at locations other than the OSM office listed under **ADDRESSES** will not necessarily be considered in the final decision or included in the administrative record.

Public Hearing

Persons wishing to testify at a public hearing must contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the time indicated under **DATES**. If no one requests an opportunity to comment at a public hearing, no hearing will be held.

If a public hearing is held, it will continue until all persons scheduled to speak have been heard. Persons in the audience who were not scheduled to speak but who wish to do so will be heard following the scheduled speakers. The hearing will end after all scheduled speakers and any other persons present who wish to speak have been heard.

Filing of a written statement at the time of the hearing will assist the transcriber and facilitate preparation of an accurate record. Submission of written statements to OSM in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public Meeting

If only one person requests an opportunity to comment at a hearing, public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed rule may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All meetings will be open to the public and notices of the meetings will be posted at the location listed under **ADDRESSES**. A written summary of each public meeting will be made a part of the administrative record for this rulemaking.

II. Discussion of the Proposed Rule

Why is This Rule Being Written?

On March 4, 1995, the President announced a government-wide

Regulatory Reinvention Initiative. The President directed each agency to conduct a page-by-page review of its regulations for the purpose of eliminating or revising those that are outdated or otherwise in need of reform. As part of that effort, OSM is considering several means of reducing the number of pages in the CFR. This proposed rule would remove the full text of the State-Federal cooperative agreements from 30 CFR Parts 900, 901, 906, 913, 926, 931, 934, 935, 936, 944, 946, 948, and 950, and would eliminate from Part 745 the requirement to codify the text of any cooperative agreements approved in the future. This action would result in a reduction of approximately 65 pages from the CFR and reduce future printing costs for the government, and contribute to on-going efforts to make the CFR a more readable document.

What is a State-Federal Cooperative Agreement?

Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (''the Act''), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745, allow a State and the Secretary of the Interior (Secretary) to enter into a cooperative agreement if the State has an approved State program for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands. Cooperative agreements are authorized by the first sentence of section 523(c), which provides that, ''Any State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act.'' 30 U.S.C. 1273(c). Cooperative agreements currently exist for the following States: Alabama, Colorado, Illinois, Montana, North Dakota, New Mexico, Ohio, Oklahoma, Utah, Virginia, West Virginia, and Wyoming.

What Would Change?

Under current approval procedures for cooperative agreements (or revisions thereof), the full text of a requested cooperative agreement is published in the Federal Register as a proposed rule and comments are solicited from the public on the terms of the agreement. After comments are considered and the terms of the cooperative agreement are agreed to by the Secretary and the governor of the State requesting the agreement, the full text is published in the Federal Register as a final rule and then codified in the CFR. Under the revised procedures being proposed in §§ 745.11 (c) and (h), OSM would continue to publish the full text of a requested cooperative agreement in the Federal Register and solicit public comments prior to approval by the Secretary and the governor. However, the full text would be included in the preamble discussion of the proposed rule, and only a brief statement giving information about the agreement would be included as a proposed rule. After the cooperative agreement has been signed by the Secretary and the governor, OSM would publish the final rule in the Federal Register indicating the Secretary' approval. Included in the preamble to the final rule would be the full text of the approved cooperative agreement and a discussion of any changes made to the text based on comments received. The Secretary's decision approving the cooperative agreement would then be codified in 30 CFR under the appropriate Part for the State. The codified text would consist of a statement indicating that the Secretary and the governor have entered into a State-Federal cooperative agreement, the effective date of the cooperative agreement, and the address where a copy of it may be obtained.

The proposed changes in the approval procedures for cooperative agreements would also apply to the amendment and reinstatement of such agreements. The proposed rule would make conforming changes to §§ 745.14 and 745.16(a) which govern amendments and reinstatements, respectively. Under the proposed rule, when the Secretary approves an amendment to, or reinstatement of, a cooperative agreement, OSM would publish the full text in the Federal Register but would only codify in the CFR a statement indicating that a cooperative agreement is in effect, the date the amendment or reinstatement went into effect, and the address where a copy may be obtained.

OSM believes that there is no compelling need to codify the full text of the cooperative agreements in the CFR. Under the proposed rule, essentially the same information would be included in the Federal Register as is presently included except that under the proposed rule the full text of the cooperative agreement would be included in the preamble discussion and not as part of the rule language. Further, there is no statutory requirement in the Act to codify the full text in the CFR. Although the codified full text may be a convenient reference for members of the public who might want to review the provisions of a cooperative agreement, OSM believes that once a cooperative agreement has been approved, few members of the public, if any, actually refer to them. If the full text is desired, copies would be readily available from designated sources.

OSM also proposes to revise the procedures in § 745.11(d) so as to require that a public hearing be held *only* if a hearing is requested by a member of the public. The current regulations require that a hearing be held even if one is not requested. Since 1988, OSM has published 4 proposed rules dealing with cooperative agreements and no one has asked to testify at a public hearing.

OSM is proposing to make conforming changes to 30 CFR 900.2 and 900.15 to delete references to the full text of the cooperative agreements. OSM also proposes to add the names of the States with approved cooperative agreements to § 900.15 along with a statement that the effective dates are included under the applicable State Part.

Finally, OSM is proposing to revise 30 CFR Parts 900, 901, 906, 913, 926, 931, 934, 935, 936, 944, 946, 948, and 950, to remove the full text of currently approved cooperative agreements and to substitute a statement indicting that a cooperative agreement is in effect, the date the agreement went into effect, and the address where a copy may be obtained.

Although the full text of the cooperative agreements is being removed from the CFR in favor of the above statement, the signed agreements remain in effect and will continue to delineate State and Federal responsibilities with regard to surface coal mining and reclamation operations on Federal lands.

The following table provides a summary of the proposed changes contained in the rule.

Section	Summary of changes
745.11(c)	Revised to remove the requirement that the full text be published in the **Federal Register** as a proposed rule.
745.11(d)	Revised to require a public hearing only if one is requested. A public hearing is currently required in all rulemakings.

Section	Summary of changes
745.11(h)	New paragraph added to require that upon approval of a State-Federal cooperative agreement, the regulations in Subchapter T must be amended to indicate that a cooperative agreement has been entered into, the effective date, and the address where the full text of the cooperative agreement may be obtained.
745.14	Revised to require that amendments to cooperative agreements be adopted in accordance with § 745.11.
745.16(a)	Revised to require that reinstatements of cooperative agreements be made in accordance with § 745.11.
900.2	Revised to eliminate reference to the full text of the cooperative agreements.
900.15	Revised to eliminate reference to the full text of the cooperative agreements and to add that information on the agreement is available in Subchapter T.
901.30, 906.30, 913.30, 926.30, 931.30, 934.20, 935.30, 936.30, 944.30, 946.30, 948.30, 950.20.	Revised to remove the full text of the approved cooperative agreement and to substitute data on the date the cooperative agreement went into effect and the address where a copy may be obtained. The proposed revision includes a reference to § 745.12 which specifies the general provisions required in a cooperative agreement, and to § 745.13 which specifies the authority which cannot be delegated to a State.

How Would This Rule Affect Coal Mining on Federal Lands?

The rule would not change the way coal mining activities are regulated on Federal lands. Although the full text of the cooperative agreements are being removed from the CFR, the cooperative agreements remain in effect and those States with cooperative agreements would continue to regulate coal mining activities on Federal lands within the State according to the terms of the cooperative agreement.

How do I Get a Copy of a State-Federal Cooperative Agreement?

A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. E-Mail/Internet address: osmrules@osmre.gov. The full text of the cooperative agreements is also available on the World Wide Web at: http://www.osmre.gov.

The following table provides a list of those States with approved cooperative agreements, the date the original agreement was published, the date of any approved revisions, the effective dates, and the Federal Register citation.

State	30 CFR part No.	Publication date	Effective date	**Federal Register** Citation
Alabama	901	07/30/85	08/28/85	50 FR 30921
Colorado	906	10/06/82	10/06/82	47 FR 44217
Illinois	913	11/27/87	12/28/87	52 FR 45329
Montana	926	04/08/81	05/08/81	46 FR 20993
North Dakota	934	09/15/83	09/15/83	48 FR 41395
		04/07/88	05/09/88	53 FR 11501
New Mexico	931	12/20/82	12/20/82	47 FR 58606
		05/12/89	06/12/89	54 FR 20568
Ohio	935	04/13/84	04/13/84	54 FR 51743
		12/18/89	01/17/90	54 FR 51743
Oklahoma	936	09/11/89	10/11/89	54 FR 37459
Utah	944	04/13/87	04/13/87	52 FR 7850
Virginia	946	04/07/87	05/07/87	52 FR 11049
West Virginia	948	03/09/84	03/09/84	52 FR 11049
Wyoming	950	01/28/81	03/18/91	51 FR 45089

III. Procedural Matters

Federal Paperwork Reduction Act

This rule does not contain collections of information which requires approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

The Department of the Interior certifies that this proposed revision would 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.*).

National Environmental Policy Act

This rule has been reviewed by OSM and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual 516 DM 6, Appendix 8.4.A(4).

Executive Order 12866

This rule is not significant under Executive Order 12866 and does not require review by the Office of Management and Budget.

Executive Order 12778

This proposed rule has been reviewed under the applicable standards of Section 2(b)(2) of Executive Order 12778, Civil Justice Reform (56 FR 55195). In general, the requirements of Section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this proposed rule. Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

The proposed rule would have no preemptive effect.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified.

This rule modifies the implementation of SMCRA as described herein, and is not intended to modify the implementation of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of SMCRA.

D. What is the retroactive effect, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this rule under section 526(a) of SMCRA, 30 U.S.C. 127(a).

Prior to any judicial challenge to the application of the rule, however, administrative procedure must be exhausted. In situations involving OSM application of the rule, applicable administrative procedures may be found at 43 CFR Part 4. In situations involving State regulatory authority application of provisions equivalent to those contained in this rule, applicable administrative procedures are set forth in the particular State program.

F. Does the rule define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms which are important to the understanding of this rule are set forth in 30 CFR 700.5 and 701.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purpose of the Executive Order?

As of the date of publication, the Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

List of Subjects

30 CFR Part 745

Coal mining, Intergovernmental relations, Public lands, Mineral resources, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Parts 900, 901, 906, 913, 926, 931, 934, 935, 936, 944, 946, 948, and 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 13, 1996.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR Parts 745, 900, 901, 906, 913, 926, 931, 934, 935, 936, 944, 946, 948, and 950 are proposed to be amended as follows.

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

1. The authority citation for Part 745 continues to read:

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

2. § 745.11, is amended by revising paragraph (c) introductory text, the first sentence of paragraph (d), and adding paragraph (h) to read as follows:

§ 745.11 Application and agreement.

* * * * *

(c) OSM shall publish a notice of the request and the full text of the terms of the proposed cooperative agreement as submitted or as subsequently modified by OSM and the State in the Federal Register. A notice of the request and a summary of the terms of the proposed agreement shall also be published in a newspaper(s) of general circulation throughout the State. Both notices shall include:

* * * * *

(d) If requested, a public hearing shall be held within the comment period in a suitable location in the State requesting the cooperative agreement. * * *

* * * * *

(h) The Secretary shall amend the regulations in Subchapter T to indicate that a State-Federal cooperative agreement has been entered into, the effective date of the cooperative agreement, and the address where the full text of the cooperative agreement may be obtained.

3. § 745.14 is amended by revising the last sentence to read as follows:

§ 745.14 Amendments.

* * * Amendments shall be adopted in accordance with the procedures in § 745.11.

4. § 745.16 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 745.16 Reinstatements.

* * * Any reinstatement shall be in accordance with the procedures in § 745.11.

PART 900—INTRODUCTION

5. The authority citation for Part 900 continues to read as follows:

Authority: Secs. 102, 201, 405, 503, 504, 505, and 523 of Pub. L. 95–87 (30 U.S.C. 1202, 1211, 1235, 1253, 1254, and 1273).

6. In § 900.2, the first sentence is revised to read as follows:

§ 900.2 Objectives.

The objective of this part is to provide an introduction to the synopsis of the approved State programs, the Abandoned Mined Lands Reclamation programs, the cross referencing provisions of Federal programs, information on the effective date of State-Federal cooperative agreements for the regulation of mining on Federal lands, and where a copy may be obtained. * * *

7. § 900.15 is revised to read as follows:

§ 900.15 Federal lands program cooperative agreements.

The effective date for each State-Federal cooperative agreement for the State regulation of surface coal mining and reclamation operations on Federal lands is published below under the applicable part for States with cooperative agreements. The following states have entered into cooperative agreements: Alabama, Colorado, Illinois, Montana, North Dakota, New Mexico, Ohio, Oklahoma, Utah, Virginia, West Virginia, and Wyoming.

PART 901—ALABAMA

8. The authority citation for Part 901 continues to read as follows:

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

9. § 901.30 is revised to read as follows:

§ 901.30 State-Federal cooperative agreement.

The Governor of the State of Alabama and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on August 28, 1985. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240 The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 906—COLORADO

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

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

11. § 906.30 is revised to read as follows:

§ 906.30 State-Federal cooperative agreement.

The Governor of the State of Colorado and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on October 6, 1982. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 913—ILLINOIS

12. The authority citation for part 913 continues to read as follows:

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

13. § 913.30 is revised to read as follows:

§ 913.30 State-Federal cooperative agreement.

The Governor of the State of Illinois and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on December 28, 1987. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 926—MONTANA

14. The authority citation for part 926 continues to read as follows:

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

15. § 926.30 is revised to read as follows:

§ 926.30 State-Federal cooperative agreement.

The Governor of the State of Montana and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on May 8, 1981. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 931—NEW MEXICO

16. The authority citation for part 931 continues to read as follows:

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

17. § 931.30 is revised to read as follows:

§ 931.30 State-Federal cooperative agreement.

The Governor of the State of New Mexico and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on December 20, 1982. Certain provisions were revised effective June 12, 1989. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 934—NORTH DAKOTA

18. The authority citation for part 934 continues to read as follows:

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

19. § 934.30 is revised to read as follows:

§ 934.30 State-Federal cooperative agreement.

The Governor of the State of North Dakota and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on September 15, 1983. Certain provisions were revised effective May 9, 1988. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 935—OHIO

20. The authority citation for Part 935 continues to read as follows:

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

21. § 935.30 is revised to read as follows:

§ 935.30 State-Federal cooperative agreement.

The Governor of the State of Ohio and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on April 13, 1984. Certain provisions were revised effective January 17, 1990. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available

on the World Wide Web at: http://www.osmre.gov.

PART 936—OKLAHOMA

22. The authority citation for Part 936 continues to read as follows:

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

§ 936.30 State-Federal cooperative agreement.

The Governor of the State of Oklahoma and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on October 11, 1989. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 944—UTAH

23. The authority citation for Part 944 continues to read as follows:

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

24. § 944.30 is revised as follows:

§ 944.30 State-Federal cooperative agreement.

The Governor of the State of Utah and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on April 13, 1987. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, NW., Washington, DC 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 946—VIRGINIA

25. The authority citation for Part 946 continues to read as follows:

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

26. § 946.30 is revised to read as follows:

§ 946.30 State-Federal cooperative agreement.

The Governor of the State of Virginia and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on April 7, 1987. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 948—WEST VIRGINIA

27. The authority citation for Part 949 continues to read as follows:

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

28. § 948.30 is revised to read as follows:

§ 948.30 State-Federal cooperative agreement.

The Governor of the State of West Virginia and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on April 7, 1987. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

PART 950—WYOMING

29. The authority citation for Part 950 continues to read as follows:

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

30. § 950.20 is revised to read as follows:

§ 950.20 State-Federal cooperative agreement.

The Governor of the State of Wyoming and the Secretary of the Interior have entered into a cooperative agreement setting forth the responsibilities of each party for the regulation of surface coal mining and reclamation operations on Federal lands in the State. The cooperative agreement became effective on January 15, 1987. The general provisions required in a cooperative agreement are specified under § 745.12. The authority reserved for the Secretary which cannot be delegated to a State is specified under § 745.13. A copy of the full text of the cooperative agreement may be obtained by contacting the Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. The full text of the cooperative agreement is also available on the World Wide Web at: http://www.osmre.gov.

[FR Doc. 96–8189 Filed 4–3–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 619

Program for Qualifying DOD, Air Freight Forwarders

AGENCY: Military Traffic Management Command, DOD.

ACTION: Proposed rule.

SUMMARY: This action adds qualifications standards for Air Freight Forwarders and establishes a change in the basic agreement between the Military Traffic Management Command and Air Freight Forwarders. The proposal to amend those qualifications, where appropriate, are submitted to be consistent with the Surface Freight Forwarders requirements.

DATES: Comments must be received by May 6, 1996.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTOP–QQ, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Wirtz, telephone: (703) 681–6393.

SUPPLEMENTARY INFORMATION: Basic information on the Carrier Qualification Program was previously published in the Federal Register, 53 FR 17970, 54 FR 27667, 55 FR 7361, 55 FR 52976 and 56 FR 45895 and 57 FR 11376.

Executive Order 12291

This proposed rule was reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as non major. The effect of the rule on the economy will be less than $100 million.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities. The objective of the program is to ensure that DOD obtains safe, dependable, and reliable transportation services. The requirements are not designed to preclude participation by small businesses. Rather, they are part of a mechanism designed to ensure that traffic offered to small businesses does not exceed their capabilities. The program's reporting and record keeping requirements are essentially administrative in nature and do not demand significant expenditures of resources such as personnel, computer equipment, or software. No professional or technical training is necessary to comply with these requirements. Alternatives to facilitate entry of small businesses have been identified and implemented.

Paperwork Reduction Act

This proposed rule is approved by the Office of Management and Budget as required under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 619

Shipping, Motor vehicles, Safety, Trucks, Common carriers, Freight.

Accordingly, Part 619 of Title 32 of the Code of Federal Regulations is amended by the following changes:

1. The authority citation for part 619 continues to read as follows:

Authority: 49 U.S.C. 1801–1813, 2503, 2505, and 2509.

2. In § 619.1, the introductory text is amended by revising the first sentence to read as follows:

§ 619.1 Introduction.

Carriers, surface freight forwarders, shipper agents, and air freight forwarders interested in qualifying or remaining qualified will submit data described in §§ 619.2 through 619.6 to the appropriate area command (Bayonne, NJ or Oakland, CA) based on the location of the carrier's headquarters. * * *

* * * * *

3. Section 619.4, is amended by revising paragraphs (a), (b) introductory text and (b)(5) to read as follows:

§ 619.4 Insurance—Public liability and cargo.

(a) *Public Liability*. Motor carriers, surface freight forwarders, shipper agents and air freight forwarders will submit proof of public liability insurance to MTMC on a certificate of insurance form issued by the insurance company. Expiration dates will not be reflected on the certificate, the policy must be continuous until cancelled. However, the deductible portion will be shown on the certificate. The insurance underwriters must be rated in the Best's Insurance Guide, or listed in the Fiscal Service Treasury Department Circular 570, Listing of Surety Companies. The certificate holder block of the form will indicate that HQMTMC, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, Attn: MT–INFF, will be notified, in writing, 30 days in advanced of any change or cancellation. The public liability requirements are specified in 49 CFR 387.9. Surface freight forwarders and shipper agents will submit proof of $1 million public liability (death and bodily injury, property damage, and environment restoration).

(b) *Cargo*. Motor common carriers, surface freight forwarders, shipper agents and air freight forwarders must have their insurance company provide a certificate of insurance form. The deductible portion will be shown on the certificate. The insurance underwriter must have a policyholder's rating in the Best's Insurance Guide, listed in the Fiscal Service Treasury Department Circular 570, Listing of Surety Companies or specifically approved by HQMTMC. DOD's minimum cargo insurance requirements are listed below.

* * * * *

(5) Surface freight forwarders, shipper agents and air freight forwarders—$250,000 per shipment.

4. Section 619.6 is amended by revising the introductory text and paragraph (k) as follows:

§ 619.6 Information.

Motor carriers, surface freight forwarders and shipper agents will provide HQMTMC the following information:

(k) In addition to information contained in (a) through (h) and (o) above, exempt surface freight forwarders, shipper agents and air freight forwarders must furnish a listing of carriers which they have a contract with and intend to use in the movement of government shipments. Information must include the complete company name, company officials to include their position and title, home office addresses, telephone numbers, 24 hour emergency point of contact for shipment status, and ICC operating authority number of each carrier.

5. Section 619.7 is amended by revising paragraph (d) as follows:

§ 619.7 Performance Bond.

* * * * *

(d) Surface Freight Forwarders, Shipper Agents and Air Freight Forwarders. Due to the volume of traffic handled by these modes and the area normally serviced the bond amount is set at $100,000.

6. Section 619.8 is revised to read as follows:

§ 619.8 Basic Agreement.

Motor carriers, surface freight forwarders, shipper agents and air freight forwarders meeting the qualification requirements of §§ 619.1 through 619.7 will be required to sign the appropriate Basic Agreement in the appendices to this part.

7. A new Appendix G is added to part 619 of the appendices as follows:

Appendix G to Part 619—Agreement Between the Military Traffic Management Command and Air Freight Forwarders Governing the Transportation of General Commodities for and on Behalf of U.S. Department of Defense

1. The undersigned, who is duly authorized and empowered to act on behalf of

_____

(Name of Forwarder, Typed or Legibly Printed)

hereinafter referred to as the forwarder, as a prerequisite for consideration for participation in the transport of general commodities as an exempt air freight forwarder, for the U.S. Department of Defense (DOD), agree to comply with all requirements, terms and conditions as set forth in this Agreement. Noncompliance with any provisions of this Agreement will be sufficient grounds for immediate revocation of the forwarder's privilege to participate in the movement of DOD freight. For the purpose of this Agreement, an air freight forwarder is defined as a person or company who acts as a common carrier, that is, a carrier which holds itself out

to the general public to provide transportation of property for compensation, assembles and consolidates less-than-truckload freight, as defined in the Instruction for preparation of Department of Defense Standard Tender of Freight Services, MT Form 364–4 (and revisions thereto), Part II, and uses for the whole or any part of the line-haul transportation the services of regulated motor or air carriers, break bulk, and delivers the less-than-truckload freight holding out in its own name and under its own responsibility a through transportation service from point of receipt to destination.

2. Approval and Revocation.

a. Forwarder understands that its initial approval and retention of approval are contingent upon establishing and maintaining, to MTMC's satisfaction, sufficient resources to support its proposed scope of operations and services. Sufficient resources include personnel, facilities, carriers with adequate equipment, and finances to handle the traffic anticipated by DOD/MTMC under the forwarder's proposed scope of operations in accordance with the service requirements of the shipper.

b. The forwarder understands that MTMC may revoke approval at any time upon discovery of grounds for ineligibility or disqualification.

c. In addition to the initial evaluation, the forwarder agrees that it will cooperate with MTMC follow-up evaluations at any time subsequent to signing this Agreement to confirm continued eligibility.

d. The forwarder agrees and certifies that neither the owners, company, corporate officials, nor any affiliation or subsidiary thereof are currently debarred or suspended, disqualified by a MTMC Carrier Review Board (CRB), or placed in non-use by MTMC from doing business with DOD.

3. Transportation Protective Services (TPS).

a. The forwarder agrees and certifies that it will only use carriers approved through the carrier qualification program to perform the applicable TPS and will not use any carrier which does not meet all requirements of this agreement.

b. Exceptions to the provisions of a. above, pertaining to use of TPS carriers only may be approved by MTMC on a case-by-case basis. Approval will be based on MTMC review and approval of a detailed plan by the forwarder detailing their procedures to insure the continuing in-transit security of TPS freight while in possession of non-TPS carriers. Carriers used will otherwise be fully approved and signatories to this agreement.

c. Forwarder will enter into formal, written agreements with carriers used to transport TPS freight. Agreement will require the carrier to notify the forwarder and MTMC operations center at (703) 681–6125 within two hours of experiencing any unscheduled landing or other emergency involving aircraft transporting TPS freight.

4. Lawful Performance.

a. Forwarder agrees to comply with all applicable federal, state, municipal and other local laws and regulations. No fines, charges, or assessments for overloaded vehicles or other violations of applicable laws and regulations will be passed to, or be paid by any agency of the Federal Government.

b. The forwarder agrees to keep current and on file a list of all carriers to be used in the transport of DOD freight shipments. This list will contain, as a minimum, the company's name, president/vice president's name, operating authority number, corporate office address, telephone number and a designated 24-hour on call point of contact in the event of an accident or emergency situation. MTMC can direct forwarder not to use specific carriers in the movement of DOD freight shipments.

c. The forwarder further agrees and certifies that it will only use carriers that are approved through the carrier qualification program to transport DOD freight, and will not use any carrier that has been debarred, suspended by the Government or which has been placed on non-use or disqualified by MTMC from doing business with the DOD for the movement of any DOD freight shipments.

5. Operations. The forwarder agrees and certifies that it is operating as a forwarder as defined herein. If incorporated, evidence of incorporation, bearing the official seal of the state in which filed, Articles of Incorporation, listing all the officers of the corporation is attached and certified to be true, correct and current.

6. Insurance.

a. The forwarder agrees to maintain a minimum of $1,000,000 public liability insurance and $250,000 cargo insurance for loss and damage of Government freight. A copy of the certificate of insurance must be on file with MTMC, ATTN: MTOP–QQ, prior to any performance of service by the forwarder.

b. The insurance, carried in the name of the forwarder, will be in force at all times while this Agreement is in effect or until such time as the forwarder cancels all tenders. The forwarder cancels all tenders. The forwarder agrees to ensure that the policies include a provision requiring the insurer to notify MTMC prior to any performance of service by the carrier. The certificate holder block of the form will indicate that MTMC, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, ATTN: MTOP–QQ, will be notified in writing, 30 days in advance of any change or cancellation. The deductible portion will be provided on the certificate.

c. The insurance underwriter must have a policy/holder's rating in the Best's Insurance Guide, listed in the Fiscal Service Treasury Department Circular 570, Listing of Surety Companies. Self-Insurance will not be accepted.

7. Performance Bond.

a. Forwarder agrees to provide MTMC with a Performance Bond. The bond secures performance and fulfillment of the forwarder's obligation. It will cover default, abandoned shipments, bankruptcy and reprocurement costs. The bond will not be utilized for operational problems such as late pick up or delivery, excessive transit time, refusals, no shows, improper or inadequate equipment or claims for lost or damaged cargo. The bond must be issued by a surety company listed in the Fiscal Service, Treasury Department Circular No. 570. The sum of the bond shall be no less than $100,000. The bond must be completed on the form provided by MTMC and will be continuous until canceled. MTMC will be notified, in writing, 30 days in advance of any change or cancellation. A letter of intent by the surety company is required with the initial application. Upon MTMC approval forwarder will submit the performance bond before the Tender of Service will be accepted.

8. Safety.

a. The forwarder agrees not to use any carrier that has an ''unsatisfactory'' safety rating with the Federal Highway Administration, Department of Transportation, and if it is an intrastate motor carrier, with the appropriate state agency.

b. Shipments will be delivered in direct service without delay to the destination shown on the Government Bills of Lading unless consignee or consignor directs diversion of the shipment to a new or different destination. Deliveries will be made during the shipper's normal business hours.

c. The forwarder agrees to not divulge any information to unauthorized persons concerning nature and movement of any shipment tendered to it.

d. The forwarder agrees to notify within 24-hours, the consignor and consignee named by the Government Bill of Lading (GBL) or Commercial Bill or Lading (CBL) of cargo loss, damage, or unusual delay. Information reported will include origin/destination, GBL/CBL. number, shipping paper information, time and place of occurrence, and other pertinent details. Upon request, the forwarder agrees to ensure MTMC is furnished a coy of accident reports submitted to Department of Transportation on Form MCS 50–T (Property).

e. The forwarder agrees to have in place a company-wide safety management program. Forwarder safety program will comply with applicable Federal, State, and local statutes or requirements. Safety programs at the company-wide or terminal level may be subject to evaluation by DOD representatives. The forwarder further agrees to permit unannounced safety inspections of its facilities, terminals, equipment, employees, and procedures by DOD civilian, military personnel, or DOD contract employees.

9. Reserved.

10. Equipment.

a. The forwarder agrees to ensure, equipment is spotted for loading at the time and place requested. Civil Reserve Air Fleet (CRAF) carriers will be used whenever possible for the movement of DOD freight. The Government reserves the right to reject the utilization of any equipment placed for loading by the forwarder it does not, upon inspection, meet specifications and requirements for the particular shipment involved (sizes, cube, cleanliness, mechanical condition, etc.).

11. Shipment.

a. Further, the forwarder agrees to not divulge any information to unauthorized persons concerning the nature and movement of any DOD shipment.

12. Documentation.

a. Forwarder agrees to accept Government Bills of Lading on which freight charges will be paid by the Government, and will be bound by the terms and conditions stated thereon.

b. The forwarder agrees to comply with the provisions of documentation prelodging in effect at Military Terminals which cargo is consigned for further movement overseas. (Prelodging is the submission of advance shipment documents that identifies the shipment to the Military Terminals prior to arrival of the cargo at the terminal to permit preparation of the terminal documentation.) Instructions will be provided by the consignees to furnish certain data at least 24 hours in advance of cargo arrival at the terminal.

13. Loss & Damage.

a. The forwarder agrees to be fully liable for delivery of all cargo in the same condition as received at origin, except loss or damage caused by act of God, public enemy act, omission of shipper, inherent vice or detrimental changes due to nature of commodity, or natural shrinkage. Forwarder agrees to settle promptly, claims for loss or damage. The forwarder also agrees to provide the status of any shipment tendered to them within 24-hours after an inquiry is made.

14. Standard Tender of Service.

a. The forwarder agrees to comply with the preparation and filing instructions and applicable freight traffic rules publications issued by MTMC. Forwarder understands that MTMC will reject tenders not in compliance with these instructions.

b. Forwarder agrees to publish a street address where the company office is located in lieu of a post office box number. Military Traffic Management Command must be advised of any change in address. Failure to do so is grounds to discontinue the use of the forwarder.

c. Forwarder understands that tenders inadvertently accepted and distributed for use and not in compliance with this agreement, the provisions contained in the Standard Tender of Freight Services (MT Form 364–R), or the applicable, MTMC Freight Traffic Rules Publication, and supplements thereof, will be subject to immediate removal or non-use until corrections are made. The issuing forwarder will be advised when tenders are removed under these circumstances.

15. Rates

a. Forwarder agrees to transport Government shipments at its lowest effective charge named in the tender applicable on the commodity transported, whether or not the rate tender is referenced on the GBL.

b. The forwarder agrees to publish through rates guaranteed for at least 30 days. These rates must be filed with TRANSCOM

. _____

The forwarder must publish all rates, changes, and accessorial services on a ''Department of Defense Standard Tender of Freight Services'', MT Form 364–R and must comply with the tender preparation instructions. (Only services annotated with a charge in the tender will be paid by the shipper.)

c. The forwarder agrees to promptly refund all uncontested overcharges to the Government and authorizes the Government to deduct the amount of overcharges from any amount subsequently found to be due the forwarder.

d. The Government reserves the right to pursue administrative claims directly with forwarders under the Interstate Commerce Act or other authorities.

16. Carrier Performance.

a. Forwarder agrees that its performance, and standards of service will conform with its obligations under Federal, State and local law and regulation as well as with the guidelines found in the Defense Traffic Management Regulation (DTMR) and this Agreement. The forwarder fully understands its obligation to remain current in its knowledge of service standards. The forwarder accepts the Government's right to revoke declare ineligible, non-use, or disqualify the carrier for unsatisfactory service for any operating deficiency, noncompliance with terms of this Agreement or terms of any negotiated agreements, tariffs, tenders, bills of lading or similar arrangements, tariffs, tenders, bills of lading or similar arrangements determining the relationship of the parties, or for the publication or assessment of unreasonable rates, charges, rules, descriptions, classifications, practices, or other unreasonable provisions of tariffs and tenders. Rules governing the Carrier Performance Program are found in MTMC Regulation 15–1, and Army Regualtion5 5–355, DTMR. If a forwarder is removed or disqualified for 6 months or more, it will have to re-qualify.

b. Failure or nonperformance by the forwarder with any of the terms or conditions of service will constitute a breach of this Agreement. Government reserves the right to disqualify the forwarder for unsatisfactory service until such time as the forwarder establishes to the satisfaction of DOD that the operating or other deficiency(s) has been corrected.

17. General Provisions. That the forwarder must have a valid Standard Carrier Alpha Code (SCAC) and use it on all DOD billing documents to identify the forwarder. When a company holding the appropriate authority has operating divisions each with its own unique SCAC, each such division is required to execute a separate agreement with MTMC governing the transportation of protected commodities.

18. Terms of the Agreement.

a. The terms of this Agreement will be applicable to each shipment.

b. This Agreement shall be effective the date of acknowledgement by the Military Traffic Management Command,

until terminated upon receipt of written notice by either party.

c. Nothing in this Agreement will be construed as a guarantee by the Government of any particular volume of traffic.

d. The forwarder agrees to immediately notify MTMC of any changes in ownership, in affiliations, executive officers, and/or board members and forwarder name. Forwarder understands that failure to notify MTMC shall be grounds for immediate revocation of the forwarder's approval and their participation the movement of DOD freight.

19. Additional Specialized Requirements. The terms of this Agreement will not prevent different or additional requirements with respect to negotiated agreements or added requirements for other types of service and/or commodities.

20. Inquiries. Inquiries may be referred to Commander, Military Traffic Management Command, Attention: MTOP–QQ, 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

21. Forwarder Acknowledgment and acceptance.

a. The undersigned forwarder official, by affixing signature hereto, states that he has read and understands the general and specific terms and condition of service outlined and agrees to provide service in accordance with such terms or conditions. Any information found to be falsely represented in the Qualification Form the attachments or during the qualification procedures, to include additional requirements of this Agreement, shall be grounds for automatic revocation of this Agreement and immediate non-use of the forwarder, the affiliated companies, division and entities.

Forwarder's Acknowledgment/ Acceptance:

I, _____,
(Typed name and title of forwarder official)

verify under penalty of perjury under the laws of the United States of America, that the information contained in the forwarder qualification application packet and this Agreement is true, correct and complete. If representing a company or organization, I certify that I am qualified and authorized to offer this information. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by up to 5 year's imprisonment and fines up to $10,000 for each offense, or punishable as perjury under 18 U.S.C. 1621 by fines up to $2,000 or imprisonment up to 5 years for each offense. Further I understand the requirements of this Agreement and on behalf of

_____
(Typed name of forwarder)

comply with the terms and conditions contained herein.

_____
Signature of Forwarder Official and Title

Date: _____

Forwarder Address:

_____

_____

Telephone Number: _____

24-hr Emergency Number: _____

Military Traffic Management Command Acknowledgment/Acceptance

Signature: _____

Title: _____

Date Approved: _____

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–8094 Filed 4–3–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AD68

Subsistence Management Regulations for Public Lands in Alaska, Identification of Waters Subject to Subsistence Priority Regulation and Expansion of the Federal Subsistence Program and the Federal Subsistence Board's Authority

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Departments of Agriculture and the Interior give notice of their intention to amend the scope and applicability of the Federal subsistence program in Alaska to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. The amendments being considered also would extend the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act or the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or an Alaska Native Corporation, as required by ANILCA. In addition, the rule amendments being considered would unambiguously delegate to the Federal Subsistence Board the authority to determine when hunting, fishing or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority on the public lands to such an extent as to result in a failure to provide the subsistence priority and to take action to restrict or eliminate the interference. The Departments also are considering whether to provide the Federal Subsistence Board with authority to investigate and make recommendations to the Secretaries regarding the possible existence of additional Federal reservations, Federal reserved water rights or other Federal interests, including those which attach to lands in which the United States has less than fee ownership. The regulatory amendments being considered would conform the Federal subsistence management regulations to the court decree issued in *State of Alaska* v. *Babbitt,* 72 F.3d 698 (9th Cir. 1995). This advance notice of proposed rulemaking also is in response to the Petitions for Rulemaking submitted by the Northwest Arctic Regional Council *et al.* on April 12, 1994, and the Mentasta Village Council, *et al.* on July 15, 1993.

DATES: Written public comment is invited and will be considered in the development of a proposed rule. Comments on this advance notice of proposed rulemaking and proposals for changes to the preliminary regulatory text must be received no later than June 14, 1996 to be considered.

ADDRESSES: Any comments concerning this notice, including sections regarding conformance with statutory and regulatory authorities and the preliminary regulatory text included with it may be sent to Mitch Demientieff, Chairman, Federal Subsistence Board, c/o Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503; telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Assistant Director, Subsistence, Forest Service, Alaska Region, P.O. Box 21638, Juneau, Alaska 99802–1628; telephone (907) 586–7921.

SUPPLEMENTARY INFORMATION:

Background

The Federal Subsistence Board assumed subsistence management responsibility for public lands in Alaska in 1990, after the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska,* 785 P.2d 1 (Alaska 1989), *reh'g. denied* (Alaska 1990), that the rural preference contained in the State's subsistence statute violated the Alaska Constitution. This ruling put the State's subsistence program out of compliance with Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and resulted in the Secretaries assuming subsistence management on the public lands in Alaska. The ''Temporary Subsistence Management Regulations for Public Lands in Alaska, Final Temporary Rule'' was published in the Federal Register (55 FR 27114–27170) on June 29, 1990. The ''Subsistence Management Regulations for Public Lands in Alaska; Final Rule'' was published in the Federal Register (57 FR 22940–22964) on May 29, 1992.

In both cases, the rule ''generally excludes navigable waters'' from Federal subsistence management. 55 FR 27114, 27115 (1990); 57 FR 22940, 22942 (1992). In a lawsuit consolidated with *Alaska* v. *Babbitt,* plaintiff Katie John challenged these rules, arguing that navigable waters are properly included within the definition of ''public lands'' set out in ANILCA. At oral argument before the United States District Court for Alaska, the United States took the position that Federal reserved water rights which encompass the subsistence purpose are public lands for purposes of ANILCA. The United States Court of Appeals for the Ninth Circuit subsequently held: ''[T]he definition of public lands includes those navigable waters in which the United States has an interest by virtue of the reserved water rights doctrine.'' *Alaska versus Babbitt,* 72 F.3d at 703–704. In the course of its decision, the Ninth Circuit also directed: ''[T]he federal agencies that administer the subsistence priority are responsible for identifying those waters.'' *Id.* at 704.

The amendments being considered in this advance notice of proposed rulemaking would conform the Federal subsistence management regulations to the Ninth Circuit's ruling in Circuit's ruling in *Alaska* v. *Babbitt.* As the Ninth Circuit directed, this document identifies Federal land units in which reserved water rights exist. These are ''public lands'' under the Ninth Circuit's decision in *Alaska* v. *Babbitt* and thus are subject to the Federal subsistence priority in Title VIII of ANILCA. The preliminary regulatory text being considered here also provides the Federal Subsistence Board with clear authority to administer the subsistence priority in these waters.

On July 15, 1993, the Mentasta Village Council, Native Village of Quinhagak, Native Village of Goodnews Bay, Alaska Federation of Natives, Alaska Inter-tribal Council, RurAL CAP, Katie John, Doris Charles, Louie Smith and Annie Cleveland filed a ''Petition for Rule-Making by the Secretaries of Interior and Agriculture that Navigable Waters and Federal Reserved Waters are 'Public Lands' Subject to Title VIII of ANILCA's Subsistence Priority.''

On April 12, 1994, the Northwest Arctic Regional Council, Stevens Village Council, Kawerak, Inc., Copper River Native Assoc., Alaska Federation of Natives, Alaska Inter-tribal Council, RurAL CAP and Dinyee Corporation filed a ''Petition for Rule-Making by the Secretaries of Interior and Agriculture that Selected But Not Conveyed Lands Are To Be Treated as Public Lands for the Purposes of the Subsistence Priority in Title VIII of ANILCA and that Uses on Non-Public Lands in Alaska May Be Restricted to Protect Subsistence Uses on Public Lands in Alaska.'' A Request for Comments on this Petition was published at 60 FR 6466 (1995). This advance notice of proposed rulemaking rule also responds to both these petitions for rulemaking.

Public Review and Comment

Comments on this advance notice of proposed rulemaking and proposed changes to the preliminary regulatory text included with this notice may be submitted in writing to the address identified at the beginning of this rulemaking by June 14, 1996. Comments received by that date will be considered in the development of the proposed rule. In addition, the Departments will hold several public hearings in various locations in Alaska. The specific dates, times, and locations of the hearings will be announced subsequently.

Federal Subsistence Regional Advisory Councils

Alaska has been divided into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council. The Regional Councils provide a forum for rural residents with personal knowledge of local conditions to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Councils will have a substantial role in reviewing the proposed rule to be published subsequently and in making recommendations on the final rule.

Summary of Changes

This advance notice of proposed rulemaking includes preliminary regulatory text on the proposed rule amendments being considered. This level of detail is provided to assist the reviewer in commenting on the proposals under consideration; the Secretaries may propose these or other amendments to the subsistence regulations in the proposed rule to follow this action.

§ ____.3 Applicability and scope.

The amendments being considered in this advance notice of proposed rulemaking would expand the scope of the Federal subsistence program to include, in addition to the waters already included, all inland navigable waters within the exterior boundaries of the listed National Parks, Preserves, Wildlife Refuges, and other specified Federal land units managed by the Department of the Interior in Alaska. Within the exterior boundaries of the two national forests in Alaska, the subsistence program would apply to all inland navigable waters bordered by lands owned by the United States.

The Department of the Interior agencies, to assure the effective stewardship of fish and wildlife, adequately protect subsistence uses, and prevent interference with the effective management of the Federal subsistence priority, have determined a need to apply the subsistence program to waters throughout the Federal land units listed in § ____.3(b)(1) of the preliminary regulatory text which are managed by the Department, whether or not the United States is the littoral or riparian owner of any given reach. Land ownership patterns within these units are complex, most of the land has not been surveyed, and ownership is still changing as land selections are conveyed to the State of Alaska and Alaska Native Corporations. The Interior agencies believe that the substantial complications inherent in ''checkerboard'' subsistence management based upon land ownership bordering specific portions of water bodies within the exterior boundaries of the listed Federal land units necessarily would be detrimental to the resources for which the Department of the Interior is responsible.

Within the exterior boundaries of the two national forests situated in Alaska which are listed in § ____.3(b)(2) of the preliminary regulatory text, the Federal subsistence program will be extended

only to those inland waters bordered by lands owned by the United States. The Secretary of Agriculture has not identified reserved water rights, necessary for the purposes for which the two national forests were established, in reaches of water that are not bordered by federally owned national forest lands. Accordingly, extending the Federal subsistence program to these nonadjacent waters is not considered necessary to assure effective stewardship of fish and wildlife, adequately protect subsistence uses, prevent interference with the Federal subsistence management program, or avoid detriment otherwise to national forest resources. The majority of inland waters located within the exterior boundaries of the two forests and which are not bordered by national forest lands are contained within relatively large and easily identified tracts of land owned by Alaska Native Corporations or the State of Alaska or its municipalities. In addition, the Federal Subsistence Board would have authority under § ____.10 of the preliminary regulatory text to restrict where necessary serious interference with the subsistence priority from hunting, fishing, or trapping activities that take place in these nonadjacent waters.

The existing regulations for the Federal subsistence management program specify that the program applies to all non-navigable waters located on the public lands and to waters specifically listed in § ____.3(b) (1)–(11), which consist of certain pre-statehood reserves. In these areas the program extends to public lands and to waters over land owned by the United States. This includes certain marine waters within the boundaries of pre-Statehood reserves. This advance notice of proposed rulemaking would amend § ____.3(b) to add to the Federal subsistence management program all inland navigable waters, as specified in § ____.3(b) (1) and (2), within and adjacent to the boundaries of the specified Federal land units regardless of ownership of submerged lands. Pre-statehood reservation of marine waters listed in the present regulations at § ____.3(b) (1)–(11) would continue to be included in the subsistence management program.

§ ____.4 Definitions

The regulatory amendments being considered would change the definition of ''Federal lands'' to include navigable and non-navigable inland waters in which the United States has a reserved water right. This amendment would conform the Federal subsistence management program with the Ninth Circuit's ruling in *Alaska* v. *Babbitt.*

This advance notice of proposed rulemaking also would amend the definition of ''Public Lands or public land'' to treat as public land certain Federal lands described in ANILCA § 906(o)(2) which have been selected by the State of Alaska or an Alaska Native Corporation but not yet conveyed. This change would be proposed in response to the April 12, 1994, ''Petition for Rule-Making by the Secretaries of Interior and Agriculture that Selected But Not Conveyed Lands are To Be Treated as Public Lands for the Purposes of the Subsistence Priority in Title VIII of ANILCA and that Uses on Non-Public Lands in Alaska May be Restricted to Protect Subsistence Uses on Public Lands in Alaska,'' which was filed by the Northwest Arctic Regional Council, *et al.* After reviewing the matter, the Secretaries have concluded as a matter of law that certain selected but not conveyed lands are governed by the terms of ANILCA § 906(o)(2), 43 U.S.C. § 1616(o)(2), which provides that: ''Until conveyed, all Federal lands within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, new national forest or forest addition, shall be administered in accordance with the laws applicable to such unit.'' Accordingly, the Secretaries have determined that all Federal lands within the units specified in ANILCA § 906(o)(2) will be administered as part of the unit to which they belong and will be subject to the administrative jurisdiction of the Federal Subsistence Board until conveyed from Federal ownership. The contemplated change relating to the definition of public lands contained in the preliminary regulatory text reflects the Secretaries' conclusions in this regard.

This advance notice of proposed rulemaking also would add new definitions of ''reserved water rights'' and ''inland waters'' for clarity. The ''reserved water rights'' definition follows Supreme Court precedent, specifically *Cappaert* v. *United States*, 426 U.S. 128, 138 (1976). The ''inland waters'' definition establishes two standards to determine whether a given water is inland or marine. A water that satisfies either (or both) of the two standards for inland waters would be considered inland for purposes of the Federal subsistence program under the preliminary regulatory text included here. If a water is located landward of the mean high tide line, the water is inland. Similarly, any water is inland if it is located upstream of the line drawn across the mouth of waters entering the sea. The definition also contains a nonexclusive list of the kinds of waters which are commonly found inland.

§ ____.10 Federal Subsistence Board

This advance notice of proposed rulemaking would unambiguously delegate to the Federal Subsistence Board the authority to regulate hunting, fishing and trapping activities on non-public lands in Alaska which interfere with subsistence activities on the public lands to such an extent as to result in a failure to provide the subsistence priority. The Secretaries expect that the Board would exercise this authority sparingly. Prior to taking action in any such case, it is expected that the Board would consult with, and make a significant effort to resolve the conflict through cooperative action with, the State of Alaska, the appropriate Regional Council, and the National Marine Fisheries Service where appropriate. The Board's regulatory authority under this provision would be limited to the territorial limits of the State of Alaska and would not extend to offshore fisheries beyond the territorial waters of Alaska. All international treaty obligations of the United States with respect to fish and wildlife and their habitats also must be adhered to.

This advance notice of proposed rulemaking would provide, in addition, the Federal Subsistence Board with authority to investigate whether in appropriate instances there exist additional Federal reservations of public lands, Federal reserved water rights or other Federal interests, including those in which the United States has a less than fee ownership interest, which should be included in the Federal subsistence management program, and to make recommendations to the Secretaries for the inclusion of those interests within the Federal subsistence management program. Such interests might include Federal lands not listed in § ____.3(b) of the preliminary regulatory text, including military reserves and some or all of hundreds of remote parcels in Alaska.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management of fish and wildlife; draft administrative

regulations also were included as an appendix. A Final Environmental Impact Statement for the Federal Subsistence Management Program was published on February 28, 1992. In accordance with that Impact Statement, the Subsistence Management Regulations for Public Lands in Alaska: Final Rule (57 FR 22940–22964), was published on May 29, 1992. This advance notice of proposed rulemaking considers amendments to the rule that was adopted as a result of that process.

The scope of the existing Federal subsistence regulations already includes substantial areas of both navigable and non-navigable waters in Alaska; accordingly, the Federal Subsistence Board has adopted a comprehensive set of annual subsistence fishing regulations in Subpart D. This advance notice of proposed rulemaking identifies additional waters to which the Subpart D annual subsistence fishing regulations will apply, as required by the Ninth Circuit Court of Appeals in *Alaska* v. *Babbitt,* but would not amend those existing Subpart D regulations. In addition, in response to a Petition for Rulemaking, this advance notice of proposed rulemaking would expand the authority of the Federal Subsistence Board by unambiguously delegating to the Board the authority to exercise the power of the Secretaries to regulate hunting, fishing and trapping activities which occur on nonpublic lands and waters in Alaska when such activities interfere with the Federal subsistence priority to such an extent as to result in a failure to provide the subsistence priority. It would also apply the program to certain selected but not conveyed lands within specified Federal land units as required by § 906(o)(2) of ANILCA.

All or portions of this advance notice of proposed rulemaking may be appropriate for issuance as a final interpretive rule or be subject to a categorical exclusion from the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2)(C). Appropriate compliance with NEPA will be completed before a final rule is issued.

It has been determined that this advance notice of proposed rulemaking has no environmental justice implications under Executive Order 12898. In the event it is determined that preparation of an environmental impact statement is necessary before a final rule can issue on part or all of this proposal, an assessment under Executive Order 12898 will be included in that statement.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless a restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the Final Environmental Impact Statement on the Federal Subsistence Management Program in 1992. It has been determined that this advance notice of proposed rulemaking will not significantly restrict subsistence uses on the public lands. In the event it is determined that it is necessary to prepare an environmental impact statement in connection with the proposed rule, an analysis of effects on subsistence as set forth in section 810 of ANILCA will be included in that statement.

Paperwork Reduction Act

The Department of the Interior has already received clearance under the Paperwork Reduction Act for its existing regulations governing annual subsistence take. The information collection requirements of those rules have been approved by the Office of Management and Budget under 44 U.S.C. § 3501 and have been assigned clearance number 1018–0075. Should any additional clearances be required as a result of the expansion of the Federal Subsistence Board's jurisdiction described in this advance notice of proposed rulemaking, the Secretaries will obtain them before the rule imposing the information collection requirements become effective.

Executive Order 12866

This advance notice of proposed rulemaking has been reviewed by the Office of Management and Budget under Executive Order 12866.

Economic Effects

The Departments have determined that this advance notice of proposed rulemaking would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.* This advance notice of proposed rulemaking simply would identify waters which the Ninth Circuit Court of Appeals has determined are subject to Federal subsistence management, provide the Federal Subsistence Board with the authority to manage those waters, and consolidate in the Board other existing regulatory authority of the Secretaries. In the event that future regulations affect small entities, the Board would be required to conduct a Regulatory Flexibility Act analysis at that time. This Notice will impose no direct, indirect, non-quantifiable or enforcement costs on small entities; no changes in the demography of populations are anticipated; there will be no significant effect upon existing information collection and recordkeeping requirements; and no aggregate effects on small entities are anticipated. The aggregate effect would be an insignificant economic effect on a number of small entities. The number of small entities affected is unknown but the fact that the effects, if any, will be negligible indicates that they will not be significant within the meaning of the Regulatory Flexibility Act.

Federalism Assessment

This advance notice of proposed rulemaking does not meet the threshold of ''Federalism Effects'' as set forth in Executive Order 12612 and is consistent with the existing parameters of established Federal authority as set forth by the Federal courts.

Taking Assessment

In accordance with Executive Order 12630, it has been determined that this advance notice of proposed rulemaking has no takings of private property implications.

Unfunded Mandates

The Secretaries have determined and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.,* that this advance notice of proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities.

Drafting Information.—The preliminary regulatory text included with this Notice was drafted by the Office of the Regional Solicitor, 4230 University Drive, Suite 300, Anchorage, AK, 99508–4626, with assistance from the Office of the Solicitor, 1849 C Street, N.W., Washington, D.C., 20240.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National Forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, Public lands, Reporting and recordkeeping requirements, Wildlife.

The following preliminary regulatory text is provided to assist the reviewer in commenting on the changes under

consideration; the Secretaries may propose these or other amendments to the subsistence regulations in the proposed rule to follow this action.

PART _____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. Subpart A of 36 CFR Part 242 and 50 CFR 100, § ____.3 is proposed to be amended by replacing the existing § ____.3(b) with the following language and deleting § ____.3(c).

§ ____.3 Applicability and Scope.

(b) The regulations contained in Subpart D apply:

(1)(i) On all public lands including all waters located on these lands, on all navigable and nonnavigable waters within the exterior boundaries of the following units, and on inland waters adjacent to the exterior boundaries of the following units:

(A) Alaska Maritime National Wildlife Refuge;

(B) Alaska Peninsula National Wildlife Refuge;

(C) Aniakchak National Monument and Preserve;

(D) Arctic National Wildlife Refuge;

(E) Becharof National Wildlife Refuge;

(F) Bering Land Bridge National Preserve;

(G) Cape Krusenstern National Monument;

(H) Denali National Preserve and the 1980 additions to Denali National Park;

(I) Gates of the Arctic National Park and Preserve;

(J) Glacier Bay National Preserve;

(K) Innoko National Wildlife Refuge;

(L) Izembek National Wildlife Refuge;

(M) Katmai National Preserve;

(N) Kanuti National Wildlife Refuge;

(O) Kenai National Wildlife Refuge;

(P) Kobuk Valley National Park;

(Q) Kodiak National Wildlife Refuge;

(R) Koyukuk National Wildlife Refuge;

(S) Lake Clark National Park and Preserve;

(T) National Petroleum Reserve in Alaska;

(U) Noatak National Preserve;

(V) Nowitna National Wildlife Refuge;

(W) Selawik National Wildlife Refuge;

(X) Steese National Conservation Area;

(Y) Tetlin National Wildlife Refuge;

(Z) Togiak National Wildlife Refuge;

(AA) White Mountain National Recreation Area;

(BB) Wrangell-St. Elias National Park and Preserve;

(CC) Yukon-Charley Rivers National Preserve;

(DD) Yukon Delta National Wildlife Refuge;

(EE) Yukon Flats National Wildlife Refuge;

(FF) all components of the Wild and Scenic River System located outside of the boundaries of National Parks, National Preserves or National Wildlife Refuges, including segments of the Alagnak River, Beaver Creek, Birch Creek, Delta River, Fortymile River, Gulkana River and Unalakleet River.

(ii) [Reserved]

(2) The regulations contained in Subpart D apply on all public lands including all inland waters, located on or bordered by other public lands, within or adjacent to the exterior boundaries of the following reservations:

(i) Chugach National Forest

(ii) Tongass National Forest, including Admiralty Island National Monument and Misty Fjords National Monument.

2. In Subpart A of 36 CFR part 242 and 50 CFR 100, § __.4, the Definitions of ''Federal lands'' and ''Public lands or public land'' are proposed to be revised to read as follows:

Federal lands means lands and waters and interests therein the title to which is in the United States, including navigable and non-navigable waters in which the United States has reserved water rights.

Public lands or public land means:

(a) Lands situated in Alaska which are Federal lands, except—

(1) Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) Land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) Lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(b) Notwithstanding the exceptions in paragraphs (a)(1), (2) and (3), of this section until conveyed, all Federal lands within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, new national forest or forest addition shall be treated as public lands for purposes of the regulations in this part pursuant to § 906(o)(2) of ANILCA.

3. In Subpart A of 36 CFR part 242 and 50 CFR 100, § ____.4, new definitions of ''inland waters'' and ''reserved water rights'' are proposed to be added in alphabetical order as set forth below:

Inland waters means, for purposes of the regulations in this part, those waters located landward of the mean high tide line or waters located upstream of the straight line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea. Inland waters include, but are not limited to, lakes, reservoirs, ponds, creeks, streams and rivers.

Reserved water right(s) means the Federal right to use the unappropriated appurtenant water necessary to accomplish the purposes for which a Federal reservation was established. Reserved water rights include nonconsumptive and consumptive uses.

4. Subpart B of 36 CFR part 242 and 50 CFR 100, § ____.10 is proposed to be amended by adding the following §§ ____.10(d)(4)(xviii) and ____.10(d)(4)(xix):

§ ____.10 Federal Subsistence Board

(d)(4)(xviii) Determine when hunting, fishing or trapping activities which occur on lands or waters in Alaska other than public lands interfere with subsistence hunting, fishing or trapping on the public lands to such an extent as to result in a failure to provide the subsistence priority, and after appropriate consultation with the State of Alaska, the regional councils, and other Federal agencies, to restrict or eliminate said activities;

(d)(4)(xix) Identify, in appropriate specific instances, whether there exist additional Federal reservations, Federal reserved water rights or other Federal interests in lands or waters, including those in which the United States holds less than a fee ownership, to which the Federal subsistence priority attaches and make appropriate recommendations to the Secretaries for inclusion of those interests within the Federal subsistence management program.

Dated: March 29, 1996.

Phil Janik,

Regional Forester, USDA Forest Service.

Dated: March 29, 1996.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 96–8188 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI62–01–7145b; FRL–5450–2]

Approval and Promulgation of Implementation Plan; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted on May 12, 1995 and later supplemented on June 14, 1995. This revision consists of a volatile organic compound (VOC) regulation to control emissions from wood furniture coating operations in ozone nonattainment areas classified as moderate or worse. In the final rules of this Federal Register, the EPA is approving this action as a direct final without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received by May 6, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano. (312) 353–6960.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this Federal Register. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Authority: 42 U.S. C. 7401–7671q.

Dated: February 2, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

[FR Doc. 96–7916 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[FRL–5446–6]

Arizona Visibility Federal Implementation Plan Corrective Revision

AGENCY: Environmental Protection Agency (U.S. EPA).

ACTION: Proposed Rule.

SUMMARY: The EPA proposes to revise the visibility Federal implementation plan (FIP) for the State of Arizona to correct errors in internal cross-references within the existing regulations addressing control requirements at the Navajo Generating Station, adopted to protect visibility at the Grand Canyon National Park. The rules being corrected were published in the Federal Register on October 3, 1991 at 56 FR 50172–50187. The internal cross-reference errors occur in the compliance determination procedures at 40 CFR 52.145(d)(3).

In the Final Rules Section of this Federal Register, the EPA is promulgating the corrective revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. Further explanation of the corrective regulatory revisions is set forth in the direct final rule and the reader is referred to that notice. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice must do so at this time. The public comments should address only the accuracy of EPA's proposed corrections to the cross-referencing errors. The EPA is not requesting public comment on the underlying merits or substance of the final rules which are unaffected by the technical corrections.

DATES: Comments on this proposed rule must be received in writing by May 6, 1996.

ADDRESSES: Written comments must be submitted, in duplicate, to: Docket No. A–96–12, U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, Room M–1500 (6102), 401 M Street SW., Washington, DC 20460.

The public docket for the rules issued on October 3, 1991 is A–89–02A and the public docket for this corrective revision to the October 3, 1991 rules is A–96–12. The dockets are available for public inspection and copying between 8:00 a.m. to 4:00 p.m., Monday through Friday, at the U.S. Environmental Protection Agency's Air and Radiation Docket and Information Center listed above. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Damberg, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, North Carolina 27711, (919) 541–5592.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this Federal Register.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Carbon monoxide, Ozone, Lead, Sulfur oxides, Reporting and recordkeeping requirements.

Dated: March 18, 1996.

Mary Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 96–8222 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[RI–17–1–6968b; A–1–FRL–5405–2]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Marine Vessel Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision contains a regulation to control volatile organic compound (VOC) emissions from marine vessel loading operations. In the Final Rules Section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final

rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before May 6, 1996.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565–3166.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 12, 1996.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 96–8224 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–158; FCC 96–75]

Operator Service Providers and Call Aggregators

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted a combined Report and Order and Further Notice of Proposed Rule Making which amends the Commission's rules and policies governing operator service providers (OSPs)[1] and call aggregators.[2] In the Further Notice the Commission seeks comment on a proposal to amend the Commission's rules to prescribe a thirty-day time limit, after the presubscribed OSP has changed, for aggregators to update the posted consumer information. The proposed modification is intended to provide updated OSP information to consumers and enable consumers to make informed choices when placing operator service calls.

DATES: Written comments by the public on the Further Notice of Proposed Rule Making and the proposed and/or modified information collections are due March 26, 1996. Reply comments are due on April 5, 1996. Written comments by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before June 3, 1996.

ADDRESSES: 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, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Cathy Seidel, Enforcement Division, Common Carrier Bureau, (202) 418–0960. For additional information concerning the information collections contained in this Further Notice of Proposed Rule Making 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 Further Notice of Proposed Rule Making in CC Docket No. 94–158 [FCC 96–75], adopted on February 28, 1996 and released March 5, 1996. The full text of the 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, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (202) 857–3800. This Further Notice of Proposed Rule Making contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Paperwork Reduction Act

This FNPRM 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 FNPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due June 3, 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 Control Number: 3060–0653.

Title: Section 64.703(b)—Consumer Information—Posting by Aggregators.

Type of Review: Revision of existing collection.

Respondents: Business or other for-profit, including small business.

Number of Respondents: 56,200.

Estimated Time Per Response: 3.67 hours.

Total Annual Burden: 206,566.

Estimated Cost Per Respondent: $0.

Needs and Uses: As required by 47 U.S.C. § 226(c)(1)(A), 47 C.F.R. section 64.703(b) provides that aggregators (providers of telephones to the public or transient users) must post in writing, on or near such phones, information about presubscribed operator services, rates, carrier access, and the FCC address to which consumers may direct complaints. The Commission proposes to modify section 64.703 to establish a

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[1] "Provider of operator services means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services." 47 C.F.R. § 64.708(i).

[2] An "aggregator" is "any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services." *Id.* § 64.708(b).

30-day time limit for updating consumer information posting on aggregator telephones. This information will be used to provide updated OSP information to consumers at aggregator telephones.

Summary of Further Notice of Proposed Rule Making

I. Background

1. On February 28, 1996, the Commission adopted a combined Report and Order and Further Notice of Proposed Rule Making in Docket 94–158 (released March 5, 1996, FCC 96–75). The Commission adopted the Further Notice of Proposed Rule Making in order to seek comment on a proposal to establish a 30-day time limit for updating the consumer information posting on aggregator telephones.

2. Section 226(c)(1)(A) of the Communications Act, 47 U.S.C. § 226(c)(1)(A), and section 64.703(b) of the Commission's rules, 47 CFR § 64.703(b), require that each aggregator post on or near the telephone instrument in plain view of consumers: (1) the name, address, and toll-free telephone number of the provider of operator services; (2) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and (3) the name and address of the Enforcement Division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services. Neither the statute nor the Commission's rules specifies when this notice must be changed to reflect a change in the presubscribed OSP at the telephone location.

II. Discussion

3. In the *NOI* in CC Docket No. 94–158, 60 FR 08217 (February 13, 1995), the Commission solicited comment on whether the Commission's rules should be amended to prescribe a time limit for updating the consumer information posted on or near aggregator telephones in the event the presubscribed OSP has changed. Specifically, the Commission sought comment on the extent of the problem caused by delays in updating the posted consumer information, on whether a specific time limit for updating the consumer information is necessary or desirable and, if so, what a reasonable limit might be.

4. The Commission found that the comments support the conclusion that a delay exists in updating consumer information and that a Further Notice of Proposed Rule Making to establish specific time limits is necessary. The Commission noted that the majority of the commenters favor a 30-day posting requirement, and that 30 days seems to offer payphone owners enough time to make updates during regularly scheduled maintenance visits, while providing reasonably current information to users.

5. The Commission stated that the proposed rule was tailored to meet the public's need for updated information and the aggregator's need to avoid unnecessary service calls to aggregator locations. The Commission was not persuaded that an allegation of unauthorized conversion of the presubscribed carrier should be an automatic defense to a violation of the proposed requirement, but stated that it would consider such arguments on a case-by-case basis if the proposed time limit was adopted. The Commission, therefore, seeks comment on a rule requiring consumer information be updated within 30 days after a payphone owner is notified that a PIC change has occurred.

III. Ex Parte Requirements

6. This is a non-restricted notice and comment rule making 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).

IV. Conclusion

7. With this Further Notice of Proposed Rule Making, the Commission seeks additional comment on a rule requiring that consumer information on or near aggregator phones be updated within 30 days after a change in the presubscribed OSP.

V. Regulatory Flexibility Analysis

8. The Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. The Secretary shall send a copy of this Further Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. *See* 5 U.S.C. 601 *et seq.*

VI. Ordering Clauses

9. It is ordered, pursuant to Sections 1, 4(i), 4(j), 201–205, 218, and 226, of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 226, that a Further Notice of Proposed Rule Making is issued proposing amendment of 47 CFR section 64.703(b) of the Commission's rules as set forth below.

10. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, all interested parties may file comments on the matter discussed in this Further Notice and on the proposed rule contained below by March 26, 1996. Reply comments are due by April 5, 1996. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 230) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

11. *It is further ordered* that the Chief of the Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a more complete record and a more efficient proceeding.

12. *It is further ordered* that the Secretary shall cause a copy of this Further Notice, including the Further Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a) (1981). The Secretary shall also cause a summary of this Further Notice to appear in the Federal Register.

List of Subjects in 47 CFR Part 64

Communication common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 64 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Sec. 4, 48 Stat. 1066, as amended, 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201–4, 218, 225, 226, 227, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225, 226, 227, unless otherwise noted.

2. Section 64.703(b(1) is proposed to be revised to read as follows:

§ 64.703 Consumer information.

* * * * *

(b) * * *

(1) The name, address, and toll-free telephone number of the provider of operator services. This information must be updated within 30 days of a change in the provider of operator services.

* * * * *

[FR Doc. 96–8199 Filed 4–3–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 73

[MM Docket No. 96–64; RM–8747]

Radio Broadcasting Services; Boulder and Lafayette, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Salem Media of Colorado, Inc., licensee of Station KRKS-FM, Channel 234C, Boulder, Colorado, requesting the reallotment of Channel 234C to Lafayette, Colorado, as that community's first local transmission service, and modification of the authorization for Station KRKS-FM to specify Lafayette as its community of license, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Coordinates used for Channel 234C at Lafayette are 39–40–35 and 105–29–09. As the petitioner's modification proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 234C at Lafayette, Colorado, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before May 21, 1996, and reply comments on or before June 5, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: James P. Riley, Esq., Fletcher, Heald & Hildreth, P.C., 1300 North 17th Street, 11th Flr., Rosslyn, VA 22209–3801.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–64, adopted March 8, 1996, and released March 29, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's 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 contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–8119 Filed 4–3–96; 8:45 am]

BILLING CODE 6712–01–F

Notices

Federal Register
Vol. 61, No. 66
Thursday, April 4, 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

Agricultural Marketing Service

[No. LS–96–003]

Beef Promotion and Research: Certification and Nomination; Cattlemen's Beef Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State cattle producer and general farm organizations as well as beef importers who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

DATES: Applications for certification must be received by close of business May 6, 1996.

ADDRESSES: Certification forms as well as copies of the certification and nomination procedures may be requested from Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; AMS, USDA; Room 2606–S; P.O. Box 96456; Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch at 202/720–1115.

SUPPLEMENTARY INFORMATION: The Beef Promotion and Research Act of 1985 (Act) (7 U.S.C. 2901 et seq.), enacted December 23, 1985, authorizes the implementation of a Beef Promotion and Research Order (Order). The Order, as published in the July 18, 1986, Federal Register (51 FR 26132), provides for the establishment of a Board. The current Board consists of 101 cattle producers and 6 importers appointed by the Secretary. Due to reapportionment, the 1997 Board will consist of 104 producers and 7 importers. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that the Secretary shall either certify or otherwise determine the eligibility of State or importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they must establish to the satisfaction of the Secretary that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order [7 CFR 1260.143(b)(2)]. Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process including the beginning and ending dates of the established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, Federal Register (51 FR 11557). Organizations which have previously been certified to nominate members to the Board do not need to reapply for certification to nominate producers and importers for the existing vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of 3 years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in early 1997:

State or unit	Number of vacancies
Alabama	1
Arkansas	1
California	1
Colorado	1
Florida	1
Idaho	1
Illinois	1
Kansas	2
Kentucky	2
Minnesota	1
Missouri	2
Montana	2
Nebraska	2
New York	1
North Dakota	1
Oklahoma	2
Pennsylvania	1
South Dakota	1
Texas	6
Virginia	1
Wisconsin	1
Northwest Unit	1
Importer Unit	4

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northeast, mid-Atlantic, and Western (Oregon-Nevada) units, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official ''Application for Certification of Organization or Association,'' which must be received by close of business May 6, 1996. Uncertified eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR § 1260.540(b). Applications from States or units without vacant positions on the Board and other applications not received within the 30-day period after publication of this Notice in the Federal Register will be considered for eligibility to nominate producers or importers for subsequent vacancies on the Board.

Only those organizations or associations which meet the criteria for

certification of eligibility promulgated at 7 CFR § 1260.530 as published in 51 FR 11557, 11559 (April 4, 1986) are eligible for certification. Those criteria are:

(a) For State organizations or associations:

(1) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit.

(2) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit.

(3) There must be a history of stability and permanency.

(4) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(b) For organizations or associations representing importers, the determination by the Secretary as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) The number and type of members represented (i.e., beef or cattle importers, etc.).

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle.

(3) The stability and permanency of the importer organization or association.

(4) The number of years in existence.

(5) The names of the countries of origin for cattle, beef, or beef products imported.

All certified organizations and associations, including those which were previously certified in the States or units having vacant positions on the Board, will be notified simultaneously in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms and background information sheets.

The names of qualified nominees received by the established due date will be submitted to the Secretary of Agriculture for consideration as appointees to the Board.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C., Chapter 35 and have been assigned OMB No. 0581–0093, except Board member nominee information sheets are assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 2901 *et seq.*

Dated: March 29, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–8304 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–02–P

Cooperative State Research, Education, and Extension Service

Forestry Research Advisory Council; Notice of Meeting

According to the Federal Advisory Committee Act of October 6, 1987, (Public Law 92–463, 86 Stat. 770–776) the U.S. Department of Agriculture announces the following meeting:

Name: Forestry Research Advisory Council.

Date: April 29–30, 1996.

Time: 8:30 a.m.–5:00 p.m.

Place: Governor's House Hotel, 17th Street and Rhode Island Avenue NW., Washington, D.C. 20036

Type of Meeting: Open to the public. Persons may participate in the meeting if time and space permit.

Comments: The public may file written comments before or after the meeting by contacting the person below.

Purpose: The council agenda will include: Results of the 7th American Forest Congress; 1995 Farm Bill Implications; National Science and Technology Council strategy; Government Performance and Results Act; science planning as it relates to forestry and natural resources; review of the Cooperative Forestry Research Program (McIntire-Stennis); and other current research issues.

Contact Person for Agenda and More Information: Dr. Ralph A. Otto, Natural Resources and Environment, Aerospace Center, Suite 329, Ag Box 2210, Washington, DC 20250–2210; telephone (202) 401–4555.

Dated: March 22, 1996.

B.H. Robinson,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 96–8243 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–22–M

Food Safety and Inspection Service

[Docket No. 96–002N]

Notice of Policy Change; Achieving the Zero Tolerance Performance Standard for Beef Carcasses by Knife Trimming and Vacuuming With Hot Water or Steam; Use of Acceptable Carcass Interventions for Reducing Carcass Contamination Without Prior Agency Approval

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing a change to its trim-only policy for removing fecal, ingesta, and milk contamination from beef carcasses. Currently, all feces, ingesta, and milk must be physically removed from beef carcasses by knife trimming. Under this new policy, FSIS will permit the use of vacuuming beef carcasses with hot water or steam as an alternative to the trim-only policy for removing fecal and ingesta contamination, when such contamination is less than one inch in its greatest dimension.

This notice also lists other carcass decontamination systems that may be used on beef carcasses during the dressing operation. These other interventions may not be used to remove fecal or ingesta contamination. They may be used in conjunction with knife trimming or vacuuming with hot water or steam. They may also be used without prior Agency approval.

FOR FURTHER INFORMATION CONTACT: Dr. William James, Director, Slaughter Inspection Standards and Procedures Division, Science and Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–3219.

SUPPLEMENTARY INFORMATION:

Background

Effective prevention and removal of fecal and ingesta contamination are among the most important steps establishments must take to ensure the safety of beef carcasses. Such contamination may harbor *Escherichia coli* O157:H7, *Salmonella,* and other enteric pathogens. Given the association of pathogens with feces and intestinal contents, minimizing the exposure of carcasses to fecal and ingesta contamination and prompt and complete removal of such contamination is critical to food safety.

FSIS has had a long-standing policy prohibiting visible feces or ingesta on inspected and passed beef carcasses. Following the 1993 outbreak of *E. coli* O157:H7 food poisoning in the Western United States, FSIS strictly enforced the knife trim-only policy for removing feces and ingesta contamination from beef carcasses.

Prior to the outbreak, warm and ambient temperature washes were sometimes permitted by inspectors to be used to remove small flecks of contaminants. However, inspection personnel did not always determine whether the source of the flecks on beef carcasses was fecal or ingesta contamination or another source, such as rail dust.

After the 1993 outbreak of *E. coli* O157:H7, FSIS reiterated that trimming

was to be the only means of removing feces or ingesta contamination from beef carcasses. FSIS reaffirmed the trim policy based on its judgment that trimming was more effective for removing fecal or ingesta contamination than alternative approaches and the Agency's need to directly and aggressively remove any potential source of pathogenic contamination. At the time, there were no scientific data available to the Agency comparing the efficacy of trimming and alternative procedures.

Trimming, if performed properly, is an effective means of physically removing from beef carcasses the visible contamination and any accompanying microbial contamination. A primary advantage of trimming over ambient temperature washing is that it physically removes visibly contaminated tissue (which is more likely to be microbiologically contaminated). Washing may not effectively remove bacteria which are firmly attached. Also, trimming, when properly performed, will have less potential than ambient temperature washing for spreading contamination to other parts of the carcass.

If performed incorrectly, trimming has the potential to cause cross-contamination as the knife moves from areas contaminated with bacteria to newly exposed uncontaminated areas. The effectiveness of trimming depends on the skill of the operator in visually detecting and effectively removing contamination, while avoiding further contamination by handling the carcass during this process.

Since 1993, numerous approaches to removing contamination have been devised and studied to assess their potential as effective alternatives or supplements to carcass trimming to achieve the zero tolerance standard. As a result, a significant amount of new scientific data has become available regarding alternatives to FSIS's trim-only policy for removing fecal and ingesta contamination.

On September 26, 1995, FSIS published a Federal Register notice (60 FR 49553) announcing a public meeting to consider the issue of the most effective means of removing visible fecal or ingesta and associated microbial contamination from beef carcasses. That notice, which indicated that FSIS was considering whether to permit additional methods for achieving the zero tolerance standard, provided an extensive review of the scientific literature on this subject. It also addressed conditions of animals on arrival at slaughter; sources of bacterial contamination during slaughter; the rate of attachment, growth and multiplication of bacteria on carcasses; and methods to decrease carcass contamination. The notice invited presentation of further technical data and participation in discussions on both technical and policy aspects of the issue. It also presented two series of questions addressing technical matters and policy considerations.

Seventy-two individuals participated in the two-day public meeting. Twelve individuals formally presented data about existing or technologies under development that are proving effective in removing fecal and ingesta and related microbial contamination from beef carcasses. Specific topics discussed included steam and hot water vacuum systems, hot water vacuum data, methods of carcass decontamination, steam pasteurization, comparisons of knife trimming to steam and hot water vacuum treatments, carcass washing versus trimming, antimicrobial treatment conditioning processes, antimicrobial sprays, including acidified sodium chlorite solutions, the efficacy of spray-washing on the removal of bacterial contamination and fecal material, and process intervention for decontamination of beef carcasses using physical and/or antimicrobial treatments. A literature review was also presented. A transcript of the two-day meeting and the papers offered by presenters are available from the FSIS Docket Clerk.[1]

While there are a number of promising interventions in various stages of development, the first day's presentations revealed laboratory data supporting the efficacy of using the steam and hot water vacuum technology to remove microorganisms, including pathogens of concern, and a considerable and growing body of data from in-plant trials substantiating the efficacy of this technology.

During the second day of the public meeting, the policy questions in FSIS's meeting notice regarding approval of any alternatives to the existing trim-only requirement were discussed. By the end of the public meeting, a number of participants agreed to the following:

1. In order to meet public health objectives, knife trimming should be combined with other effective technologies, which may include steam or hot water vacuuming, pre- and post-evisceration washes, antimicrobial treatments such as organic acids or trisodium phosphate, and steam pasteurization technology. The scientific data on decontamination of beef carcasses support a multi faceted approach.

2. Each intervention should be scientifically validated to assure that specific microbiological hazards are effectively controlled.

3. Technologies could and should be combined to meet the needs of individual establishments and processes.

One particular intervention, a vacuum system incorporating hot water and/or steam above 180°F, has been found, by the USDA's Agricultural Research Service, to be effective in removing fecal contamination (less than one inch in its greatest dimension) and associated bacteria, including pathogens, from beef carcasses. Vacuuming with hot water or steam combines physical removal of visible contaminants with microbial inactivation. After the hide is removed, carcass surface areas are treated with hot water or steam and vacuumed. The vacuuming removes contamination and any excess water from the carcass surface. The regulated industry and others have urged FSIS to consider these data and to change its policy accordingly; at the same time, others have urged FSIS to retain the trim-only policy.

During the meeting, the USDA's Agricultural Research Service presented the results of laboratory tests on the effectiveness of a vacuum system which incorporated hot water and steam above 180°F. These tests demonstrated a 3.3 $\log_{10}$ reduction in total bacterial counts on artificially contaminated beef tissues inoculated at a level of 6.4 $\log_{10}$ with bovine feces. When the vacuum was used on beef artificially inoculated at a level of 7.6 $\log_{10}$ with *E. coli* O157:H7, a 5.5 $\log_{10}$ reduction was achieved.

Based upon these results, FSIS approved testing of vacuum systems under commercial conditions in more than 50 plants as a method to remove visible contamination and accompanying microbial contamination. Testing consisted of two phases.

In Phase I, each establishment collected 120 samples over 10 days of production, 60 samples from vacuumed carcasses and 60 samples from knife-trimmed beef carcasses. Establishments were allowed to vacuum half of each day's production for fecal or ingesta contamination that was less than one inch in its greatest dimension. The remaining carcasses were trimmed to remove visible fecal or ingesta contamination. Any fecal or ingesta contamination greater than one inch in its greatest dimension was removed by trimming, no matter which treatment was being applied. This phase provided

[1] The FSIS Docket Clerk is located in Room 4352, South Agriculture Building, 14th & Independence Ave., SW., Washington, DC 20250–3700.

a direct comparison of the microbial characteristics of vacuumed and knife trimmed carcasses.

In Phase II, 60 additional samples were collected over 60 days from vacuumed carcasses only. This phase provided data on the ability of each establishment to control the vacuum process over time.

Forty of Phase I and Phase II tests have been completed. Phase I data submitted to the Agency for these 40 tests show the mean of total bacterial levels in the different establishments was 0.69 log colony forming units (CFU)/cm² lower on vacuumed carcasses than knife trimmed carcasses. Phase II results also demonstrated a 0.54 log CFU/cm² lower mean total bacterial level was maintained compared to knife trimmed carcasses.

Thirty two of the establishments completing both phases used hot water vacuuming technology. The mean of total bacterial levels for hot water vacuumed carcasses was lower than trimmed carcasses in both phases. For Phase I, the difference was 0.64 CFU/cm², and for Phase II it was 0.56 CFU/cm². Eight establishments have completed both phases using steam vacuuming technology. The data from these eight establishments show the mean of total bacteria was 0.88 log CFU/cm² lower for vacuumed carcasses for Phase I and 0.43 lower for Phase II.

Phase I tests were conducted in five establishments by researchers from the Department of Animal Sciences, Colorado State University (CSU), Fort Collins, Colorado. In the study, hot water vacuuming of beef carcasses was as effective as knife trimming for removing visible contamination and reducing bacterial populations. The CSU researchers reported reductions of 1.38 and 1.67 log CFU/cm² for mesophilic Aerobic Plate Counts (APC) and 1.62 and 1.67 log CFU/cm² for Total Coliform Counts (TCC) respectively when a 103 cm² area of the carcass was trimmed or vacuumed. (Paper to be presented at the Annual Meeting of the Institute of Food Technologists, New Orleans, LA, June 22–26, 1996.)

In another test conducted by CSU, vacuuming with steam effectively reduced APC and TCC on carcasses with or without visible fecal contamination. When feces were present, the steam vacuuming system was more effective in reducing microbial contamination than knife trimming while both were effective in removing visible contaminants. (Paper to be presented at the Annual Meeting of the International Association of Milk, Food and Environmental Sanitarians, Seattle, WA, June 30–July 3, 1996.)

Based on the data presented and discussion that transpired during the two day public meeting, FSIS has decided to modify its existing policy to permit an alternative method for removal of fecal and ingesta contamination from beef carcasses. When feces or ingesta contamination is less than one inch in its greatest dimension, it may be removed by use of a steam or hot water vacuum as an alternative to knife trimming. Knife trimming is required to remove feces or ingesta contamination one inch or larger. This size limitation and the limitation of the policy change to fecal and ingesta contamination reflects the conditions under which the steam or hot water vacuum technology was tested and found effective. In order to extend the policy to larger areas of contamination or to milk contamination, data would be required demonstrating the effectiveness of the technology for those purposes.

Establishments receiving federal inspection that desire to take advantage of steam or hot water vacuuming for achieving the zero tolerance standard for fecal and ingesta contamination may do so immediately without prior Agency approval, provided that the equipment used as a steam or hot water vacuum system meets the following requirements:

1. The system must provide accurate temperature and vacuum readings. Once the temperature and vacuum parameters are adjusted, before operations start, the system should work properly and steadily without significant reading fluctuations.

2. Water or steam temperatures at the carcass surface must be maintained at a minimum of 180°F. The water or steam temperature recording device should measure the temperature of the water or steam as close as possible to the carcass surface. The system must also have an automatic shut-off system when the temperature of the water or steam falls below 180°F.

3. The vacuum pressure at the carcass surface must be sufficient to remove the steam and water from the vacuum area to prevent dripping.

4. The outer surface of the vacuum head must be subjected continuously to a minimum of 180°F steam or hot water during its use. An alternative would be to sterilize the vacuum head in 180 °F water after each use. Other sterilization procedures may be approved by the inspector-in-charge.

Other Carcass Decontamination Systems

FSIS continues to permit the use of other carcass decontamination systems (antimicrobial treatments) in the slaughter of beef carcasses during the dressing operation. This supports a multifaceted approach to reduce microbial contamination. The interventions listed below may be used by establishments without prior Agency approval. These interventions, which may not be used to remove visible fecal or ingesta contamination, may be used in conjunction with knife trimming or vacuuming with hot water or steam. Fecal and ingesta contamination will be removed prior to the use of the other interventions at appropriate stages of the slaughter process. These include:

1. A pre-evisceration system which consists of a water rinse, followed by a rinse with a solution of food grade organic acid(s). The first rinse is applied as a low pressure water rinse to remove incidental foreign material such as hair, dirt, and rail dust and accompanying bacteria before they dry and become firmly attached to carcass tissues. The second rinse of an aqueous solution of organic acid(s) is applied as a mist or small droplets to all exposed carcass surfaces to reduce the microbial population and retard microbial growth. Food grade organic acids, such as acetic, lactic, and citric acids, which are considered by FDA to be multiple purpose ''generally recognized as safe'' (GRAS) food substances or direct food substances affirmed as GRAS, may be used. FSIS approved automated two cabinet (carcass wash cabinet and acid sanitizing cabinet) systems are available and may be used to apply acids to beef carcasses.

2. Organic acid treatment. As stated above, food grade FDA GRAS organic acids, such as acetic, lactic, and citric acid, may be used in an aqueous solution of 1.5–2.5 percent acid applied to skinned carcasses as a mist, fog, or small droplet rinse. Acid treatments may be used as a decontamination intervention during dressing of beef carcasses at any point where beef carcasses are allowed to be rinsed with water. FSIS approved automated acid sanitizing cabinets or hand operated equipment may be used to apply acids to beef carcasses.

3. Chlorinated water. Chlorinated water containing 20 to 50 ppm chlorine may be used as an antimicrobial intervention during dressing of beef carcasses at any point where beef carcasses are rinsed with water. Chlorine sources generally recognized as safe for this purpose include: chlorine gas; sodium, potassium, or calcium hypochlorite; chlorine dioxide; or electrolytically generated hypochlorous acid.

4. Trisodium phosphate (TSP). TSP applied to beef carcasses by spraying with a solution of water and food grade TSP containing 8 to 12 percent TSP and maintained at a temperature of 90 °F to 110 °F. The treatment can be applied for no more than 30 seconds. TSP may be used as an antimicrobial intervention during dressing of beef carcasses at any point where beef carcasses are rinsed with water. FSIS approved automated cabinets for the application of TSP are commercially available. The current approved cabinet

recirculates the TSP solution. TSP may also be applied by hand operated equipment.

5. Hot water or steam. Water or steam applied to the surface of the carcass at a temperature greater than 165 °F (≥ 74 °C) and applied for more than 10 seconds has been demonstrated to be an effective antimicrobial intervention. This includes the Cargill/Frigoscandia Steam Pasteurization Process applied to beef. The equipment must meet the requirements in 9 CFR 308.5 and the method of application may not interfere with inspection or create a sanitation problem due to mist, fog, or condensation. Hot water or steam may be used as an intervention during dressing of beef carcasses at any point where beef carcasses are currently allowed to be rinsed with water. FSIS approved automated or hand held equipment may be used.

6. Air or steam. Air or steam may be used to remove incidental foreign material such as hair, dirt, and rail dust, from carcasses. The air or steam containing the contaminants must be confined so that it is captured by a water curtain or exhaust system. The equipment must meet the requirements in 9 CFR 308.5 and the method of application may not interfere with inspection or create a sanitation problem due to mist, fog, or condensation.

Areas of carcasses with fecal or ingesta contamination, open abscesses, septic bruises, parasites or parasitic lesions, or lactating udders will not be treated until those conditions have been removed.

FSIS encourages the introduction of new technologies which demonstrably enhance food safety. FSIS believes that the data on the steam vacuum technology supports its use. Technologies which enhance food safety should be scientifically validated to assure that specific microbiological hazards are effectively controlled. FSIS will continue to encourage companies to prevent contamination, rather than relying on after-the-fact efforts to correct problems. Establishments must direct their energies at preventing such contamination.

Done at Washington, DC, on: March 27, 1996.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 96–7938 Filed 4-3-96; 8:45 am]

BILLING CODE 3410-DM-P

Natural Resources Conservation Service

Bedrock Creek Supplemental Watershed Protection Project; Clearwater and Nez Perce Counties, Idaho

AGENCY: Natural Resources Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Joyce Swartzendruber, Acting State Conservationist, Natural Resources Conservation Service, Room 124, 3244 Elder Street, Boise, Idaho 83705, telephone (208) 378–5700.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bedrock Creek Supplemental Watershed Protection Project, Clearwater and Nez Perce Counties, Idaho.

The Plan/Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Joyce Swartzendruber, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement was not needed for this project.

The Bedrock Creek Supplemental Watershed Protection Project consists of a system of land treatment measures designed to project the resource base, reduce off-site sediment, and improve the quality of waters entering the Clearwater River. Planned treatment practices include channel vegetation, proper grazing use, heavy use area protection, livestock exclusion, filter strips, stockwater developments, water and sediment control basins, fish stream improvements, fencing, and grade stabilization structures.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data development during the plan/environmental assessment are on file and may be reviewed by contacting Ms. Joyce Swartzendruber. The FONSI has been sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the address stated on the previous page.

No administrative action on the proposal will be initiated until 30 days after the date of this publication in the Federal Register.

Dated: March 25, 1996.

Joyce Swartzendruber,

Acting State Conservationist.

[FR Doc. 96–8264 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Connecticut Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Tuesday, April 23, 1996, at the Hartford City Hall, Function Room, 550 Main Street, Hartford, Connecticut 06103. The purpose of the meeting is to plan activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Ivor J. Echols, 203–688–2009, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 27, 1996.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit

[FR Doc. 96–8206 Filed 4–3–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory to the Commission will convene at 11:00 a.m. and adjourn at 3:30 p.m. on Wednesday, May 29, 1996, at the Martinsburg Berkely County Library, Martinsburg Room, 101 W. King Street, Martinsburg, West Virginia 25401. The purpose of the meeting is to plan activity and exchange information collected by the subcommittee on the Committee's project on Migrant Farmworkers in the Eastern Panhandle. The Committee anticipates inviting

speakers to inform it on migratory labor and civil rights issues in West Virginia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gregory T. Hinton, 304–367–4244, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 27, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–8207 Filed 4–3–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–812]

Calcium Aluminate Flux from France; Antidumping Duty Administrative Review; Time Limits

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

ACTION: Notice of extension of time limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits of the preliminary and final results of the first antidumping duty administrative review of the antidumping duty order on calcium aluminate flux from France. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period June 15, 1994 through May 31, 1995.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limits mandated by Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994, the Department is extending the time limits for completion of the preliminary results until July 29, 1996. We will issue the final results of this review by January 24, 1997.

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

Dated: March 5, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–8190 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Administrative Review

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

ACTION: Notice of Final Results of the Antidumping Duty Administrative Review of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China.

SUMMARY: On August 16, 1995, the Department of Commerce (the Department) published in the Federal Register the preliminary results of its administrative review of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs) from the People's Republic of China (PRC) (60 FR 42516). This review covers the period February 1, 1993, through January 31, 1994. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: April 4, 1996.

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

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1994, the Department published in the Federal Register (59 FR 5390) a notice of opportunity to request administrative reviews of these antidumping duty orders. On Februrary 28, 1994, in accordance with 19 CFR 353.22(a), two resellers of the subject merchandise to the United States, Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC), requested that we conduct administrative reviews of their exports of subject merchandise to the United States. We published the notice of initiation of these antidumping duty administrative reviews on March 14, 1994 (59 FR 11768). The notice of initiation was amended on June 15, 1994 (59 FR 30770) and July 15, 1994 (59 FR 36160).

On August 16, 1995, the Department published in the Federal Register the preliminary results of the administrative reviews of the antidumping duty order on HFHTs from the PRC (60 FR 42516). A timely request for a hearing was submitted by Woodings-Verona Tool Works, Inc. (petitioner). The hearing was conducted on October 2, 1995. The Department is conducting this adminstrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided

for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. This review covers two exporters of HFHTs from the PRC, FMEC and SMC. The review period is February 1, 1993 through January 31, 1994.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs and rebuttal briefs from petitioner and from both respondents.

Comment 1: Petitioner contests the Department's use of a trading company's reported purchase price for steel from a market-economy country to value steel used by the factories to make HFHTs. Petitioner asserts that this is inconsistent with past decisions, and argues that Department practice forbids the use of prices for inputs purchased by trading companies from a market economy to value factors of production when the trading company did not manufacture the subject merchandise, citing *Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China,* 59 FR 66895 (December 28, 1994) (*Coumarin*) and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 60 FR 54472 (October 24, 1995) (*Drawer Slides*) in support of its argument. Petitioner contends that these cases establish that only the price the producer negotiated directly with a market-economy supplier is acceptable to value the factors of production. Petitioner asserts that there is no record evidence on how much or in what currency the suppliers paid the trading companies.

Petitioner maintains that the Department's use of trading company purchase prices is inconsistent with respondents' claim that the producers are separate from the trading companies. Petitioner argues that in a market economy the trading company would receive a profit for its service in the form of a commission or mark-up on the steel price. Petitioner asserts that if the Department uses these prices, then it must increase them by the reasonable commission or markup that a market-economy importer would charge for its services.

Finally, petitioner argues that the Department cannot assume that the market-economy purchase price adequately reflects the value of the factors of production because the respondents failed to demonstrate which of the subject products, if any, contained market-economy steel.

Respondents argue that, because both *Coumarin* and *Drawer Slides* determinations postdate this period of review, they are inapplicable to this case. Respondents assert that the Department's policy at the time of the review period was that enunciated in *Oscillating Fans and Ceiling Fans from the People's Republic of China,* 56 FR 55271, 55275 (October 25, 1991) (*Fans*), in which the Department stated that ''[w]here we can determine that an NME [(non-market economy)] producer's input prices are market-determined, accuracy, fairness, and predictability are enhanced by using those prices.''

Respondents claim that until *Coumarin,* the Department did not distinguish between who purchased an input and who produced merchandise with that input. Respondents claim that this qualification is without statutory or regulatory support and has not been judicially reviewed. Further, citing *Final Determination of Sales at Less Than Fair Value: Chrome Plated Lug Nuts from the People's Republic of China,* 56 FR 46153 (September 10, 1991)(*Lug Nuts*), respondents contend that the buyer/producer distinction runs counter to the Department's view that in NMEs, trading companies and factories are treated as one entity.

In response to petitioner's claim that respondents failed to identify which products were produced with imported steel, respondents claim that since the steel is fungible, no records were kept regarding the source of the steel used to make specific tools. Respondents claim that a record of steel purchases is maintained by the manufacturer and that a ratio of imports to domestically sourced steel was provided.

Department's Position: We agree with the petitioner. It is the Department's normal practice in NME cases to value the factors of production using surrogate country input prices. The Department normally allows for the valuation of inputs based on the actual purchase price of the input only when the NME manufacturer purchases the inputs from a market economy supplier and pays in a convertible currency. *See, e.g., Final Determination of Sales at Less Than Fair Value: Saccharin from the People's Republic of China,* 59 FR 58818 (November 15, 1994) (*Saccharin*), and *Fans*. In this case, the inputs were purchased from market-economy countries by a PRC trading company, which then transferred these inputs to the PRC manufacturer. Thus, the manufacturer obtained the inputs from a PRC source. As noted by the petitioner, there is no information on the record indicating how much or in what currency the manufacturers paid the trading companies. Further, there is no information on the record indicating which models were produced with imported steel, and which models were not. As established in *Coumarin, Drawer Slides,* and *Notice of Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China* (*Lighters*), 60 FR 22359 (May 5, 1995), it is the Department's practice to apply surrogate values to market economy inputs obtained from PRC trading companies. We disagree with respondents' claim that both *Coumarin* and *Drawer Slides* do not apply to this review because they postdate the period of review. Because those two determinations predate these final results, they are applicable.

In addition to the above, we note that there is no information on the record indicating whether the price reported by the trading company for the market economy-sourced steel is representative of the grades, prices, and quantities of steel purchased by the trading company during the period of review. Therefore, for these final results, we have used surrogate values to value all inputs used in the production of HFHTs.

Comment 2: Petitioner argues that the Department should use the Indian steel price quotation submitted by petitioner during the prior administrative review, or the 1993 Indian import value for steel bar, as the surrogate value for steel. Petitioner claims that the Indian price quotation is particularly appropriate as it represents a price for the grades, sizes, and shapes of steel used to produce HFHTs. Petitioner claims that there is precedent supporting the use of the price quotation to value the steel factor of production. Petitioner contends that in *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22544, 22548 (May 8, 1995) (*Furfuryl Alcohol*), and *Coumarin*, the Department used privately obtained price quotations to value factors of production and to determine whether specific information was aberrant. Arguing that the price quotation at issue has the added advantage of falling roughly in the middle of the range of steel prices available to the Department, the petitioner suggests that the Department use the Indian price quotation, adjusted for inflation, as its steel value for 1992 and 1993. If the Department does not use the price quotation, then the petitioner argues

that the only viable option is to use the roughly equivalent 1993 Indian steel bar import value.

Petitioner argues that the record does not support the Department's alternative of using the lower 1992 unit value for Indian steel bar imports. Citing the Department's August 8, 1995 factor values memorandum, the petitioner contends that the logic behind rejecting the 1993 value is circular, and that one could use the same logic to reject the 1992 value. Petitioner adds that it believes the 1992 value is the aberrational value.

Respondents argue that the prices proposed by the petitioner are not consistent with other prices, particularly those submitted in the *Drawer Slides* case. Respondents argue that petitioner's prices do not reflect the prices paid for steel used for exports.

Department's Position: We disagree with the petitioner. The use of import statistics as surrogate values is both reasonable and conforms to established Department practice. *See, e.g., Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews*, 60 FR 49251 (September 22, 1995). In addition, the price quotation to which petitioner refers was submitted for the record of the February 1, 1992 through January 31, 1993 administrative review and is not on the record of this review.

We also disagree with petitioner's claim that the only viable alternative to the price quotes is to use the 1993 Indian steel bar import value. As explained in our August 8, 1995 factor values memorandum, the total quantity of steel imported into India in 1992 and 1993 under HTS category 7214.50 (''Forged Bars and Rods Containing 0.25% or Greater But Less Than 6% of Carbon'') was small. Therefore, the Department compared the 1992 and the 1993 unit values to other contemporaneous steel prices to determine whether the Indian import values were aberrational. The 1992 value was found to be comparable to 1992 U.S. and Indonesian import values. The 1993 value was not comparable to the 1993 U.S. value, and because the 1993 Indonesian value was not available, we compared the 1993 Indian value with the 1992 Indian value and found a substantial difference. Therefore, we concluded that the 1993 Indian value was aberrational and used the 1992 Indian value, adjusted for inflation, to value steel for 1993.

Finally, there is no record support for petitioner's claim that the 1992 Indian steel import value is aberrational. We note that these same 1992 Indian steel import values were used in the prior review, and petitioner supported their use.

Comment 3: The petitioner argues that the Department erred in using the imported value of a finished pallet to value pallets built by the factories under review. Petitioner argues that this represents a change from that used in the less-than-fair-value (LTFV) investigation and the previous administrative review. Petitioner further argues that it was not given fair notice of the intended change, thereby depriving it of its opportunity to participate in this proceeding because the deadline for submission of new information had passed. Petitioner asserts this denied it the opportunity to submit evidence that the existing methodology did not produce aberrations. Petitioner claims that the Department exacerbated this problem by providing no explanation of its decision to deviate from past practice. Petitioner argues that this effectively obstructs effective rebuttal of Departmental action. Petitioner cites several Court of International Trade decisions, claiming the Court held that the Department should provide due notice of methodological changes as well as the opportunity to comment thereon. Petitioner also contends that an administrative agency cannot depart from established methodology without an explanation for doing so, and it argues that the Department failed to provide such an explanation. Petitioner cites *Hussey Copper Ltd.* v. *United States*, 834 F. Supp. 413, 418–419 (CIT 1993), and *Krupp Stahl* v. *United States*, 822 F. Supp. 789, 795 (CIT 1993) in support of this contention.

Finally, petitioner asserts that the methodological change violates the statute. Citing *Furfuryl Alcohol* and *Coumarin*, petitioner contends that the statute requires the Department to value each input at the point at which it enters the producer's production process. Petitioner contends that the Department may not shift its search for factor values to the level of finished or intermediate material, but claims that this is exactly what the Department did when it used the import value of completed pallets to represent the wood, nail, and packing labor costs borne by the producers. Petitioner asserts that the Department should base its packing cost calculation on the inputs actually used by the respondents.

Respondents argue that the preliminary notice was adequate notification of the Department's methodological change. Respondents also argue that petitioner was afforded an opportunity to comment and that petitioner exercised its opportunity.

Respondents disagree with petitioner's assertion that the Department's pallet valuation methodology is contrary to the statute. Respondent argues that nothing in the legislative history, the statute or the Department's regulations instructs the Department to undertake a constructed value for packing materials. Citing 19 U.S.C. Sec. 1677b(c)(1), respondents argue that the Department is required to determine a foreign market value based on factors of production for the merchandise under review, but allows the Department to determine the cost, rather than a constructed value, for containers, coverings, and other expenses incidental to shipment to the United States.

Department's Response: We agree with petitioner that we should value the pallets using factors and surrogate values for the wood, nails and packing labor, separately, rather than for the completed pallet. The information on the record at the time of the preliminary results indicates that the factories make the pallets from wood and nails rather than purchase the completed pallet. Therefore, we have changed our valuation accordingly.

Comment 4: Respondents argue that the non-steel surrogate values were not adjusted to reflect the period of review. Respondents note that the Department used Indian import statistics for ten months—April 1993 through January 1994—but they argue that the Department should have deflated the data to cover the first three months of the period of review. Respondents assert that a significant portion of the production of the subject merchandise occurred prior to April 1993, and that none of the imports during the period of review were produced after December 1993.

Department's Position: We disagree with the respondents. The Indian import data is contemporaneous with the period of review. *See, e.g., Furfuryl Alcohol*. In addition, the Indian import data on the record includes all of the data reported by the Indian government for period in question. As in the prior administrative review, we valued production input based on the year in which production occurred. Thus, 1992 input production was valued using 1992 factor values, and 1993 input production was valued using 1993 factor values. Because the Indian import data is both complete and contemporaneous, we have not made the requested adjustment.

Comment 5: Respondents argue that the Department incorrectly valued steel

by inflating import values by the 1992 calendar year wholesale price index (WPI) rather than the index for April through December 1992.

Department's Position: We agree with respondents and we have revised our inflator to reflect the period for which we have data (April 1992 through December 1992) rather than the 1992 calendar year.

Comment 6: Respondents argue that the Department's reliance on contemporaneous Indian import statistics is arbitrary because the data was not available either when the merchandise was sold or when the request for review was submitted. Respondents suggest that using 1992 Indian import values with a WPI adjustment would reduce such arbitrariness.

Department's Position: We disagree with respondents' arguments that use of import statistics from the April-December 1992 period is unfair because they were not available when the merchandise was sold or the reviews requested. It is the Department's standard practice to use surrogate values from a time period which is contemporaneous to the period of investigation or the period of review. *See, e.g., Furfuryl Alcohol,* in which the surrogate value for furfuryl was selected because it was more contemporaneous than other sources, and the *Preliminary Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China,* 60 FR 31282, (June 14, 1995), in which surrogate values within the period of investigation, or most contemporaneous with the period of investigation, were selected.

Comment 7: SMC argues that the Department should not have resorted to using best information available (BIA) for those instances where SMC failed to provide factors-of-production data. SMC claims the use of BIA in this case penalizes SMC, and SMC cites *Badger-Powhatan* v. *U.S.,* CIT 1985, 608 F.Supp 653 (*Badger-Powhatan*), as support for its claim that the purpose of the law is to be remedial, not punitive.

Department's Position: We disagree with the respondents. SMC failed to submit for the record of this proceeding factors-of-production data for one model, sales of which were first reported to the Department in SMC's supplemental questionnaire response. Since U.S. sales data for this model were submitted without the data necessary for the calculation of foreign market value (FMV), we must rely upon BIA, in accordance with section 776(1) of the Act, for these sales. As BIA, we are assigning a rate of 31.76 percent, which is the rate from the LTFV investigation for this class or kind of merchandise.

In addition, respondents' reference to *Badger-Powhatan* is misplaced because, in that case, the Court was referring to the remedial nature of the Act as a whole rather than to the administering agency's authority to rely on BIA. *See* 608 F.Supp. 653, 656 (CIT 1985).

Comment 8: Respondents argue that the packing cost percentages used by the Department (7.2 percent to 30 percent of production costs) are unreasonably high. First, respondents argue that the HTS categories used for Indian imports, by which the Department valued packing factors, are basket categories which combine low-value packing materials with high-value materials used for other purposes. Second, respondents argue that because the subject merchandise has minimal value added, the inflated values for packing materials represent a higher proportion of the value of the subject merchandise than do packing materials for most other products subject to antidumping duty administrative reviews. Respondents provide two examples of cases where products from NME countries required more extensive packing than HFHTs but where packing costs represent a smaller percentage (one to two percent) of production costs than do those the Department used for HFHTs. *See Certain Chrome-Plated Lug Nuts from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review,* 60 FR 19719 (April 20, 1995) (*Lug Nuts I*), and a September 13, 1995 team concurrence memorandum regarding the final results of an administrative review of the antidumping duty order on lock washers from the PRC.

Petitioner asserts that each dumping case is fact-specific. Therefore, the percentage cost of packing for lug nuts or lock washers has no bearing on the packing costs for HFHTs.

Department's Position: We disagree with respondents. Rejecting import values simply because they are high or low is potentially overly subjective. *See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China,* 58 FR 48833 (September 20, 1993) (*Lock Washers*). Furthermore, there is no record evidence that the HTS categories used by the Department to value packing factors are inappropriate or that the packing materials at issue are of disproportionately low value relative to other products within those HTS categories.

It is the Department's standard practice to use surrogate values to value packing costs. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides With Rollers from the People's Republic of China,* (60 FR 29571, June 5, 1995), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China,* 59 FR 55625 (November 8, 1994) (*Pencils*), for which Indian import statistics were used to value packing materials. Moreover, in *Lock Washers,* the Department valued packing materials using Indian import statistics. For this review, unlike in *Lug Nuts I,* the information needed to calculate packing costs using surrogate values is on the record. Therefore, for these final results, we have continued to value these packing inputs using surrogate values. In addition, pursuant to our determination concerning market economy-sourced inputs obtained from PRC trading companies (see Comment 1), we have valued cartons using only Indian import values.

Comment 9: Respondents argue that the values used for pallets are unreasonably high. Respondents do not dispute the selection of HTS subcategory 4415.10, ''Cases, Boxes, Crates, Drums, and Similar Packing of Wood,'' to value the wood used to make the pallets, but they assert that the resulting values are not reasonable. Citing a substantial increase in the average value for this category from 1991 to 1993, respondents suggest that the increase was due to the product mix in this category rather than an increase in price of the wood. Respondents suggest that the Department examine the 1993 IM–145 U.S. import statistics for the above-noted HTS category to determine the reasonableness of the Department's pallet values.

Petitioner argues that respondents' claim regarding the cause of the average value increase is sheer speculation and is not supported by record information. Petitioner notes that data concerning U.S. import values for pallets is not on the record.

Department's Position: We disagree with respondents. See our response to *Comment 8.* Rejecting certain import values simply because they are high or low is potentially overly subjective. In addition, there is nothing on the record indicating that the pallets are of low value compared to other items within the same HTS category. Finally, as noted by the petitioner, data concerning U.S. import values for pallets is not on the record.

Comment 10: Respondents argue that incidental packing items (those not directly involved as direct inputs of the subject merchandise, such as plastic bags, iron wire, anti rust paper, anti-damp paper, and the big iron button) should be disregarded because the individual values of these items are *de minimis* and because the collective value of these items is also *de minimis.*

Petitioner argues that the Department is required to calculate margins as accurately as possible, citing *Rhone Poulenc, Inc.* v. *United States,* 899 F.2d 1185, 1191 (Fed. Cir. 1990) as support. Petitioner asserts that the Department's regulations allow insignificant data to be ignored in calculating adjustments to prices, but the regulations do not allow the exclusion of such data from constructed value, cost of production, or the factors of production.

Department's Position: We disagree with respondents that certain factor inputs should be eliminated from the analysis because of their small value. The items identified by respondents as being incidental items are all materials used to pack the subject merchandise, and, as such, it is appropriate that we value them, absent a compelling reason to the contrary.

Comment 11: Respondents assert that the Indian labor rates used by the Department are overly narrow because they are based on a limited survey. Respondents also argue that the rates used do not reflect the values for the types of workers in the Chinese factories producing the subject merchandise. Respondents note that the Department relied upon the November 1992 and November 1993 editions of *Investing, Licensing & Trading Conditions Abroad: India (IL&T India).* These reports are published by a non-governmental organization which provides estimates of Indian labor rates for various types of positions in India based on available data. The Department adjusted these wages by 45 percent to account for bonuses and fringe benefits, based on an estimated range in *IL&T India* of 40–50 percent. The respondents maintain that the scope of the survey on which these estimates were based is very narrow. Respondents also argue that the resulting values do not conform with Indian law. Respondents assert that the Department should revise the adjustment for fringe benefits and bonuses to reflect rates required by Indian law. Respondents maintain that the bonuses for unskilled and semi-skilled workers should be much smaller, and that no bonus should be added for higher wage positions.

Petitioner argues that while many labor laws in India cover only unionized workers, there is no evidence that the data used by the Department is based only upon unionized employers, or that unionized employees earned higher wages than non-unionized employees, as implied by respondents. Petitioner further argues that if the data did only cover unionized employees, its usefulness would be increased because the tool producers are collectively-owned enterprises controlled 100 percent by workers and managers.

Petitioner disagrees with respondents' assertion that the fringe benefits and bonuses reported in *IL&T India* are inappropriate because they exceed Indian legal minimums. Petitioner notes that in the previous review the Department used data indicating that fringe benefits and bonuses could exceed statutory minimums.

Department's Position: We disagree with respondents. As noted by petitioner, there could be benefit levels beyond what is statutorily required. Historical data concerning fringe benefits and bonuses are more indicative of fringe benefits and bonuses actually paid to workers in India than are statutory minima. For this reason, we have continued to rely on wage rates and fringe benefit and bonus rates used in the preliminary results.

Comment 12: Respondents argue that the wage rates the Department used in the preliminary determination were unreasonably high. Respondents note that, in *Lighters* and *Furfuryl Alcohol,* the Department used Indonesian wage rates of $0.27/hour for unskilled labor and $1.65/hour for skilled labor, which are lower than those used by the Department in the preliminary results of this review. Respondents further note that the time period covered by these rates (December 1993 through May 1994) is contemporaneous with this review period. Respondents further argue that both Indonesia and India are surrogate countries for the PRC and that the wage rates in the two countries are comparable. Respondents suggest that the Department review *Foreign Labor Trends, India,* published by the U.S. Department of Labor. Respondents argue that this report shows 1992 wage rates for factory workers in Delhi to be much lower for skilled and unskilled workers than rates used by the Department.

Petitioner argues that the cases cited by the respondents involve different industries and a different surrogate country (Indonesia), and do not offer a reliable benchmark for this review.

Department's Position: We disagree with respondents. The cases cited by the respondents involve different industries, a different surrogate country, and a different time period than is covered by this review. It is the Department's practice to use, whenever possible, the same surrogate for all elements of a factor valuation. Moreover, the publication cited by respondents is not on the record of this proceeding.

Comment 13: Respondents argue that the rail freight values used by the Department are dated (the rates come from a 1989 cable from the U.S. Embassy in Delhi) and should be replaced with more contemporaneous data such as those provided in *Doing Business in India—An Economic Profile,* published by the Indian Ministry of External Affairs. Respondents aver that this data is superior to that used by the Department because it is official Indian government data, it is more current than the data used by the Department, and provides specific rates on a per kilometer basis. Respondents add that rail rates from non-contemporaneous periods could be adjusted using inflation factors.

Petitioner argues in favor of using the information gathered and verified by the U.S. embassy in India. Petitioner favors this information because it provides specific rates for particular ranges of shipping distances, with long distances having a lower per kilometer cost than short hauls. The petitioner argues against the use of an average figure, such as that suggested by respondents, because it would distort freight costs by overstating the per-kilometer cost for long hauls and understating the cost for short hauls. Petitioner contends that the figure suggested by respondents represents a guess, as no source for the data was provided, and it includes no indication of how the total distance shipped could affect the rate.

Department's Position: The rail freight rate suggested by the respondents was submitted for the record of this review after the preliminary results were issued, and therefore was returned as untimely filed, pursuant to 19 C.F.R. 353.31(a)(3)(1994). Therefore, for these final results, we have continued to use the cable data to value rail freight.

Comment 14: Respondents argue that, for distances of 25 kilometers or less, no freight charge, or a reduced freight charge, should be used for 1993 truck freight. (This is freight for raw materials transported from a railyard or port to the factory). Respondents contend that the costs for these trucks are already reflected in the company's overhead expenses, and the freight charge double-counts these costs. Respondents argue that, if the Department does add a freight charge, it should not arbitrarily assume that truck freight cost in India for 1 kilometer is the same as for 25

kilometers. Rather, the Department should use the 1992 rate of 0.75 Rs/MT for one kilometer plus an adjustment factor. This is the rate reported to the Department in the June 1992 embassy cable for the *Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the People's Republic of China,* 57 FR 29705 (July 6, 1992) (*Sulfanilic Acid*), and used in the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China,* 58 FR 48833 (September 20, 1993) (*Lock Washers*).

Petitioner argues that there is no evidence that the percentage used by the Department included company-owned freight services. Petitioner contends that the Department's decision to use the rate for 25–100 kilometers for distances under 25 kilometers is both reasonable and logical. Petitioner notes that rail shippers in India pay the same rate for all shipments of less than 500 kilometers, and concludes that the grouping of all truck shipments under 100 kilometers is reasonable. Petitioner also notes that on short hauls the fixed costs of loading and unloading will form a higher proportion of the total cost than on long hauls, so minor differences in the distance shipped should not have a significant effect on the total cost.

Department's Position: We disagree with respondents that certain truck costs should be considered as factory overhead. There is nothing on the record to indicate that factory-owned trucks are used to pick up raw materials from the rail yards. In addition, there is no record evidence that the Department's grouping of all truck freight under 100 kilometers is inappropriate or unreasonable. As the petitioner correctly points out, the fixed costs of loading and unloading short hauls will form a higher proportion of the total cost than long hauls, so minor differences in the distance shipped should not have a significant effect on the total cost. For these reasons, we have continued to value truck freight for these final results as we did for the preliminary results.

Final Results of Review

As a result of our review, we have determined that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Fujian Machinery & Equipment Import & Export Corporation:		
Axes/Adzes	2/1/93–1/31/94	19.15
Bars/Wedges	2/1/93–1/31/94	41.21
Hammers/Sledges	2/1/93–1/31/94	25.74
Shandong Machinery Import & Export Corporation:		
Bars/Wedges	2/1/93–1/31/94	57.03
Hammers/Sledges	2/1/93–1/31/94	23.17
Picks/Mattocks	2/1/93–1/31/94	80.32

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above which have separate rates will be the rates for those firms as stated above for the classes or kinds of merchandise listed above; (2) for picks/mattocks from FMEC and axes/adzes from SMC, which are not covered by this review, the cash deposit rates will be the rates established in the most recent review of those classes or kinds of merchandise in which those companies recieved separate rates—that is, the February 1, 1992 through January 31, 1993 review; (3) for all other PRC exporters, the cash deposit rates will be the PRC rates established in the LTFV investigation; and (4) the cash deposit rates for non-PRC exporters of the subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. The PRC rates established in the LTFV investigations are 45.42 percent for hammers/sledges, 31.76 percent for bars/wedges, 50.81 percent for picks/mattocks, and 15.02 percent for axes/adzes. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely 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 is in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: March 27, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–8215 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–475–031]

Large Power Transformers from Italy; Extension of Time Limits of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of extension of time limits of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for preliminary and final results in the administrative review of the antidumping finding on large power

transformers from Italy, covering the period June 1, 1994, through May 31, 1995, because it is not practicable to complete the review within the time limits mandated by the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) (the Act).

EFFECTIVE DATE: April 4, 1996.

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

SUPPLEMENTARY INFORMATION:

Background

The Department received a request to conduct an administrative review of the antidumping finding on large power transformers from Italy. On August 16, 1995, the Department published a notice of initiation of this administrative review covering the period June 1, 1994, through May 31, 1995. The Department adjusted the time limits by 28 days due to the government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. *See* Memorandum to the file from Susan G. Esserman, Assistant Secretary for Import Administration, January 11, 1996. As adjusted, the current time limits are March 29, 1996, for the preliminary results and July 27, 1996, for the final results.

It is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to July 27, 1996, and for the final results to January 23, 1997.

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

These extensions are in accordance with section 751(a)(3)(A) of the Act.

Dated: March 29, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–8217 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–810]

Mechanical Transfer Presses From Japan; Preliminary Results and Termination in Part of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of preliminary results and termination in part of antidumping duty administrative review; mechanical transfer presses from Japan.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan in response to a request by petitioners, Verson Division of Allied Products Corp., the United Autoworkers of America, and the United Steelworkers of America (AFL–CIO/CLC); and by respondents Aida Engineering, Ltd. (Aida) and Mitsui and Co. (U.S.A), Inc. (Mitsui), an importer. This review covers shipments of this merchandise to the United States during the period February 1, 1994 through January 31, 1995.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the differences between the export price and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: April 4, 1996.

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

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the Federal Register an antidumping order on MTPs from Japan on February 16, 1990 (55 FR 5642). On February 2, 1995, we published in the Federal Register (60 FR 6524) a notice of opportunity to request an administrative review of the antidumping order on MTPs from Japan covering the period February 1, 1994 through January 31, 1995.

In accordance with 19 CFR 353.22(a)(1)(1995), petitioners, Verson Division of Allied Products Corp., the United Autoworkers of America, and the United Steelworkers of America (AFL-CIO/CLC), requested that we conduct a review of Komatsu, Ltd. and Komatsu America Industries Corp. (Komatsu), Ishikawajima-Harima Heavy Industries Co., Ltd. (IHI) and Hitachi Zosen Corporation (Hitachi Zosen). Aida requested that we conduct an administrative review of its sales. Mitsui, an importer, requested that we conduct an administrative review of the sales of Kurimoto, Ltd. (Kurimoto). We published a notice of initiation of this antidumping duty administrative review on March 15, 1995 (60 FR 13955). The Department is conducting this administrative review in accordance with section 751 of the Act.

Termination of Review in Part

On July 31, 1995, petitioners withdrew their request for review with respect to sales made by Hitachi. On August 7, 1995, Hitachi expressed its support of petitioner's request to terminate the review with respect to its sales, and requested that the Department grant petitioner's request. At the time petitioner submitted its request, more than ninety days had elapsed since the initiation of this review. Section 353.22(a)(5) of the Department's regulations states that the ninety days which a party has to withdraw a request may be extended at the discretion of the Department. As both parties agreed that we should terminate the review for Hitachi, granting petitioner's request would not prejudice any party in this proceeding. In accordance with 19 CFR 353.22(a)(5), we are terminating the review with respect to Hitachi. (*See Memorandum from Laurie Parkhill to Holly Kuga,* dated August 22, 1995.)

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8462.99.0035 and

8466.94.5040. The HTS numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive of the scope of the order.

The term ''mechanical transfer presses'' refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover spare and replacement parts and accessories, which were determined to be outside the scope of the order. (*See* ''Final Scope Ruling on Spare and Replacement Parts,'' U.S. Department of Commerce, March 20, 1992.)

This review covers four manufacturers/exporters of MTPs, and the period February 1, 1994 through January 31, 1995.

Verification

We conducted verification of Kurimoto's questionnaire response in Osaka, Japan, from September 25 through September 29, 1995.

Export Price

A. Kurimoto

For sales made by Kurimoto we calculated an export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated export price based on the delivered price to unrelated purchasers. We made deductions for foreign inland freight and brokerage and handling.

B. Aida

Aida exported three MTPs to the United States during the period of review, but requested that we exclude two of its sales from this administrative review. Of these sales, one was a refurbished MTP, which we have excluded from this administrative review. The second was a transfer unit, an integral part of an MTP, which was imported for incorporation into a new MTP, the remaining components of which were manufactured in Taiwan. We have preliminarily determined to include this transfer unit in this administrative review.

With regard to the refurbished press, Aida stated that it sold the MTP in 1980 to a Japanese company, and that the company used the press in Japan for fifteen years. Aida stated that it refurbished the press, and shipped it to the original owner's subsidiary in the United States during the period of review. The refurbishing carried out by Aida is essentially a service. Therefore, we have concluded that this transaction is not an MTP sale made by Aida during the POR and have excluded it from the margin calculation for Aida in this administrative review. (*See Memorandum from Holly Kuga to Joseph A. Spetrini,* dated March 22, 1996.)

With regard to the transfer unit, Aida states that, in its view, the unit should be excluded from this review because the order covers complete MTPs, and the transfer unit is only an MTP component. Aida also states that the country of origin of this MTP is Taiwan. However, we note that the scope includes ''parts suitable for use solely or principally'' with MTPs. Therefore, because the transfer unit was imported as an original equipment part of an MTP, we have preliminarily determined to include the transfer unit in this review.

For sales made by Aida we calculated an export price, or a constructed export price, as appropriate. We calculated export price in accordance with section 772(a) of the Act, for subject merchandise that was sold to unrelated purchasers in the United States prior to importation into the United States. We calculated export price based on the delivered price to unrelated purchasers. We made deductions for foreign inland freight, insurance, and U.S. transportation.

We also calculated a constructed export price in accordance with section 772(b) of the Act, for the transfer unit that was first sold in the United States by a seller affiliated with Aida. We calculated constructed export price based on the delivered price to unrelated purchasers. We made deductions for foreign inland freight, insurance, brokerage and handling, U.S. duties, U.S. transportation, credit, warranties, direct selling expenses and indirect selling expenses, and constructed export price profit, in accordance with 772(d)(3) of the Act. Because there was a single U.S. price for the transfer unit and the Taiwan-manufactured components, we deducted the value of the Taiwan manufacturing, including an amount for profit on the Taiwan-manufactured components, from the starting price in our calculation of export price.

Normal Value

We preliminarily determine that the use of constructed value (CV) is warranted to calculate NV for Kurimoto and Aida, in accordance with section 773(a) of the Act. While the home market is viable, the particular market situation in this case, which requires that the subject merchandise be built to each customer's specifications, does not permit proper price-to-price comparisons in either the home markets or third countries.

Aida and Kurimoto both argue that the Department should use CV as the basis for NV. Aida argues that home market, third country, and U.S. market products are differentiated by the many differences in specifications between the various presses and that no merchandise sold in the home market or to a third country is identical to the merchandise sold to the United States. Kurimoto states that MTPs are extremely complex pieces of equipment consisting of thousands of different components and requiring months to produce, and even if costs could be linked to specific physical characteristics, thousands of adjustments would be required. We note that in past proceedings involving large, custom-built capital equipment, including prior reviews of this order, we have normally resorted to CV. (*See, e.g., Large Power Transformers from France; Final Result of Antidumping Administrative Review,* 60 FR 62808, December 7, 1995; and *Mechanical Transfer Presses From Japan: Final Results of Antidumping Duty Administrative Review,* 58 FR 68117, December 23, 1993.)

A. Kurimoto

For Kurimoto, CV consists of the cost of materials and fabrication, selling, general and administrative (SG&A) expenses, profit, and packing. We used packing costs for merchandise exported to the United States. We made a circumstance-of-sale adjustment by adding to CV U.S. technical service expenses and credit.

B. Aida

For Aida's export price sale, CV consists of the cost of materials and fabrication, SG&A, profit, and packing. We used packing costs for merchandise exported to the United States. We made a circumstance-of-sale adjustment by deducting from CV home market direct selling expenses, *i.e.,* warranties and commissions, and adding to CV U.S. direct selling expenses, *i.e.,* warranties, commissions, and credit.

For Aida's constructed export price sale, CV consists of the cost of materials

and fabrication, SG&A, profit, and packing. We used packing costs for merchandise exported to the United States. We made a circumstance-of-sale adjustment by deducting from CV home market direct selling expenses, *i.e.*, warranties and credit.

Use of Facts Otherwise Available

We preliminarily determine, in accordance with section 776(c) of the Act, that the use of facts available is appropriate for Komatsu because it did not respond to the Department's antidumping questionnaire. We sent Komatsu a questionnaire on June 23, 1995, with deadlines of July 7, 1995 for section A and Appendix V and August 22, 1995 for the remaining sections. On July 7, 1995 Komatsu submitted a letter to the Department stating that it had no exports of the subject merchandise, but that it did export a small portion of parts. Komatsu stated that it was filing a scope request and requested an extension until the Department made a scope determination. On July 10, 1995, we granted Komatsu an extension until July 12, 1995 to respond to Section A and Appendix V, but stated that, because we are conducting this review under statutory deadlines, we could not grant Komatsu the extension it requested. Komatsu requested, and we granted, another extension until July 19, 1995, in which to respond to Section A and Appendix V.

On July 19, 1995, we received a response to section A and Appendix V. In its response Komatsu stated that it had no sales to the United States. We did not receive a response to the remaining sections of the questionnaire. However, because a determination regarding the parts, which are subject to the scope inquiry, has not been reached, we consider those parts to be subject to this administrative review. The necessary information is not available on the record with regard to the nature of the parts because Komatsu withheld the requested information. Therefore, we must make our preliminary determination based on facts otherwise available (section 776(a) of the Act). We intend to issue a scope ruling before the final results of this review. Should the Department clarify the scope of the order to exclude the parts in question, we will adjust our final results for Komatsu accordingly.

Where the Department must base the entire dumping margin for a respondent in an administrative review on the facts available because that respondent failed to cooperate, section 776(b) authorizes the Department to use an inference adverse to the interests of that respondent in choosing the facts available. Section 776(b) also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Because information from prior proceedings constitutes secondary information, section 776(c) provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review* (60 FR 49567), where the Department disregarded the highest margin in that case as adverse BIA because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this case, we have used the highest rate from any prior segment of the proceeding, 15.16 percent rate.

Non-shipper

IHI stated that it did not have shipments during the period of review, and we confirmed this with the United States Customs Service. Therefore, we are treating IHI as a non-shipper for this review. IHI will retain its rate from the last administrative review.

Preliminary Results of the Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Aida Engineering, Ltd.	2/1/94–1/31/95	0.00
Kurimoto, Ltd.	2/1/94–1/31/95	0.00
Komatsu America Industries Corporation	2/1/94–1/31/95	15.16
Ishikawajima-Harima Heavy Industries, Ltd.	2/1/94–1/31/95	0.00

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of these administrative reviews for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for

consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for reviewed companies will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the investigation of sales at less than fair value, which is 14.51 percent.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 27, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–8220 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–501]

Natural Bristle Paint Brushes and Brush Heads From The People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of the Antidumping Duty Administrative Review of Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on natural bristle paint brushes and brush heads (paint brushes) from the People's Republic of China (PRC) in response to requests by importers, Great American Marketing, Inc. and Brenner Associates, Ltd., and by a domestic interested party, EZ Paintr Corporation (EZ Paintr). This review covers shipments of this merchandise to the United States during the period February 1, 1994, through January 31, 1995.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the export price and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Elisabeth Urfer or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

The Department published in the Federal Register an antidumping duty order on paint brushes from the PRC on February 14, 1986 (51 FR 5580). On February 2, 1995, the Department published in the Federal Register (60 FR 6524) a notice of opportunity to request an administrative review of the antidumping duty order on paint brushes from the PRC covering the period February 1, 1994, through January 31, 1995.

In accordance with 19 CFR 353.22(a), Great American Marketing, Inc., requested that we conduct an administrative review of Yixing Sanai Brush Making Co., Ltd. (Yixing), and Eastar B.F. (Thailand) Company Ltd. (Eastar); Brenner Associates requested that we conduct an administrative review of Hebei Animal By-Products I/E Corp. (HACO), China National Metals & Minerals I/E Corp, Zhenjiang Trading Corp. (Zhenjiang Trading), and Inner Mongolia Autonomous Region Light Industrial Products I/E Corp.; and EZ Paintr requested that we conduct an administrative review of China National Native Produce and Animal By-Products Import-Export Corporation, HACO, Zhenjiang Trading, and the Inner Mongolia Autonomous Region Light Industrial Products I/E. We published a notice of initiation of this antidumping duty administrative review on March 15, 1995 (60 FR 13955). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review are shipments of natural bristle paint brushes and brush heads from the PRC. The merchandise under review is currently classifiable under item 9603.40.40.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

This review covers the period February 1, 1994, through January 31, 1995, and covers six producers/exporters of Chinese paint brushes.

Separate Rates

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's

business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

HACO was the only exporter that responded to the Department's request for information; therefore, HACO was the only firm for which we made a determination as to whether it should receive a separate rate. The determination as to whether HACO should receive a separate rate is made under the policy set forth in *Silicon Carbide* and *Sparklers.*

The evidence on the record demonstrates that HACO meets the *de jure* and three of the four *de facto* criteria, which are that it sets its own export prices independently, that it retains proceeds from its sales, and that it has the authority to negotiate and sign contracts and other agreements, but that it may not have autonomy in making decisions regarding the selection of its management. According to the information on the record, the Hebei Foreign Trade & Economic Cooperation Department, a provincial government entity, appoints the general manager of HACO. Consequently, we have preliminarily found that there is *de facto* government control with respect to HACO's exports according to the criteria identified in *Sparklers* and *Silicon Carbide.*

However, because the implication of the provincial government's role in selection of HACO's management is not clear from the record, given that HACO meets three of the four *de facto* criteria, we are giving HACO an opportunity to clarify its response. We will request additional information from HACO, and consider such information in determining whether to assign HACO a separate rate for the final results of this review. For further discussion of the Department's preliminary determination that HACO is not entitled to a separate rate, *see Decision Memorandum to the Director, Office of Antidumping Compliance,* dated March 27, 1996: ''Separate rate analysis for Hebei Animal By-Products I/E Corp. in the administrative review of natural bristle paint brushes and brush heads from the People's Republic of China,'' which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

Facts Available

We preliminarily determine that the use of the facts available is appropriate for Yixing, Eastar, Zhenjiang Trading, China National Native Produce and Animal By-Products Import-Export Corporation, and Inner Mongolia Autonomous Region Light Industrial Products I/E Corp. because these firms did not respond to the Department's antidumping questionnaire. Because necessary information is not available on the record with regard to sales by these firms, as a result of their withholding the requested information, we must make our preliminary determination based on facts otherwise available pursuant to section 776(a) of the Act.

The Department finds that, in not responding to the questionnaire, these five firms failed to cooperate by not acting to the best of their ability to comply with requests for information from the Department.

We also preliminarily determine, in accordance with section 776(a) of the Act, that the use of the facts available is appropriate for HACO. While HACO cooperated with our requests for information, HACO has not overcome the presumption of government control. Furthermore, there is another producer/exporter of paint brushes in Hebei province that did not respond to our request for information. We also sent the provincial government a questionnaire, but did not receive a response. As a result, we have determined to use facts available with respect to sales made by HACO and the other Hebei exporter/producer of paint brushes.

Where the Department must base the entire dumping margin for a respondent in an administrative review on the facts available because that respondent failed to cooperate, section 776(b) authorizes the Department to use an inference adverse to the interests of that respondent in choosing the facts available. Section 776(b) also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Because information from prior proceedings constitutes secondary information, section 776(c) provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review* (60 FR 49567), where the Department disregarded the highest margin in that case as adverse BIA because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this case, we have used the highest rate from any prior segment of the proceeding, 127.07 percent rate.

Preliminary Results of the Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Yixing Sanai Brush Making Co. Ltd	2/1/94–1/31/95	[1] 127.07

Manufacturer/exporter	Time period	Margin (percent)
Eastar B.F. (Thailand) Company Ltd	2/1/94–1/31/95	[1] 127.07
Hebei Animal By-Products I/E Corp. and another firm controlled by the provincial government, the name of which is proprietary.	2/1/94–1/31/95	[1] 127.07
China National Metals & Minerals I/E Corp, Zhenjiang Trading Corp	2/1/94–1/31/95	[1] 127.07
Inner Mongolia Autonomous Region Light Industrial Products I/E Corp	2/1/94–1/31/95	[1] 127.07
China National Native Produce and Animal By-Products Import-Export Corporation	2/1/94–1/31/95	[1] 127.07

[1] This rate does not represent a separate rate determination.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of paint brushes from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) for the companies named above which were not found to have separate rates, as well as for all other PRC exporters, the cash deposit rate will be the PRC-wide rate established in the final results of this review; (2) for any company found to merit a separate rate for the final results of this review, the rate will be the company-specific rate for that company established in the final results of this review; (3) for previously reviewed non-PRC exporters, the cash deposit rate will be the rate established in the most recent segment of the proceeding; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: March 27, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–8219 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–489–807]

Initiation of Antidumping Duty Investigation: Certain Steel Concrete Reinforcing Bar From Turkey

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

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Fabian Rivelis at (202) 482–3853 or Howard Smith at (202) 482–5193, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Initiation of Investigation

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA'').

The Petition

On March 8, 1996, the Department of Commerce (''the Department'') received a petition filed in proper form by Florida Steel Corporation and New Jersey Steel Corporation (''petitioners''). The petitioners amended the petition on March 26, 1996, to exclude plain steel concrete reinforcing bar (''rebar'').

In accordance with section 732(b) of the Act, the petitioners allege that imports of steel concrete reinforcing bar (''rebar'') from Turkey are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a regional industry within the United States.[1]

Since the petitioners are interested parties as defined under section 771(9)(C) of the Act, they have standing to file a petition for the imposition of antidumping duties.

Determination of Industry Support for the Petition

The petitioners allege that there is a regional industry for the domestic like product and included data on both factors required by section 771(4)(C) of the Act; (1) the producers within such market sell all or almost all of their production of the like product in question in that market, and (2) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States. Under section 732(c)(4)(C), if the petitioner alleges that the industry is a regional industry, the Department shall determine whether the petition has been filed by or on behalf of the industry by applying the requirements set forth in section 732(c)(4)(A) of the Act on the basis of the production in the region. Therefore, the Department has evaluated industry support for the petition based upon production in the region.

Section 732(c)(4)(A) of the Act requires that the Department's industry support determination, which is to be

[1] The region identified by petitioners consists of the states of Maine, New Hampshire, Connecticut, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Pennsylvania, Delaware, Florida, Georgia, Louisiana, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Alabama, Kentucky, Mississippi, and Tennessee; plus the District of Columbia and Puerto Rico.

made before the initiation of the investigation, be based on whether a minimum percentage of the relevant regional industry supports the petition. A petition meets the minimum requirements if (1) domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product in the region; and (2) those domestic producers or workers in the region expressing support account for more than 50 percent of the production of the domestic like product produced by that portion of the industry in the region expressing support for, or opposition to, the petition.

A review of the production data provided in the petition and other information readily available to the Department indicates that the petitioners account for more than 50 percent of the total regional production of the like product. The Department received no expressions of opposition to the petition from any regional producers or workers. Accordingly, the Department determines that the petition is supported by the regional industry.

Scope of the Investigation

The product covered by this investigation is all stock deformed steel concrete reinforcing bars (''rebar'') sold in straight lengths and coils. This includes all hot-rolled deformed rebar, rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7213.10.00 and 7214.20.00. The HTSUS subheadings are provided for convenience and customs purposes.

The written description of the scope of this investigation is dispositive.

Export Price and Normal Value

The petitioners based export price on: (1) a contracted price for 7,000 to 10,000 metric tons of deformed rebar, and (2) an offer of sale for about 10,000 metric tons of deformed rebar. The terms of the contract and offer are C.I.F. The petitioners made deductions to export price for insurance, port expenses, and shipping costs.

The petitioners based NV on an offer sheet published in Turkey by Turkish rebar producers. Since the terms are ex-factory, petitioners made no deductions to NV. The petitioners adjusted and/or inflated the prices on the offer sheet in an effort to make more contemporaneous comparisons to export price. However, the Department considers the prices as shown on the offer sheet already to be contemporaneous and thus used them as the basis for normal value without adjustment. *See* memorandum to the file dated March 26, 1996.

Based on comparisons of export price to NV, the estimated dumping margins, as recalculated by the Department, range from 27.4 to 41.8 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of rebar from Turkey are being, or are likely to be, sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available under section 776 of the Act, we may further review the calculations.

Critical Circumstances

The petition contains an allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise.

Section 733(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if:

(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) there have been massive imports of the subject merchandise over a relatively short period.

The petition contains information that satisfies the criteria. First, petitioners state that Singapore has recently imposed final antidumping duties on rebar from Turkey. Because there is an indication of a history of dumping and material injury, it is not necessary to address importer knowledge.

Because we have information indicating that the first statutory criterion is met, we must consider the second statutory criterion: whether imports of the merchandise have been massive over a relatively short period. According to the import statistics contained in the petition, imports of rebar from Turkey into the region increased by 252 percent from 1993 to 1994. Based on import statistics from January through October 1995, petitioners projected the increase of Turkish imports into the region from 1994 to 1995 to be 51 percent.

Because the petition provides evidence that there is a history of dumping and material injury, and that imports of subject merchandise from Turkey have been massive over a relatively short period of time, we find a reasonable basis to believe or suspect that critical circumstances may exist and will investigate this matter further.

Initiation of Investigation

We have examined the petition on rebar and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to a regional industry of a like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of rebar from Turkey are being, or are likely to be, sold at less than fair value on a regional basis. Unless extended, we will make our preliminary determination by August 15, 1996.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of Turkey. We will attempt to provide a copy of the public version of the petition to each exporter of rebar named in the petition.

International Trade Commission (ITC) Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine by April 22, 1996, whether there is a reasonable indication that imports of rebar from Turkey are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: March 28, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–8216 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DS–P

U.S.-KOREA COMMITTEE ON BUSINESS COOPERATION

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Membership Opportunity in U.S.-Korea Committee on Business Cooperation.

SUMMARY: The Department of Commerce is currently seeking nominations of outstanding individuals to serve on the U.S. section of the U.S.-Korea Committee on Business Cooperation (''CBC''). On December 15, 1995, Secretary of Commerce Ronald H. Brown and South Korean Minister of Trade, Industry and Energy Park Jae Yoon signed a memorandum of understanding creating the CBC. The purpose of the CBC is to provide a forum through which the U.S. and Korean public and private sectors can cooperate to exchange information on commercial matters and to encourage discussions on a variety of issues that impact their bilateral commerce. The CBC is composed of two sections, a U.S. section and a Korean section. The U.S. section is chaired by Secretary of Commerce Ronald H. Brown and will be comprised of approximately 20 private sector representatives. The Korean section is chaired by Minister Park and will be comprised of approximately 20 private sector members. The inaugural meeting of the CBC is expected to take place during the summer of 1996 in Washington. Subsequent plenary and working group meetings are expected to be with the government and private sector members from both countries in attendance.

OBLIGATIONS: Private sector members will be appointed for a two year term. Nominations are now being sought for private sector members to serve for the initial term. Private sector members will serve at the discretion of the Secretary and shall serve as representatives of the business community and the industry their business represents. They are expected to participate fully in defining the agenda for the CBC and in implementing its work program. It is expected that private sector individuals chosen for CBC membership will attend at least 75% of the CBC meetings which will be held in the U.S. and South Korea.

Private sector members are fully responsible for travel, living and personal expenses associated with their participation in the CBC. The private sector members will serve in a representative capacity presenting the views and interests of the particular business sector in which they operate; private sector members are not special government employees. It is anticipated that the private sector members of the Committee may form a Steering Committee, upon their own initiative, to guide overall private sector participation. If the Steering Committee is formed, it is expected that the activities conducted by the Steering Committee, and staff support for the Committee, will be undertaken at the expense of the private sector members.

The CBC will work on issues of common interest to encourage bilateral trade and investment, such as, but not limited to, the following:

—Identifying commercial opportunities, impediments, and issues of concern to the respective business communities;
—Improving the dissemination of appropriate commercial information on both markets;
—Adopting sectoral or project-oriented approaches to expand business opportunities, addressing specific problems, and making recommendations to decision-makers where appropriate;
—Promoting trade/business development and promotion programs to assist the respective business communities in accessing each market, including trade missions, exhibits, seminars, and other events;
—Facilitating appropriate technical cooperation; and
—Considering other steps that may be taken to foster growth and enhance commercial relations.

CRITERIA: The U.S. private sector section of CBC will consist of approximately 20 members representing the diversity of American business. Selection criteria will emphasize, to the extent possible, the following interests and issues with respect to Korea: infrastructure, high technology manufacturing, and market access. The Commerce Department is currently seeking nominations of outstanding individuals or companies to serve on the CBC.

In order to meet eligibility requirements for membership, potential candidates must be:

—A U.S. citizen residing in the United States or a U.S. permanent resident;
—A CEO or other top management level employee of a U.S. company or organization involved with South Korea in the trade and investment fields; and
—Not a registered foreign agent under the Foreign Agent Registration Act of 1938, as amended (FARA).

In reviewing eligible candidates, the Commerce Department will consider such selection factors as:

—Experience in the South Korean market;
—Industry or service sector represented;
—Export/investment experience;
—Contribution to diversity based on company size, location, demographics, and minority/gender ownership; and
—Stated commitment to actively participate in CBC activities and meetings.

To be considered for membership, please provide the following: name and title of at least two individuals requesting consideration; name and address of the company or organization sponsoring each individual; company's product or service line; size of the company; export experience and major markets; a brief statement of why each candidate should be considered membership on the CBC; the particular segment of the business community each candidate would represent; a personal resume; and a statement that applicant is not a registered foreign agent under FARA.

DEADLINE: In order to receive full consideration, requests must be received no later than May 3, 1996.

ADDRESSES: Please send your requests for consideration to Susan M. Blackman, Director, Office of Korea and Southeast Asia, either by fax on (202) 482–4760 or by mail at Room 3203, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Susan M. Blackman, Director, Office of Korea and Southeast Asia, either by fax on (202) 482–4760 or by mail at Room 3203, U.S. Department of Commerce, Washington, D.C. 20230.

Authority: Act of February 14, 1903, c. 552, as amended, 15 U.S.C. 1501 et seq., 32 Stat. 825; Reorganization Plan No. 3 of 1979, 19 U.S.C. 2171 note, 93 Stat. 1381.

Dated: March 29, 1996.

Peter Cashman,

Acting Deputy Assistant Secretary for Asia Pacific.

[FR Doc. 96–8248 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DA–P

[C–122–825]

Notice of Initiation of Countervailing Duty Investigation: Certain Laminated Hardwood Flooring from Canada

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

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Sue Strumbel or David Boyland, Office of Countervailing Duty Investigations, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone

(202) 482–1442, (202) 482–4198, respectively.

Initiation of Investigation

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act).

The Petition

On March 7, 1996, the Department of Commerce (the Department) received a petition filed from the Ad Hoc Committee on Laminated Hardwood Trailer Flooring Imports (the petitioners). The Ad Hoc Committee is made up of five U.S. producers of laminated hardwood flooring (LHF): Anderson-Tully, Havco Wood Products, Inc., Industrial Hardwood Products Inc. (IHP), Lewisohn Sales Company Inc., and Cloud Corporation/Cloud Oak Corporation. On March 15, March 22, and March 26, 1996, petitioners amended the petition by providing additional information, as well as revising the manner in which certain information in the petition was presented to the Department.

In accordance with section 701(a) of the Act, petitioners allege that manufacturers, producers, or exporters of the subject merchandise in Canada receive countervailable subsidies.

The petitioners have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act.

On March 21 and 22, 1996, the Department held consultations with representatives of the Government of Canada (GOC) and the Government of Quebec (GOQ) pursuant to 702(b)(4)(ii) (*see* March 26, 1996 memos to the file regarding these consultations). On March 26, 1996, the GOC and the GOQ submitted certain information with respect to certain programs alleged in the petition.

Determination of Industry Support for the Petition

Section 702(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports a countervailing duty petition. A petition meets these minimum requirements if the domestic producers or workers who support the petition account for (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

The Department has been notified that two domestic producers of LHF oppose the petition. A review of the production data provided in the petition and other information readily available to the Department indicates that the petitioner accounts for more than 50 percent of the total production of the domestic like products thus meeting the standard of 702(c)(4)(A) and requiring no further action by the Department pursuant to 702(c)(4)(D). Accordingly, the Department determines that this petition is supported by the domestic industry.

Injury Test

Because Canada is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry.

Scope of the Investigation

The scope of this investigation consists of certain laminated hardwood flooring which is made of oak, maple or other hardwood lumber. Laminated hardwood flooring is customized for specific dimensions, but generally ranges in size from 8′ × 48″ × 1″ to 8′ × 6″ × 57″ × 1½″ for trailer flooring, and to 8′ × 16″ × 1(⅛)″ to 8′ × 26′ × 1(½)″ for trailer flooring and van and truck bodies, respectively. The merchandise under investigation is currently classified, in addition to various other hardwood products, under subheading 4421.90.98.40 and 9905.44.50.15 of the *Harmonized Tariff Schedule of the United States* (*HTSUS*). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

Allegation of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to petitioners supporting the allegations.

Initiation of Countervailing Duty Investigations

The Department has examined the petition on LHF from Canada and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of LHF from Canada receive subsidies.

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers of the subject merchandise in Canada:

1. Capital Gains Exemptions
2. Investment Tax Credits (ITCs)
3. Export Development Corporation (EDC)
4. Performance Security Services through EDC
5. Program for Export Market Development (PEMD)
6. Venture Loans Through the Business Development Bank of Canada (BDBC)
7. Working Capital for Growth from BDBC
8. Programs Provided by the Industrial Development Corporation (SDI) [1]

Article 7 Assistance
Export Assistance Program
Business Investment Assistance Program
Business Financing Program
Research and Innovation Activities Program

9. Export Promotion Assistance Program (APEX)
10. St. Lawrence River Environmental Technology Development Program
11. Industrial Research Assistance Program (IRAP)
12. Canada-Quebec Subsidiary Agreement on the Economic Development of Quebec
13. Private Forest Development Program (PFDP)
14. Quebec Stumpage Program

The Department has reviewed information submitted by the GOQ which has raised a question whether Leclerc is a tenure holder; *i.e.*, whether it received benefits under this program. Therefore, the Department has included this program in its investigation to investigate use of this program.

Petitioners have argued that Nilus Leclerc Inc. (Leclerc) ''became partners with the government * * * with the sole objective of taking over the U.S. [LHF] market'' and that all programs provided to Leclerc should be considered specific because they were given pursuant to ''an overall endeavor that gave Leclerc special treatment.'' However, petitioners were unable to provide any evidence that the GOC or

[1] The Department is not including in the investigation other SDI programs.

the GOQ have provided any ''special treatment'' to Leclerc. Accordingly, the Department did not consider petitioners' ''special specificity'' argument when determining whether a program should be included in the investigation.

We are not including in our investigation the following programs alleged to be benefiting producers of the subject merchandise in Canada:

National Programs

1. Canadian Forest Services Research Subsidies

The Canadian Forest Service (CFS) maintains a series of programs that support basic research and development in forestry.

Petitioners have provided no information to support the allegation that LHF producers would conduct research under these programs. Therefore, we are not including this program in our investigation.

2. Cooperative Industrial and Market Development Partnership (CIMDP)

The CIMDP provides information concerning export enhancement, export market penetration, and productivity enhancement to members of the British Columbia (BC) Wood Specialties Group, an association of BC companies involved in secondary wood manufacturing.

Petitioners have provided no information to support the allegation that any producer of subject merchandise is eligible to receive benefits under this program. The Canadian producers of LHF identified in the petition are located in Quebec and Ontario. Because the Canadian producers of LHF identified by the petitioners are not located in BC, and no BC producer of LHF has been identified, we are not including this program in our investigation.

3. Term Loans Through BDBC

Small and medium-sized businesses are eligible to receive BDBC term loans for the purchase of land, buildings, equipment, major plant overhauls, working capital, refinancing, and changes of ownership. Because the amortization of BDBC term loans is apparently flexible, petitioners have argued that the program provides a benefit.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy, we are not including this program in our investigation.

4. Venture Capital Division of BDBC

Under this program BDBC provides small and medium-sized companies with equity financing in the form of straight equity, options, warrants, or convertible or other forms of debentures.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy, we are not including this program in our investigation.

Quebec Provincial Programs

5. Industrial Feasibility Study Assistance Program

Under this program the GOQ provides financial assistance to cover up to 50 percent of the eligible expenditures for feasibility studies of industrial projects to be carried out in Quebec. Petitioners believe that Leclerc may have received benefits under this program in order to develop its LHF business.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy, we are not including this program in our investigation.

6. Development Assistance Program Under SDI

According to petitioners, SDI provides venture capital for up to 90 percent of eligible expenditures which is repayable through royalties on sales or minority interest in the capital stock of the company.

Petitioners have not alleged that Leclerc was unequityworthy or that any financing provided was preferential. Therefore, we are not including this program in our investigation.

7. Quebec Business Investment Companies Act administered by SDI

The objective of the Business Investment Companies Act is to promote better capitalization of Quebec companies and to encourage investment by providing tax benefits to shareholders in special corporations which invest in Quebec companies. Although it is not clear, petitioners may view the benefit under this program to be an equity infusion into Leclerc which presumably would not have taken place absent the above-referenced tax benefits. Alternatively, petitioners may believe that Leclerc's financing costs are reduced pursuant to the tax deduction.

Because petitioners have provided no basis to believe that this program is specific pursuant to section 771(5)(A), either as a domestic or export subsidy, we are not including this program in our investigation.

8. Financial Assistance for Research, Formation, and Improvement of Recycling Industry

Under this program, the Quebec Ministry of Environment provides grants to the recycling industry in Quebec.

Because petitioners have provided insufficient information to support the allegation that Leclerc is also part of the Quebec recycling industry, and is therefore eligible to participate in this program, we are not including this program in our investigation.

9. Preferential Rates under Hydro-Quebec Risk and Profit Sharing

Under the Risk and Profit Sharing program, the provincially-owned power company, Hydro-Quebec, signs long-term contracts with its industrial customers for the provision of electricity. A portion of the rate to be charged under these contracts is based either on the price of the customer's products or the company's profit. Industrial customers which meet several criteria (*e.g.*, at least a five megawatt power requirement and energy costs which represent 15 percent or more of production costs) are eligible to participate in the program.

Because petitioners have not provided information which is sufficient to support the allegation that Leclerc would be eligible for this program, we are not including this program in our investigation.

Ontario Provincial Program

Ontario Stumpage

10. Petitioners have alleged that Leclerc may benefit from Ontario stumpage. Because petitioners have not provided either a benchmark stumpage rate or the public stumpage rate charged by the Government of Ontario, we are not including this program in our investigation.

Creditworthiness

Petitioners assert that the financial position of Leclerc was such that it was uncreditworthy when it allegedly obtained a ''large and speculative'' amount of government-sponsored financing. Petitioners indicate that they have provided the information which is reasonably available to them showing that Leclerc ''did not possess intrinsic worth'' to avail itself of such large amounts of capital.

The Department does not consider the creditworthiness of a firm absent a specific allegation by the petitioner which is supported by information

establishing a reasonable basis to believe or suspect that the firm is uncreditworthy. While the information provided by petitioners does raise certain doubts as to Leclerc's ability to attract such financing, the financial information regarding Leclerc is incomplete. Therefore, at this time, the Department does not have a reasonable basis to believe or suspect that Leclerc is uncreditworthy.

Critical Circumstances

The petition contains an allegation that there is a reasonable basis to believe that critical circumstances exist with respect to imports of subject merchandise.

Section 703(e)(1) of the Act provides that the Department will determine that there is a reasonable basis to believe or suspect that critical circumstances exist if:

(A) The alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and

(B) There have been massive imports of the subject merchandise over a relatively short period of time.

The petition contains information that satisfies these criteria. First, in accordance with section 771(5)(A)(B) of the Act, petitioners have alleged that several programs are export subsidies and, therefore, inconsistent with the Subsidies Agreement. With respect to the second statutory criterion, whether imports of the subject merchandise have been massive over a relatively short period of time, petitioners note that there has been significant import growth in recent years.

Based on the above, we find a reasonable basis to believe or suspect that critical circumstances exist and will investigate this matter further.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public version of the petition have been provided to representatives of GOC. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition.

ITC Notification

Pursuant to section 702(d) of the Act, we have notified the ITC of these initiations.

Preliminary Determination by the ITC

The ITC will determine by April 21, 1996, whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Canada of LHF. Any ITC determination which is negative will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits. If the ITC determines that an industry in the United States is being materially injured, or is threatened with material injury, the Department will issue its preliminary determination in this investigation on May 31, 1996.

This notice is published pursuant to 702(c)(2) of the Act.

Dated: March 27, 1996.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–8218 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 032296C]

Gulf of Mexico Fishery Management Council; Public Workshop

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

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public workshop on fish traps used in Federal waters.

DATES: The public workshop will be held on April 24, 1996 from 2:00 p.m. to 6:00 p.m.

ADDRESSES: This workshop will be held at the Board of County Commissions Conference Room (behind the courthouse) on Old Aaron Road, Crawfordville, FL. Persons may obtain a copy of Draft Reef Fish Amendment 14 from the Gulf Council.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Swingle, Executive Director; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: Personnel from NMFS will present scientific information on the trap fishery from a vessel observer study NMFS completed during 1994 and 1995. Council staff will present the issues contained in Draft Reef Fish Amendment 14. These issues include limiting participation in the fish trap fishery by instituting a license limitation system and a proposal to prohibit use of fish traps south of 24.9° north lat. (i.e. off Dry Tortugas). This is the second such workshop, the first being held March 11, 1996 in Duck Key, FL.

The Councils' Reef Fish Management Committee, which will be in attendance, will decide whether additional modifications should be made to the draft amendment after hearing public discussion. That action will occur at the Council meeting in Houston, TX to be held May 13–17, 1996.

Special Accommodations

This workshop is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 17, 1996.

Dated: March 29, 1996.

Richard W. Surdi,

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

[FR Doc. 96–8225 Filed 4–3–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Manual for Courts-Martial

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Notice of proposed amendments.

SUMMARY: The Department of Defense is considering recommending changes to the Manual for Courts-Martial, United States (1995 Edition). The proposed changes are the 1996 draft annual review required by the Manual for Courts-Martial and DoD Directive 5500.17, ''Review of the Manual for Courts-Martial,'' January 23, 1985.

The majority of the proposed changes to the MCM implement amendments to the Uniform Code of Military Justice (UCMJ), made pursuant to the Military Justice Amendments of 1995, Pub. L. No. 104–106, 110 Stat. 461 (1996). Among other things, these changes to the MCM would implement recent statutory amendments that: (1) make flight from apprehension a punishable offense; (2) make the offense of carnal knowledge gender neutral and recognize the defense of a mistake of fact as to age under certain conditions; (3) change the effective date for forfeitures of pay and allowances and reductions in grade by sentence of court-martial; (4) provide for forfeiture of pay and allowances during confinement; (5) authorize deferment of confinement during the pendency of

certain appeals; (6) authorize Article 32 pretrial investigating officers to investigate uncharged offenses under certain circumstances and conditions; (7) provide that post-trial matters be submitted by the accused in writing to the convening authority; (8) provide for the commitment of the accused to a treatment facility by reason of lack of mental capacity or mental responsibility; and (9) authorize the United States to appeal rulings relating to the disclosure of classified information. The proposed changes to the MCM would also: (1) place contempt proceeding within the control and discretion of the military judge, vice court members; (2) increase the maximum authorized sentence for assaults committed with an unloaded firearm; and (3) provide that newly discovered evidence is not a basis for a petition for a new trial of the facts when the accused has pled guilty.

The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon'', May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

This notice is provided in accordance with DoD Directive 5500.17, ''Review of the Manual for Courts-Martial'', January 23, 1985. This notice is intended only to improve the internal management of the Federal government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

The Proposed Changes Follow in Their Entirety

The Discussion following R.C.M. 103 is amended by adding the following two sections:

(14) The term classified information (A) means any information or material that has been determined by an official of the United States pursuant to law, an Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security, and (B) any restricted data, as defined in section 2014(y) of title 42, United States Code.

(15) The term ''national security'' means the national defense and foreign relations of the United States.

The analysis accompanying R.C.M. 103 is amended by inserting the following at the end thereof:

1996 Amendment: The definitions of ''classified information'' in (14) and ''national security'' in (15) are identical to those used in the Classified Information Procedures Act (18 U.S.C. § 1). They were added in connection with the change to Article 62(a)(1) (Appeals Relating to Disclosure of Classified Information). See R.C.M. 908 (Appeals by the United States) and M.R.E. 505 (Classified Information).

R.C.M. 405(e) is amended to read as follows:

(e) Scope of investigation. The investigating officer shall inquire into the truth and form of the charges, and such other matters as may be necessary to make a recommendation as to the disposition of the charges. If evidence adduced during the investigation indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of such offense and make a recommendation as to its disposition, without the accused first having been charged with the offense. The accused's rights under subsection (f) are the same with regard to the investigation of both charged and uncharged offenses.

The Discussion following R.C.M. 405(e) is amended by adding the following paragraph at the end of the Discussion:

In investigating uncharged misconduct identified during the pretrial investigation, the investigating officer will inform the accused of the general nature of each uncharged offense investigated, and otherwise afford the accused the same opportunity for representation, cross examination, and presentation afforded during the investigation of any charged offense.

The analysis accompanying R.C.M. 405 is amended by inserting the following at the end thereof:

1996 Amendment: This change is based on the amendments to Article 32 enacted by Congress in the DoD Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996). It authorizes the Article 32 investigating officer to investigate uncharged offenses when, during the course of the Article 32 investigation, the evidence indicates that the accused may have committed such offenses. Permitting the investigating officer to investigate uncharged offenses and recommend an appropriate disposition benefits both the government and the accused. It promotes judicial economy while still affording the accused the same rights the accused would have in the investigation of preferred charges.

The Discussion following R.C.M. 703(e)(2)(G) is amended by adding the following sentence at the end of the second paragraph:

Failing to comply with such a subpoena is a felony offense, and may result in a fine or imprisonment, or both, at the discretion of the district court.

The analysis accompanying R.C.M. 703 is amended by inserting the following at the end thereof:

1996 Amendment: Congress amended Article 47 in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996), to remove limitations on the punishment that a federal district court may impose for a civilian witness' refusal to honor a subpoena to appear or testify before a court-martial. Previously, the maximum sentence for a recalcitrant witness was ''a fine of not more than $500.00, or imprisonment for not more than six months, or both.'' The law now leaves the amount of confinement or fine to the discretion of the federal district court.

R.C.M. 706(c)(2)(D) is amended to read as follows:

(D) Is the accused presently suffering from a mental disease of defect rendering the accused unable to understand the nature of the proceedings against the accused or to conduct or cooperate intelligently in the defense of the case?

The analysis accompanying R.C.M. 706 is amended by inserting the following at the end thereof:

1996 Amendment: Subsection (c)(2)(D) was amended to reflect the standard for incompetency set forth in Article 76b.

R.C.M. 707(b)(3) is amended by adding subsection (E) which reads as follows:

(E) Commitment of the incompetent accused. If the accused is committed to the custody of the Attorney General for hospitalization as provided in R.C.M. 909(f), all periods of such commitment shall be excluded when determining whether the period in subsection (a) of this rule has run. If, at the end of the period of commitment, the accused is returned to the custody of the general court-martial convening authority, a new 120-day time period under this rule shall begin on the date of such return to custody.

R.C.M. 707(c) is amended to read as follows:

(c) Excludable delay. All periods of time during which appellate courts have issued stays in the proceedings, the accused is hospitalized due to incompetency or otherwise in the custody of the Attorney General, shall be excluded when determining whether the period in subsection (a) of this rule has run. All other pretrial delays approved by a military judge or the

convening authority shall be similarly excluded.

The Discussion following R.C.M. 707(c) is created as follows:

Periods during which the accused is hospitalized due to incompetency or otherwise in the custody of the Attorney General are excluded when determining speedy trial under this rule.

The analysis accompanying R.C.M. 707(c) is amended by inserting the following at the end thereof:

1996 Amendment: In creating Article 76b, UCMJ, Congress mandated the commitment of an incompetent accused to the custody of the Attorney General. As an accused is not under military control during any such period of custody, the entire time period is excludable delay under the 120-day speedy trial rule.

R.C.M. 809(b)(1) is amended by deleting:

''In such cases, the regular proceedings shall be suspended while the contempt is disposed of.''

R.C.M. 809(c) is amended to read as follows:

(c) Procedure. The military judge shall in all cases determine whether to punish for contempt, and, if so, what the punishment shall be. The military judge shall also determine when during the court-martial the contempt proceedings shall be conducted; however, if the court-martial is composed of members, the military judge shall conduct the contempt proceedings outside the members' presence. The military judge may punish summarily under subsection (b)(1) only if the military judge recites the facts for the record and states that they were directly witnessed by the military judge in the actual presence of the court-martial. Otherwise, the provisions of subsection (b)(2) shall apply.

The analysis accompanying R.C.M. 809 is amended by adding the following at the end thereof:

1996 Amendment: R.C.M. 809 was amended to modernize military contempt procedures, as recommended in United States v. Burnett, 27 M.J. 99, 106 (C.M.A. 1988). Thus, the amendment simplifies the contempt procedure in trials by courts-martial by vesting contempt power in the military judge and eliminating the members' involvement in the process. The amendment also provides that the court-martial proceedings need not be suspended while the contempt proceedings are conducted. The proceedings will be conducted by the military judge in all cases, outside of the members' presence. The military judge also exercises discretion as to the timing of the proceedings and, therefore, may assure that the court-martial is not otherwise unnecessarily disrupted or the accused prejudiced by the contempt proceedings. See Sacher v. United States, 343 U.S. 1, 10, 72 S. Ct. 451, 455, 96 L. Ed. 717, 724 (1952). The amendment also brings court-martial contempt procedures into line with the procedure applicable in other courts.

R.C.M. 908(a) is amended to read as follows:

(a) In general. In a trial by a court-martial over which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal an order or ruling that terminates the proceedings with respect to a charge or specification, or excludes evidence that is substantial proof of a fact material in the proceedings, or directs the disclosure of classified information, or that imposes sanctions for nondisclosure of classified information. The United States may also appeal a refusal by the military judge to issue a protective order sought by the United States to prevent the disclosure of classified information or to enforce such an order that has previously been issued by the appropriate authority. However, the United States may not appeal an order or ruling that is, or amounts to, a finding of not guilty with respect to the charge or specification.

In making this determination, the military judge is not bound by the rules of evidence except with respect to privileges.

(3) If the military judge finds the accused is incompetent to stand trial, the judge shall report this finding to the general court-martial convening authority, who shall commit the accused to the custody of the Attorney General.

(f) Hospitalization of the accused. An accused who is found incompetent to stand trial under this rule shall be hospitalized by the Attorney General as provided in section 4241(d) of title 18, United States Code. If notified that the accused has recovered to such an extent that he or she is able to understand the nature of the proceedings and to conduct or cooperate intelligently in the defense of the case, then the general court-martial convening authority shall promptly take custody of the accused. If, at the end of the period of hospitalization, the accused's mental condition has not so improved, action shall be taken in accordance with section 4246 of title 18.

(g) Excludable delay. All periods of commitment shall be excluded as provided by R.C.M. 707(c). The 120-day time period under R.C.M. 707 shall begin anew on the date the general court-martial convening authority takes custody of the accused at the end of any period of commitment.

The Discussion following R.C.M. 909(f) is amended by adding the following:

Under section 4241(d) of title 18, the initial period of hospitalization for an incompetent accused shall not exceed four months. However, in determining whether there is a substantial probability the accused will attain the capacity to permit the trial to proceed in the foreseeable future, the accused may be hospitalized for an additional reasonable period of time.

This additional period of time ends either when the accused's mental condition is improved so that trial may proceed, or when the pending charges against the accused are dismissed. If charges are dismissed solely due to the accused's mental condition, the accused is subject to hospitalization as provided in section 4241 of title 18.

The analysis accompanying R.C.M. 909 is amended by inserting the following at the end thereof:

1996 Amendment: The rule was changed to provide for the hospitalization of an incompetent accused after the enactment of Article 76b, UCMJ, in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996).

The analysis accompanying R.C.M. 908 is amended by inserting the following at the end thereof:

1996 Amendment: This change resulted from Congress' amendment to Article 62 in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996). It permits interlocutory appeal of rulings disclosing classified information.

R.C.M. 909 is amended to read as follows:

(a) In general. No person may be brought to trial by court-martial if that person is presently suffering from a mental disease or defect rendering him or her mentally incompetent to the extent that he or she is unable to understand the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case.

(b) Presumption of capacity. A person is presumed to have the capacity to stand trial unless the contrary is established.

(c) Determination before referral. If an inquiry pursuant to R.C.M. 706 conducted before referral concludes that an accused is suffering from a mental disease or defect that renders him or her mentally incompetent to stand trial, and the general court-martial convening authority concurs with that conclusion,

the accused shall be committed by the general court-martial convening authority to the custody of the U.S. Attorney General. If the general court-martial convening authority does not concur, that authority may refer the charges to trial.

(d) Determination after referral. After referral, the military judge may conduct a hearing to determine the mental capacity of the accused. If an inquiry pursuant to R.C.M. 706 conducted after referral but before trial concludes that an accused is suffering from a mental disease or defect that renders him or her mentally incompetent to stand trial, the military judge shall conduct a hearing to determine the mental capacity of the accused. Any such hearing shall be conducted in accordance with paragraph (e) of this rule.

(e) Incompetency determination hearing.

(1) Nature of issue. The mental capacity of the accused is an interlocutory question of fact.

(2) Standard. Trial may proceed unless it is established by a preponderance of the evidence that the accused is presently suffering from a mental disease or defect rendering him or her mentally incompetent to the extent that he or she is unable to understand the nature of the proceedings against the accused or to conduct or cooperate intelligently in the defense of the case.

R.C.M. 916(b) is amended to read as follows:

(b) Burden of proof. Except for the defense of lack of mental responsibility and the defense of mistake of fact as to age as described in Part IV, para. 45.c.(2) in a prosecution for carnal knowledge, the prosecution shall have the burden of proving beyond a reasonable doubt that the defense did not exist. The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence, and has the burden of proving mistake of fact as to age in a carnal knowledge prosecution by a preponderance of the evidence.

The analysis accompanying R.C.M. 916(b) is amended by inserting the following at the end thereof:

1996 Amendment: In enacting the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996), Congress amended Article 120, UCMJ, to create a mistake of fact defense to a prosecution for carnal knowledge. The accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this person was at least 16 years of age. The changes to R.C.M. 916(b) & (j) implement this amendment.

R.C.M. 916(j) is amended to read as follows:

(j) Ignorance or mistake of fact.

(1) Generally. Except as otherwise provided in this subsection, it is a defense to an offense that the accused held, as a result of ignorance or mistake, an incorrect belief of the true circumstances such that, if the circumstances were as the accused believed them, the accused would not be guilty of the offense. If the ignorance or mistake goes to an element requiring premeditation, specific intent, willfulness, or knowledge of a particular fact, the ignorance or mistake need only have existed in the mind of the accused. If the ignorance or mistake goes to any other element requiring only general intent or knowledge, the ignorance or mistake must have existed in the mind of the accused and must have been reasonable under all the circumstances. However, if the accused's knowledge or intent is immaterial as to an element, then ignorance or mistake is not a defense.

(2) Carnal knowledge. It is a defense to a prosecution for carnal knowledge, which the accused must prove by a preponderance of the evidence, that at the time of the sexual intercourse, the person with whom the accused had sexual intercourse was at least 12 years of age, and that the accused reasonably believed the person was at least 16 years of age.

The Discussion following R.C.M. 916(j), third paragraph, is amended to read as follows:

Examples of offenses in which the accused's intent or knowledge is immaterial include: carnal knowledge (if the victim is under 12 years of age); improper use of countersign (mistake as to authority of person to whom disclosed not a defense). Such ignorance or mistake may be relevant in extenuation and mitigation, however.

The analysis accompanying R.C.M. 916(j) is amended by inserting the following at the end thereof:

1996 Amendment: In enacting the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996), Congress amended Article 120, UCMJ, to create a mistake of fact defense to a prosecution for carnal knowledge. The accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this person was at least 16 years of age. The changes to R.C.M. 916(b) & (j) implement this amendment.

R.C.M. 920(e)(5)(D) is amended to read as follows:

(D) The burden of proof to establish the guilt of the accused is upon the Government. [When the issue of lack of mental responsibility is raised, add: The burden of proving the defense of lack of mental responsibility by clear and convincing evidence is upon the accused. When the issue of mistake of fact as to age in a carnal knowledge prosecution is raised, add: The burden of proving the defense of mistake of fact as to age in carnal knowledge by a preponderance of the evidence is upon the accused.]

The analysis accompanying R.C.M. 920(e) is amended by inserting the following at the end thereof:

1996 Amendment: This change to R.C.M. 920(e) implemented Congress' creation of a mistake of fact defense for carnal knowledge. Article 120(d), UCMJ provides that the accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this person was at least 16 years of age.

The Discussion following R.C.M. 1003(b)(2) is amended by adding the following paragraph between the existing first and second paragraphs in the Discussion:

Forfeitures of pay and allowances adjudged as part of a court-martial sentence, or occurring by operation of Article 58b are effective 14 days after the sentence is adjudged or when the sentence is approved by the convening authority, whichever is earlier.

The Discussion following R.C.M. 1003(b)(2) is amended by adding the following at the end of the Discussion:

Forfeiture of pay and allowances under Article 58b is not a part of the sentence, but is an administrative result thereof.

At general courts-martial, if both a punitive discharge and confinement are adjudged, then the operation of Article 58b results in total forfeiture of pay and allowances during that period of confinement. If only confinement is adjudged, then if that confinement exceeds six months, the operation of Article 58b results in total forfeiture of pay and allowances during that period of confinement. If only a punitive discharge is adjudged, Article 58b has no effect on pay and allowances. A death sentence results in total forfeiture of pay and allowances.

At a special court-martial, if a bad conduct discharge and confinement are adjudged, then the operation of Article 58b results in a total forfeiture of two-thirds of pay and allowances during that

period of confinement. If only confinement is adjudged, however, then Article 58b has no effect on adjudged forfeitures.

If the sentence, as approved by the convening authority or other competent authority, does not result in forfeitures by the operation of Article 58b, then only adjudged forfeitures are effective.

Article 58b has no effect on summary courts-martial.

R.C.M. 1005(e) is amended to read as follows:

(e) Required Instructions. Instructions on sentence shall include:

(1) A statement of the maximum authorized punishment which may be adjudged and of the mandatory minimum punishment, if any;

(2) A statement of the effect any sentence announced including a punitive discharge and confinement, or confinement in excess of six months will have on the accused's entitlement to pay and allowances.

(3) A statement of the procedures for deliberation and voting on the sentence set out in R.C.M. 1006;

(4) A statement informing the members that they are solely responsible for selecting an appropriate sentence and may not rely on the possibility of any mitigating action by the convening or higher authority; and

(5) A statement that the members should consider all matters in extenuation, mitigation, and aggravation, whether introduced before or after findings, and matters introduced under R.C.M. 1001(b)(1), (2), (3) and (5).

The analysis accompanying R.C.M. 1005(e) is amended by inserting the following at the end thereof:

1996 Amendment: The requirement to instruct members on the effect a sentence including a punitive discharge and confinement or confinement exceeding six months may have on adjudged forfeitures was made necessary by the creation of Article 58b, UCMJ in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996).

The catch line for R.C.M. 1101 is amended as follows:

Rule 1101. Report of result of trial; post-trial restraint; deferment of confinement, forfeitures and reduction in grade; waiver of Article 58(b) forfeitures

R.C.M. 1101(c) is amended as follows:

(c) Deferment of confinement, forfeitures or reduction in grade.

(1) In general. Deferment of a sentence to confinement, forfeitures or reduction in grade is a postponement of the service and of the running of a sentence.

(2) Who may defer. The convening authority, or if the accused is no longer in the convening authority's jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is assigned, may, upon written application of the accused, at any time after the adjournment of the court-martial, defer the accused's service of a sentence to confinement, forfeitures or reduction in grade which has not been ordered executed.

(3) Action on deferment request. The authority acting on the deferment request may, in that authority's discretion, defer service of a sentence to confinement, forfeitures or reduction in grade. The accused shall have the burden of showing that the interests of the accused and the community in deferral outweigh the community's interest in imposition of the punishment on its effective date. Factors that the authority acting on a deferment request may consider in determining whether to grant the deferment request include, where applicable: the probability of the accused's flight; the probability of the accused's commission of other offenses, intimidation of witnesses, or interference with the administration of justice; the nature of the offenses (including the effect on the victim) of which the accused was convicted; the sentence adjudged; the command's immediate need for the accused; the effect of deferment on good order and discipline in the command; the accused's character, mental condition, family situation, and service record. The decision of the authority acting on the deferment request shall be subject to judicial review only for abuse of discretion. The action of the authority acting on the deferment request shall be in writing and a copy shall be provided to the accused.

(4) Orders. The action granting deferment shall be reported in the convening authority's action under R.C.M. 1107(f)(4)(E) and shall include the date of the action on the request when it occurs prior to or concurrently with the action. Action granting deferment after the convening authority's action under R.C.M. 1107 shall be reported in orders under R.C.M. 1114 and included in the record of trial.

(5) Restraint when deferment is granted. When deferment of confinement is granted, no form of restraint or other limitation on the accused's liberty may be ordered as a substitute form of punishment. An accused may, however, be restricted to specified limits or conditions may be placed on the accused's liberty during the period of deferment for any other proper reason, including a ground for restraint under R.C.M. 304.

(6) End of deferment. Deferment of a sentence to confinement, forfeitures or reduction in grade ends when:

(A) The convening authority takes action under R.C.M. 1107, unless the convening authority specifies in the action that service of confinement after the action is deferred;

(B) The confinement, forfeitures or reduction in grade are suspended;

(C) The deferment expires by its own terms; or

(D) The deferment is otherwise rescinded in accordance with subsection (c)(7) of this rule. Deferment of confinement may not continue after the conviction is final under R.C.M. 1209.

(7) Rescission of deferment.

(A) Who may rescind. The authority who granted the deferment or, if the accused is no longer within that authority's jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is assigned, may rescind the deferment.

(B) Action. Deferment of confinement, forfeitures, or reduction in grade may be rescinded when additional information is presented to a proper authority which, when considered with all other information in the case, that authority finds, in that authority's discretion, is grounds for denial of deferment under subsection (c)(3) of this rule. The accused shall promptly be informed of the basis for the rescission and of the right to submit written matters on the accused's behalf and to request that the rescission be reconsidered. However, the accused may be required to serve the sentence to confinement, forfeitures, or reduction in grade pending this action.

(C) Execution. When deferment of confinement is rescinded after the convening authority's action under R.C.M. 1107, the confinement may be ordered executed. However, no such order to rescind a deferment of confinement may be issued within 7 days of notice of the rescission of a deferment of confinement to the accused under subsection (c)(7)(B) of this rule, to afford the accused an opportunity to respond. The authority rescinding the deferment may extend this period for good cause shown. The accused shall be credited with any confinement actually served during this period.

(D) Orders. Rescission of a deferment before or concurrently with the initial action in the case shall be reported in the action under R.C.M. 1107(f)(4)(E), which action shall include the dates of the granting of the deferment and the rescission. Rescission of a deferment of confinement after the convening

authority's action shall be reported in supplementary orders in accordance with R.C.M. 1114 and shall state whether the approved period of confinement is to be executed or whether all or part of it is to be suspended.

The Discussion following R.C.M. 1101 (c)(6) is amended to read as follows:

When the sentence is ordered executed, forfeitures, or reduction in grade may be suspended but may not be deferred; deferral of confinement may continue after action in accordance with R.C.M. 1107. A form of punishment cannot be both deferred and suspended at the same time. When deferment of confinement, forfeitures, or reduction in grade ends, the sentence to confinement, forfeitures, or reduction in grade begins to run or resumes running, as appropriate. When the convening authority has specified in the action that confinement will be deferred after the action, the deferment may not be terminated, except under subsections (6)(B), (C), or (D), until the conviction is final under R.C.M. 1209.

See R.C.M. 1203 for deferment of a sentence to confinement pending review under Article 67(a)(2).

The analysis accompanying R.C.M. 1101(c) is amended by inserting the following at the end thereof:

1996 Amendment: In enacting the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996), Congress amended Article 57(a) to make forfeitures of pay and allowances and reductions in grade effective either 14 days after being adjudged by a court-martial, or when the convening authority takes action in the case, whichever was earlier in time. Until this change, any adjudged forfeitures or reduction in grade took effect only at convening authority action, which meant the accused often retained the privileges of his or her rank and pay for several months. The intent of the amendment to Article 57(a) was to change this situation so that the desired punitive and rehabilitative impact on the accused occurred more quickly.

Congress, however, desired that a deserving accused be permitted to request a deferment of any adjudged forfeitures or reduction in grade, so that a convening authority, in appropriate situations, might mitigate the effect of Article 57(a).

This change to R.C.M. 1101 is in addition to the change to R.C.M. 1203. The latter implements Congress' creation of Article 57a, giving the Service Secretary concerned the authority to defer a sentence to confinement pending review under Article 67(a)(2).

R.C.M. 1101 is amended by adding the following new subparagraph (d):

(d) Waiving forfeitures resulting from a sentence to confinement to provide for dependent support.

(1) With respect to forfeiture of pay and allowances resulting only by operation of law and not adjudged by the court, the convening authority may waive all or part of the forfeitures for the purpose of providing support to the accused's dependents for up to six months.

(2) Factors that may be considered by the convening authority in determining the amount of forfeitures, if any, to be waived include, but are not limited to, the length of the accused's confinement, the number and age(s) of the accused's family members, whether the accused requested waiver, any debts owed by the accused, the ability of the accused's family members to find employment, and the availability of transitional compensation for abused dependents permitted under 10 U.S.C. 1059.

(3) For the purposes of this Rule, a ''dependent'' means any person qualifying as a ''dependent'' under section 1072 of title 10.

The Discussion following R.C.M. 1101(d) is created as follows:

Any waived forfeitures should be expressed in a dollar amount and for a period of months, not to exceed the months of confinement adjudged.

The analysis accompanying R.C.M. 1101(d) is created as follows:

1996 Amendment: All references to ''postponing'' service of a sentence to confinement were changed to the more appropriate term ''defer.''

R.C.M. 1102A is created to read as follows:

Rule 1102A. Post-trial hearing for person found not guilty only by reason of lack of mental responsibility.

(a) In general. The military judge shall conduct a hearing not later than forty days following the finding that an accused is not guilty only by reason of a lack of mental responsibility.

(b) Psychiatric or psychological examination and report. Prior to the hearing, the military judge or convening authority shall order a psychiatric or psychological examination of the accused, with the resulting psychiatric or psychological report transmitted to the military judge for use in the post-trial hearing.

(c) Post-trial hearing.

(1) The accused shall be represented by defense counsel, and shall have the opportunity to testify, present evidence, call witnesses on his or her behalf, and to confront and cross-examine witnesses who appear at the hearing.

(2) The military judge is not bound by the rules of evidence except with respect to privileges.

(3) An accused found not guilty only by reason of a lack of mental responsibility of an offense involving bodily injury to another, or serious damage to the property of another, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his or her release would not create a substantial risk of bodily injury to another person or serious damage to property of another due to a present mental disease or defect. With respect to any other offense, the accused has the burden of such proof by a preponderance of the evidence.

(4) If, after the hearing, the military judge finds the accused has satisfied the standard specified in subsection (3) of this section, the military judge shall inform the general court-martial convening authority of this result and the accused shall be released. If, however, the military judge finds after the hearing that the accused has not satisfied the standard specified in subsection (3) of this section, then the military judge shall inform the general court-martial convening authority of this result and that authority may commit the accused to the custody of the Attorney General.

The analysis accompanying R.C.M. 1102A is created as follows:

1996 Amendments. This new Rule implements Article 76b(b), UCMJ. Created by Congress in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996), it provides for a post-trial hearing within forty days of the finding that the accused is not guilty only by reason of a lack of mental responsibility. Depending on the offense concerned, the accused has the burden of proving either by a preponderance of the evidence, or by clear and convincing evidence, that his or her release would not create a substantial risk of bodily injury to another person or serious damage to property of another due to a present mental disease or defect. The intent of the drafters is for R.C.M. 1102A to mirror the provisions of sections 4243 and 4247 of title 18, United States Code.

R.C.M. 1105(b) is amended to read as follows:

(b) Matters which may be submitted. The accused may submit to the convening authority any matters which may reasonably tend to affect the convening authority's decision whether to disapprove any findings of guilty or to approve the sentence. The convening

authority is only required to consider written submissions. Submissions are not subject to the Military Rules of Evidence and may include:

(1) Allegations of errors affecting the legality of the findings or sentence;

(2) Portions or summaries of the record and copies of documentary evidence offered or introduced at trial;

(3) Matters in mitigation which were not available for consideration at the court-martial; and

(4) Clemency recommendations by any member, the military judge, or any other person. The defense may ask any person for such a recommendation.

The Discussion following R.C.M. 1105(b) is amended by adding the following at the end of the Discussion:

Although only written submissions must be considered, the convening authority may consider any submission by the accused, including, but not limited to, videotapes, photographs, and oral presentations.

R.C.M. 1107(b)(4) is amended to read as follows:

(4) When proceedings resulted in a finding of not guilty or not guilty only by reason of lack of mental responsibility, or there was a ruling amounting to a finding of not guilty. The convening authority shall not take action approving or disapproving a finding of not guilty, a finding of not guilty only by reason of lack of mental responsibility, or a ruling amounting to a finding of not guilty. The convening authority, however, shall commit the accused to a suitable facility pending a hearing and disposition in accordance with R.C.M. 1102A.

The Discussion following R.C.M. 1107(b)(4) is created as follows:

Commitment of the accused to the custody of the Attorney General for hospitalization is discretionary.

The analysis accompanying R.C.M. 1107(b) is amended by inserting the following at the end thereof:

1996 Amendment: Congress created Article 76b, UCMJ in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996). It gives the convening authority discretion to commit an accused found not guilty only by reason of a lack of mental responsibility to the custody of the Attorney General.

The catch line for R.C.M. 1107(d)(3) is amended as follows:

(3) Deferring service of a sentence to confinement.

R.C.M. 1107(d)(3)(A) is amended to read as follows:

(A) In a case in which a court-martial sentences an accused referred to in subsection (B), below, to confinement, the convening authority may defer service of a sentence to confinement by a court-martial, without the consent of the accused, until after the accused has been permanently released to the armed forces by a state or foreign country.

The analysis accompanying R.C.M. 1107(d) is amended by inserting the following at the end thereof:

1996 Amendment: This new subsection implements the creation of Article 58b, UCMJ in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996). This article permits the convening authority (or other person acting under Article 60) to waive any or all of the forfeitures of pay and allowances forfeited by operation of Article 58b(a) for a period not in excess of six months. Any forfeitures waived shall be paid to the accused's dependent(s) for support.

R.C.M. 1203(c)(1) is amended to read as follows:

(1) Forwarding by the Judge Advocate General to the Court of Appeals for the Armed Forces. The Judge Advocate General may forward the decision of the Court of Criminal Appeals to the Court of Appeals for the Armed Forces for review with respect to any matter of law. In such a case, the Judge Advocate General shall cause a copy of the decision of the Court of Criminal Appeals and the order forwarding the case to be served on the accused and on appellate defense counsel. While a review of a forwarded case is pending, the Secretary concerned may defer further service of a sentence to confinement which has been ordered executed in such a case.

The analysis accompanying R.C.M. 1203(c) is amended by inserting the following at the end thereof:

1996 Amendment: The change to the rule implements Congress' creation of Article 57a, UCMJ, contained in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996). A sentence to confinement may be deferred by the Secretary concerned when it has been set aside by a Court of Criminal Appeals and a Judge Advocate General certifies the case to the Court of Appeals for the Armed Forces for further review under Article 67(a)(2). Unless it can be shown that the accused is a flight risk or a potential threat to the community, the accused should be released from confinement pending the appeal. See *Moore* v. *Adkins*, 30 M.J. 249 (C.M.A. 1990).

R.C.M. 1210(a) is amended by adding at the end thereof the following sentence:

A petition for a new trial of the facts may not be submitted on the basis of newly discovered evidence when the petitioner was found guilty of the relevant offense pursuant to a guilty plea.

The analysis accompanying R.C.M. 1210 is amended by adding the following at the end thereof:

1996 Amendment: R.C.M. 1210(a) was amended to clarify its application consistent with interpretations of Fed. R. Crim. P. 33 that newly discovered evidence is never a basis for a new trial of the facts when the accused has pled guilty. See United States v. Lambert, 603 F.2d 808, 809 (10th Cir. 1979); see also United States v. Gordon, 4 F.3d 1567, 1572 n.3 (10th Cir. 1993), cert. denied, 114 S. Ct 1236 (1994); United States v. Collins, 898 F. 2d 103 (9th Cir. 1990)(per curiam); United States v. Prince, 533 F.2d 205 (5th Cir. 1976); Williams v. United States, 290 F.2d 217 (5th Cir. 1961). But see United States v. Brown, 11 U.S.C.M.A. 207, 211, 29 C.M.R. 23, 27 (1960) (per Latimer, J.) (newly discovered evidence could be used to attack guilty plea on appeal in era prior to the guilty plea examination mandated by United States v. Care, 18 U.S.C.M.A. 535, 40 C.M.R. 247 (1969) and R.C.M. 910(e)). Article 73 authorizes a petition for a new trial of the facts when there has been a trial. When there is a guilty plea, there is no trial. See R.C.M. 910(j). Additionally, R.C.M. 1210(f)(2)(C) provides that a new trial may not be granted on the basis of newly discovered evidence unless ''[t]he newly discovered evidence, if considered by a court-martial in the light of all other pertinent evidence, would probably produce a substantially more favorable result for the accused.'' The amendment is made in recognition of the fact that it is difficult, if not impossible, to determine whether newly discovered evidence would have an impact on the trier of fact when there has been no trier of fact and no previous trial of the facts at which other pertinent evidence has been adduced.

Part IV, paragraph 19, is amended to read as follows:

19. Article 95—Resistance, flight, breach of arrest, and escape

a. Text.

''Any person subject to this chapter who—

(1) resists apprehension;

(2) flees from apprehension;

(3) breaks arrest; or

(4) escapes from custody or confinement; shall be punished as a court-martial may direct.''

b. Elements.

(1) Resisting apprehension.

(a) That a certain person attempted to apprehend the accused;

(b) That said person was authorized to apprehend the accused; and

(c) That the accused actively resisted the apprehension.

(2) Flight from apprehension.

(a) That a certain person attempted to apprehend the accused;

(b) That said person was authorized to apprehend the accused; and

(c) That the accused fled from the apprehension.

(3) Breaking arrest.

(a) That a certain person ordered the accused into arrest;

(b) That said person was authorized to order the accused into arrest; and

(c) That the accused went beyond the limits of arrest before being released from that arrest by proper authority.

(4) Escape from custody.

(a) That a certain person apprehended the accused;

(b) That said person was authorized to apprehend the accused; and

(c) That the accused freed himself or herself from custody before being released by proper authority.

(5) Escape from confinement.

(a) That a certain person ordered the accused into confinement;

(b) That said person was authorized to order the accused into confinement; and

(c) That the accused freed himself or herself from confinement before being released by proper authority. [Note: If the escape was from post-trial confinement, add the following element]

(d) That the confinement was the result of a court-martial conviction.

c. Explanation.

(1) Resisting apprehension.

(a) Apprehension. Apprehension is the taking of a person into custody. See R.C.M. 302.

(b) Authority to apprehend. See R.C.M. 302(b) concerning who may apprehend. Whether the status of a person authorized that person to apprehend the accused is a question of law to be decided by the military judge. Whether the person who attempted to make an apprehension had such a status is a question of fact to be decided by the factfinder.

(c) Nature of the resistance. The resistance must be active, such as assaulting the person attempting to apprehend. Mere words of opposition, argument, or abuse, and attempts to escape from custody after the apprehension is complete, do not constitute the offense of resisting apprehension although they may constitute other offenses.

(d) Mistake. It is a defense that the accused held a reasonable belief that the person attempting to apprehend did not have authority to do so. However, the accused's belief at the time that no basis exists for the apprehension is not a defense.

(e) Illegal apprehension. A person may not be convicted of resisting apprehension if the attempted apprehension is illegal, but may be convicted of other offenses, such as assault, depending on all the circumstances. An attempted apprehension by a person authorized to apprehend is presumed to be legal in the absence of evidence to the contrary. Ordinarily the legality of an apprehension is a question of law to be decided by the military judge.

(2) Flight from apprehension. The flight must be active, such as running or driving away.

(3) Breaking arrest.

(a) Arrest. There are two types of arrest: pretrial arrest under Article 9 (see R.C.M. 304) and arrest under Article 15 (see paragraph 5c(3), Part V). This article prohibits breaking any arrest.

(b) Authority to order arrest. See R.C.M. 304(b) and paragraphs 2 and 5b, Part V concerning authority to order arrest.

(c) Nature of restraint imposed by arrest. In arrest, the restraint is moral restraint imposed by orders fixing the limits of arrest.

(d) Breaking. Breaking arrest is committed when the person in arrest infringes the limits set by orders. The reason for the infringement is immaterial. For example, innocence of the offense with respect to which an arrest may have been imposed is not a defense.

(e) Illegal arrest. A person may not be convicted of breaking arrest if the arrest is illegal. An arrest ordered by one authorized to do so is presumed to be legal in the absence of some evidence to the contrary. Ordinarily, the legality of an arrest is a question of law to be decided by the military judge.

(4) Escape from custody.

(a) Custody. ''Custody'' is restraint of free locomotion imposed by lawful apprehension. The restraint may be physical or, once there has been a submission to apprehension or a forcible taking into custody, it may consist of control exercised in the presence of the prisoner by official acts or orders. Custody is temporary restraint intended to continue until other restraint (arrest, restriction, confinement) is imposed or the person is released.

(b) Authority to apprehend. See subparagraph (1)(b) above.

(c) Escape. For a discussion of escape, see subparagraph c(4)(c), below.

(d) Illegal custody. A person may not be convicted of this offense if the custody was illegal. An apprehension effected by one authorized to apprehend is presumed to be lawful in the absence of evidence to the contrary. Ordinarily, the legality of an apprehension is a question of law to be decided by the military judge.

(e) Correctional custody. See paragraph 70.

(5) Escape from confinement.

(a) Confinement. Confinement is physical restraint imposed under R.C.M. 305; 1101; or paragraph 5b, Part V. For purposes of the element of post-trial confinement (subparagraph b (5)(d), above) and increased punishment therefor (subparagraph e (4), below), the confinement must have been imposed pursuant to an adjudged sentence of a court-martial and not as a result of pretrial restraint or nonjudicial punishment.

(b) Authority to order confinement. See R.C.M. 304(b); 1101; and paragraphs 2 and 5b, Part V concerning who may order confinement.

(c) Escape. An escape may be either with or without force or artifice, and either with or without the consent of the custodian. However, where a prisoner is released by one with apparent authority to do so, the prisoner may not be convicted of escape from confinement. See also paragraph 20c(1)(b). Any completed casting off of the restraint of confinement, before release by proper authority, is an escape, and lack of effectiveness of the restraint imposed is immaterial. An escape is not complete until the prisoner is momentarily free from the restraint. If the movement toward escape is opposed, or before it is completed, an immediate pursuit follows, there is no escape until opposition is overcome or pursuit is shaken off.

(d) Status when temporarily outside confinement facility. A prisoner who is temporarily escorted outside a confinement facility for a work detail or other reason by a guard, who has both the duty and means to prevent that prisoner from escaping, remains in confinement.

(e) Legality of confinement. A person may not be convicted of escape from confinement if the confinement is illegal. Confinement ordered by one authorized to do so is presumed to be lawful in the absence of evidence to the contrary. Ordinarily, the legality of confinement is a question of law to be decided by the military judge.

d. Lesser included offenses.

(1) Resisting apprehension. Article 128—assault; assault consummated by a battery

(2) Breaking arrest.

(a) Article 134—breaking restriction

(b) Article 80—attempts

(3) Escape from custody. Article 80—attempts

(4) Escape from confinement. Article 80—attempts

e. Maximum punishment.

(1) Resisting apprehension. Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(2) Flight from apprehension. Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(3) Breaking arrest. Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months.

(4) Escape from custody, pretrial confinement, or confinement on bread and water or diminished rations imposed pursuant to Article 15. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(5) Escape from post-trial confinement. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

f. Sample specifications.

(1) Resisting apprehension.

In that _____ (personal jurisdiction data), did (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 19____, resist being apprehended by _____, (an armed force policeman) (_____), a person authorized to apprehend the accused.

(2) Flight from apprehension.

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject matter jurisdiction data, if required), on or about _____ 199____, flee apprehension by_____ (an armed force policeman) (_____), a person authorized to apprehend the accused.

(3) Breaking arrest.

In that _____ (personal jurisdiction data), having been placed in arrest (in quarters) (in his/her company area) (_____) by a person authorized to order the accused into arrest, did, (at/on board—location) on or about _____ 19____, break said arrest.

(4) Escape from custody.

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 19____, escape from the custody of _____, a person authorized to apprehend the accused.

(5) Escape from confinement.

In that _____ (personal jurisdiction data), having been placed in (post-trial) confinement in (place of confinement), by a person authorized to order accused into confinement did, (at/on board _____ location) (subject-matter jurisdiction data, if required), on or about _____ 19____, escape from confinement.

The following analysis is inserted after the analysis to Article 95:

1996 Amendment: Subparagraphs a, b, c and f were amended to implement the amendment to 10 U.S.C. § 895 (Article 95, UCMJ) contained in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996). The amendment proscribes fleeing from apprehension without regard to whether the accused otherwise resisted apprehension. The amendment responds to the U.S. Court of Appeals for the Armed Forces decisions in *United States* v. *Harris*, 29 M.J. 169 (C.M.A. 1989), and *United States* v. *Burgess*, 32 M.J. 446 (C.M.A. 1991). In both cases, the court held that resisting apprehension does not include fleeing from apprehension, contrary to the then-existing explanation in Part IV, paragraph 19b(i), MCM, of the nature of the resistance required for resisting apprehension. The 1951 and 1969 Manuals for Courts-Martial also explained that flight could constitute resisting apprehension under article 95, an interpretation affirmed in the only early military case on point, *United States* v. *Mercer*, 11 C.M.R. 812 (A.F.B.R. 1953).

Flight from apprehension should be expressly deterred and punished under military law. Military personnel are specially trained and routinely expected to submit to lawful authority. Rather than being a merely incidental or reflexive action, flight from apprehension in the context of the armed forces may have a distinct and cognizable impact on military discipline.

Part IV, paragraphs 45.a & b, are amended to read as follows:

45. Article 120—Rape and carnal knowledge

a. Text.

(a) Any person subject to this chapter who commits an act of sexual intercourse by force and without consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person—

(1) who is not his or her spouse; and

(2) who has not attained the age of sixteen years; is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(c) Penetration, however slight, is sufficient to complete either of these offenses.

''(d)(1) In a prosecution under subsection (b), it is an affirmative defense that—

(A) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and

(B) the accused reasonably believed that the person had at the time of the alleged offense attained the age of sixteen years.

(2) The accused has the burden of proving a defense under paragraph (1) by a preponderance of the evidence.''

b. Elements.

(1) Rape.

(a) That the accused committed an act of sexual intercourse; and;

(b) That the act of sexual intercourse was done by force and without consent.

(2) Carnal knowledge.

(a) That the accused committed an act of sexual intercourse with a certain person;

(b) That the person was not the accused's spouse; and

(c) That at the time of the sexual intercourse the person was under 16 years of age.

The following analysis is inserted after the analysis to Article 120:

1996 Amendment: In enacting the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104–106 (1996), Congress amended Article 120, UCMJ, to create a mistake of fact defense to a prosecution for carnal knowledge. The accused must prove by a preponderance of the evidence that the person with whom he or she had sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this person was at least 16 years of age.

Part IV, paragraph 45.c.(2), is amended to read as follows:

(2) Carnal knowledge. ''Carnal knowledge'' is sexual intercourse under circumstances not amounting to rape, with a person who is not the accused's spouse and who has not attained the age of 16 years. Any penetration, however slight, is sufficient to complete the offense. It is a defense, however, which the accused must prove by a preponderance of the evidence, that at the time of the act of sexual intercourse, the person with whom the accused committed the act of sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this same person was at least 16 years of age.

c. Part IV, paragraph 54.e.(1), is amended to read as follows:

(1) Simple Assault.

(A) Generally. Confinement for 3 months and forfeiture of two-thirds pay per month for 3 months.

(B) When committed with an unloaded firearm. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

The following analysis is inserted after the analysis to Article 128, para. e:

1996 Amendment: A separate maximum punishment for assault with an unloaded firearm was created due to the serious nature of the offense. Threatening a person with an unloaded firearm places the victim of that assault in fear of losing his or her life. Such a traumatic experience is a far greater injury to the victim than that sustained in the course of a typical simple assault and therefore calls for an increased punishment.

ADDRESSES: Comments on the proposed changes should be sent to Maj. Paul Holden, Office of the Judge Advocate General, Criminal Law Division, 2200 Army Pentagon, Washington, D.C. 20310–2200.

DATES: Comments on the proposed changes must be received no later than [insert date of publication +75 days] for consideration by the Joint Service Committee on Military Justice.

FOR FURTHER INFORMATION CONTACT: LT J. Russell McFarlane, JAGC, USNR, Executive Secretary, Joint Service Committee on Military Justice, Office of the Judge Advocate General, Criminal Law Division, Building 111, Washington Navy Yard, Washington, D.C. 20374–1111; (202) 433–5895.

Dated: April 1, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–8330 Filed 4–3–96; 8:45 am]

BILLING CODE 5000–04–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0053]

Submission for OMB Review; Comment Request Entitled Permits, Authorities, or Franchises Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0053).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Permits, Authorities, or Franchises Certification. A request for public comments was published at 61 FR 3676, February 1, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Federal Acquisition Policy Division, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved. The contracting officer reviews the certification and any documents requested to ensure that the offeror has complied with all regulatory requirements and has obtained any permits, licenses, etc., that are needed.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes for the first completion, *1* minute for subsequent completions, or an average of *5.7* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,106;* responses per respondent, 3; total annual responses, *3,318;* preparation hours per response, *.094;* and total response burden hours, *312.*

Obtaining Copies of Proposals

Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0053, Permits Authorities, or Franchises Certification, in all correspondence.

Dated: March 28, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8275 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

[OMB Control No. 9000–0054]

Submission for OMB Review; Comment Request Entitled U.S.-Flag Air Carriers Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0054).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning U.S.-Flag Air Carriers Certification. A request for public comments was published at 61 FR 3677, February 1, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0054, U.S.-Flag Air Carriers Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Federal Acquisition Policy Division, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (Fly America Act) requires that all Federal agencies and Government

contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag carrier is available to provide such services. In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the contractor shall include a certification on vouchers involving such transportation. The contracting officer uses the information furnished in the certification to determine whether adequate justification exists for the contractor's use of other than a U.S.-flag air carrier.

B. Annual Reporting Burden

–Public reporting burden for this collection of information is estimated to average *15* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *150;* responses per respondent, 2; total annual responses, *300;* preparation hours per response, *.25;* and total response burden hours, *75.*

Obtaining Copies of Proposals

Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0054, U.S.-Flag Air Carriers Certification, in all correspondence.

Dated: March 28, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8276 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

[OMB Control No. 9000–0055]

Submission for OMB Review; Comment Request Entitled Freight Classification Description

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0055).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Freight Classification Description. A request for public comments was published at 61 FR 3677, February 1, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Federal Acquisition Policy Division, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government purchases supplies that are new to the supply system, nonstandard, or modificatons of previously shipped items, and different freight classifications may apply, offerors are requested to indicate the full Uniform Freight Classification or National Motor Freight Classification. The information is used to determine the proper freight rate for the supplies.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *2,640;* responses per respondent, 3; total annual responses, *7,920;* preparation hours per response, *.167;* and total response burden hours, *1,323.*

Obtaining Copies of Proposals:

Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

Dated: March 28, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8277 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

[OMB Control No. 9000–0057]

Submission for OMB Review; Comment Request Entitled Evaluation of Export Offers

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0057).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Evaluation of Export Offers. A request for public comments was published at 61 FR 3678, February 1, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0057, Evaluation of Export Offers, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Federal Acquisition Policy Division, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

Offers submitted in response to Government solicitations must be evaluated and awards made on the basis of the lowest laid down cost to the

Government at the overseas port of discharge, via methods and ports compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Offers are evaluated on the basis of shipment through the port resulting in the lowest cost to the Government. This provision collects information regarding the vendor's preference for delivery ports. The information is used to evaluate offers and award a contract based on the lowest cost to the Government.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes for the first completion, *10* minutes for subsequent completions, or an average of *15* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *100;* responses per respondent, 4; total annual responses, *400;* preparation hours per response, *.25;* and total response burden hours, *100.*

Obtaining Copies of Proposals

Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0057, Evaluation of Export Offers, in all correspondence.

Dated: March 28, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8278 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

[OMB Control No. 9000–0061]–

Submission for OMB Review; Comment Request Entitled Transportation Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0061).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Transportation Requirements. A request for public comments was published at 61 FR 3678, February 1, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Federal Acquisition Policy Division, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose–

FAR Part 47 and related clauses contain policies and procedures for applying transportation and traffic management considerations in the acquisition of supplies and acquiring transportation or transportation-related services. Generally, contracts involving transportation require information regarding the nature of the supplies, method of shipment, place and time of shipment, applicable charges, marking of shipments, shipping documents and other related items. This information is required to ensure proper and timely shipment of Government supplies.–

B. Annual Reporting Burden –

Public reporting burden for this collection of information is estimated to average *23* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.–

The annual reporting burden is estimated as follows: Respondents, *65,000;* responses per respondent, 5; total annual responses, *325,000;* preparation hours per response, *.23;* and total response burden hours, *74,750.*

Obtaining Copies of Proposals

Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

Dated: March 28, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8279 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

[OMB Control No. 9000–0069]–

Submission for OMB Review; Comment Request Entitled Indirect Cost Rates

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0069).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Indirect Cost Rates. A request for public comments was published at 61 FR 3375, January 31, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0069, Indirect Cost Rates, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose–

The contractor's proposal of final indirect cost rates is necessary for the establishment of rates used to reimburse the contractor for the costs of performing under the contract. The supporting cost data are the cost accounting information normally prepared by organizations under sound management and accounting practices.–

The proposal and supporting data is used by the contracting official and auditor to verify and analyze the

indirect costs and to determine the final indirect cost rates or to prepare the Government negotiating position if negotiation of the rates is required under the contract terms.–

B. Annual Reporting Burden –

Public reporting burden for this collection of information is estimated to average *1* hour per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.–

The annual reporting burden is estimated as follows: Respondents, *9,770;* responses per respondent, *1*; total annual responses, *9,770;* preparation hours per response, *1*; and total response burden hours, *9,770*.

Obtaining Copies of Proposals: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0069, Indirect Cost Rates, in all correspondence.

Dated: March 28, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8280 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

[OMB Control No. 9000–0070]–

Submission for OMB Review; Comment Request Entitled Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0070).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Payments. A request for public comments was published at 61 FR 3376, January 31, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0070, Payments, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson, Federal Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION

A. Purpose–

Firms performing under Federal contracts must provide adequate documentation to support requests for payment under these contracts. The documentation may range from a simple invoice to detailed cost data. The information is usually submitted once, at the end of the contract period or upon delivery of the supplies, but could be submitted more often depending on the payment schedule established under the contract (see FAR 52.232–1 through 52.232–11). The information is used to determine the proper amount of payments to Federal contractors.–

B. Annual Reporting Burden –

Public reporting burden for this collection of information is estimated to average *1* minute for small purchases and fixed-price contracts, and *30* minutes for T&M and Labor Hour contracts per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.–

The annual reporting burden is estimated as follows: Respondents, *80,000*; responses per respondent, *120*; total annual responses, *9,600,000*; preparation hours per response, *.025*; and total response burden hours, *240,000*.

Obtaining Copies of Proposals: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0070, Payments, in all correspondence.

Dated: March 29, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8281 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

[OMB Control No. 9000–0094]–

Submission for OMB Review; Comment Request Entitled Debarment and Suspension

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0094).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension, coupled with a revision downward, of a currently approved information collection requirement concerning Debarment and Suspension. A request for public comments was published at 61 FR 3676, February 1, 1996. No comments were received.

DATES: *Comment Due Date:* May 6, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0094, Debarment and Suspension, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose–

The FAR requires contracts to be awarded to only those contractors determined to be responsible. Instances where a firm or its principals have been indicted, convicted, suspended, proposed for debarment, debarred, or had a contract terminated for default are critical factors to be considered by the contracting officer in making a responsibility determination. This certification would require the disclosure of this information.–

B. Annual Reporting Burden –

Public reporting burden for this collection of information is estimated to average *30 minutes per subcontractor and 5 minutes per prime contractor* per response, including the time for

reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.–

The annual reporting burden is estimated as follows: Respondents, *1,100,000*; responses per respondent, *1*; total annual responses, *1,100,000*; preparation hours per response, *30 minutes/subcontractor, 5 minutes/prime contractor*; and total response burden hours, *91,667*.

Obtaining Copies of Proposals: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0094, Debarment and Suspension, in all correspondence.

Dated: March 27, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–8282 Filed 4–3–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Service Committee on Military Justice: Public Meeting

AGENCY: Joint Service Committee on Military Justice (JSC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the 1996 annual public meeting of the JSC. This notice also describes the functions of the JSC.

DATES & TIMES: 25 June 1996 at 10:00 a.m.

ADDRESSES: Conference Room, U.S. Army Legal Services Agency, Litigation Center, 901 North Stuart Street, Suite 404B, Arlington, Virginia 22203–1837.

FUNCTION: The JSC was established by the Judge Advocates General in 1972. The JSC currently operates under Department of Defense Directive 5500.17 of January 23, 1985. It is the function of the JSC to improve Military Justice through the preparation and evaluation of proposed amendments and changes to the Uniform Code of Military Justice and the *Manual for Court-Martial.*

AGENDA: The JSC will receive public comment concerning its 1996 draft annual review of *Manual for Courts-Martial* as published on April 4, 1996.

FOR FURTHER INFORMATION CONTACT: LT J. Russell McFarlane, JAGC, USNR, Executive Secretary, Joint Service Committee on Military Justice, Building 111, Washington Navy Yard, Washington, DC 20374–1111; (202) 433–5895.

Dated: April 1, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–8329 Filed 4–3–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Availability of Surplus Land and Buildings Located at Detroit Arsenal Tank Plant, Michigan

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: This notice identifies the surplus real property located at Detroit Arsenal Tank Plant, Michigan (DATP). DATP is located on the east side of the Detroit Arsenal, ½ mile from Interstate 696. A commercial airport is within 30 miles of the installation and rail network is located on the installation.

FOR FURTHER INFORMATION CONTACT: For more information regarding particular properties identified in this notice (i.e., acreage, floor plans, existing sanitary facilities, exact street address), contact Ms. Laura Whitworth, U.S. Army Engineer District, Louisville, Attn: CEORL–RE–S, P.O. Box 59, Louisville, KY 40201–0059, (telephone (502) 625–7303); or Mayor Steenbergh at the below address.

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. Notices of interest should be forwarded to Honorable Mark Steenbergh, Office of the Mayor, 29500 Van Dyke Ave., Warren, MI 48093.

The surplus real property totals 150 acres and includes 5 office buildings, 5 storage buildings, and 22 other buildings. The current range of uses include industrial, storage, and general administration. Future uses may be limited to those described above.

Michael G. Barter,

Chief, Real Estate Division.

[FR Doc. 96–8258 Filed 4–3–96; 8:45 am]

BILLING CODE 3710–JB–M

Department of the Navy

Notice of Public Hearing for the Draft Programmatic Environmental Impact Statement for Facilities Development Necessary to Support Potential Aircraft Carrier Homeporting at Naval Station Mayport, Florida

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a Draft Programmatic Environmental Impact Statement (DPEIS) for the evaluation of Facilities Development Necessary to Support Potential Aircraft Carrier Homeporting at Naval Station (NAVSTA) Mayport, Florida. The DPEIS has been distributed to various federal, state and local agencies, elected officers, special interest groups, and the public. It also is on file and available for review at the Jacksonville Public Library, Main Branch; Beaches Library in Neptune Beach; and Regency Square Library in Jacksonville.

The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484, Section 1011) requires that the Navy prepare a plan for developing NAVSTA Mayport as a Nimitz-class aircraft carrier (CVN) homeport. The DPEIS documents issues concerning the feasibility of and the impacts associated with the possible future homeporting of a CVN at NAVSTA Mayport. Studies have indicated that homeporting a CVN at NAVSTA Mayport will require carrier-wharf improvements, utilities and maintenance facilities upgrade, and dredging of the turning basin and entrance channel to −50 feet below mean lower low water.

If, in the future, the Navy proposes to homeport a CVN at NAVSTA Mayport, additional NEPA documentation will be prepared to tier from this DPEIS. That documentation will identify issues specific to the proposed action and analyze their impacts within the appropriate time-frame.

ADDRESSES: The Navy will conduct a public hearing on Wednesday, April 24, 1996, beginning at 7:00 p.m. at the Fletcher Senior High School Auditorium, 700 Seagate Avenue, Neptune Beach, Florida, to inform the public of the DPEIS findings and to solicit comments. Federal, state and local agencies, and interested parties are invited to be present or represented at the hearing. Oral comments will be heard and transcribed by a stenographer. To assure accuracy of the

record, all comments should be submitted in writing. All comments, both oral and written, will become part of the public record in the study. In the interest of available time, each speaker will be asked to limit oral comments to five minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to the address listed below. Written comments must be received by May 13, 1996, to become part of the official record. Additional information concerning this notice may be obtained by contacting: Mr. Ronnie Lattimore (Code 064RL), Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, North Charleston, South Carolina 29419–9010, telephone (803) 820–5888.

Dated: April 1, 1996.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–8289 Filed 4–3–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Administrative Law Judges; Notice of Intent To Compromise a Claim; Alaska Department of Education

SUMMARY: The Department intends to compromise a claim against the Alaska Department of Education (Alaska) now pending before the Office of Administrative Law Judges (OALJ). Docket No. 94–204–R. (20 U.S.C. 1234a(j)).

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before May 20, 1996.

ADDRESSES: Comments should be addressed to Lynette Charboneau, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5312, FB 10B), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Lynette Charboneau, Esq., Telephone: (202) 401–8292. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The claim in question arose from an audit of the financial assistance programs of Alaska for the fiscal year ending June 30, 1991. The audit was performed by the Alaska Division of Legislative Audit, to fulfill the requirements of Office of Management and Budget Circular A–128. The audit included an evaluation of the internal control systems used in administering Federal financial assistance programs.

Among the systems examined were Alaska's procedures for administering funds awarded under Title II of the Carl D. Perkins Vocational Education Act (Perkins Act), 20 U.S.C. 2331 (1988). The Perkins Act imposed specific requirements as to a State's allocation of Title II funds among State administration, Part A, and Part B. *See* 20 U.S.C. 2312 (1988). A State could reserve up to 7 percent of the total grant for Title II for State administration, including $60,000 for sex equity administration, plus an additional amount by which the $60,000 exceeded 1 percent of the State's total grant under Title II. After funds were reserved for administration, the State was required to allocate the remainder 57 percent to Part A and 43 percent to Part B. The 57 percent for Part A was to be further reserved to benefit specific targeted groups of students. *See* 20 U.S.C. 2332 (1988). Thus, if a State expended more than the allowable 7 percent on State administration, it would necessarily have to spend less than the mandated amount for Part A or Part B, or both.

The auditors found that Alaska's expenditures for State administration in Fiscal Years (FYs) 1990 and 1991 exceeded the 7 percent cap. Further, the auditors found that in FY 1990 the State's expenditures under Part B exceeded the allowable 43 percent. On October 19, 1994, the Department's Assistant Secretary for Vocational and Adult Education (Assistant Secretary) issued a program determination letter (PDL) sustaining the auditors' findings and requiring Alaska to repay $414,657.72 for the amounts of the overfunding of State administration and Part B (and corresponding underfunding of Part A) in FYs 1990 and 1991.

Alaska filed a timely appeal with the Office of Administrative Law Judges (OALJ). After filing its brief and evidence, Alaska offered to settle the claim against it. The administrative law judge (ALJ) appointed to hear this appeal stayed the proceeding to allow counsel to seek formal approval of the tentative settlement.

Based on documentation submitted by Alaska during the course of the proceedings before the OALJ demonstrating that $168,116.27 of the funds were allowable, the Assistant Secretary has decided to reduce the claim to $246,541.45. The Department proposes to compromise the remaining claim for $91,500. After receiving the PDL, Alaska submitted information directly to the Assistant Secretary to show that its FSRs reflected reporting errors as to the amount of Title II funds expended for State administration. Additionally, during the course of its appeal to the OALJ, Alaska submitted voluminous evidence in an attempt to show that the State could have charged to Part A many of the overcharges to Part B because of the overlapping purposes and goals of those program authorities.

After consideration of the documentation and arguments presented by Alaska to the OALJ, the Assistant Secretary has decided to reduce the repayment demanded by $168,116.27, and the Department proposes to settle the remaining claim of $246,541.45 for $91,500. Given the amount that would be repaid by Alaska under the settlement agreement, the additional documentation, and the litigation risks and costs of proceeding through the appeal process, the Department has determined that it would not be practical or in the public interest to continue this proceeding. Rather, under the authority provided in 20 U.S.C. § 1234a(j)(1), the Department has determined that a compromise of this claim for $91,500 would be appropriate.

The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Lynette Charboneau at the address given at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(j).

Dated: April 1, 1996.

Donald R. Wurtz,

Chief Financial Officer.

[FR Doc. 96–8300 Filed 4–3–96; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.263A]

Experimental and Innovative Training; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996

Purpose of Program: This program is designed—

(a) To develop new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; and

(b) To develop new and improved methods of training rehabilitation personnel so that there may be a more effective delivery of rehabilitation services by State and other rehabilitation agencies.

Eligible Applicants: State agencies and other public or nonprofit agencies

and organizations, including institutions of higher education.

Deadline for Transmittal of Applications: May 13, 1996.

Deadline for Intergovernmental Review: July 12, 1996.

Applications Available: April 12, 1996.

Available Funds: $500,000.

Estimated Range of Awards: $90,000–$110,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Parts 385 and 387.

For Applications or Information Contact: Dr. Beverly Brightly, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3322, Switzer Building, Washington, D.C. 20202–2649. Telephone: (202) 205–9561. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web at http://www.ed.gov/money.html However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 29 U.S.C. 774.

Dated: April 1, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–8299 Filed 4–3–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of the Environment, Safety and Health

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Notice of Addendum to Memorandum of Understanding

SUMMARY: This notice is to advise the public of an addendum to the interagency memorandum of understanding which delineates regulatory coverage of occupational safety and health at government-owned, contractor-operated sites administered by the Department of Energy. The addendum provides for coverage by the Occupational Safety and Health Administration of certain facilities and operations at the Savannah River Site in South Carolina.

EFFECTIVE DATE: March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Anne Cyr, Acting Director, Office of Public Information and Consumer Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3647, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone: (202) 219–8615.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) and the Occupational Safety and Health Administration of the U.S. Department of Labor (OSHA), entered into a Memorandum of Understanding on August 10, 1992, delineating regulatory authority over the occupational safety and health of contractor employees at DOE government-owned or leased, contractor-operated (GOCO) facilities. In general, DOE exercises statutory authority relating to the occupational safety and health of private sector employees at these facilities.

Section 4(b)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 653(b)(1), exempts from OSHA coverage working conditions over which other federal agencies have exercised statutory authority to prescribe or enforce occupational safety or health. The 1992 interagency Memorandum of Understanding acknowledges DOE's extensive regulation of contractor health and safety through safety orders which require contractor compliance with all OSHA standards as well as additional requirements prescribed by DOE, and concludes with an agreement by the agencies that the provisions of the Occupational Safety and Health Act shall not apply to GOCO sites for which DOE has exercised its authority to regulate occupational safety and health.

Among the listed GOCO sites covered by the Memorandum of Understanding is the Savannah River Site in South Carolina. Recently, DOE concluded a new lease agreement with South Carolina Electric and Gas (SCE&G) under which that public utility would operate certain coal-fired power and heat generation facilities located within the Savannah River Site, selling power to DOE as well as to some outside customers. As part of this privatization effort DOE intends to exempt from DOE safety orders the power generation and transmission facilities leased by SCE&G, in effect terminating DOE's exercise of health and safety authority over the leased facilities and reinstating that of OSHA. The following addendum to the DOE/OSHA Memorandum of Understanding implements the termination of DOE authority and makes all standards, rules, and requirements under the Occupational Safety and Health Act applicable to the SCE&G leased facilities on the Savannah River Site.

Because the site is located in South Carolina, a state which enforces its own occupational safety and health standards under a federally-approved state OSHA plan, the addendum also must address the issue of state plan coverage. The exercise of state authority over federally-owned, contractor-operated facilities raises unique jurisdictional issues; some GOCO facilities may retain the status of federal instrumentalities, where state regulatory authority is limited. Other facilities may be located on so-called federal enclave land, subject to regulation only by the federal government. Because of possible restrictions on the state's legal authority, the South Carolina Department of Labor has decided that SCE&G operations on the Savannah River Site will not be covered under the South Carolina state OSHA plan. The addendum to the OSHA/DOE Memorandum of Understanding therefore specifies that SCE&G operations at the Savannah River site will be covered by federal OSHA rather than under the state plan. OSHA intends to amend Subpart C of 29 CFR Part 1952 to reflect this coverage.

Federal OSHA coverage will extend to all working conditions of SCE&G employees and its subcontractor employees on the Savannah River site not covered by DOE job safety or health requirements. DOE and OSHA have discussed the issue of resources likely to be needed to carry out the additional responsibilities to be assumed by OSHA, and OSHA has concluded that sufficient inspection resources are

currently available to assure adequate worker protection upon this transfer of regulatory responsibility from DOE.

Accordingly, the Memorandum of Understanding between the U.S. Department of Energy and the Occupational Safety and Health Administration is amended by adding an addendum specifying federal OSHA worker safety and health coverage over the phase of operations at the Savannah River Site which DOE has deregulated. This transfer of regulatory responsibility is effective upon signature by the agencies.

Addendum A: Savannah River Site D (Power Generation and Transmission)

Power and steam generation facilities at D-Area, steam transmission lines and power transmission lines throughout the general areas of the Savannah River Site as specifically described in the lease agreement and referenced maps, which have been leased to South Carolina Electric and Gas Company, are not subject to safety orders or other occupational safety or health requirements administered by DOE; Occupational Safety and Health Administration (OSHA) requirements are fully applicable to these facilities and to working conditions of employees engaged in operating or maintaining them. Because the South Carolina Department of Labor has determined that SCE&G operations on the Savannah River Site will not be covered under the South Carolina State OSHA Plan, federal OSHA standards and enforcement will apply.

Dated: March 28, 1996.

Joseph A. Dear,

Assistant Secretary of Labor for Occupational Safety and Health.

Dated: March 26, 1996.

Tara O'Toole,

Assistant Secretary of Energy for Environment, Safety and Health.

[FR Doc. 96–8339 Filed 4–3–96; 8:45 am]

BILLING CODE 4510–26–M

Federal Energy Regulatory Commission

[Docket No. CP96–201–000]

Algonquin Gas Transmission Company; Notice of Site Visit for the Proposed Middletown Lateral Project

March 29, 1996.

On April 9 and 10, 1996, the Office of Pipeline Regulation staff will conduct a site visit with representatives of Algonquin Gas Transmission Company of the locations related to the facilities proposed in the Middletown Lateral Project in Hartford and Middlesex Counties, Connecticut. All interested parties may attend. Those planning to attend must provide their own transportation.

Information about the proposed project is available from Mr. John Wisniewski, Project Manager, at (202) 208–1073.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8229 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA94–15–000]

Florida Gas Transmission Company; Notice of Informal Settlement Conference

March 29, 1996.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 10:00 a.m. on Tuesday, April 16, 1996, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) prior to attending.

For additional information please contact Michael D. Cotleur, (202) 208–1076, or Robert Young (202) 208–5705.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8230 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER95–1542–001, ER95–188–002, and EL96–38–000]

MidAmerican Energy Company; Notice of Initiation of Proceeding and Refund Effective Date

April 1, 1996.

Take notice that on March 29, 1996, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL96–38–000 under section 206 of the Federal Power Act.

The refund effective date in docket No. EL96–38–000 will be 60 days after publication of this notice in the Federal Register.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8268 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER96–713–000 and EL96–39–000]

Public Service Company of Colorado; Notice of Initiation of Proceeding and Refund Effective Date

April 1, 1996.

Take notice that on March 29, 1996, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL96–39–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL96–39–000 will be 60 days after publication of this notice in the Federal Register.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8269 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–12–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 29, 1996.

Take notice that on March 26, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are enumerated in Appendix A attached to the filing.

Transco states that the purpose of the instant filing is to track rate changes attributable to storage service purchased from CNG Transmission Corporation (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedules LSS and GSS. This tracking filing is being made pursuant to Section 4 of Transco's Rate Schedule LSS and Section 3 of Transco's Rate Schedule GSS.

Transco states that Appendix B attached to the filing contains explanations of the rate changes and details regarding the computation of the revised LSS and GSS rates.

Also included therein for filing are revised tariff sheets which incorporate the Rate Schedule LSS and GSS rate changes proposed therein into Transco's electric power tracker of March 1, 1996 in Docket No. TM96–11–29–000, which filing is currently pending Commission acceptance to become effective April 1, 1996.

Transco states that copies of the filing are being mailed to each of its LSS and GSS customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8231 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–30–000]

Ventway PTY Ltd.; Notice of Surrender of Exempt Wholesale Generator Status

March 29, 1996.

Take notice that on March 25, 1996, pursuant to section 365.7 of the Commission's regulations, 18 CFR 365.7, Ventway PTY Ltd. filed notification that it surrenders its status as an exempt wholesale generator under section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8232 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG96–52–000, et al.]

CSW Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 28, 1996.

Take notice that the following filings have been made with the Commission:

1. CSW Power Marketing, Inc.

[Docket No. EG96–52–000]

On March 19, 1996, CSW Power Marketing, Inc. (Applicant), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it is a wholly owned subsidiary of CSW Energy, Inc., which is a wholly owned subsidiary of Central and South West Corporation, a registered holding company. Applicant states that it intends, directly or indirectly, to own and operate all or part of eligible facilities including, without limitation, an 838 MW electric generating facility located in the vicinity of Creston, Washington.

Comment date: April 15, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. City of Cleveland v. The Cleveland Electric Illuminating Company

[Docket Nos. EL94–80–003 and EL94–86–003]

Take notice that on March 20, 1996, Cleveland Electric Illuminating Company submitted its compliance report in the above-referenced docket.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Tule Hub Services Co.

[Docket No. EL96–41–000]

Take notice that on March 18, 1996, Tule Hub Services Co. (Tule) tendered for filing a draft Transfer Service Agreement which, when executed, will outline the terms by which Tule will provide a signatory with title transfer services for any electric energy purchased or sold with a delivery point at the California-Oregon Border.

Comment date: April 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Union Electric Company

[Docket No. ER96–1068–000]

Take notice that on March 25, 1996, Union Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Kibler Energy Ltd.

[Docket No. ER96–1119–000]

Take notice that on March 20, 1996, Kibler Energy Ltd. tendered for filing an amendment in the above-referenced docket.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Union Electric Company

[Docket No. ER96–1137–000]

Take notice that on March 25, 1996, Union Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Wheeled Electric Power Company

[Docket No. ER96–1150–000]

Take notice that on March 18, 1996, Wheeled Electric Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Btu Energy, Inc.

[Docket No. ER96–1283–000]

Take notice that on March 21, 1996, BTU Energy, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Indiana Gas and Electric Company

[Docket No. ER96–1295–000]

Take notice that on March 12, 1996, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing a proposed Interchange Agreement with Koch Power Services, Inc. (Koch).

The proposed revised Interchange Agreement will provide for the purchase, sale, and transmission of capacity and energy by either party under the following Service Schedules: (a) SIGECO Power Sales; (b) Koch Power Sales; and (c) Transmission Service.

Waiver of the Commission's Notice Requirements is requested to allow for an effective date of March 11, 1996.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Houston Lighting & Power Company

[Docket No. ER96–1296–000]

Take notice that on March 12, 1996, Houston Lighting & Power Company (HL&P), tendered for filing executed transmission service agreements (TSAs) under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. The filing consists of economy energy and emergency power TSAs with (1) Southwestern Electric Power company (SWEPCO), (2) Central Power and Light Company (CP&L) and (3) West Texas Utilities Company (WTU) providing for the transmission of energy to be scheduled over the East HVDC Interconnection. HL&P has requested an effective date of March 12, 1996.

Copies of the filing were served on WTU, SWEPCO and CP&L and the Public Utility Commission of Texas.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Potomac Electric Power Company

[Docket No. ER96–1298–000]

Take notice that on March 12, 1996, Potomac Electric Power Company (Pepco), tendered for filing service agreements pursuant to Pepco FERC Electric Tariff, Original Volume No. 1, entered into between Pepco and: Atlantic City Electric Company, Coastal Electric Services Company, and NorAm Energy Services, Incorporated. An effective date of March 1, 1996 for these service agreements, with waiver of notice, is requested.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Central Illinois Public Service Company

[Docket No. ER96–1299–000]

Take notice that on March 13, 1996, Central Illinois Public Service Company (CIPS) submitted a Service Agreement, dated March 7, 1996, establishing Federal Energy Sales Inc. (FES) as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of March 7, 1996 for the service agreement with FES. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon FES and the Illinois Commerce Commission.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Tampa Electric Company

[Docket No. ER96–1321–000]

Take notice that on March 15, 1996, Tampa Electric Company (Tampa Electric), tendered for filing umbrella service agreements with InterCoast Power Marketing Company, Sonat Power Marketing, Inc., and the Utilities Commission, City of New Smyrna Beach under Tampa Electric's point-to-point transmission service tariff.

Tampa Electric proposes an effective date of March 12, 1996, for the service agreements, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on each customer under the service agreements and the Florida Public Service Commission.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Central Maine Power Company

[Docket No. ER96–1327–000]

Take notice that on March 15, 1996, Central Maine Power Company (CMP), tendered for filing a Letter of Agreement with Houlton Water Company, dated February 8, 1996. The Letter Agreement amends and clarifies the Power Sales Agreement previously entered into between the parties.

CMP has served a copy of the filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER96–1334–000]

Take notice that on March 18, 1996, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement between the City of Banning (Banning) and Edison, FERC Rate Schedule No. 248:

Supplemental Agreement For The Integration Of Non-Firm Energy From Idaho Power Company Between Southern California Edison Company And City Of Banning

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate Banning's purchases of non-firm energy under the Power Sale Agreement between Banning and Idaho Power Company during the specified winter months of November through April. Edison is requesting waiver of the 60-day prior notice requirement, and requests that the Commission assign to the Supplemental Agreement an effective date of March 19, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. PanEnergy Lakes Charles Generation, Inc.

[Docket No. ER96–1335–000

Take notice that on March 18, 1996, PanEnergy Lakes Charles Generation, Inc. (Applicant), 5400 Westheimer Court, Houston, Texas 77056, filed a petition with the Federal Energy Regulatory Commission (Commission) for waivers, blanket approvals and an order approving its Rate Schedule No. 1, to be effective within 60 days of the date of filing, pursuant to Rule 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205.

Applicant intends to sell energy and capacity from a portion of a generating facility with a nominal capacity of 32 megawatts located in the vicinity of Lake Charles, Louisiana. The rates charged by Applicant will be mutually agreed upon by the parties to each particular transaction.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Illinois Power Company

[Docket No. ER96–1336–000]

Take notice that on March 18, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Cinergy Operating Company will take transmission service pursuant to its open access transmission tariff. The agreement are based on the Form of Service Agreement in Illinois Power's tariff.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Northern Indiana Public Service Company

[Docket No. ER96–1337–000]

Take notice that on March 18, 1996, Northern Indiana Public Service Company tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Western Power Services, Inc.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Western Power Services, Inc. under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Western Power Services, Inc. request waiver of the Commission's sixty-day notice requirement to permit an effective date of April 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Public Service Corporation

[Docket No. ER96–1338–000]

Take notice that on March 18, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Consolidated Water

Power Company. The Agreement provides for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreement become effective retroactively to March 6, 1996.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Public Service Corporation

[Docket No. ER96–1339–000]

Take notice that on March 18, 1996, Wisconsin Public Service Corporation (WPSC) tendered for filing an executed Transmission Service Agreement between WPSC and Midcon Power Services Corp. The Agreement provides for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreement become effective retroactively to March 5, 1996.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Public Service Electric and Gas Company

[Docket No. ER96–1340–000]

Take notice that on March 19, 1996, Public Service Electric and Gas Company (PSE&G), tendered for filing an initial rate schedule to provide fully interruptible transmission service to Pan Energy Power Services Inc., for delivery of non-firm wholesale electrical power and associated energy output utilizing the PSE&G bulk power transmission system.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Central Illinois Public Service Company

[Docket No. ER96–1341–000]

Take notice that on March 19, 1996, Central Illinois Public Service Company (CIPS), tendered for filing the Second Amendment to the Power Supply Agreement and the Second Amendment to the Transmission Services Agreement, each between CIPS and the Illinois Municipal Electric Agency (IMEA). The Amendments provide a rate decrease to IMEA as well as greater flexibility with respect to the delivery of power and energy to IMEA members.

Copies of the filing have been served on IMEA and the Illinois Commerce Commission.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Central Power and Light Company West Texas Utilities Company

[Docket No. ER96–1342–000]

Take notice that on March 19, 1996, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) (jointly, the Companies) submitted a Transmission Service Agreement, dated March 7, 1996, establishing Entergy Power Marketing Corporation (EPMC) as a customer under the terms of the ERCOT Interpool Transmission Service Tariff.

The Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon EPMC.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Public Service Company of Oklahoma Southwestern Electric Power Company

[Docket No. ER96–1343–000]

Take notice that on March 19, 1996, Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (jointly, the Companies) submitted a Transmission Service Agreement dated March 7, 1996, establishing Entergy Power Marketing Corporation (EPMC) as a customer under the terms of the Companies' SPP Interpool Transmission Service Tariff.

The Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon EPMC.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Public Service Company of Oklahoma Southwestern Electric Power Company

Docket No. ER96–1344–000

Take notice that on March 19, 1996, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively the Companies) submitted a Transmission Service Agreement establishing Entergy Power Marketing Corporation (EPMC) as a customer under the terms of the SPP Coordination Transmission Service Tariff.

The Companies request waiver of the Commission's notice requirements. Copies of the filing were served upon EPMC.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Florida Power & Light Company

[Docket No. ER96–1345–000]

Take notice that on March 19, 1996, Florida Power & Light Company (FPL) tendered for filing proposed service agreements with Western Power Services, Inc. for transmission service under FPL's Transmission Tariff No. 2 and FPL's Transmission Tariff No. 3.

FPL requests that the proposed service agreements be permitted to become effective on April 1, 1996, or as soon thereafter as practicable.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Ramiro Guzman

[Docket No. ID–2950–000]

Take notice that on March 15, 1996, Ramiro Guzman (Applicant) tendered for filing a supplemental application under Section 305(b) of the Federal Power Act to hold the following positions:

Advisory Director, Texas Commerce Ban, N.A.—El Paso

Director, El Paso Electric Company

Comment date: April 11, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8226 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. 2114–045 Washington]

Public Utility District No. 2 of Grant County; Notice of Availability of Environmental Assessment

March 29, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) reviewed the proposal for constructing a temporary overflow gate and a prototype deflector at the Priest Rapids Project in Grant County, Washington. The Commission prepared an environmental assessment (EA) for the proposed actions. In the EA, the Commission concludes that approval of construction of the proposed structures will not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8267 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–268–000, et al.]

Mississippi River Transmission Corporation, et al.; Natural Gas Certificate Filings

March 28, 1996.

Take notice that the following filings have been made with the Commission:

1. Mississippi River Transmission Corporation

NorAm Field Services Corp.

[Docket No. CP96–268–000]

Take notice that on March 20, 1996, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, and NorAm Field Services Corp. (NFS), 525 Milam, Shreveport, Louisiana 71101, filed in Docket No. CP96–268–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to NFS five existing gathering systems in Louisiana and Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

MRT proposes to abandon by sale to NFS approximately 29 miles of 4.5-inch diameter to 10-inch diameter pipe. According to MRT there are 32 separate pipelines, two classified as transmission facilities and the other lines have historically been classified as gathering. It is stated that all but one are under 8-inches in diameter and that there are no compression facilities or product extraction plants operated by MRT on any of these gathering systems.

NFS, pursuant to Rule 207 of the Regulations, petitions the Commission for an order declaring that these systems and the services provided through these systems, once acquired and operated by NFS, will be exempt from Commission jurisdiction.

Comment date: April 18, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. Columbia Gas Transmission Corporation

[Docket No. CP96–274–000]

Take notice that on March 22, 1996, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP96–274–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point and to reassign 103 dth per day in Maximum Daily Delivery Obligations (MDDOs) between delivery points to Commonwealth Gas Services (COS) in Louisa County, Virginia, under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to establish a delivery point for firm transportation service to COS in Louisa County and to reassign and reduce 103 dth per day in MDDOs at another existing point to COS. Columbia proposes to reassign the MDDOs by amending COS's Storage Service Transportation (SST) Agreement and reducing the MDDOs at the existing Salisbury point by 103 dth per day. Columbia will reassign the same volumes of gas to the proposed new delivery point proposed herein as follows:

Customer	Rate schedule	MDQ	EAQ
COS	SST	103 dth	5,400 dth.

Cos has agreed to reimburse Columbia 100% of the cost of construction to construct and operate this new delivery point which is approximately $64,000. COS requested the additional firm transportation service for commercial service. COS has not requested an increase in its peak day entitlements in conjunction with this request. Columbia does not believe that there will be an impact on its existing peak day obligations to its other customers as a result of this proposal.

Comment date: May 13, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP96–275–000]

Take notice that on March 22, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP96–275–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to abandon obsolete, under-sized facilities and to construct and operate replacement facilities at the Filer Meter Station in Twin Falls County, Idaho under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest proposes to replace the existing obsolete two 1-inch regulators with two new 1-inch regulators and the existing 2-inch positive displacement meter with a new 2-inch turbine meter and appurtenances.

Comment date: May 13, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Company

[Docket No. CP96–279–000]

Take notice that on March 25, 1996, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP96–279–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct, own and operate a delivery tap and associated facilities to provide firm transportation of natural gas for Haven Steel Products, Inc. (Haven Steel), an end-user located in Reno County, Kansas under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle proposes to construct a hot tap consisting of a 2-inch tap valve, approximately 50 feet of 2-inch connecting pipe, metering and electronic gas measurement equipment. The proposed facilities would be located on the Haven 100 Line, No. 41–03–001–1000–24'', approximately one mile downstream of Panhandle's Haven Compressor Station in Reno County, Kansas. Panhandle states that the proposed facilities would have a maximum design capacity of 250 Mcf of natural gas per day at an operating pressure of 625 psig. Panhandle states that Haven Steel would reimburse it for the cost of the proposed facilities, estimated to be $39,000.

Comment date: May 13, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8227 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11405–001 Idaho]

Hydrogroup Inc.; Notice of Surrender of Preliminary Permit

March 29, 1996.

Take notice that Hydrogroup Inc., Permittee for the Butte Market Lake Canal Project No. 11405, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11405 was issued September 9, 1993, and would have expired August 31, 1996. The project would have been located on the Butte Market Lake Canal in Jefferson County, Idaho.

The Permittee filed the request on February 27, 1996, and the preliminary permit for Project No. 11405 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 96–8228 Filed 4–3–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5453–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; Notification of Regulated Waste Activity Under the Resource Conservation and Recovery Act (RCRA), Part A Hazardous Waste Permit Application and Modification, and Part B Permit Application, Permit Modifications, and Special Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA is planning to submit three continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB) to allow the Agency to collect data for Notification of Regulated Waste Activities (Notification), Part A Hazardous Waste Permit Application and Modification (Part A), and Part B Permit Application, Modification and Special Permits (Part B). Notification is required from any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal of regulated waste. Part A and Part B Permit Applications are required for hazardous waste treatment, storage, and disposal facilities (TSDs). These ICRs are reinstatements of previously approved information collections. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before June 3, 1996.

ADDRESSES: Comments should be sent to Docket Number F–96–NAIP-FFFFF, located in the RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA HQ), 401 M Street, SW., Washington, DC 20460. One original and two copies of each comment should be submitted. Hand delivery of comments should be made to the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. Interested persons may obtain a copy of the draft ICR by calling (703) 308–8440.

FOR FURTHER INFORMATION CONTACT: Nicholas Vizzone, Analysis and Information Branch (5302W), 401 M

Street SW, Washington, DC 20460, (703) 308–8440.

I. Information Collection Requests

EPA is seeking comments on the following ICRs:

Title: Notification of Regulated Waste Activity, EPA ICR #261, OMB No. 2050–0028; RCRA Hazardous Waste Permit Application and Modification Part A, EPA ICR #262, OMB No. 2050–0034; and Part B Permit Application, Permit Modifications, and Special Permits, EPA ICR #1573, OMB No. 2050–0009.

Affected Entities: Entities affected by this action are generators, transporters and owners/operators of hazardous waste management facilities.

Abstract: Section 3010 of Subtitle C of RCRA, as amended, requires any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal (TSD) of regulated waste to notify EPA of their activities, including the location and general description of the activities and the regulated wastes handled. Section 3005 of Subtitle C of RCRA requires TSDs to obtain a permit. To obtain the permit, the TSD must submit an application describing the facility's operation. There are two parts to the RCRA permit application—Part A and Part B. Part A defines the processes to be used for treatment, storage, and disposal of hazardous wastes; the design capacity of such processes; and the specific hazardous wastes to be handled at a facility. Part B requires detailed site specific information such as geologic, hydrologic, and engineering data. In the event that permit modifications are proposed by an applicant or EPA, modifications must conform to the requirements under Sections 3004 and 3005. 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.

Burden Statement: The estimated average public burden per respondent for renewing the existing notification ICR is about 4.35 hours per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, searching existing data sources, gathering data, and completing and reviewing the form.

The estimated average public burden per respondent for renewing the existing Part A ICR is about 51.2 hours per respondent. The estimate for Part A includes time for reading the regulations, preparing and submitting revised Part A Permit Applications, preparing and submitting justifications for changes, and preparing and submitting Subpart H compliance demonstrations.

The estimated average public burdens per respondent for renewing the existing Part B ICR is as follows:

—Demonstrations under §264.90: 0.5 hours
—Demonstrations and exemptions: 40 hours
—Legal review: 100 hours
—Permit information under §270.10(j): 10 hours
—Demonstrations under §270.14(a): 6 minutes
—General facility standards: 165 hours
—Financial assurance: 23 hours
—Ground-water protection: 111 hours
—Specific unit requirements under §270.15 through §270.26: 418 hours
—Permit modifications: 83 hours
—Renewal of permits: 112 hours
—Special forms of permits: 163 hours

Respondents: Generators (notification only) and Treaters, storers, and disposers of Hazardous Waste.

Estimated number of Respondents per Year: 46,000 (notification), 160 (Part A), variable (Part B).

Frequency of Collection: For all three ICRs, collection occurs one-time per respondent, unless regulations are revised and promulgated. Timing of the submission of the notification form, the Part A permit and the Part B permit are variable depending on the status of the respondent and the timing of the promulgation of regulations.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 200,100 hours (notification). 4,327 hours (Part A). 404,872 hours (Part B). 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.

II. Request for Comments

The Agency will begin an effort to examine the Notification, Part A, and Part B forms and consider options for reducing their burden and increasing the usefulness of the information collected by these forms. The Agency would appreciate any information on the users of this information, how they use this information, how the information could be improved, and how the burden for these forms can be reduced. In addition, 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.

III Public Docket

A record has been established for this action under docket number F–96–NAIP-FFFFF. 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 the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA.

Michael Shapiro,

Director, Office of Solid Waste.

[FR Doc. 96–8252 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5452–9]

Agency Information Collection Activities Up for Renewal; General Hazardous Waste Facility Standards; and Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C.

3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) for General Hazardous Waste Facility Standards and Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types are coming up for renewal. Before submitting the renewal packages to the Office of Management and Budget (OMB) for review and approval, EPA is soliciting comments on specific aspects of the information collections as described below.

DATES: Comments must be submitted on or before June 3, 1996.

ADDRESSEES: Comments should be sent to Docket Number F–96–GFIP-FFFFF, located in the RCRA Docket Information Center, Office of Solid Waste (5303W), U.S. Environmental Protection Agency Headquarters (EPA HQ), 401 M Street SW, Washington, D.C. 20460. One original and two copies of each comment should be submitted. Hand delivery of comments should be made to the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. Interested persons may obtain a copy of the ICRs by calling (703) 308–8440.

FOR FURTHER INFORMATION CONTACT: Chris Rhyne, USEPA, Office of Solid Waste (5303W), 401 M Street, SW., Washington, D.C. 20460; Phone (703) 308–8658; FAX (703) 308–8609 for questions on the ''General Hazardous Waste Facility Standards'' or James Michael, USEPA, Office of Solid Waste (5303W), 401 M Street, SW., Washington, D.C. 20460; Phone (703) 308–8610; FAX (703) 308–8609 for questions on the ''Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types.''

SUPPLEMENTARY INFORMATION: *Affected entities:* Entities affected by this action are owners/operators of hazardous waste treatment, storage and disposal facilities.

Titles: General Hazardous Waste Facility Standards, EPA ICR Number 1571 (OMB Number 2050–0120), expires September 30, 1996, and Hazardous Waste Specific Unit Requirements and Special Waste Processes and Types, EPA ICR Number 1572 (OMB Number 2050–0050), expires September 30, 1996.

Abstract: Owner/operators of hazardous waste treatment, storage and disposal facilities must comply with the standards developed by EPA under Section 3004(a)(1), (3), (4), (5) and (6) of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended to protect human health and the environment. The standards specified in Section 3004(a) include, but are not limited to, the following requirements:

(1) Maintaining records of all hazardous wastes identified or listed under this title which are treated, stored, or disposed of, * * * and the manner in which such wastes were treated, stored, or disposed of;

(3) Treatment, storage or disposal of all such waste received by the facility pursuant to such operating methods, techniques, and practices as may be satisfactory to the Administrator;

(4) The location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

(5) Contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste; and

(6) The maintenance or operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable.

The regulations implementing these requirements are published in the *Code of Federal Regulations* (CFR) Title 40, Parts 261, 264, 265, and 266, Subpart F. The collection of this information enables EPA to properly determine whether owners/operators or hazardous waste treatment, storage, and disposal facilities meet the requirements of *Section* 3004(a) of RCRA. 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 Agency 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: The total burden to respondents as estimated in the currently approved ICR for ''General Hazardous Waste Facility Statements (#1571)'' is 1,286,212 hours per year, at a cost of $52,025,962 per year. This estimate was based on owners/operators complying with the information collection requirements set forth in 40 CFR Parts 264 and 265, Subparts B–H and by using an average hourly respondent labor cost (including overhead) of $86.00 for legal staff, $65.42 for managerial staff, $42.82 for technical staff, and $22.40 for clerical staff. The total burden to respondents as estimated in the currently approved ICR for ''Hazardous Waste Specific Unit Requirements and Special Waste Processes and Types (#1572)'' is 230,599 hours per year at a cost of $9,315,916 per year. This estimate was based on owners/operators complying with the information collection requirements set forth in 40 CFR Part 264 and 265, Subparts J–Q, X, W, AA, BB, DD and Part 266, Subpart F, and by using an average hourly respondent labor cost (including overhead) of $86.00 for legal staff, $65.42 for managerial staff, $42.82 for technical staff, and $22.40 for clerical staff.

Respondents: Owners/operators of hazardous waste treatment, storage and disposal facilities.

Estimated number of Respondents: 2,800.

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.

Michael H. Shapiro,

Director, Office of Solid Waste.

[FR Doc. 96–8253 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5453–3]

Agency Information Collection Activities Up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before June 3, 1996.

ADDRESSES: U.S. EPA, Wetlands Division (4502F), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lori Williams, 202–260–5084, fax 202–260–8000.

SUPPLEMENTARY INFORMATION: Affected entities: Entities affected by this action are states requesting assumption of the Clean Water Act (CWA) Section 404 permit program, states/tribes with approved assumed programs, and permit applicants in states or tribes with assumed programs. Tribes submitting a request to assume the federal permit program are covered under a separate, approved ICR. The approved tribal ICR will be incorporated into this ICR when it is finalized, so that there will be only one ICR for all Section 404 state assumption collections.

Title: State Assumption of the federal CWA Section 404 permit program. OMB# 0220–2040–0168, expires on October 31, 1996.

Abstract: Section 404(g) of CWA authorizes states to assume the Section 404 permit program. States must demonstrate that they meet the applicable statutory and regulatory requirements (40 CFR Part 233) for an approvable program. Specified information and documents must be submitted by the state to EPA to request program assumption. Once the required information and documents are submitted and EPA has a complete assumption request package, the statutory time clock for EPA's decision to either approve or deny the state's assumption request starts. The information contained in the assumption request is made available to the other involved federal agencies (Corps of Engineers, Fish and Wildlife Service, and National Marine Fisheries Service) and to the general public for review and comment.

States must have the ability to issue permits that comply with the 404(b)(1) Guidelines, the environmental review crieria. States and the reviewing federal agencies must be able to review proposed projects to evaluate and/or minimize anticipated impacts. EPA's state program regulations establish recommended elements that should be included in the state's permit application, so that sufficient information is available to make a thorough analysis of anticipated impacts. These minimum information requirements are based on the information that must be submitted when applying for a Section 404 permit from the Corps of Engineers.

EPA is responsible for oversight of assumed state programs to ensure that state programs are in compliance with applicable requirements and that state permit decisions adequately consider and minimize anticipated impacts. States must evaluate their program annually and submit an annual report to EPA assessing their program. EPA's state program regulations establish minimum requirements for the state's annual report.

The EPA would like to solicit comments to:

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

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

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

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

Burden Statement: EPA's currently approved ICR includes 27,100 hours for these activities. The state's assumption request is a one-time request, a permit application is made each time someone desires to do work that involves the discharge of dredged or fill material into waters of the United States, including wetlands, and a state with an approved, assumed program must submit an annual report to EPA each year. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB number for EPA's regulations are displayed in 40 CFR Part 9.

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

Dated: March 25, 1996.

Robert H. Wayland III,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 96–8340 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5453–2]

Public Hearings on Recommendations to the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of hearings.

SUMMARY: The EPA is announcing a series of public hearings seeking comments on broad-based strategies for improving visibility in national parks and wilderness areas on the Colorado Plateau being proposed to the Grand Canyon Visibility Transport Commission (Commission).

FOR FURTHER INFORMATION CONTACT: Mr. John T. Leary, Project Manager for the Grand Canyon Visibility Transport Commission, Western Governor's Association, 600 17th Street, Suite 1705, South Tower, Denver, Colorado 80202; telephone number (303) 623–9378; facsimile machine number (303) 534–7309.

SUPPLEMENTARY INFORMATION: During the spring the Commission will consider a set of draft recommendations developed by its Public Advisory Committee, which is composed of representatives from industry, environmental groups and all levels of government. The recommendations address seven areas for managing emissions: stationary sources (large industrial facilities, etc.); mobile sources (vehicles, including cars, trucks, ships, trains, etc.); managed fire; pollution sources in and near class I areas; pollution prevention; clean air corridors; and Mexican emissions. Consideration is also given to tribal concerns; the future role of the commission; and additional monitoring. The recommendations can be obtained by calling 1–800–659–5858 and leaving a name and address. Copies are also available by accessing the Commission's

electronic bulletin board at (303) 446–0349, or its home page at http://www.nmia.com/gcvtc on the World Wide Web.

• Hearings on the recommendations will be held at the following times and locations:

• Tuesday, April 9, 7:00 pm, Sabin-Cleere Room, Colorado Department of Public Health & Environment, Building A, 4300 Cherry Creek Drive South, Denver, Colorado.

• Tuesday, April 9, 7:00 pm, BLM National Training Center, 9828 N. 31st Avenue, Phoenix, Arizona.

• Tuesday, April 9, 6:30 pm, Lloyd Center Tower, Conference Rooms 12 A–B, 825 N.E. Multnomah, Portland, Oregon.

• Tuesday, April 9, 5:00 pm, Cafeteria Conference Center, A-Level, L.A. Department of Water & Power, 111 N. Hope Street, Los Angeles, California.

• Wednesday, April 10, 7:00 pm, Desert Research Institute, 755 E. Flamingo Road, Las Vegas, Nevada.

• Tribal Meeting: Wednesday, April 10, 3:00–5:00 pm, Inter-Tribal Environmental Program, DuBois Center, NAU South Campus. Public Meeting: Wednesday, April 10, 7:00 pm, Room 110, Social and Behavioral Science, NAU South Campus, Flagstaff, AZ.

• Thursday, April 10, 5:00 pm, Board Hearing Room, Lower Level, Air Resources Board, 2020 L Street, Sacramento, California.

• Wednesday, April 10, 7:00 pm, Room 101, Department of Environmental Quality Building, 168 N. 1950 West, Salt Lake City, Utah.

• Thursday, April 11, 7:00 pm, Administrative Conference Room, Doña Ana Community College, 3400 S. Espina, Las Cruces, New Mexico.

• Thursday, April 11, 7:00 pm, City Council Chambers, 175 North 200 West, St. George, Utah.

• Monday, April 15, 7:00 pm, Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, New Mexico.

• Monday, April 15, 7:00 pm, City Auditorium, 520 Rood Avenue, Grand Junction, Colorado.

• Tuesday, April 16, 10 am. Hall of the States, 400 N. Capitol Street, Room 383, Washington, DC.

• Tuesday, April 16, 7:00 pm, North and South Auditoriums, Washoe County Administrative Complex, 9th Street and Wells Avenue, Reno, Nevada.

• Wednesday, April 17, 7:00 pm, Moab Civic Center, 450 E. 100 North, Moab, Utah.

• Wednesday, April 17, 7:00 pm, White Mountain Library, 2935 Sweetwater Drive, Rock Springs, WY.

• Tribal Meeting: Wednesday April 17, 5:00 pm, Tejeras Room, Albuquerque Convention Center, 401 2nd Street, NW, Albuquerque, New Mexico. Public Meeting: Wednesday April 17, 7:00 pm, Tejeras Room, Albuquerque Convention Center, 401 2nd Street, NW, Albuquerque, New Mexico.

Interested persons are also asked to submit written comments on the recommendations to the Commission. Submissions should be made to the Grand Canyon Visibility Transport Commission, c/o Western Governors' Association, 600 17th Street, Suite 1705 S. Tower, Denver, CO 80202. Comments must be submitted by Wednesday, April 24, 1994 to be considered.

The Commission was established by the EPA on November 13, 1991 (see 56 FR 57522, November 12, 1991). All meetings are open to the public. These meetings are not subject to provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

Dated: March 28, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–8341 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–140241A; FRL–5362–1]

Access to Confidential Business Information by Contractor; Extension of Contract; Illinois Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the contract and access to confidential business information of Illinois Environmental Protection Agency (Contract Number 68-W5-0039). Access to confidential business information is extended until May 31, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the fall of 1995, Illinois Environmental Protection Agency (Contract number 68-W5-0039), was retained as an EPA contractor to review information directed to EPA under the authority of the Toxic Substances Control Act, including confidential business information (CBI) and determine the value of such information to their respective toxics programs. By the terms of the contract, and the previous extension which published in the Federal Register of January 29, 1996 (60 FR 2822), access to CBI would end by the end of March, and a contract product would be due soon thereafter.

The Illinois Environmental Protection Agency's review has been more detailed than originally contemplated and the responsibilities placed on CBI cleared personnel have been more detailed than originally expected. As a result, Illinois Environmental Protection Agency has requested an extension to review CBI data and adequately address the requirements of the contract.

The Agency has determined that access to TSCA CBI should be extended until May 31, 1996, to insure that the Illinois Environmental Protection Agency has sufficient time to address the issue of the utility of TSCA data to state programs. Additional information may be secured from Scott Sherlock, the EPA staffer assigned to this project, at (202) 260–1536; e-mail: sherlock.scott@epamail.epa.gov.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: March 29, 1996.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–8342 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL 5453–4]

Clean Air Act Advisory Committee; Meeting

ACTION: Clean Air Act Advisory Committee Notice of Subcommittee Meeting.

OPEN MEETING NOTICE: The Permits/New Source Review/Air Toxics Integration Subcommittee of the Clean Air Act Advisory Committee will meet on Friday, April 26, 1996 from 9:00 a.m. to 3:00 p.m. eastern time. Location for the meeting will be Conference Room 3 North at the Environmental Protection Agency, 401 Street M, Southwest, Washington, D.C. The purpose for the meeting will be to continue discussions begun at the Subcommittee meeting on March 21, 1996, on ways in which sources may legally limit their potential emissions. An agenda for the meeting will be available prior to the meeting by calling Debbie Stackhouse at (919) 541–5354.

Dated: April 1, 1996.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 96–8332 Filed 4–3–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission; Comments Requested

March 29, 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. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. 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 June 3, 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 No.: 3060-0666.

Title: Section 64.703(a) - Consumer Information—Branding by Operator Service Providers.

Form No.: N/A.

Type of Review: Revised Collection.

Respondents: Businesses or other for profit, including small businesses.

Number of Responses: 436.

Estimated Hour Per Response: 1,529 hours per response.

Total Annual Burden: 666,666.

Needs and Uses: As required by 47 U.S.C. Section 226(b)(1), 47 CFR Section 64.703(a) provides that operator service providers disclose to consumers at the outset of operator assisted calls their identity, and, upon request, rates for the call, collection methods, and complaint procedures. In CC Docket No. 94-158, the Commission modified the term consumer thereby requiring that operator service providers disclose their identities to both parties, rather than one party to a collect call.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–8265 Filed 4–3–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

I.L.S., Inc., 215 Long Beach Blvd., Suite 321, Long Beach, CA 90802,
Officers: Pierre Mazenod, President; Patrick J. Roberts, Executive Vice President

DNI Express, Inc., 3621 Columbia Pike, Arlington, VA 22204
Officer: Ibrahim Hazim, President

Port City Forwarding, Inc., 410 The Hill—Sugar Warehouse, Portsmouth, NH 03801
John T. Kelly, Sole Proprietor

Seko Ocean Forwarding, Inc., 790 Busse Road, Elk Grove Village, IL 60007
Officers: Daniel Para, President, Joseph F. Blais, Sr., Vice President

Dated: March 29, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–8202 Filed 4–3–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Delay of implementation date.

SUMMARY: The notice document 95-31456 beginning on page 67357 in the issue of Friday, December 29, 1995, regarding proposed revisions to the Report of Changes in Investments (Made Pursuant to Subparts A and C of Regulation K)(FR 2064; OMB No. 7100-0109), states that the proposed revisions would be implemented as of March 31, 1996. As previously announced, the Board is currently contemplating certain changes to Regulation K. The FR 2064 implementation date has been postponed in order to coordinate changes to the report with other potential changes not yet announced to the relevant portions of Regulation K. Notice of the implementation of a revised FR 2064 will be made as changes to Regulation K near completion. Respondents should continue to use the current form and instructions until further notice.

Board of Governors of the Federal Reserve System, March 29, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–8235 Filed 4–3–96; 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 29, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. R&G Financial Corporation, Hato Rey, Puerto Rico; to become a bank holding company by acquiring 88.07 percent of the voting shares of R-G Premier Bank of Puerto Rico, Hato Rey, Puerto Rico.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Premier Financial Bancorp, Inc., Georgetown, Kentucky; to acquire 100 percent of the voting shares of Farmers Deposit Bancorp, Eminence, Kentucky, and thereby indirectly acquire Farmers Deposit Bank of Eminence, Eminence, Kentucky.

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

1. First Frederick Financial Corporation, Frederick, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of Frederick, Frederick, Maryland.

Board of Governors of the Federal Reserve System, March 29, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–8236 Filed 4–3–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The company listed in this notice has given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 18, 1996.

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

1. First Newman Grove Bankshares, Inc., Newman Grove, Nebraska; to engage *de novo* through its subsidiary, Meadow Ridge Partners, LLC, Norfolk, Nebraska, in community development activities under § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 29, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–8237 Filed 4–3–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 922–3312]

Budget Rent A Car Systems, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require the Lisle, Illinois-based auto rental company, if it resumes collecting ''loss of turnback'' fees, to clearly disclose to customers who do not purchase a ''loss damage waiver'' that they are liable for damage or loss in excess of the actual cost of repairs to damaged vehicles. It will also require Budget to pay $75,000 in consumer redress. The consent agreement settles allegations that Budget sought to collect ''loss of turnback'' fees—the amount Budget lost because damaged vehicles could not be resold to the manufacturer at a price higher than retail—from customers who had not purchased ''loss damage waivers,'' without disclosing the customers' purported liability for these charges in advance. Budget also allegedly misrepresented that its rental contracts entitled the company to make these ''loss of turnback'' collections.

DATES: Comments must be received on or before June 3, 1996.

ADDRESSES: Comments should be directed to FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Randy Brook, Seattle Regional Office, Federal Trade Commission, 915 Second Avenue, Suite 2806, Seattle, WA 98174. 206–220–6350. Robert Schroeder, Seattle Regional Office, Federal Trade

Commission, 915 Second Avenue, Suite 2806, Seattle, WA 98174. 206–220–6350.

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

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of proposed respondent Budget Rent A Car Systems, Inc., a corporation, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated.

It is hereby agreed by and between Budget Rent A Car Systems, Inc., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent is a Delaware corporation with its principal office and place of business located at 4225 Naperville Road, Lisle, Illinois 60532–3662.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

a. Any further procedural steps;

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

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

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

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (a) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the draft complaint and the following order. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this order:

A. ''Turnback'' means any preset price, premium, bonus, or formula that could result in respondent receiving more than the vehicle's fair market value upon repurchase by the vehicle's original vendor, financer, or their designee.

B. ''Fair market value'' means the vehicle's price as listed in an industry-wide and generally accepted publication or directory of used car values, or the resale price received in a commercially reasonable sale.

C. ''LDW'' means any option that respondent offers that limits or eliminates a renter's liability to respondent for loss of or damage to the respondent's vehicle during the pendency of the rental agreement.

D. ''Insurance'' means the renter's own standard vehicle insurance, and any alternative, supplemental, or secondary coverage the renter possesses that provides coverage for rented vehicles including, but not limited to, the coverage currently furnished by many credit card companies.

I

It is ordered that respondent, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the promoting, offering for rental, or rental of any vehicle, in or for any rental location where it seeks loss of turnback or turnback value in any form for vehicles rented in that location, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, does forthwith cease and desist from:

A. Failing to disclosure, clearly and prominently, in connection with any representation relating to the renter's liability for loss of or damage to a rental vehicle, including any representation about LDW, that in the event of loss of or damage to a vehicle for which LDW was declined, respondent may charge the renter between $x and $y [specify range of dollar amounts Budget may seek] more than the cost of repairs or the fair market value of the vehicle, that many insurance companies will not pay this charge, and that the renter will have to pay it. This paragraph applies specifically to, but is not limited to, Budget's rental contracts and to any representation relating to the price or terms of LDW made through respondent's inputs in the ''company-specific location'' part of third-party, computerized reservation systems, such as ''Apollo,'' ''PARS,'' ''Sabre,'' or ''System One.''

Provided, however, that if respondent uses a ''short-form'' rental contract or other document or electronic form of agreement that makes it impractical to place the required disclosure within the

document or form, respondent shall devise other means to ensure that each renter receives the substance of the disclosure before entering into the rental agreement. The other means could include, but are not limited to, a separate disclosure document to be signed or initialed by the renter.

B. Failing to post at each Budget rental location a sign or placard clearly and prominently containing the following language:

If you decline LDW and the rental car is damaged or stolen, we may charge you between $x and $y [specify range of dollar amounts Budget may seek] more than the cost of repairs or the fair market value of the vehicle. Many insurance companies will not pay this. If yours doesn't, you will have to pay it.

The sign or placard shall be of a size, and posted in a manner, reasonably calculated to elicit prospective renters' attention.

C. Failing to disclose, in a clear and prominent manner in any communication seeking payment of any charge for loss of or damage to a rental vehicle, any part of the charge that is attributable to loss of turnback including, but not limited to, instances where the vehicle is totaled or stolen and respondent is seeking compensation based in whole or part on any turnback amount. This disclosure shall include an explanation of what loss is turnback means and how it was calculated.

II

It is further ordered that respondent, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the promoting, offering for rental, or rental of any vehicle, in or for any rental location where it seeks loss of turnback or turnback value in any form for vehicles rented in that location, in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, does forthwith cease and desist from misrepresenting, in any manner, directly or by implication:

(1) the obligation of the renter to make any payment as the result of the loss of or damage to a rental vehicle; and

(2) the value of a vehicle that has been lost or damaged.

III

It is further ordered that no provision of this order is intended to preempt any state law, regulation, or administrative interpretation that may limit or prevent respondent from collecting loss of turnback from a renter.

IV

It is further ordered that respondent shall pay into an inter-bearing escrow account designated by the Commission, under the control of the Commission's designated agent, the sum of $75,000 on or before five days from the date of service of this order. This shall fully satisfy all monetary claims asserted by the Commission in the complaint filed herein against this respondent and shall be used to provide redress to consumers who made a payment to respondent and to pay any attendant expenses of administration. If the Commission determines, in its sole discretion, that redress to consumers is wholly or partially impracticable, any funds not so used shall be deposited into the United States Treasury. No portion of respondent's payment shall be deemed a payment of any fine, penalty, or punitive assessment. Respondent shall be notified as to how funds are disbursed but shall have no right to contest the manner of distribution chosen by the Commission.

V

It is further ordered that respondent shall, for three years from the date of service upon it of this order, distribute, or cause to be distributed, a copy of this order to all present and future division, regional, branch, and subrogation managers who have management responsibilities relating to the collection of collision or theft damages from renters.

VI

It is further ordered that respondent shall, for three years from the date of service of this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying all documents relating to compliance with this order.

VII

It is further ordered that respondent shall, for 10 years from the date of service of this order, notify the FTC in writing at least 30 days prior to the effective date of any proposed change in its corporate structure, such as dissolution, assignment, or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other changes in the corporation that may affect compliance obligations arising out of this order.

VIII

It is further ordered that respondent shall, within 60 days from the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IX

It is further ordered that this order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years; and

B. This order if the complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if the complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date the complaint is filed and the later of the deadline for appealing the dismissal or ruling and the date the dismissal or ruling is upheld on appeal.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Budget Rent A Car Corporation (''Budget'').

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

This matter concerns claims for loss or damages that Budget makes against renters who declined to pay extra for loss damage waiver (LDW) when they rented a vehicle. LDW is also called collision damage waiver (CDW).

The Commission's complaint charges Budget with unfair and deceptive practices in connection with making loss or damage claims. According to the complaint, Budget failed to disclose to the renters that if there was more than superficial damage to the rented vehicle, Budget might assess charges (called ''loss of turnback'') as much as several

thousand dollars more than the actual cost of repairs; that if the car was lost or stolen, Budget might seek reimbursement for an amount greater than the vehicle's fair market value; that the renter's own insurance company would likely not cover the added charge or above market value premium; and that the renter would have to pay the excess charge.

The complaint also alleges that Budget deceived consumers when it tried to collect for loss of turnback by misrepresenting that its rental contracts entitled it to make that collection.

The consent order contains provisions designed to remedy the violations charged and to prevent Budget from engaging in similar deceptive and unfair acts and practices in the future.

Part I of the order requires that Budget make clear disclosures to potential renters about liability for damage or loss in excess of the actual cost of repairs or fair market value. The disclosures must appear in promotional materials, on signs in Budget rental locations, and in any communications seeking these excess charges. The disclosure requirements only apply to Budget locations where Budget seeks these excess charges.

Part II of the order prohibits misrepresentations about the obligation of a renter to make any payment as a result of the loss of or damage to a rental vehicle or about its value after damage or loss.

Part III of the order makes clear that the order does not preempt any more restrictive provision of state or local law regarding collecting excess charges.

Part IV of the order requires Budget to pay $75,000 in consumer redress.

Part of the order requires Budget to distribute copies of the order to relevant officers and employees, and Part VI imposes various record keeping requirements.

Part VII of the order requires Budget to notify the Commission of any changes in corporate structure that might affect compliance with the order. Part VIII requires that Budget file with the Commission a compliance report detailing the manner in which it complied with the order.

Part IX of the order terminates the order twenty years from the date of its issuance, or twenty years from the date a complaint is filed in federal court alleging any violation of the order, whichever comes later.

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

Donald S. Clark,

Secretary.

[FR Doc. 96–8331 Filed 4–3–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) this notice is publishing the following summaries of proposed collections for public comment. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a Currently Approved Collection; *Title of Information Collection:* End Stage Renal Disease (ESRD) Medical Information System Survey; *Form No.:* HCFA–2744; *Use:* This form is completed annually by Medicare approved providers of dialysis and transport services. The HCFA–2744 is designed to collect information concerning treatment trends, utilization of services and patterns of practice in treating ESRD patients; *Frequency:* Annually; *Affected Public:* Business or other for profit, Not for profit institutions; *Number of Respondents:* 3,200; *Total Annual Responses:* 3,200; *Total Annual Hours Requested* 25,600.

2. *Type of Information Collection Request:* Extension of a Currently Approved Collection; *Title of Information Collection:* End Stage Renal Disease (ESRD) Death Notification; *Form No.:* HCFA–2746; *Use:* This form is completed by all Medicare approved ESRD facilities upon the death of an ESRD patient. It's primary purpose is to collect fact and cause of death; *Frequency:* On Occasion; *Affected Public:* Business or other for profit, Not for profit institutions; *Number of Respondents:* 2,900; *Total Annual Responses:* 40,600; *Total Annual Hours Requested* 6,902.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Hospital Conditions of Participation—42 CFR Part 482; *Form No.*: HCFA–R–48; *Use:* Hospitals seeking to participate in the Medicare and Medicaid programs must meet the Conditions of Participation. These information collection requirements in this package are needed to implement the Medicare and Medicaid conditions of participation for hospitals. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 6,700; *Total Annual Responses:* 6,700; *Total Annual Hours Requested:* 53,515.

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

Dated: March 29, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–8260 Filed 4–3–96; 8:45 am]

BILLING CODE 4120–03–P

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS

(Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines. –

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Telephone: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections. –

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards. –

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984 (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

CORNING Clinical Laboratories, 4771 Regent Blvd., Irving, TX 75063, 800–526–0947 (formerly: Damon Clinical Laboratories, Damon/MetPath)

CORNING Clinical Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–284–7515 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories)

CORNING Clinical Laboratories, 24451 Telegraph Rd., Southfield, MI 48034, 800–444–0106 ext. 650 (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath)

CORNING Clinical Laboratories Inc., 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING Clinical Laboratories, South Central Divison, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 (formerly: Metropolitan Reference Laboratories, Inc.)

CORNING Clinical Laboratory, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–836–3093

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300 (formerly: Harrison & Associates Forensic Laboratories)

Holmes Regional Medical Center Toxicology Laboratory, 5200 Babcock St., N.E., Suite 107, Palm Bay, FL 32905, 407–726–9920

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927 (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100 (Formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America, 21903 68th Ave. South, Kent, WA 98032, 206–395–4000 (Formerly: Regional Toxicology Services)

Laboratory Corporation of America Holdings, 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587
Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199
MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512 800–237–7808 (x4512)
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 503–687–2134
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400
PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352
PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177
PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627
Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272
Premier Analytical Laboratories, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784 (formerly: Drug Labs of Texas)
Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640
Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–244–8800, 800–999–LABS
Sierra Nevada Laboratories, Inc., 888 Willow St., Reno, NV 89502, 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–989–2520
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 904–787–9006 (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010 (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 1737 Airport Way South, Suite 200, Seattle, WA 98134, 206–623–8100
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373, (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191 (formerly: MetWest-BPL Toxicology Laboratory)

The following laboratory withdrew from the National Laboratory Certification Program on March 29, 1996:

National Psychopharmacology Laboratory, Inc., 9320 Park W. Blvd., Knoxville, TN 37923, 800–251–9492

Richard Kopanda,

Acting Executive Officer Substance Abuse and Mental Health Services. Administration.

[FR Doc. 96–8382 Filed 4–3–96; 8:45 am]

BILLING CODE 4160–20–U

Dietary Supplement Labels Commission; Meeting; Correction

AGENCY: Office of Disease Prevention and Health Promotion, HHS.

ACTION: Correction.

SUMMARY: In notice document 96–7639 beginning on page 14102 in the issue of Friday, March 29, 1996, make the following corrections:

On page 14102 in the third column line 3 in **SUMMARY**, the notice refers to the second meeting. This should be changed to read third meeting.

On page 14102 in the third column in **FOR FURTHER INFORMATION CONTACT** change the telephone number to read (202) 690–7102.

On page 14102 in the third column in Announcement of Meeting, the meeting date, time, and location are listed incorrectly. The sentences should read the Commission's third meeting will be April 26, 1996, 8:30 a.m. to 4:30 p.m. Pacific Standard Time. The meeting will be held in the Sausalito Room, at the Holiday Inn Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, California 94133.

On page 14103 in the first column in Public Participation at Meeting, the last two sentences should read please request the opportunity to present oral comments in writing and provide nine (9) copies of the written comments from which the oral presentation is abstracted to the address above by April 19, 1996. If you will require a sign language interpreter, please call Sandra Saunders (202) 690–7102 by 4:30 p.m. E.S.T. on April 19, 1996.

Dated: April 1, 1996.

Claude Earl Fox,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. 96–8270 Filed 4–3–96; 8:45 am]

BILLING CODE 4160–17–M

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Early Head Start Evaluation.
OMB No: New Request.
Description: The Head Start Reauthorization Act of 1994 established a special initiative creating funding for services for families with infants and toddlers. In response the Administration on Children, Youth and Families (ACYF) designed the Early Head Start (EHS) program. In September, 1995, ACYF awarded grants to 68 local programs to serve families with infants and toddlers.

EHS programs are designed to produce outcomes in four domains: (1) child development, (2) family development, (3) staff development and (4) community development. The Reauthorization required that this new initiative be evaluated. To study the effect of the initiative ACYF awarded a contract through a competitive procurement to Mathematica Policy Research, Inc. (MPR) with a subcontract to Columbia University Center for Young Children and Families. Evaluation will be carried out from October 1, 1995, through September 30, 2000. Data collection activities that are the subject of this Federal Register notice are intended for the first phase of the EHS evaluation.

The sample for the child and family assessments will be approximately

3,400 families who include a pregnant woman or a child under 12 months of age, in 17 EHS study sites. Each family will be randomly assigned to a treatment group or a control group. The sample for the child care assessments will include the primary child care provider for the focal child in each of the 3,400 study sample families. The sample for the staff assessments will be all EHS staff who have contact with the study children and families. The surveys and assessments will be conducted through computer assisted telephone interviewing, pencil and paper self-administered questionnaires, structured observations and videotaping. All data collection instruments have been designed to minimize the burden on respondents by minimizing interviewing and assessment time. Participation in the study is voluntary and confidential.

The information will be used by government managers, Congress and others to identify the features and evaluate the effectiveness of the EHS program.

Respondents: Applicants to the Early Head Start program, child care providers for Early Head Start families and Early Head Start staff.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
14-Month Parent Interview, Child Assessment Videotaping Protocol	3,230	1	2.5	8,075
6-Month Parent Services Follow-Up Interview	3,298	1	.75	2,474
Child Care Provider Interview	1,259	1	.50	630
Child Care Provider Observation Protocol	1,259	1	2	2,518
Staff Questionnaire	170	1	.5	85
Estimated Total Annual Burden Hours: 13,782.				

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management, 370 L'Enfant Promenade, S.W., Washington, D.C. 20047, Attn.: ACF Reports Clearance Officer. All requests should be identified by title.

In addition, requests for copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending a message to rkatson@acf.dhhs.gov. Internet messages must be submitted as an ASCII file without special characters or encryption.

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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 28, 1996.

Roberta Katson,

Director, Division of Information Resource Management Services.

[FR Doc. 96–8203 Filed 4–3–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 96N–0089]

Establishment of Lists of U.S. Firms/Processors Exporting Shell Eggs, Dairy Products, Game Meat and Game Meat Products to the European Community; Request for Information From Such Firms

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it intends to establish lists of U.S. firms/processors exporting shell eggs, dairy products, game meat and game meat products to the European Community (EC) that manufacture products in compliance with U.S. food laws and regulations. FDA is taking this action in response to current changes in the EC legislation that will require countries trading with any of the EC member countries to provide lists of firms exporting certain animal derived commodities to the EC. FDA is requesting that U.S. firms presently exporting, or who anticipate exporting these commodities to the EC, provide the agency with information for inclusion on the appropriate list. This list will be updated on a quarterly basis and will be submitted to the EC. This notice is intended to alert all U.S. exporters to the EC requirement for lists of companies processing animal derived commodities that are exported to the EC member states. The agency is also requesting comments on the best mechanisms to be used in obtaining future changes and additions to the EC lists for these commodities.

DATES: Written comments and information for inclusion on the EC list by April 30, 1996. Written comments on the information collection requirements by May 6, 1996.

ADDRESSES: Submit written information for inclusion on the EC list to Marilyn F. Balmer, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, FAX 202–205–4422 or E-mail MFB@FDACF.SSW.DHHS.GOV.

Submit written comments on the best mechanisms to be used in obtaining future changes and additions to the EC lists for dairy products, shell eggs, game meat and game meat products to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the Docket number found in brackets in the heading of this document.

Submit written comments on the information collection requirements to DHHS Reports Clearance Officer, Paperwork Reduction Project (0910–0320), Hubert Humphrey Bldg., 200 Independence Ave. SW., rm. 531–H, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Marilyn F. Balmer, Center for Food

Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4400.

SUPPLEMENTARY INFORMATION:

I. Introduction

The EC is a group of 15 European countries that have agreed to harmonize their commodity requirements to facilitate commerce among the member states. Those countries which are members of the EC are as follows: United Kingdom, France, Italy, Spain, Portugal, Germany, Netherlands, Belgium, Denmark, Luxembourg, Ireland, Greece, Austria, Finland, and Sweden.

Lists of processors (businesses) and the use of public and/or animal health certificates are an integral part of EC legislation on sanitary measures to protect public and animal health in the trade of live animals and animal products.

The Council of the EC has issued directives which contain the rules and procedures that must be followed by the member states for intracommunity trade in commodities. Member states of the EC are required by EC legislation to maintain lists of processing firms which meet these EC directives. The lists of processors approved by member states are published in the *Official Journal of the European Community*. Public and/or animal health certificates issued by the government of the country of origin are required to accompany every shipment of these products. For animal derived commodities, these directives were developed with regard to animal and public health considerations. Dates are being established at which time importation of commodities from third countries (i.e., the United States and other non-EC countries) will be subject to the minimum requirements of these directives. The Department of Agriculture and FDA are presently negotiating with the EC with a view to establishing agreement on the comparability of U.S. and EC regulatory systems to ensure that commodities trade with the EC is not disrupted. The EC directives on shell eggs, dairy products, game meat and game meat products are as follows:

1. EC Council Directive 92/46/EEC contains the rules for the production and sale of raw milk, heat-treated milk and milk-based products. In chapter III, article 23 of this directive, for importation into the EC from third countries, lists and certificates are required. The list identifies the establishments which meet the EC requirements and the certificates are health certificates (animal and public).

2. EC Council Directive 92/45/EEC contains the rules for slaughter and sale of wild-game meat. In chapter III, articles 16 and 17 of this directive, for importation into the EC from third countries (non-EC) lists and certificates are required. The list identifies establishments which meet EC requirements and the certificates are both public and animal health certificates.

3. EC Council Directive 91/495/EEC contains the rules for the production, slaughter, and sale of rabbit meat and farmed-game meat. EC Council Directive 92/118/EEC, annex 1, chapter 11 requires that for imported rabbit meat and farmed game meat that animal and public health certificates be provided and that chapters II and III from Directive 91/495/EEC be followed. Directive 91/495/EEC requires lists of establishments which meet the requirements.

4. EC Council Directive 92/5/EEC contains the rules for the production and marketing of meat products including those derived from game meats. EC Council Directive 92/118/EEC, annex II, chapter 1 requires that imported meat products have a public health certificate and that rules from Directive 77/99/EEC, which was amended by Directive 92/5/EEC be followed. Within these directives lists of establishments are required. Meat products are those prepared from or with meat which has undergone treatment such that the cut surface no longer has the characteristics of fresh meat.

5. EC Council Directive 94/65/EC contains the rules for production and marketing of meat preparations. Meat preparations include those products derived from game meat. The EC directive further distinguishes these products by specifying that the cut surface of the meat preparations has not lost the characteristics of fresh meat. In chapter V, article 13, certificates and lists are required for importation of these products from third countries (non-EC).

6. EC Council Decision 94/371/EEC, Council Regulation EEC N 1907 and Commission Regulation EEC N 1274/91 contains the rules for the production and marketing of shell eggs. Council Directive 92/118 lays down the animal and public health requirements for trade and imports not subject to specific EC rules. Within these directives lists and certificates are required.

Shell eggs, hard cooked eggs and imitation egg products; dairy products; and game meats and game meat products (i.e., non-FSIS mandatorily inspected meat and poultry) are commodities for which the FDA is the Federal agency responsible for public health protection. Other governmental agencies such as Agriculture Marketing Service and Food Safety Inspection Service offer voluntary inspection of these commodities.

II. Intention to Establish Lists of U.S. Firms/Processors

Initially, FDA intends to establish lists of U.S. firms/processors that meet U.S. regulations and export to the EC the following products: Shell egg, dairy products and game meat commodities. Inclusion of U.S. firms/processors on these lists is voluntary. However, commodities from firms not on these lists could be detained at the EC port of entry. In the past, seafood shipments from firms not on the seafood list were detained and not allowed into the EC. FDA officials accompanied by EC officials may visit any firm placed on these lists for auditing of the U.S. public and animal health systems.

U.S. firms/processors that export the previously mentioned products to the EC and want to be included in the appropriate lists that the agency is developing should submit the following information to FDA to Marilyn F. Balmer (address above):

1. Business name and address;
2. Name and telephone number of contact person;
3. List of products presently shipped to EC and those intended to be shipped in the next 2 years;
4. Name and address of the manufacturing plant for each product;
5. Names and affiliations of any Federal, State or local governmental agencies that inspect the plant, government assigned plant identifier, such as plant number and last date of inspection.

The mechanism for updating and maintaining these lists is being reviewed. Comments on methods for maintenance are welcome.

FDA is presently considering procedures for certificates and will notify exporters in an appropriate manner.

III. Paperwork Reduction Act

OMB has approved this collection of information under the emergency processing provision of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)) and has assigned OMB control number 0910–0320. Public reporting burden for this voluntary collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and

completing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing the burden, to: DHHS Reports Clearance Officer, Paperwork Reduction Project (0910–0320), Hubert Humphrey Bldg., 200 Independence Ave. SW., rm 531–H, Washington, DC 20201. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

Submit written information for inclusion on the EC list to Marilyn F. Balmer (address above).

Submit written comments on the best mechanisms to be used in obtaining future changes and additions to the EC lists for dairy products, shell eggs, game meat and game meat products to the Dockets Management Branch (address above). All comments should be identified with the docket number found in the brackets in the heading of this document.

Dated: March 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–8360 Filed 4–1–96; 3:24 pm]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting 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.

MEETING: The following advisory committee meeting is announced:

–Nonprescription Drugs Advisory Committee With Representation From the Drug Abuse Advisory Committee

–*Date, time, and place.* April 19, 1996, 8:30 a.m., Holiday Inn—Silver Spring, Grand Ballroom, 8777 Georgia Ave., Silver Spring, 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 11:30 a.m.; closed presentation of data, 11:30 a.m. to 12 m.; open committee discussion, 12 m. to 3 p.m.; closed presentation of data, 3 p.m. to 3:30 p.m.; open committee discussion, 3:30 p.m. to 5 p.m.; Kennerly K. Chapman, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or Liz Ortuzar (address above), 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Nonprescription Drugs Advisory Committee, code 12541 or the Drug Abuse Advisory Committee, code 12535.

General function of the committees. The Nonprescription Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases. The Drug Abuse Advisory Committee advises on the scientific and medical evaluation of information gathered by the Department of Health and Human Services and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

–*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 5, 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 new drug application (NDA) 20–536, Nicotrol® (nicotine transdermal system, Pharmacia Upjohn/McNeil Consumer Products) indicated as an aid to smoking cessation for the relief of nicotine withdrawal symptoms, to switch from prescription to over-the-counter status; and supplemental NDA 20–165/S–011 Nicoderm® (nicotine patch, Hoescht Marion Roussel/Alza Corp.), indicated as an aid to smoking cessation for the relief of nicotine withdrawal symptoms, to switch from prescription to over-the-counter status.

–*Closed presentation of data.* The committee will hear trade secret and/or confidential commercial information. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).––

Each public advisory committee meeting listed above 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. The dates and times reserved for the separate 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.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

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 29, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–8246 Filed 4–3–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95P–0110]

Guidance Documents; The Food and Drug Administration's Development and Use; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting on issues relating to the agency's development and use of guidance documents. The agency is holding this public meeting to further discuss issues that were raised in a citizen petition submitted by the Indiana Medical Devices Manufacturers Council, Inc. (IMDMC). The citizen petition requested that FDA control the development of guidance documents by written procedures that ensure the appropriate level of meaningful public participation.

DATES: The public meeting will be held on Friday, April 26, 1996, 9 a.m. to 3 p.m.

ADDRESSES: The public meeting will be held at the National Institutes of Health, Warren Grant Magnuson Clinical Center, Bldg. 10, Masur Auditorium, 9000 Rockville Pike, Bethesda, MD 20892–1162. Those persons interested in attending this meeting should FAX their registration to Lisa Barclay by April 16, 1996.

The notice of registration should include the registrant's name, address, telephone number, FAX number, and business affiliation, if any. Persons interested in making a presentation at the meeting should include a brief summary of the presentation, and the approximate amount of time requested for the presentation. FDA will allocate the time available for the public meeting among the persons who properly file notices of their intent to make a presentation at the meeting. If time permits, FDA may allow additional presentations from interested persons attending the meeting who did not submit a notice of their intent to make a presentation.

Notices of registration should be received by April 16, 1996. There is no registration fee for this public meeting, but advance registration is required. Interested parties are encouraged to register early.

Parking in the Clinical Center visitor area is reserved for Clinical Center patients and their visitors. If you must drive, please use an outlying parking lot, such as Lot 41B. Free shuttle bus service is provided from Lot 41B to the Clinical Center every 8 minutes during rush hour and every 15 minutes at other times. The National Institutes of Health campus may be reached by subway (Metro). Take the Red Line to the Medical Center stop. The same shuttle service is available from Metro to the Clinical Center.

FOR FURTHER INFORMATION CONTACT: Lisa Barclay, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, rm. 14–101, Rockville, MD 20857, 301–827–3360, FAX 301–594–6777.

SUPPLEMENTARY INFORMATION: Issues relating to FDA's development and use of guidance documents were raised in a citizen petition submitted by the IMDMC. (See Docket No. 95P–0110). Specifically, the petition requested that FDA control the initiation, development, and issuance of guidance documents by written procedures that ensure the appropriate level of

meaningful public participation. FDA agreed to take steps to improve its guidance document procedures. In the Federal Register of March 7, 1996 (61 FR 9181), FDA published a notice that sets forth its current thinking on ways to improve its guidance document procedures and solicited comment on these and additional ideas for improvement. The purpose of this public meeting is to further discuss the issues set forth in the notice published in the Federal Register of March 7, 1996 (61 FR 9181).

Dated: March 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–8359 Filed 4–1–96; 3:25 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3919–N–02]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* June 3, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 4255, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0846, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public and Indian Housing—Life Cycle Cost Analysis of Utility Combinations in Public Housing.

OMB Control Number: 2577–0024.

Description of the Need for the Information and Proposed Use: The U.S. Housing Act of 1937, as amended, requires that, to the maximum extent practicable, newly constructed and substantially rehabilitated developments assisted under the Act be equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems. The Housing and Community Development Act of 1980 requires these developments to be equipped with a passive or active solar energy system that would be cost effective over the estimated life of the system to be installed. The life-cycle cost analysis of utility combinations (LCCAUC) is necessary to compare and recommend the most cost-effective utility-combination for new constructions or rehabilitation projects.

Agency Form Number: HUD–51994 (Optional).

Members of Affected Public: PHAs; IHAs.

Estimation of the Total Number of Hours Needed To Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: 238 respondents, one occasion for each (a) newly constructed development, (b) substantially rehabilitated development or (c) moderninzation project involving a change in utility combination, 6.0 average hours per response, 1,428 total burden hours.

Status of the Proposed Information Collection: Reinstatement of a Previously Approved Collection for Which Approval has Expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 27, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Life-Cycle Cost Analysis of Utility Combinations

Part A—Summary

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB. No. 2577-0024 (Exp. 10-31-86)

1. Public/Indian Housing Agency	2. Project Number	3. Date
4. By (Name and Title)	5. Prepared By	

Utility Combinations ►	Comb. No. ___		Comb. No. ___		Comb. No. ___		Comb. No. ___	
6. Domestic Hot Water Installation								
7a. Space Heating Installation								
b. Space Heating System								
8. Space Air Conditioning Installation								
Fuel and Energy Types and Purchasing Methods	Tenant	Master-meter	Tenant	Master-meter	Tenant	Master-meter	Tenant	Master-meter
9. Lighting and Refrigeration								
10. Cooking								
11. Domestic Hot Water								
12. Space Heating								
13. Space Air Conditioning								
Initial Cost of Utility Installation								
14. Per Dwelling Unit	$		$		$		$	
15. Total	$		$		$		$	
Estimated Cost Per Unit Per Month								
16. Electricity	$		$		$		$	
17. Gas	$		$		$		$	
18. Fuel and Heating/Cooling Supplies	$		$		$		$	
19. Heating/Cooling Labor	$		$		$		$	
20. Repairs, Maintenance and Replacements (20 year average)	$		$		$		$	
21. Interest	$		$		$		$	
22. **Total Monthly Cost**	$		$		$		$	

23. Recommended: Combination No. _____

24. Justification of Recommendation:

Replaces HUD-51994-A, 51994-B, 51994-C, 51994-D, 51994-D pg. 2
Which Are Obsolete

HUD-51994 (12/85)
HB.7418.1

Instructions for Part A - Summary

Space is provided in Part A of this form for all applicable costs and charges for four utility combinations. Use as many sheets of Part A as are required to summarize all combinations. The data required to complete Part A should be derived from Parts B, C, and D.

Domestic Hot Water, Space Heating, and Cooling. Indicate on line 6 the type of water heating to be used in each combination (central plant or individual heaters). If individual heaters, indicate also whether automatic storage, instantaneous, etc. Indicate on line 7a the kind of space heating to be used by each combination (central, separate building plants, or individual dwelling unit systems). Show on line 7b the type of heating system (warm air, steam, water, etc.) Indicate on line 8 the type of cooling system (heat pump, chilled water, chilled air, evaporative coolers, etc.)

Fuel and Energy Types and Purchasing Methods. Enter on lines 9, 10, 11, 12, and 13 for each combination the symbols shown below to indicate the types of fuels and energy to be used for each of these items. If the service is to be supplied by the tenant, insert the appropriate symbols in the Tenant column. If it is to be supplied by the project, insert it in the Mastermeter column.

E-Electricity	C-Coal	PS-Purchased District Heating
G-Gas	LPG-Liquefied Petroleum Gas	S-Solar Energy
FO-Fuel Oil		O-Other (specify)

Initial Cost of Utility Installation. Enter in line 14 the total initial cost per dwelling unit of the facilities and equipment required for each combination as shown at the bottom of Page 2, Part D. Enter in line 15 the total initial cost for the project of the facilities and equipment obtained by multiplying the amounts entered in Line 14 by the number of dwelling units.

Estimated Cost Per Unit Month. Enter on lines 16 and 17 the costs for electricity and gas for each combination as taken from Part C, line 15 (tenant) or line 18 (mastermeter) as the case may be. Enter on lines 16-18 fuel costs (other than electricity or gas) as shown on lines 15 or 18 of Part C, and the cost of Heating/Cooling Supplies as shown on line 20 of Part C. Enter on line 19 the estimated cost of Heating/Cooling Labor taken from Line 26 of Part C. Enter on line 20 the average monthly expense for Repairs, Maintenance, and Replacements, which is 1/12 of the amount shown at the bottom of Page 2 of Part D. Enter on line 21 the monthly interest charge, which is 1/12 of the interest of the initial cost as shown above on line 14 of Part A. The total of the amounts entered in lines 16 to 21 inclusive should be entered on line 22 for each combination.

Recommended Combinations. Enter opposite this heading the number of the utility combination which the Public/Indian Housing Agency recommends for the project.

Justification of Recommendation. If the utility combination recommended is the lowest estimated cost per dwelling unit, the Public/Indian Housing Agency shall state that it considers the combination suitable for the locality. If, however, a combination other than the one resulting in the lowest cost is recommended, a detailed and comprehensive justification must be submitted, using additional sheets if necessary.

Part B
General Information

OMB No. 2577-0024 (Exp. 10-31-86)

1. Public Housing Agency	2. Project Number	3. Date

Please make sure the information on this form is as complete and accurate as possible. One Part B is required for each project. On lines 4 through 8, Column 1, indicate the number of dwelling units in each category listed. On lines 4 through 8, Column 4, indicate the number of buildings of the various heights entered in Column 3. Column 5 shows the total number of rooms in the buildings.

Dwelling Size	Number of Dwellings	Height of Buildings (Number of Stories)	Number of Buildings	Number of Rooms
4. One Bedroom				
5. Two Bedrooms				
6. Three Bedrooms				
7. Four Bedrooms				
8. Total				

Climatic Data. Winter/Summer design temperatures are the established base temperatures for design of heating/cooling installations in the locality. It may be obtained from the Handbook of the American Society of Heating, Refrigeration and Air-Conditioning Engineers. Annual Degree Days and Equivalent Full Load Hours may be obtained from the same source or from the Weather Bureau. Average Cold Water Temperature may be obtained from the local water utility.

12a. Winter Design Temperature °F	13a. Annual Degree Days	14. Average Cold Water Temp. °F
12b. Summer Design Temperature °F	13b. Equivalent Full Load Hours	

Energy and Fuel Supplies. Enter names of suppliers of electricity, gas, fuel oil and coal, together with physical characteristics as indicated. Volts, cycles, and Btu contents per unit of measure may be obtained from the respective suppliers. In space provided, list any fuel or energy other than those listed.

15. Electricity Supplied By:	Volts cycles
16. Gas Supplied by:	BTU per:
17. No. Fuel Oil Supplied by:	BTU per:
18. Coal Supplied by:	BTU per:
19. (Other) Supplied by:	BTU per:

Estimated Average Unit Costs. Enter the appropriate value for the combination recommended by the Public Housing Agency and the other three combinations of lowest cost. These values may be calculated from the quantities and costs shown in Part C. For retail purchases, divide costs from Line 11, Part C, by quantities from Line 8, Part C. For wholesale purchases, divide costs from Line 14 by quantities on Line 10 for the particular combination.

Estimated Average Unit Costs	Comb. No. ___		Comb. No. ___		Comb. No. ___		Comb. No. ___	
	Tenant	Mastermeter	Tenant	Mastermeter	Tenant	Mastermeter	Tenant	Mastermeter
20. Electricity ¢ per kwh								
21. Gas ¢ per Mcf or Therm.								
22. Fuel Oil ¢ per gallon or $ per barrel								
23. Coal ¢ per ton								
24. Other								

Instructions for Part B - General Information

Part B provides for the assembly of information relating to the project, to local conditions under which the project will operate, and fuel and energy available for utility services. Please make sure the information on this form is as complete and accurate as possible. One Part B is required for each project.

Dwelling Size. On lines 4 to 8, column 2, indicate the number of dwelling units in each category listed in column 1.

On lines 4 to 8, column 4, indicate the number of buildings of the various heights entered in column 3. Column 5 shows the total number of rooms for the buildings of different heights.

Climatic Data. Winter and summer design temperatures are the established bases for design of heating installations in the locality. These may be obtained from the 'Handbook of the American Society of Heating, Refrigeration, and Air-Conditioning Engineers.' Annual Degree Days and Equivalent Full Load Hours may be obtained from the same sources or from the Weather Bureau. Average cold water temperature may be obtained from the local water utility.

Energy and Fuel Supplies. On lines 15, 16, 17, and 18, enter the names of the suppliers of electricity, gas, fuel oil and coal, together with the physical characteristics as indicated. Volts, cycles and BTU contents per unit of measurement may be obtained from the respective suppliers. Line 19 is for any fuel or energy other than those listed.

Estimated Average Unit Costs. On lines 20, 21, 22, 23 and 24, enter the appropriate values for the combination recommended by the Public Housing Agency and the other three combinations of lowest cost. These values may be calculated from the quantities and costs shown in Part C. For retail purchases, divide the costs from line 17, Part C by the quantities from line 11 Part C. Similarly for wholesale purchases, divide the costs from line 20 by the quantities shown in line 16 for the particular combination.

Part C
Fuel and Energy Heating Supplies, Heating Labor

OMB No. 2577-0024 (Exp. 10-31-86)

1. Public/Indian Housing Agency	2. Project Number	3. Date
	4. Combination No.	

Fuel and Energy ►	Electricity		Gas	Oil	Coal	Other
Method of Purchase (Mastermeter or Tenant)						
Rate Schedule Designation (Rates used in determining cost on Lines 15, 17 & 18)						
Average Monthly Consumption per Dwelling Unit For:	KW Demand	KWH Consumption	MCF or Therms	Gallons	Tons	Other
5. Lighting and Refrigeration						
6. Space Air Conditioning						
7. Cooking						
8. Domestic Hot Water						
9. Space Heating						
10. Street Lighting						
11. General Project Use						
12. Net Total						
13. On-Site Losses						
14. Total Fuel and Energy Per Dwelling Unit						
Tenant Purchases 15. Average Cost Per DU Per Month		$	$	$	$	$
Mastermeter Purchases 16. Average Project Demand and Consumption Per Month						
17. Average Project Cost Per Month		$	$	$	$	$
18. Average Cost Per DU Per Month		$	$	$	$	$

Heating/Cooling Supplies

19. Estimated Total Per Year $

20. Cost Per DU Per Month

Heating/Cooling Labor

21.	Chief Engineer	for	months, at	$	$
22.	Engineers	for	months, at	$	$
23.	Firemen	for	months, at	$	$
24	Other	for	months, at	$	$

25. Total Annual Labor Cost $

26. Labor Per Dwelling Unit Per Month $

HUD-51994 (12/85)
HR 7418.1

Instructions for Part C-Cost of Fuel, Energy, Heating Supplies, and Heating Labor

Part C of Form HUD-51994 provides for the assembly of data and computation of costs for one utility combination. Prepare separate forms for each utility combination analyzed.

Sources of Data. Data for consumption and cost should be based upon local experience where available. Otherwise data may be obtained from local distributors and from Handbook 7418.1.

Fuel and Energy. On line captioned "Method of Purchase" indicate, for each type of fuel or energy, whether purchased at mastermeter or tenant. On line captioned 'Rate Schedule Designation' show schedule designation of the rates used in determining the cost on lines 15, 17, and 18. On lines numbered 5 to 11 enter estimated monthly consumption in kw.-hr. per dwelling unit for each use of electric energy. Where the rate schedule includes a demand charge, insert, in the space provided, the demand in kilowatts; if demand is measured in kilovolt-amperes or horsepower, substitute the proper term in column heading. Add the demands and consumption and enter totals on Line 12. For energy and fuels purchased mastermeter, insert estimated losses on line 13, and total on line 14. Proceed similarly for other fuels except that no on-site losses should be calculated for oil, coal, and similar fuels.

The blank column at the right-hand edge of the form is for any fuel or energy other than those listed. List the fuel used at head of column.

Tenant Purchases. Values for line 15 may be obtained by applying the proper rate schedules and fuel costs to demand and consumption figures on line 14 for columns representing retail purchases.

Mastermeter Purchases. Values for line 16 may be obtained by multiplying the demand and consumption figures on line 14 for columns representing mastermeter purchases by the number of dwelling units.

Values for line 17 may be obtained by applying the proper rate schedules and fuel costs to the demand and consumption figures in line 16.

Values for line 18 may be obtained by dividing the respective figures from line 17 by the number of dwelling units.

Heating/Cooling Supplies. On line 19 enter estimated total cost per year for Heating Supplies for the combination being analyzed. Divide by the number of dwelling units and again divide by 12 to obtain cost per dwelling unit per month and enter result on line 20.

Heating/Cooling Labor. For central, group, or building plants calculate the labor requirements and costs and enter in the spaces provided. On line 25 enter the total of lines 21, 22, 23, and 24. Divide the amount shown for Total Annual Labor Cost in line 25, by the number of dwelling units and again divide by 12. Enter the result in line 26.

Initial Costs and Annual Repair, Maintenance and Replacement Expense Per Dwelling Unit

OMB No. 2577-0024 (Exp. 10-31-86)

1. Public/Indian Housing Agency	2. Project Number	3. Date

Facilities or Equipment	Combo. No. ___			Combo. No. ___			Combo. No. ___		
	Initial Cost Per DU	Annual RM & R Expense Per DU		Initial Cost Per DU	Annual RM & R Expense Per DU		Initial Cost Per DU	Annual RM & R Expense Per DU	
		Total Factor	Amount		Total Factor	Amount		Total Factor	Amount
Electric System									
Sub-station: Outdoor	$	%	$	$	%	$	$	%	$
Indoor									
Exterior Distribution									
Interior Wiring									
Checkmeters									
Gas System									
Exterior Distribution	$	%	$	$	%	$	$	%	$
Interior Piping									
Checkmeters									
Project Operated Domestic Hot Water									
Boilers & Aux. (DHW Only)	$	%	$	$	%	$	$	%	$
Firing Equipment (DHW Only)									
Tank with Heating Coil									
Circulating Pump									
Exterior Distribution									
Interior Piping									
Project Operated Space Heating/ Cooling									
Boilers & Aux. (SPH & DHW)	$	%	$	$	%	$	$	%	$
Firing Equipment (SPH & DHW)									
Exterior Distribution									
Interior Piping, Rads, etc.									
Electrical Work									
H_2O/Air Cooled Chiller									
H_2O/Air Cooled Absorption									
Comp. with Chiller									
Carried Forward	$		$	$		$	$		$

HUD-51994 (12/85)
HB. 7418.1

Part D (Page 2)

Initial Costs and Annual Repair, Maintenance and Replacement Expense Per Dwelling Unit

OMB No. 2577-0024 (Exp. 10-31-86)

1. Public Indian Housing Agency	2. Project Number	3. Date

Facilities or Equipment	Combo. No. ___			Combo. No. ___			Combo. No. ___		
	Initial Cost Per DU	Annual RM & R Expense Per DU		Initial Cost Per DU	Annual RM & R Expense Per DU		Initial Cost Per DU	Annual RM & R Expense Per DU	
		Total Factor	Amount		Total Factor	Amount		Total Factor	Amount
Brought Forward	$		$	$		$	$		$
Tenant Operated Domestic Hot Water									
Auto. Storage Heaters	$	%	$	$	%	$	$	%	$
Side Arm Heaters									
Pot Stove (coal fired)									
Storage Tank									
Hot Water Piping									
Tenant Operated Space Heating/Cooling									
Space Heaters	$	%	$	$	%	$	$	%	$
Floor Furnaces									
Warm Air Furnaces									
Steam Boiler, Radiators									
Hot Water Boiler, Radiators									
Burner (oil)									
Blower									
Draft Fan									
Pump									
Electrical Work									
Conversion Burner									
Heat Pump									
Thin-Wall A/C Unit									
Other Items									
Roads	$	%	$	$	%	$	$	%	$
Boiler Room									
Basement or Crawl Space									
Flues									
Major Appliances									
Refrigerators	$	%	$	$	%	$	$	%	$
Ranges									
Washer									
Dryer									
Total Per Dwelling Unit	$		$	$		$	$		$

HUD-51994 (12/85)
HB. 7418.1

[FR Doc. 96–8272 Filed 4–3–96; 8:45 am]
BILLING CODE 4210–33–C

[Docket No. FR–2880–N–09]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comment due: [June 3, 1996.]

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 4255, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202)–708–0846, for copies of the proposed forms and other available documents. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: HOME Grants for Indian Tribes and Alaskan Native Villages.

OMB Control Number: 2577–0191.

Description of the Need for the Information and Proposed Use: The HOME Grant Program for Indian tribes and Alaska native villages requires eligible applicants to submit information to enable HUD to select the best projects for funding during annual competitions. Additionally, the requirements are essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars.

Agency Form Numbers, if Applicable: HUD–4121, HUD–4122, HUD–4123, HUD–4125, HUD–4126.

Members of Affected Public: State or Local Governments (Indian Tribes and Alaska Native Villages).

Estimation of the Total Number of Hours Needed To Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: 80 respondents, annually and on occasion, 40 average hours per response, 3,200 hours for a total reporting burden.

Status of the Proposed Information Collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 27, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Needs Description Comprehensive Approach

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2506-0043 (exp. 5/31/95)
OMB Approval No. 2577-0191 (exp. 4/30/96)

See Instructions on back.
Check one:

☐ Indian Community Development Block Grant (ICDBG)

☐ Indian HOME Program Grant (IHPG)

1. Name of Applicant :	2. Application/Grant Number: (to be assigned by HUD upon submission)	
3. Name of Project :	4. ☐ **Original** (check here if this is the first submission to HUD)	Date:
	☐ **Amendment** (check here if submitted after grant award)	Date:

5. ICDBG Program only: (See Instructions on back.)

6. IHPG Program only: (See Instructions on back.)

Public reporting burden for this collection of information is estimated to average 17 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2506-0043 for the Indian CDBG Program or 2577-0191for the Indian HOME Program), Washington, D.C. 20503. Do not send this completed form to either of the above addressees.

General Instructions: All applicants for funds from the Indian HOME Program must submit this form accompanied by Standard Form 424, form HUD-4122 (Project Summary), form HUD-4123 (Cost Summary), form HUD-4125 (Implementation Schedule), form HUD-4126 (Certifications), maps and components that address the relevant selection criteria. For ICDBG, forms HUD-4121 and HUD-4122 are obtional. Forms SF-424, HUD-4123, HUD-4125, and HUD-4126 must be included. For instructions in filling out form SF-424, refer to the form itself.

5. ICDBG Program only: Community Development Needs. Briefly describe the need which this project addresses. Be specific and quantify need if possible. Since extent of need will be considered when project is rated, address specific points in the Notice of Fund Availability which consider need. If need involves serious threat to health and safety, provide evidence to substantiate threat. The type of information that is needed includes the specific problem the project will address, how long problem has existed, what other solutions have been considered, what negative effects will result if problem is not resolved in near future, how proposed project fits overall plan of village/tribe, and priority of this project over other projects for which funding is requested. Additional pages may be attached.

6. IHPG Program only: Comprehensive Approach. This component addresses the Comprehensive Approach for Expanding the Supply of Affordable Housing threshold. Indian tribes are not required to submit a Comprehensive Housing Affordability Strategy (CHAS), a Tribal Housing Plan, or a housing strategy to receive IHPG funds. However, the application must demonstrate how the proposed project will contribute to a comprehensive approach for expanding the supply of affordable housing for members of the Indian tribe.

Project Summary

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2506-0043 (exp. 5/31/95)
OMB Approval No. 2577-0191 (exp. 4/30/96)

See ICDBG Instructions on back.
Check one:

☐ Indian Community Development Block Grant (ICDBG)

☐ Indian HOME Program Grant (IHPG)

Note: Items 1 through 4 on this form should match those items on form HUD-4121.

1. Name of Applicant :	2. Application/Grant Number: (to be assigned by HUD upon submission)	
3. Name of Project :	4. ☐ **Original** (check here if this is the first submission to HUD)	Date:
	☐ **Amendment** (check here if submitted after grant award)	Date:

IHPG Program only:
5. Summary Description of Project.

ICDBG Program only:
6. Description of Project. (See instructions on back.)

☐ Check here if additional page(s) are attached.

ICDBG Program only:

7. Low/Moderate Benefit. Low and moderate income beneficiary as defined in 24 CFR 953.4.

Number of Persons Served by the Project:	Number & Percentage of Low/Moderate Income Persons who Benefit:	

Previous editions are obsolete

form **HUD-4122** (1/95)

Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2506-0043 for the Indian CDBG Program or 2577-0191for the Indian HOME Program), Washington, D.C. 20503. Do not send this completed form to either of the above addressees.

6. ICDBG Program only: Description of Project. The information provided in this application component should describe the scope, magnitude, and method of implementing the project proposed to meet the need(s) described. It should also clearly establish that the two sub-thresholds set forth in Section 953.301(a)(A)(1) and (2) are met by the project, specifically that the project costs are reasonable and that the project is appropriate for the intended use. The unit or component costs of the project should be provided as well as on what basis and by whom they were estimated. The inflation rate, other relevant cost indices and the number of months it is anticipated that it will take to go out to bid should be taken into consideration. The following type of information is suggestive of what is needed but may not be applicable to all projects. Indicate the specific project, its size (square feet, linear feet, volume, number, etc.), to what degree it solves the problem identified in the description of need(s), length of time needed for completion, location of facility in reference to population served (map should be provided) if appropriate. Indicate whether the project will aid more than one Tribe/municipal government, how project will be carried out (tribal force account, third party contract, tribal based non-profit corporation, local development corporation, etc.), what funds will be required from other sources and current status of funds. Indicate other elements which enhance the quality of the proposed project. If funds are requested for planning and/or technical assistance, a separate project summary must be completed describing the proposed use of these funds. It is in this component that data should be provided on the service area population of the project including the number and percent of these persons who are of low or moderate income status. **The income levels to be used by applicants to evaluate the income characteristics of the service area population of a proposed project will be provided by the ONAP office that serves your community.** Additional pages may be attached.

Cost Summary

See Instructions on back.

Check one:

☐ Indian Community Development Block Grant (ICDBG)

☐ Indian HOME Program Grant (IHPG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2506-0043 (exp. 5/31/95)
OMB Approval No. 2577-0191 (exp. 4/30/96)

1. Name of Applicant : (as shown in Item 5, Standard Form 424)

2. Application/Grant Number: (to be assigned by HUD upon submission)

3. ☐ **Original** (check here if this is the first submission to HUD) ☐ **Revision** (check here if submitted with implementation schedule as part of pre-award requirements ☐ **Amendment** (check here if submitted after HUD approval of grant)

Date:

4. **Project Name & Project Category** (see instructions on back) a	**ICDBG/IHPG** Amount Requested for each activity b	**Program Funds** (in thousands of $) Other: Other Source Amount for each activity c	Other: Source of Other Funds for each activity d
	$	$	
5. Administration a. General Management and Oversight			
b. Indirect Costs: Enter indirect costs to be charged to the program pursuant to a cost allocation plan.			
c. Audit: Enter estimated cost of Program share of A-128 audits.			
Administration Total For IHPG, this total cannot exceed 15% of the Indian HOME Program funds requested. For ICDBG, see *			
6. Planning The Project description must address the proposed use of these funds. (ICDBG Program only)			
7. Technical Assistance Enter total amount of ICDBG funds requested for technical assistance. See ** (ICDBG Program only)			
8. Sub Total Enter totals of columns b. and c.	$	$	
9. Grand Total Enter sum of column b. plus column c.			$

* The total of items 5 and 6 cannot exceed 20% of the total ICDBG funds requested.

** No more than 10% of ICDBG funds requested may be used for technical assistance. If funds are requested under this line item, a separate project description must accompany the application to describe the technical assistance the application intends to obtain. Only technical assistance costs associated with the development of a capacity to undertake a specific funded program activity are eligible (see 24 CFR 953.203(b)).

Previous editions are obsolete

form **HUD-4123** (1/95)

Public reporting burden for this collection of information is estimated to average 15 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2506-0043 for the Indian CDBG Program or 2577-0191 for the Indian HOME Program), Washington, D.C. 20503. Do not send this completed form to either of the above addressees.

Instructions for Item 4.
Project Name and Project Type

For IHPG participants enter project name and the name of one of the following three Indian HOME Program project types:
- Acquisition;
- Rehabilitation;
- New Construction.

For ICDBG participants enter the project name and the name of one of the following three categories of activities:
- Housing;
- Community Facilities;
- Economic Development.

Also enter the component name if applicable. Use a separate Cost Summary sheet (form HUD-4123) for each project included in the application.

Examples of categories and/or components including examples of eligible activities are listed below.

Housing

Rehabilitation Component:
- Rehabilitation
- Demolition

Land to Support New Housing Component

New Housing Construction / Direct Homeownership Assistance Component: Direct homeownership assistance activities consist of the following:

. Finance acquisition of housing occupied by low- and moderate-income homebuyers
. Payment of up to 50% of the downpayment for low- and moderate-income homebuyers
- Payment of closing costs for low- and moderate-income homebuyers

Community Facilities

Infrastructure Component:
- Water
- Sewer
- Roads and Streets
- Storm Sewers

Buildings Component:
- Health Clinic
- Daycare Center
- Community Center
- Multi-purpose Center

Economic Development
- Commercial (wholesale, retail)
- Industrial
- Motel/Hotel
- Restaurant
- Agricultural Development

Implementation Schedule

See Instructions on back.

Check one:

☐ Indian Community Development Block Grant (ICDBG)

☐ Indian HOME Program Grant (IHPG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2506-0043 (exp. 5/31/95)
OMB Approval No. 2577-0191 (exp. 4/30/96)

For ICDBG, submit a separate implementation schedule for each project category.
For IHPG, submit additional forms if implementation exceeds 8 quarters.

1. Name of Applicant: (as shown in Item 5, Standard Form 424)	2. Application/Grant Number (to be assigned by HUD)	3. ☐ Original (First submission to HUD) ☐ Pre-Award Submission ☐ Amendment (submitted after grant approval)	Date:

4. Name of Project: (as shown on form HUD-4123, Item 4)	5. Effective Date: (mm/yy)	Expected Completion Date: (mm/yy)	Expected Closeout Date: (mm/yy)

6. Environmental Review Status:

☐ **Exempt** (As described in 24 CFR 58.34)

☐ **Under Review** (Review underway; findings not yet made)

☐ **Finding of No Significant Impact** (Finding made that request for release of funds for project is not an action which may significantly affect the environment.)

☐ **EIS Required** (Finding that project may significantly affect environment or EIS automatically required by 24 CFR 58.37)

☐ **Not Started** (Review not yet begun)

☐ **Certification** (Environmental review completed; certification and request for release of funds being prepared for submission.)

☐ **Categorically Excluded** (as described in 24 CFR 58.35)

7. Tribal Fiscal Year:

8. Task List:
(List tasks such as environmental assessment, acquisition, etc.)

9. Schedule: Use Calendar Year (CY) quarters. Fill-in the CY below. If the project begins in May, for example, enter under "1st Qtr.", A(April), M(May), J(June). Indicate time period required to complete each activity, e.g., acquisition, by entering "X" under the months it will begin and end. Draw a horizontal line from the first to the second "X". If the completion date will extend beyond the 8th quarter, enter date in the far right column and attach an explanation.

	CY ___ 1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	CY ___ 5th Qtr.	6th Qtr.	7th Qtr.	8th Qtr.	Date: (If exceeds 8th Quarter)
10. Planned Drawdowns by Quarter (Enter amounts non-cumulatively)	$	$	$	$	$	$	$	$	$Total:
11. Cumulative Drawdown (If more than one page, enter total on last page only)	$	$	$	$	$	$	$	$	$Total:

Previous editions are obsolete

page of pages

form HUD-4125 (1/95)

Public reporting burden for this collection of information is estimated to average 18 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2506-0043 for the Indian CDBG Program or 2577-0191 for the Indian HOME Program), Washington, D.C. 20503. Do not send this completed form to either of the above addressees.

Instructions for Item 9 Schedule: Use Calendar Year (CY) quarters. Fill-in the CY below. If the project begins in May, for example, enter under "1st Qtr.", A(April), M(May), J(June). Indicate time period required to complete each activity, e.g., acquisition, by entering "X" under the months it will begin and end. Draw a horizontal line from the first to the second "X". If the completion date will extend beyond the 8th quarter, enter date in the far right column and attach an explanation.

Certifications

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2506-0043 (exp. 5/31/95)
OMB Approval No. 2577-0191 (exp. 4/30/96)

See Instructions on back.
Check one:

☐ Indian Community Development Block Grant (ICDBG)

☐ Indian HOME Program Grant (IHPG)

The grantee hereby certifies and assures that it will comply with the regulations, guidelines, and requirements with respect to the acceptance and use of Federal funds for this Federally-assisted program. Also, the grantee gives assurances and certifies with respect to the grant that:

A. It possesses the legal authority to apply for the grant and execute the proposed program.

B. The governing body has duly authorized the filing of the application, including all understandings and assurances contained in the application and has directed and authorized the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

C. It will comply with the HUD general administration requirements in 24 CFR Part 85.

D. It will comply with the requirements of Title II of Public Law 90-284 (25 USC 1301) (the Indian Civil Rights Act).

E. It will comply with the Indian preference provisions required in 24 CFR 953.503 for ICDBG and 24 CFR 92.631 for HOME.

F. It will establish written safeguards to prevent employees from using positions funded under the ICDBG/IHPG programs for a purpose that is, or gives the appearance of being, motivated by private gain for themselves, their close family or business associates. Nothing in this certification should be construed as to limit employees from benefiting from program activities for which they would otherwise be eligible.

G. It will give HUD and the Comptroller General access and right to examine all books, records, papers, or documents related to the grant for a period of not less than three years after program completion or until resolution of any final audit findings.

H. Neither the applicant nor its principals are presently excluded from participation in any HUD programs, as required by 24 CFR part 24, appendix A.

I. It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of Section 92.634 for IHPG and the provisions of 24 CFR 953.602 for ICDBG.

J. The chief executive officer or other official of the applicant approved by HUD:

1. Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of the Act apply to the applicant's proposed program pursuant to 24 CFR 953.605 for ICDBG and 24 CFR 92.633 for HOME.

2. Is authorized and consents on behalf of the applicant and him/her self to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.

Note: Applicants for whom HUD has approved a claim of incapacity to accept the responsibilities of the Federal government for purposes of complying with the environmental review requirements of 24 CFR part 58 pursuant to 24 CFR 953.605 for ICDBG and Section 92.633 for IHPG need not include the provision of paragraph J in their assurance.

K. It will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 (Economic Opportunities for Low and Very Low Income Persons) to the maximum extent consistent with, but not in derogation of, compliance with Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC. 450e(b)).

L. It will comply with the requirements of the Fire Authorization Administration Act of 1992 (Pub.L. 102-522).

M. It will provide the drug-free workplace required by 24 CFR part 24, subpart F and appendix C.

N. It will comply with 24 CFR, part 12, subpart C, showing full disclosure of all benefits of the project as collected by Form HUD-2880, Applicant/Recipient Disclosure Report.

Certifications applicable to ICDBG only:

A. Prior to submission of its application to HUD, the grantee has met the citizen participation requirements which includes following traditional means of member involvement, as required by the regulations.

B. It will administer and enforce the labor standard requirements prescribed by these regulations.

C. The Program has been developed so that not less than 70 percent of the funds received under this grant will be used for activities that benefit low- and moderate-income persons.

Note: Applicants receiving Imminent Threat Grants need not include the provision of this paragraph in their assurance

Certifications applicable to IHPG only:

A. It will use HOME funds in compliance with all the requirements of 24 CFR part 92, the HOME investment partnerships program interim rule.

B. It does not have an outstanding Indian HOME or ICDBG obligation to HUD that is in arrears, or it has agreed to a repayment schedule. It does not have an overdue or unsatisfactory response to an audit finding(s).

Name & Title: (type or print)	Signature & Date:
	X

Previous editions are obsolete

form HUD-4126 (2/95)

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2506-0043 for the Indian CDBG Program or 2577-0191for the Indian HOME Program), Washington, D.C. 20503. Do not send this completed form to either of the above addressees.

Instructions: For ICDBG and IHPG, all applicants shall submit this form as part of the application.

Previous editions are obsolete

form HUD-4126 (2/95)

[FR Doc. 96–8284 Filed 4–3–96; 8:45 am]
BILLING CODE 4210–33–C

[Docket No. FR–3967–N–02]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due June 3, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 4255, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202)–708–0846, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public and Indian Housing—Contract Administration.

OMB Control Number: 2577–0039.

Description of the need for the information and proposed use: Standard construction practices and HUD administrative requirements establish the need that Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) maintain certain records or submit certain documents in conjunction with the oversight of the award of construction contracts for the construction of new low-income housing developments or modernization of existing developments.

Agency form numbers: HUD–5372, HUD–51000.

Members of affected public: PHAs; IHAs.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 2,443 respondents, on occasion, 1.20 average hours per response, 15,771 total burden hours.

Status of the proposed information collection: Reinstatement of a Previously Approved Collection for Which Approval has Expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 27, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Construction Progress Schedule

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0039 (Exp. 5/31/95)

Public Reporting Burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0016), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

1. Name of Public Housing Agency/Indian Housing Authority (PHA/IHA)		
2. City	3. State	5. Project Name
4. Location		6. Project Number
7. Contract For		8. Contract Time (Days)
9. From To		10. Contract Price $
11. Number of Buildings	12. Number of Dwelling Units	13. Number of Rooms

(Submit as many pages as necessary to cover the construction period.)								
Year								
Month								
Actual Monthly Value, Work in Place ($)								
Actual Accumulated Progress (%)								
Anticipated Monthly Value ($)								
Accumulated Scheduled Progress (%)								

Submitted by:	(Contractor's Name:)		
	Title	Authorizing Signature	Date
Approved by:	(PHA/IHA)		
	Title	Date	
Approved by:	(Architect)	Date	

form **HUD-5372** (2/93)
ref Handbook 7417.1, 7485.1, 7450.1 & 7460.8

Instructions for Preparation of Construction Progress Schedule Form HUD-5372

General. The information required for items 1 through 6 can be obtained from the contract documents. (7.) Enter the type of work awarded by the PHA/IHA. This may be "general construction," "plumbing," "heating," "electrical," etc., depending upon prime contract awards. (8.) Enter the contract time in calendar days (unless otherwise stated). (9.) Enter the starting and completion dates as established by the Notice to Proceed.

Year and Month. At the top of the Schedule, space is provided for inserting the "Year" and "Month" to identify the times during which the work is to be performed.

Year. Enter the year when the Notice to Proceed was issued. If the starting date of the contract is such that the time assigned for completion will be carried into a succeeding year, two yearly designations will be shown, each centered over the applicable spread of time for each year.

Month. The body of the Schedule is divided into Columns, each representing a period of one month. Starting in the Column with the month stated in the Notice to Proceed, enter at the top of each column the successive months corresponding to the entire spread of the total contract time. The Schedule must contain monthly columns to cover the entire active period of contract, with extra columns for possible overruns in contract time.

Computation of Anticipated Monthly Value of Work in Place

Before presenting the form for approval, enter in each monthly column the dollar value (omit cents) of the increment of work anticipated to be put in place during that interval of time. This shall be the Contractor's best estimate of the rate of progress for each month. This section contains a suggested guide for the elapsed contract time vs. progress percentages.

The horizontal total of the monthly dollars shown for "Anticipated Monthly Value" must equal the contract price shown in the heading.

Accumulated Scheduled Progess – %

Entries on this line shall show in percentage of total completion the cumulative stage of progress that is scheduled to be reached at the end of each monthly interval. It is generally sufficient to state this anticipated progress to the nearest tenth of one percent, but for very large contracts it may be advisable to extend computations to the nearest hundredth.

The entry for the first month's column should be the % obtained by the anticipated monthly dollar value of work in place at the close of the first month being divided by the contract price.

The entry for the second month's column is obtained by the sum of the anticipated monthly dollar values of work in place for Columns 1 and 2 being divided by the contract price.

Enter in the third month's column the percentage computed similarly, using the sum of dollar values of work in place for Columns 1, 2, and 3. Continue in this manner for the succeeding monthly columns until "100" is reached in the final column.

Charting Actual Progress. The horizontal space extending through the monthly columns is divided into "Actual Monthly Value of Work in Place – $" and Actual Accumulated Progress – %." In each monthly column show the actual accumulated % of progress and the actual value of work in place for that month, as the work progresses. An anticipated complete shutdown at some stage in the work because of adverse seasonal weather or otherwise, as may occur in road work, excavation (grading), etc., is readily shown by a gap.

The Contractor's name shall be placed in the lower left-hand corner of the form, together with the signature and title of the employee who prepared the Schedule and the date. The form then shall be sent to the Architect for review. If the Architect considers that changes are necessary to make the Schedule more realistic, it will withhold approval and so advise the Contractor. When the form is acceptable and approved by the Architect, and the PHA/IHA, it will be returned to the Contractor, who shall reproduce and submit the number and style of prints required by the PHA/IHA.

Normal building construction experience has proved that the rate of overall progress (as measured by work in place) accelerates slowly at the start, reaches its peak in the middle third of the construction period, and tapers down at the close. The data following illustrate the general average expectancy of a well-balanced operation and may be used as a guide. If the proposed progress lies within reasonable range of these check points, the Schedule may be considered satisfactory insofar as the time-performance feature is involved.

% of Contract Time	% of Accumulated Progress
0	0
10	2
20	8
30	20
40	37
50	57
60	75
70	89
80	96
90	99
100	100

The foregoinig percentages must be tempered by consideration of seasonal weather conditions and other known conditions which may affect the progress of the work. These percentages are offered for information only.

Schedule of Amounts for Contract Payments

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

No progress payments shall be made to the contractor unless a schedule of amounts for contract payments in accordance with the construction contract is received.

OMB Approval No. 2577-0039 (Exp. 5/31/95)

Public Reporting Burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0039), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Project Name & Location:		Project Number:
Name, Address, & Zip Code of Contractor:		
Nature of Contract:		Contract Number:
Approved for Contractor by:	Title:	Date:
Approved for Architect by:	Title:	Date:
Approved for Owner by:	Title:	Date:

Item No. (1)	Description of Item (2)	Quantity (3)	Unit of Measure (4)	Unit Price in Place (5)	Amount of Sub-Item (6)	Amount of Principal Item (7)
Total Amount of Contract or Carried Forward →						$

To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Signature of authorized represenative:	Date signed:
X	

Previous Editions are Obsolete

Page 1 of ____

form **HUD-51000** (8/93)
ref Handbooks 7417.1 and 7485.1

Instructions for Preparation of form HUD-51000

1. A separate breakdown is required for each project and prime contract instructions for preparation are given below.
   a. **Heading.** Enter all identifying information required for both forms.
   b. **Columns 1 and 2.** In column 1, enter the item numbers starting with No. 1, and in column 2 enter each principal division of work incorporated in the contract work.
      (1) **Master List.** The Master list contains the basic items into which any construction contract may be subdivided for the purpose of preparing the Construction Progress Schedule and the Periodical Estimates for Partial Payments. Only those items shall be selected which apply to the particular contract. To ensure uniformity, no change shall be made in the item numbers. Generally, about 25 to 40 major items appear in a contract.
      (2) **Items Subdivided.** In the Contractor's breakdown, against which all periodical estimates will be checked prior to payment, each major item must be subdivided into sub-items pertinent to the project involved and in agreement with the Contractor's intended basis for requesting monthly payments.
   c. **Column 3.** Enter the total quantity for each sub-item of each principal division of work listed in the breakdown.
   d. **Column 4.** Enter the appropriate unit of measure for each sub-item of work opposite the quantities described in column 3, such as "sq. ft.," "cu. yd.," "tons," "lb.," "lumber per M/BM," "brickwork per M," etc., applicable to the particular sub-item. Items shown on "lump sum" or equivalent basis will be paid for only on completion of the whole item and not on a percentage of completion basis.
   e. **Column 5.** Enter the unit price, in place, of each sub-item of work.
   f. **Column 6.** Enter the amount of each sub-item obtained by multiplying the quantities in column 3 by the corresponding unit prices in column 5.
   g. **Column 7.** Enter the amount of principal item only, obtained by adding the amounts of all sub-items of each principal division of work listed in column 6. Continue with the breakdown on form HUD-51000.
   h. The "Schedule of Amounts for Contract Payments" shall be signed and dated in the space provided at the bottom of each sheet of the form by the individual who prepared the breakdown for the Contractor.
2. The minimum number of copies required for each submission for approval is an original and two copies. When approved, one fully approved copy will be returned to the Contractor.

Master List of Items

Item No.	Division of Work	Item No.	Division of Work	Item No.	Division of Work
1	Bond	20	Rough Carpentry		**Site Improvements**
2	General Conditions[1]	21	Metal Bucks	44	Retaining Walls
3	Demolition & Clearing	22	Caulking	45	Storm Sewers
		23	Weatherstripping	46	Sanitary Sewers
	Structures	24	Lath & Plastering-Drywall	47	Water Distribution System
4	General Excavation	25	Stucco	48	Gas Distribution System
5	Footing Excavation	26	Finish Carpentry	49	Electrical Distribution System
6	Backfill	27	Finish Hardware	50	Street & Yard Lighting
7	Foundation Piles & Caissons	28	Glass & Glazing	51	Fire & Police Alarm System
8	Concrete Foundations	29	Metal Doors	52	Fire Protection System
9	Concrete Superstructures	30	Metal Base & Trim	53	Street Work
10	Reinforcing Steel	31	Toilet Partitions	54	Yard Work
11	Waterproofing & Dampproofing	32	Floors	55	(Other)
12	Spandrel Waterproofing	33	Painting & Decorating	56	(Other)
13	Structural Steel	34	Screens		
14	Masonry	35	Plumbing		**Equipment**
15	Stonework	36	Heating	57	Shades & Drapery Rods
16	Miscellaneous & Ornamental Metal	37	Ventilating System	58	Ranges
17	Metal Windows	38	Electrical	59	Refrigerators
18	Roofing	39	Elevators	60	Kitchen Cabinets & Work Tables
19	Sheet Metal	40	Elevator Enclosures—Metal	61	Laundry Equipment
		41	Incinerators—Masonry & Parts	62	(Other)
		42	(Other)		
		43	(Other)	63	**Punch List[2]**
				64	Lawns & Planting

[1] General Conditions should be 3% to 5% of contract amount.
[2] Punch List should be approximately 1/2 of 1% or $30 per dwelling unit, whichever is greater.

Previous Editions are Obsolete

form **HUD-51000** (8/93)
ref Handbooks 7417.1 and 7485.1

[FR Doc. 96–8285 Filed 4–3–96; 8:45 am]
BILLING CODE 4210–33–C

[Docket No. FR–3917–N–58]

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due June 3, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Barbara Hunter, Telephone number (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Monthly Reports for Establishing Net Income.

OMB Control Number: 2502–0108.

Descripton of the need for the information and proposed use: Forms HUD–93479, 93480 and 93481, Monthly Reports for Establishing Net Income (hereafter collectively called Monthly Accounting Reports) provides HUD with financial data necessary to monitor the financial conditions of the project and to review contractual compliance during selected periods of a project's operation. The authority for collection of monthly reports is contained in 24 CFR Chapter 11 (4/1/91 edition), Section 207.19, page 316, and Section 221.530, page 479.

Agency form numbers: HUD–93479, 93480, 93481.

Members of affected public: Property Owners and Property Management Agents.

An estimation of the total numbers of hours needed to prepare the information collection is 172,000, the number of respondents is 4,000, frequency of response is 48,000, and the hours of response is 3.5.

Status of the proposed information collection: Extension with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 15, 1996.

Stephanie A. Smith,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–8286 Filed 4–3–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–59]

Office of the Assistant Secretary for Housing-Federal Housing Commissioner: Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: June 3, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451 7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: James Beavers, Telephone number (202) 708–2700 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Direct Endorsement Underwriter/HUD Reviewer—Analysis of Appraisal Report.

OMB Control Number: 2502–0477.

Description of the Need for the Information and the Proposed Use: The form is used to capture information on appraisal reports considered deficient by the underwriter and to document efforts to resolve any discrepancies. The basis respondents are lender underwriters and FHA staff.

Agency Form Numbers: HUD–54114.

Members of Affected Public: Business or other for-profit.

An estimation of the total numbers of hours needed to prepare the information collection is 18,750, number of respondents is 375,000, frequency response is on occasion, and the hour of response is 0.05.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 19, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–8287 Filed 4–3–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–60]

Office of the Assistant Secretary for Housing-Federal Housing Commissioner Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: June 3, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Betty A. Belin at 202–708–0614 Ext. 2807 (this is not a toll-free number) for copies of the proposed forms and other available documents:

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Multifamily Coinsurance Claims Package 223(F).

OMB Control Number: 2502–0420.

Description of the Need for the Information and the Proposed Use: The mortgagee of a coinsured mortgage may file a claim with the Department for insurance benefits when a coinsurance contract terminates. Filing a claim includes preparing and submitting the Coinsurance Package and Forms HUD–2744A (Allocation of Mortgage Receipts and disbursements), HUD–2744C (Mortgagee's Report of Project Disbursements) and HUD–2744E (Mortgagee's Report of Special Escrow). The last three forms are used for claim submission in other multifamily programs. Information gathered from the claim forms is used by the Department to determine insurance benefits owed to the mortgagee.

Agency Form Numbers: HUD–27008, 27009B, 27009D and 27009F.

Members of Affected Public: State, Local or Tribal Government.

Annually, it is estimated that 5 respondents will submit a Coinsurance Claims Package. the package can be prepared in 2 to 4 hours (an average of 3 hours). This variance is due to the size of the multifamily project and its volume of activities. Also it is assumed that the lender will have the information readily available. There are 15 reporting hours. Status of the proposed information collection: Reinstatement without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 26, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–8288 Filed 4–3–96; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–912–0777–52–241A]

Call for Nominations on Resource Advisory Councils; California

AGENCY: Bureau of Land Management, Interior

ACTION: Notice

SUMMARY: The purpose of this notice is to solicit public nominations for each of three Bureau of Land Management (BLM) Resource Advisory Councils currently assisting BLM in California. The three councils of Bakersfield, Ukiah, and Susanville, established and authorized in 1995 by the Secretary of the Interior, provide advice and recommendations to BLM on management of the public lands. Public nominations will be received and considered for 45 days beginning with the publication date of this notice.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, Resource Advisory Council members appointed to the council must be balanced and representative of the various interests concerned with the management of the public lands. These include three categories:

Category One: Holders of federal grazing permits, representatives of energy and mining development, timber industry, transportation or rights-of-way, off-road vehicle use and developed recreation.

Category Two: Representatives of environmental and resource conservation organizations, dispersed recreation, archeological and historic interests, and wild horse and burro groups.

Category Three: Representatives of State and local government, Native American tribes, academicians involved in natural sciences, employees of State agencies responsible for the management of natural resources, land, or water, and the public at large.

The Ukiah Council has one opening in Category One, one opening in Category Two, and two openings in Category Three (one of these two openings must be filled by an elected official). The Bakersfield Council has one opening in Category One, two openings in Category Two, and one opening in Category Three (this opening must be filled by an elected official). The Susanville Council has one opening in Category One, two openings in Category Two, and two in Category Three.

Individuals may nominate themselves or others. Nominees must be residents of the State or States in which the council has jurisdiction. Nominees will be evaluated based on their education, training, and experience of the issues and knowledge of the geographical area of the Council. Nominees should have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination

form, as well as any other information that speaks to the nominee's qualifications.

Resource Advisory Councils will forward advice on public land planning and management issues to the BLM.

The nomination period will also be announced through press releases issued by the BLM California offices. Nominations for Resource Advisory Councils should be sent to the appropriate BLM offices listed below:

Renee Snyder, 2550 N. State Street, Ukiah, California 95482
Ron Fellows, 3801 Pegasus Avenue, Bakersfield, California 93308
Linda Hansen, 2950 Riverside Drive, Susanville, California 96130

DATES: All nominations must be received by the appropriate BLM Office on or before May 20, 1996.

FOR FURTHER INFORMATION CONTACT: Tony Staed, Bureau of Land Management, 2800 Cottage Way, Room 2845, Sacramento, CA 95825, 916–979–2835.

Dated: March 29, 1996.

Tony Staed,

Deputy State Director, External Affairs

[FR Doc. 96–8273 Filed 4–3–96; 8:45 am]

BILLING CODE 4310–40–P

[ID–990–1020–01–24 1a]

Call for Nominations on Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit nominations from the public for each of three Bureau of Land Management (BLM) Resource Advisory Councils currently assisting BLM in Idaho. The three councils of the Upper Snake River, Lower Snake River, and Upper Columbia-Salmon Clearwater, established and authorized in 1995 by the Secretary of the Interior, provide advice and recommendations to BLM on management of the public lands. Public notice begins with the publication date of this notice. Public nominations will be considered for 45 days.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, Resource Advisory Council members appointed to the council must be balanced and representative of the various interests concerned with the management of the public lands. These include three categories:

- Category One—holders of federal grazing permits, representatives of energy and mining development, timber industry, off-road vehicle use and developed recreation;
- Category 2—representatives of environmental and resource conservation organizations, archaeological and historic interests, and wild horse and burro groups;
- Category 3—representatives of State and local government, Native American tribes, academicians involved in natural sciences, and the public-at-large.

The Upper Snake River Council has two openings in Category One; two openings in Category 2; and one opening in Category 3. The Lower Snake River Council has one opening in Category One; three openings in Category 2; and two openings in Category 3. The Upper Columbia-Salmon/Clearwater Council has two openings in Category One; one opening in Category 2; and two openings in Category 3.

Individuals may nominate themselves or others. Nominees must be residents of the State or States in which the council has jurisdiction. Nominees will be evaluated based on their education, training, and experience of the issues and knowledge of the geographical area of the Council. Nominees should have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications. Resource Advisory Councils will forward advice on public land planning and management issues to the BLM.

The nomination period will also be announced through press releases issued by the BLM Idaho offices. Nominations for Resource Advisory Councils should be sent to Jack Sept, External Affairs Manager, 3380 Americana Terrace, Boise, ID 83706.

DATES: All nominations should be received by Jack Sept, Idaho BLM External Affairs Manager, on or before May 20, 1996.

FOR FURTHER INFORMATION CONTACT: Kim Buxton, Idaho External Affairs, 3380 Americana Terrace, Boise, ID 83706, 208/384–3012.

Jack W. Sept,

External Affairs Manager.

[FR Doc. 96–7961 Filed 4–3–96; 8:45 am]

BILLING CODE 4310–GG–M

[AZ–980–06–0777–75; 1535]

Arizona; Notice of Change of Mailing Address and Telephone Number

AGENCY: Bureau of Land Management, Yuma District Office, Arizona.

SUMMARY: The Bureau of Land Management, Yuma District Office, including Fire Dispatch, wareyard, and Yuma Resource Area will have a new mailing address effective May 1, 1996. The address will change from 3150 Winsor Avenue, Yuma, Arizona 85365 to 2555 East Gila Ridge Road, Yuma, Arizona 85365. The telephone number for both entities will change from (520) 726–6300 to (520) 371–3200.

DATES: Effective May 1, 1996.

ADDRESSES: New addresses will be Bureau of Land Management, Yuma District Office, 2555 East Gila Ridge Road, Yuma, Arizona 85365 and Bureau of Land Management, Yuma Resource Area Office, 2555 East Gila Ridge Road, Yuma, Arizona 85365.

FOR FURTHER INFORMATION CONTACT: Assistant District Manager for Administration Maureen A. Merrell, (520) 371–3200.

Dated: March 25, 1996.

Judith I. Reed,

District Manager.

[FR Doc. 96–8205 Filed 4–3–96; 8:45 am]

BILLING CODE 4310–32–P

[NM–040–1320–01]

Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, announces the availability of the Proposed Texas Resource Management Plan (RMP)/Final Environmental Impact Statement (FEIS) for public review. This document proposes a comprehensive plan for managing Federal oil and gas resources within the State of Texas.

DATES: All comments must be received or post-marked no later than April 30, 1996, to be considered in preparation of the Record of Decision. Any person who participated in the planning process and

has an interest which may be adversely affected by the Proposed RMP/FEIS may submit a protest. Protests may raise only those issues which were submitted for the record during the planning process. Protests must be submitted or post-marked no later than April 30, 1996, and are to be filed with: Director (480), Bureau of Land Management, Resource Planning Team, 1849 C Street N.W., Washington, D.C. 20240. Procedures for protest are outlined at 43 CFR 1610.5–2.

ADDRESSES: Interested parties wanting to comment on the Proposed RMP/FEIS can submit comments to: Paul Tanner, Assistant District Manager, Bureau of Land Management, 221 North Service Road, Moore, Oklahoma 73160.

FOR FURTHER INFORMATION CONTACT: For further information or copies of the Proposed RMP/FEIS contact Brian D. Mills, RMP Team Leader, 221 North Service Road, Moore, Oklahoma 73160. Telephone: (405) 794–9624.

SUPPLEMENTARY INFORMATION: The Proposed Texas RMP/FEIS is being prepared implementing the BLM planning regulations issued under the authority of the Federal Land Policy and Management Act of 1976. The Proposed RMP/FEIS identifies and analyses the future options for managing the Federal oil and gas resources situated within Texas that are administered by the BLM, Tulsa District. At the end of the 30-day protest period, the Proposed RMP, excluding any portions under protest, will become final. Approval will be withheld on any portion of the RMP under protest until action has been completed on such protest. Once a decision is issued, the RMP will provide a comprehensive framework for managing the Federal oil and gas resources over the next 20 years.

Dated: March 14, 1996.

Jim Sims,

District Manager.

[FR Doc. 96–8032 Filed 4–3–96; 8:45 am]

BILLING CODE 4310–FB–M

[ID–957–1420–00]

Idaho: Filing of Plats of Survey

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 25, 1996.

The plat representing the dependent resurvey of portions of the subdivisional lines and the 1897 meanders of the right bank of the Snake River, the subdivision of section 15, the survey of the meanders of the 1995–1996 right bank of the Snake River, of certain partition lines, and of lot 13 in section 15, T. 10 S., R. 24 E., Boise Meridian, Idaho, Group No. 942, was accepted, March 25, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Reclamation, Snake River Area Office.

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 25, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–8261 Filed 4–3–96; 8:45 am]

BILLING CODE 4310–GG–M

[ID–957–1430–00]

Idaho: Filing of Plats of Survey

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 25, 1996.

The plat representing the dependent resurvey of portions of the east boundary, of the subdivisional lines, and of Mineral Survey No. 3027, Nevada No. 2 lode, T. 48 N., R. 1 E., Boise Meridian, Idaho Group No. 859, was accepted, March 25, 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 25, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–8262 Filed 4–3–96; 8:45 am]

BILLING CODE 4310–GG–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–741–743 (Preliminary)]

Melamine Institutional Dinnerware from China, Indonesia, and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from China, Indonesia, and Taiwan of melamine institutional dinnerware, provided for in subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On February 6, 1996, a petition was filed with the Commission and the Department of Commerce by the American Melamine Institutional Tableware Association (AMITA) (consisting of Continental/SiLite International Co., Oklahoma City, OK; Lexington United Corp (National Plastics Corp.), Port Gibson, MS; and Plastics Manufacturing Co. (Sun Coast Industries, Inc.), Dallas, TX, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of melamine institutional dinnerware from China, Indonesia, and Taiwan. Accordingly, effective February 6, 1996, the Commission instituted antidumping investigations Nos. 731–TA–741–743 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 14, 1996 (61 FR 5801). The conference was held in Washington, DC, on February 27, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on March 22, 1996. The views of the Commission are contained in USITC Publication 2952 (April 1996) entitled ''Melamine Institutional Dinnerware from China, Indonesia, and Taiwan: Investigations Nos. 731–TA–741–743 (Preliminary).''

By order of the Commission.

Issued: April 1, 1996.

Donna R. Koehnke

Secretary.

[FR Doc. 96–8333 Filed 4–3–96; 8:45 am]

BILLING CODE 7020–02–P

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

DEPARTMENT OF JUSTICE

Office of Redress Administration, Civil Rights Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Redress Payments for Japanese Americans: Guidelines for Individuals Who Involuntarily Relocated to Japan During the War, and Guidelines under *Ishida* v. *United States.*

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days from the date listed at the top of this page in the Federal Register.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

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

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact the Office of Redress Administration Clearance Officer, 202–219–6900, or Telephone Device for the Deaf (TDD) 202–219–4710, Civil Rights Division, U.S. Department of Justice, Room N1519, 200 Constitution Avenue, NW, Washington, DC 20001 or P.O. Box 66260, Washington, DC 20035–6260. Additionally, comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Comments may be submitted to DOJ via facsimile to 202–514–1534.

Request for Emergency Approval

Overview of This Information Collection

(1) Type of information collection. Existing Collection in Use without an OMB Number.

(2) The title of the form/collection. Redress Payments for Japanese Americans: Guidelines for Individuals Who Involuntarily Relocated to Japan During the War and Guidelines under *Ishida* v. *United States.*

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: None. Two forms are used to collect the information. Office of Redress Administration, Civil Rights Division, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: Individuals or households. Other: None. This collection contains the forms which persons of Japanese ancestry will use to apply for redress compensation under the Civil Liberties Act of 1988.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 140 respondents: Declaration at 10 minutes per response; 2,000 respondents: Declaration at 10 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection. 356 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: March 28, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–8345 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–13–M

Office of the Attorney General

[AG Order No. 2014–96]

RIN 1105–AA36

Final Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

AGENCY: Department of Justice.

ACTION: Final guidelines.

SUMMARY: The United States Department of Justice (DOJ) is publishing Final Guidelines to implement the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Bonnie J. Campbell, Director, Violence Against Women Office, U.S. Department of Justice, Tenth and Pennsylvania Avenue, NW, Washington, DC 20530, 202–616–8894.

SUPPLEMENTARY INFORMATION: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796, 2038 (codified at 42 U.S.C. 14071), contains the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (hereafter referred to as the ''Jacob Wetterling Act'' or ''the Act''). The Act provides a financial incentive for states to establish 10-year registration requirements for persons convicted of certain crimes against minors and sexually violent offenses, and to establish a more stringent set of registration requirements for a sub-class of highly dangerous sex offenders, characterized as ''sexually violent predators.'' States that fail to establish such systems within three years (subject to a possible two year extension) face a 10% reduction in their Byrne Formula Grant funding (under 42 U.S.C. 3756), and resulting surplus funds will be reallocated to states that are in compliance with the Act.

Summary of Comments on the Proposed Guidelines

On April 12, 1995, the U.S. Department of Justice published Proposed Guidelines in the Federal Register (60 FR 18613) to implement the Jacob Wetterling Act. The original 90 day comment period expired on July 11, 1995. To ensure the public ample opportunity to review and comment on the Proposed Guidelines, on September 14, 1995, the Department published a notice in the Federal Register to reopen the comment period for an additional 45 days (60 FR 47760). In addition, the Department mailed copies of the Proposed Guidelines to state registration authorities and requested their comments. The extended comment period closed on October 30, 1995.

Following the publication of the Proposed Guidelines, the Department of Justice received 19 letters, mostly from state officials. These letters contained numerous comments, questions, and recommendations, all of which were carefully considered in developing the Final Guidelines. A summary of the comments and responses to them are provided in the following paragraphs.

A. Coverage of the Jacob Wetterling Act

One respondent expressed concern that the Act does not provide for sex offender registration and notification in relation to military offenders who are convicted in court martial proceedings, in prosecutions under the federal criminal code, or in prosecutions by foreign host nations. In order to extend registration as far as possible to categories of convicted sex offenders who may not be within the scope of the statute as presently formulated, the Guidelines have been revised to encourage states to consider including federal and military sex offenders within their registration programs.

B. ''Sexually Violent Predator'' Determinations

1. Necessity for Determination

A number of respondents questioned the need for a two-tier registration system under which states must adopt means for determining whether an offender is a ''sexually violent predator'' and follow more stringent registration procedures for offenders so classified. The Department recognizes that this scheme may require states to make changes in their existing registration systems. The two-tier scheme was established by the Act, however, and cannot be modified by the Guidelines, absent legislative changes. As explained in the Final Guidelines, a two-tier approach can be dispensed with only if a state is willing to subject all persons convicted of a ''sexually violent offense'' to the more stringent registration requirements and standards provided by the Act for ''sexually violent predators.''

2. State Board of Experts

A number of commenters posed questions about the composition and activities of the state boards of experts that will assist sentencing courts in determining whether an offender is a ''sexually violent predator''. In particular, respondents questioned the necessity for using such boards, inquired as to what qualification experts must possess to serve on the boards, and raised concerns about the timing of the ''sexually violent predator'' determination. One commenter also expressed concerns about the ability of small states to assemble panels of experts.

States wishing to comply with the Act must utilize boards of experts to assist sentencing courts in making ''sexually violent predator'' determinations because the statue expressly requires this procedure. The Guidelines have been clarified to address commenters' other concerns, however. In particular, the Guidelines make clear that states are free to (1) determine who qualifies as an expert for purposes of board participation, (2) utilize out-of-state experts, and (3) decide at what point the ''sexually violent predator'' determination will be made.

3. Definition of ''Sexually Violent Predator''

A number of commenters expressed concerns about the definition of ''sexually violent predator'' and sought various clarifications in the definition. The Guidelines have not been changed to reflect these concerns. The Act itself contains definitions of ''sexually violent predator'' and the component term ''mental abnormality.'' The Guidelines cannot alter definitions appearing in the statute. Since the Act does not define the component term ''personality disorder,'' the Guidelines already provide that the definition of this term is a matter of state discretion.

4. Required Documentation

One respondent expressed concern about the extent of documentation required by the Act concerning treatment received by a ''sexually violent predator'' for a mental abnormality or personality disorder. The Guidelines have been modified to reflect this concern. Under the Final Guidelines, states may comply with the requirement to document an offender's treatment history simply by noting that the offender received treatment.

The respondent also proposed that the Guidelines clarify that documentation of treatment history is a one-time event. However, this change is unnecessary because nothing in the Act or Guidelines states or suggests that the treatment history of a ''sexually violent predator'' must be updated following the initial submission of information.

5. Interaction with Insanity Defense

One respondent raised questions about the possible interaction between a determination that an offender is a ''sexually violent predator'' and the insanity defense. The commenter questioned whether a state may classify an offender as a ''sexually violent predator'' only when the offender successfully raised an insanity defense, and also questioned whether a determination that an offender is a ''sexually violent predator'' could bolster the offender's insanity claim.

The Guidelines have not been revised to reflect these concerns because there is no relationship between the two legal categories. Of course, if an offender had successfully raised an insanity defense, he could not be convicted for the offense charged, and no registration requirement based on that offense would arise under the Jacob Wetterling Act. Further, because the elements in the statutory definition of ''sexually violent predator'' do not establish the necessary elements of an insanity defense under state laws, a state could conclude that an offender is a ''sexually violent predator,'' though the offender could not successfully raise an insanity defense. Finally, with regard to an offender who was classified as a ''sexually violent predator'' in connection with a previous prosecution and conviction, the Act does not contemplate any impact from that determination on the offender's ability to raise an insanity defense in a later prosecution.

C. State Law Enforcement Agency

1. Designation of Agency

One commenter posed questions concerning how, when, and by whom the state law enforcement agency responsible for registration matters is to be designated, and another expressed concerns about the types of entities that may be selected. The Guidelines have been revised to clarify that states have discretion with regard to the means by which an agency is designated as the state law enforcement agency, the timing of such a designation, and the agencies that may be designated.

2. Necessity for using a State Agency

A number of respondents questioned the necessity for using a state agency to receive registration information and conduct address verification. These commenters noted that in several states, registration and verification is conducted at the county or local level, rather than at the state level.

The Guidelines have not been revised to reflect these concerns. Although the Act provides that registration information is to be shared with local law enforcement agencies, it requires that this information be submitted to a *state* law enforcement agency and that the state agency also conduct address verification. These procedures, which are set forth clearly in the Act, cannot be modified by the Guidelines, absent statutory changes.

D. Public Access to Registration Information

One commenter expressed concern about the effect of the Act on a state's ability to disseminate registration information to the public. The Guidelines have not been modified to reflect this concern because they already

afford states the maximum discretion in this area that is consistent with the terms of the Act. The Guidelines make it clear that any restrictions placed by the Act on the disclosure of information do not constrain the release of information that a state would have independently of the operation of the registration system. Further, the Guidelines note and elaborate on the Act's provisions that registration information may be disclosed for certain law enforcement and background check purposes, and as necessary for public safety. The Guidelines also provide that states have discretion concerning the nature and extent of disclosure (including community notification and access to information on request by members of the public) that is necessary for public safety.

E. Compliance Review

One commenter suggested that the Department provide states with written feedback concerning their compliance with the Act no later than the date on which a state receives its Byrne Formula Grant Funding. This recommendation has not been adopted in the Guidelines because the Department is still in the process of developing compliance review procedures. States will be notified about these procedures as they are developed.

Final Guidelines

These guidelines carry out a statutory directive to the Attorney General, in section 170101)a)(1), to establish guidelines for registration systems under the Act. Before turning to the specific provisions of the Act, four general points should be noted concerning its interpretation and application.

First, states that wish to achieve compliance with the Jacob Wetterling Act should understand that its requirements constitute a floor for state registration systems, not a ceiling, and that they do not risk the loss of part of their Byrne Formula Grant funding by going beyond its standards. For example, a state may have a registration system that covers a broader class of sex offenders than those identified in the Jacob Wetterling Act, or requires address verification for such offenders at more frequent intervals than the Act prescribes, or requires offenders to register for a longer period of time than the period specified in the Act.

Exercising these options creates no problem of compliance, since the provisions in the Jacob Wetterling Act concerning duration of registration, covered offenders, and other matters, do not preclude states from imposing additional or more stringent requirements than encompass the Act's baseline requirements. The general objective of the Act is to protect people from child molesters and violent sex offenders through registration requirements. It is not intended, and does not have the effect, of making states *less* free than they were under prior law to impose registration requirements for this purpose.

Second, states that wish to achieve compliance with the Jacob Wetterling Act also should understand that they may, within certain constraints, use their own criminal law definitions in defining registration requirements, and will not necessarily have to revise their registration systems to use technical definitions of covered sex offenses based on federal law. This point will be explained more fully below.

Third, the Jacob Wetterling Act contemplates the establishment of programs that will impose registration requirements on offenders who are subsequently convicted of offenses in the pertinent categories. The Act does not require states to attempt to identify and impose registration requirements on offenders who were convicted of offenses in these categories prior to the establishment of a conforming registration system. Nevertheless, the Act does not preclude states from imposing any new registration requirements on offenders convicted prior to the establishment of the registration system.

Fourth, the Act gives states wide latitude in designing registration programs that best meet their public safety needs. For instance, the Act allows states to release relevant information necessary to protect the public, including information released through community notification programs. Some state registration and notification systems have been challenged on constitutional grounds. A few courts have struck down registration requirements in certain cases. *See Rowe* v. *Burton,* 884 F. Supp. 1372 (D. Alaska 1994) (on motion for preliminary relief); *State* v. *Babin,* 637 So.2d 814 (La. App. 1994), *writ denied,* 644 So.2d 649 (La. 1994); *State* v. *Payne,* 633 So.2d 701 (La. App. 1993), *writ denied,* 637 So.2d 497 (La. 1994); *In re Reed,* 663 P.2d 216 (Cal. 1983) (en banc). However, a majority of courts that have dealt with the issue have held that registration systems like those contemplated by the Jacob Wetterling Act do not violate released offenders' constitutional rights.

Some recent decisions have held that aspects of New Jersey's community notification program violate due process guarantees, or violate ex post facto guarantees as applied to persons who committed the covered offense prior to enactment of the notification statute. *See Artway* v. *Attorney General of New Jersey,* 876 F. Supp. 666 (D.N.J. 1995) (appeal pending); *W.P.* v. *Poritz,* No. 96–97 (JWB) (D.N.J. Mar. 15, 1996); *Diaz* v. *Whitman,* No. 94–6376 (JWB) (D.N.J. Jan. 6, 1995). However, the Department of Justice believes that the New Jersey community notification statute at issue in those cases does not violate the Ex Post Facto Clause and that the Fourteenth Amendment's Due Process Clause of its own force does not require recognition of such a liberty interest on the part of offenders affected by that statute, and has filed ''friend of the court'' briefs in cases challenging the New Jersey law. Moreover, the New Jersey Supreme Court, in *John Doe* v. *Deborah Poritz,* 662 A.2d 367 (N.J. 1995), upheld the New Jersey statute, although it imposed certain procedural protections under federal and state law.

There has been ongoing litigation over the validity of notification systems in other states as well. *see, e.g., Doe* v. Pataki, No. 96 Civ. 1657 (DC) (S.D.N.Y.); *Nitz* v. *Otte,* No. A95–486CI (JWS) (D. Alaska Jan. 25, 1996) (appeal pending).

The remainder of these guidelines address the provisions of the Jacob Wetterling Act in the order in which they appear in Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994.

General Provisions—Subsection (a)(1)–(2)

Paragraph (1) of subsection (a) of § 170101 directs the Attorney General to establish guidelines for state programs that require:

(A) Current address registration for persons convicted of ''a criminal offense against a victim who is a minor'' or ''a sexually violent offense,'' and

(B) Current address registration under a different set of requirements for persons who are determined to be ''sexually violent predators.''

For purposes of the Act, ''state'' should be understood to encompass the political units identified in the provision defining ''state'' for purposes of eligibility for Byrne Formula Grant funding (42 U.S.C. 3791(a)(2)) in light of the tie-in between compliance with the Act and the allocation of Byrne Formula Grant funding. Hence, the ''states'' that must comply with the Act to maintain full eligibility for such funding are the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

Paragraph (2) of subsection (a) states that the determination whether a person is a ''sexually violent predator'' (which brings the more stringent registration standards into play), and the determination that a person is no longer a ''sexually violent predator'' (which terminates the registration requirement under those standards), shall be made by the sentencing court after receiving a report by a state board composed of experts in the field of the behavior and treatment of sexual offenders.

''State board'' in paragraph (2) should be understood to mean a body or group containing two or more experts that is authorized by state law or designated under the authority of state law. Beyond the requirement that a board must be composed of experts in the field of the behavior and treatment of sexual offenders, the Act affords states discretion concerning the selection and composition of such boards. For example, a state could establish a single permanent board for this purpose, could establish a system of state-designated boards, or could authorize the designation of different boards for different courts, time periods, geographic areas or cases. In addition, the Act permits states to set their own standards concerning who qualifies as an expert in the field of the behavior and treatment of sexual offenders for purposes of board participation, and to utilize qualifying experts from outside the state to serve on the boards.

As noted above, subsection (a)(1) requires states to register persons convicted of certain crimes against minors and sexually violent offenses, but states are free to go beyond the Act's minimum standards and include other classes of offenders within their sex offender registration programs. For example, states are encouraged to require sex offenders convicted in federal or military courts who reside in their jurisdictions to register. Although the Act does not require states to register such offenders, the presence of any convicted sex offender in the state—whether the offender was prosecuted in a state, federal, or military court—raises similar public safety concerns. Some states, including Washington and California, already require sex offenders convicted in federal or military courts to register.

Definition of ''Criminal Offense Against a Victim Who is a Minor''—Subsection (a)(3)(A)

The Act prescribes a 10-year registration requirement for persons convicted of a ''criminal offense against a victim who is a minor.'' Subparagraph (A) of paragraph (3) of subsection (a) defines the term ''criminal offense against a victim who is a minor.'' ''Minor'' should be understood to mean a person below the age of 18, consistent with the normal understanding.

The specific clauses in the definition of ''criminal offense against a victim who is a minor'' are as follows:

(1) Clauses (i) and (ii) cover kidnapping of a minor (except by a parent) and false imprisonment of a minor (except by a parent). All states have statutes that define offenses—going by such names as ''kidnapping,'' ''criminal restraint,'' or ''false imprisonment''—whose gravamen is abduction or unlawful restraint of a person. States can comply with these clauses by requiring registration for persons convicted of these statutory offenses whose victims were below the age of 18. The Act does not require inclusion of these offenses in the registration requirement when the offender is a parent, but states may choose to require registration for parents who commit these offenses.

(2) Clause (iii) covers offenses consisting of ''criminal sexual conduct toward a minor.'' Such offenses include convictions under general provisions defining sexually assaultive crimes—such as provisions defining crimes of ''rape,'' ''sexual assault,'' or ''sexual abuse''—in cases where the victim is in fact a minor. Coverage is not limited to cases where the victim's age is an element of the offense (such as prosecutions for specially defined child molestation offenses).

States can comply with clause (iii) by requiring registration for persons convicted of all statutory sex offenses under state law whose elements involve physical contact with a victim, where the victim was below the age of 18 at the time of the offense. Offenses that do not involve physical contact, such as exhibitionism, are not subject to the Act's mandatory registration requirements pursuant to clause (iii), but states are free to require registration for persons convicted of such offenses as well if they so choose.

(3) Clause (iv) covers offenses consisting of solicitation of a minor to engage in sexual conduct. This covers any conviction for an offense involving the solicitation of conduct that would be covered by clause (iii) if carried out.

(4) Clause (v) covers offenses consisting of using a minor in a sexual performance. This includes both live performances and using minors in the production of pornography.

(5) Clause (vi) covers offenses consisting of solicitation of a minor to practice prostitution.

(6) Clause (vii) covers offenses consisting of any conduct that by its nature is a sexual offense against a minor. This clause is intended to insure uniform coverage of convictions under statutes defining sex offenses in which the status of the victim as a minor is an element of an offense, such as specially defined child molestation offenses, and other offenses prohibiting sexual activity with underage persons. States can comply with this clause by including convictions under these statutes uniformly in the registration requirement.

(7) Considered in isolation, clause (viii) gives states discretion whether to require registration for attempts to commit offenses described in clauses (i) through (vii). However, any verbal command or attempted persuasion of the victim to engage in sexual conduct would bring the offense within the scope of the solicitation clause (clause (iv)), and make it subject to the Act's mandatory registration requirements. Moreover, this provision must be considered in conjunction with the Act's requirement of registration for persons convicted of a ''sexually violent offense,'' which does not allow the exclusion of attempts if they are otherwise encompassed within the definition of a ''sexually violent offense.''

Hence, state discretion to exclude attempted sexual offenses against minors from registration requirements pursuant to clause (viii) is limited by other provisions of the Act. The simplest approach for states would be to include attempted sexual assaults on minors (as well as completed offenses) uniformly as predicates for the registration requirement.

At the conclusion of the definition of ''criminal offense against a victim who is a minor,'' the Act states that (for purposes of the definition) conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger. For example, suppose that state law prohibits sexual relations with a person below the age of 16, where the defendant is more than 4 years older than the victim. Suppose further that an 18-year-old is convicted of violating this prohibition by engaging in consensual sexual relations with a 13-year-old, where the conduct would not violate state law but for the victim's age. Under the provision, if a state did not require such an offender to register, the state would still be in compliance with the Act. However, here again, states are free to go beyond the Act's baseline requirements. The exemption of certain offenders based on age from

the Act's mandatory registration requirements does not bar states from including such offenders in their registration systems if they wish. Moreover, the scope of subsection (a)(3)(A)'s exemption is also limited by other provisions of the Act that require registration of persons convicted of ''sexually violent offenses'' (as defined in (a)(3)(B)), with no provision excluding younger offenders where the criminality of the conduct depends on the victim's age.

Since the Act's registration requirements depend in all circumstances on conviction of certain types of offenses, states are not required to mandate registration for juveniles who are adjudicated delinquent—as opposed to adults convicted of crimes and juveniles convicted as adults—even if the conduct on which the juvenile delinquency adjudication is based would constitute an offense giving rise to a registration requirement if engaged in by an adult. However, states remain free to require registration for juvenile delinquents, and the conviction of a juvenile who is prosecuted as an adult does count as a conviction for purposes of the Act's registration requirements.

Definition of ''Sexually Violent Offense''—Subsection (a)(3)(B)

The Act prescribes a ten-year registration requirement for offenders convicted of a ''sexually violent offense,'' as well a for those convicted of a ''criminal offense against a victim who is a minor.''

Subparagraph (B) of paragraph (3) defines the term ''sexually violent offense'' to mean any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code, or as described in the State criminal code), or an offense that has as its elements engaging in physical contact with another person with intent to commit such an offense. In light of this definition, there are two ways in which a state could satisfy the requirement of registration for persons convicted of ''sexually violent offenses'':

First, suppose that a state has offenses in its criminal code that are designated ''aggravated sexual abuse'' and ''sexual abuse,'' or has a definitional provision that characterizes certain offenses in its criminal code (however denominated) as constituting ''aggravated sexual abuse'' and ''sexual abuse'' for registration purposes or other purposes. Such a state could comply simply by requiring registration for all offenders who are convicted of these state offenses, and all offenders convicted of any state crime that has as its elements engaging in physical contact with another person with intent to commit such an offense.

Second, a state could comply by requiring registration for offenders convicted for criminal conduct that would violate 18 U.S.C. 2241 or section 2242—the federal ''aggravated sexual abuse'' and ''sexual abuse'' offenses—if subject to federal prosecution. (The second part of the definition in subparagraph (B) of paragraph (3), relating to physical contact with intent to commit aggravated sexual abuse or sexual abuse, does not enlarge the class of covered offenses under the federal law definitions, since sections 2241 and 2242 explicitly encompass attempts as well as completed offenses.)

Specifically, 18 U.S.C. §§ 2241–42 generally proscribe non-consensual ''sexual acts'' with anyone, ''sexual acts'' with persons below the age of 12, and attempts to engage in such conduct. ''Sexual act'' is generally defined (in 18 U.S.C. 2246(2)) to mean an act involving any degree of genital or anal penetration, oral-genital or oral-anal contact, or direct genital touching of a victim below the age of 16 in certain circumstances even without penetration.

States that elect this second option—requiring registration for offenses that consist of aggravated sexual abuse or sexual abuse as defined in federal law provisions (18 U.S.C. 2241–42)—do not necessarily have to refer to these federal statutes in their registration provisions, but could alternatively achieve compliance by requiring registration for the state law offenses that encompass types of conduct proscribed by 18 U.S.C. 2241–42. Moreover, a state does not have to have sex offenses whose scope is congruent with 18 U.S.C. 2241–42 to take the latter approach. If state law does not criminalize some types of conduct that are covered by 18 U.S.C. 2241–42, then a person who engages in the conduct will not be subject to prosecution and conviction under state law, and there will be no basis for a registration requirement. On the other hand, if state sex offenses are defined more broadly than 18 U.S.C. 2241–42, then states are free to require registration for all offenders convicted under these state provisions (notwithstanding their greater breadth), and this would be sufficient to ensure coverage of convictions for criminal conduct that would violate 18 U.S.C. §§ 2241–42 if subject to federal prosecution.

Definition of ''Sexually Violent Predator''—Subsection (a)(3)(C)–(E)

Offenders who meet the definition of ''sexually violent predator'' are subject to more stringent registration requirements than other sex offenders.

(1) Subparagraph (C) defines ''sexually violent predator'' to mean a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(2) Subparagraph (D) essentially defines ''mental abnormality'' to mean a condition involving a disposition to commit criminal sexual acts of such a degree that it makes the person a menace to others. There is no definition of ''personality disorder'' in the Act; hence, the definition of this term is a matter of state discretion. For example, a state may choose to utilize the definition of ''personality disorder'' that appears in the Diagnostic and Statistical Manual of Mental Disorders: DSM–IV. American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994).

(3) Subparagraph (E) defines ''predatory'' to mean an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

As noted earlier, the Act provides that the determination whether an offender is a ''sexually violent predator'' is to be made by the sentencing court with the assistance of a board of experts. The Act does not require, or preclude, that all persons convicted of a sexually violent offense undergo a determination as to whether they satisfy the definition of ''sexually violent predator.'' It also does not specify under what conditions such an inquiry must be undertaken. A state that wishes to comply with the Act must adopt some approach to this issue, but the specifics are a matter of state discretion. For example, a state might provide that the decision whether to seek classification of an offender as a ''sexually violent predator'' is a matter of judgment for prosecutors, or might provide that a determination of this question should be undertaken routinely when a person is convicted of a sexually violent offense and has a prior history of committing such crimes.

Similarly, the Act affords states discretion with regard to the timing of the determination whether an offender is a ''sexually violent predator.'' A sate may, but need not, provide that a determination on this issue be made at the time of sentencing or as a part of the

original sentence. It could, for example, be made instead by the sentencing court when the offender has served a term of imprisonment and is about to be released from custody. In addition, a determination whether an offender is a ''sexually violent predator'' need not be made by the judge who imposed the original sentence, so long as the determination is made in the same court that imposed the sentence.

As with other features of the Jacob Wetterling Act, the sexually violent predator provisions only define baseline requirements for states that wish to maintain eligibility for full Byrne Formula Grant funding. States are free to impose these more stringent registration requirements on a broader class of offenders, and may use state law categories or definitions for that purpose, without contravening the Jacob Wetterling Act.

If a state chooses to subject all persons convicted of a ''sexually violent offense'' to the more stringent registration requirements and standards provided by the Act for ''sexually violent predators,'' then a particularized determination that an offender is a ''sexually violent predator'' would have no practical effect and would be superfluous. Hence, if a state elected this approach, it would not be necessary for the state to have ''sexually violent predator'' determinations made by the sentencing court, or to constitute boards of experts to advise the courts concerning such determinations, prior to the commencement of registration. In a state that eschewed particularized ''front end'' determinations of ''sexually violent predator'' status in this manner, however, it would still be necessary to condition termination of the registration requirement on a determination by sentencing court (assisted by a board of experts) pursuant to section 170101(b)(6)(B) of the Act that the person does not suffer from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

Specifications concerning State Registration Systems under the Act—Subsection (b)

Paragraph (1) of subsection (b) sets out duties for prison officials and courts in relation to offenders required to register who are released from prison, or who are placed on any form of post-conviction supervised release ''parole, supervised release, or probation'').

The duties, set out in subparagraph (A) of paragraph (1), include: (i) informing the person of the duty to register and obtaining the information required for registration (i.e., address information), (ii) informing the person that he must give written notice of a new address within 10 days to a designated state law enforcement agency if he changes residence, (iii) informing the person that, if he changes residence to another state, he must inform the registration agency in the state he is leaving, and must also register the new address with a designated state law enforcement agency in the new state within 10 days (if the new state has a registration requirement), (iv) obtaining fingerprints and a photograph if they have not already been obtained, and (v) requiring the person to read and sign a form stating that these requirements have been explained.

Beyond these basic requirements, which apply to all registrants, subparagraph (B) of paragraph (1) of subsection (b) requires that additional information be obtained in relation to a person who is required to register as a ''sexually violent predator.'' The information that is specifically required under subparagraph (B) is the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person. The Act does not require that prison officials or courts conduct an investigation to determine the offender's treatment history. For purposes of documenting the treatment received, prison officials and courts may rely on information that is readily available to them, either from existing records or the offender. In addition, prison officials and courts may comply with the requirement to document an offender's treatment history simply by noting that the offender received treatment for a mental abnormality or personality disorder. If states want to require the inclusion of more detailed information about the offender's treatment history, however, they are free to do so.

States that wish to comply with the Act will need to adopt statutes or administrative provisions to establish the duties specified in subsection (b)(1) and ensure that they are carried out. These informational requirements, like other requirements in the Act, only define minimum standards, and states may require more extensive information from offenders. For example, the Act does not require that information be obtained relating to registering offenders' employment, but states may legitimately wish to know if a convicted child molester is seeking or has obtained employment that involves responsibility for the care for children.

As a second example, although it is not required under the Act, states are strongly encouraged to collect DNA samples from registering offenders to be typed and stored in state DNA databases. States also are urged to participate in the FBI's Combined DNA Index System (CODIS). CODIS is the FBI's program of technical assistance to state and local crime laboratories that allows them to store and match DNA records from convicted offenders and crime scene evidence. The FBI provides CODIS software, in addition to user support and training, free of charge, to state and local crime laboratories for performing forensic DNA analysis. CODIS permits DNA examiners in crime laboratories to exchange forensic DNA data on an intrastate level, and will enable states to exchange DNA records among themselves through the national CODIS system. Thus, collection of DNA samples and participation in CODIS greatly enhances a state's capacity to investigate and solve crimes involving biological evidence, especially serial and stranger rapes.

Paragraph (2) of subsection (b) states that the responsible officer or court shall forward the registration information to a designated state law enforcement agency within three days after receipt of the information. The Act leaves states discretion in designating an agency as the responsible ''state law enforcement agency,'' including the means by which such a designation is made, the timing of such a designation, and the agencies that may be designated. States are not required to select the state police as the designated agency, and may choose any agency with functions relating to the enforcement of law or protection of public safety. For example, states may designate as the pertinent ''State law enforcement agency'' a correctional agency, a crime statistics bureau or criminal records agency, or a department of public safety. States also are permitted to employ a private contractor to carry out the functions of the designated state law enforcement agency.

After receiving the registration information from the responsible officer or court, the designated state law enforcement agency must immediately enter the information into the appropriate state law enforcement record system and notify a law enforcement agency having jurisdiction where the person expects to reside. The Act leaves states discretion in determining which state record system is appropriate for storing registration information. States that wish to achieve compliance with the Act, however, may need to modify state record systems if

they are not currently set up to receive all the types of information that the Act requires from registrants.

The state law enforcement agency is also required to transmit immediately the conviction data and fingerprints to the Federal Bureau of Investigation. No changes will be required in the national records system because the Act only requires transmission of conviction data and fingerprints, which the FBI already receives. The Act should not be understood as requiring duplicative transmission of conviction data and fingerprints to the FBI at the time of initial registration if the state already has sent this information to the FBI (e.g., at the time of conviction).

Paragraph (3) of subsection (b) relates to verification of the offender's address. In essence, annual verification of address with the designated state law enforcement agency is required for offenders generally, through the return within ten days of an address verification form sent by the agency to the registrant. However, the verification intervals are 90 days (rather than a year) for ''sexually violent predators.'' As noted earlier, these are baseline requirements which do not bar states from requiring verification of address at shorter intervals than those specified in the Act.

Paragraph (4) requires the designated state law enforcement agency to notify other interested law enforcement agencies of a change of address by the registrant. Specifically, when a registrant changes residence to a new address, the designated law enforcement agency must (i) notify a law enforcement agency having jurisdiction where the registrant will reside, and (ii) if the registrant moves to a new state, notify the law enforcement agency with which the offender must register in the new state (if the new state has a registration requirement).

Paragragph (5) further requires an offender who moves out of state to register within ten days with a designated state law enforcement agency in his new state of residence (if the new state has a registration requirement). This partially reiterates the requirements concerning notice of changes of address by the offender that were described above.

Subparagraph (A) of paragraph (6) states that the registration requirement remains in effect for ten years. As noted earlier, states may choose to establish longer registration periods.

Subparagraph (B) of paragraph (6) states that the registration requirement for ''sexually violent predators'' under the Act terminates upon a determination that the offender no longer suffers from a mental abnormality or personality disorder that would make him likely to engage in a predatory sexually violent offense. This provision does not require review of the offender's status at any particular interval. For example, a state could set a minimum period of 10 years before entertaining a request to review the status of a ''sexually violent predator,'' the same period as the general minimum registration period for sex offenders under the Act.

Moreover, this termination provision only affects the requirement that a person register as a ''sexually violent predator'' under subparagraph (B) of subsection (a)(1) of the Jacob Wetterling Act. It does not limit states in imposing more extensive registration requirements under their own laws, and does not limit any registration requirement that arises independently under other provisions of the Jacob Wetterling Act from the person's conviction of a ''criminal offense against a victim who is a minor'' or a ''sexually violent offense.''

Criminal Penalties for Registration Violations—Subsection (c)

The Act provides that a person required to register under a state program established pursuant to the Act who knowingly fails to register and keep such registration current shall be subject to criminal penalties. Accordingly, states that wish to comply with the Act will need to enact criminal provisions covering this situation as part of, or in conjunction with, the legislation defining their registration systems, if they have not already done so. If the violation by a registrant consists of failing to return an address verification form within 10 days of receipt, the state may allow a defense if the registrant can prove that he did not in fact change his residence address, as provided in subsection (b)(3)(A)(iv).

Release of Registration Information—Subsection (d)

Subsection (d) governs the disclosure of ''information collected under a State registration program.'' Restrictions on the release of information under this subsection do not constrain the release of information that a state would have independently of the operation of the registration system. For example, a state will normally have criminal history information about an offender, and will often have current address information as part of general probation or parole supervision requirements, independently of any special requirements imposed as part of the sex offender registration system. The Act does not limit the release of such information.

Subsection (d) states specifically that the information collected under a state registration program shall be treated as private data, except under specified conditions.

The first condition under which disclosure is authorized—paragraph (1)—is that ''such information may be disclosed to law enforcement agencies for law enforcement purposes.'' This exemption permits use of the information for all law enforcement purposes, including all police, prosecutorial, release supervision, correctional, and judicial uses.

Paragragph (2) in subsection (d) says that registration information may be disclosed to government agencies conducting confidential background checks. ''Confidential'' should be understood to mean a background check where information is disclosed to an interested party or parties—such as a background check conducted by a government agency that provides information concerning prospective employees to public or private employers—as opposed to release of the information to the general public. Release to the public, and other non-law enforcement, non-background check uses, are governed by paragraph (3).

Paragragph (3) in subsection (d) says that the designated state law enforcement agency, and any local law enforcement agency authorized by the state agency, may release relevant information that is necessary to protect the public concerning a specific person required to register under this section. The Act does not impose any limitations on the standards and procedures that states may adopt for determining when public safety necessitates community notification. For example, states could implement this authority by engaging in particularized determinations that individual offenders are sufficiently dangerous to require community notification concerning the offender's presence. Alternatively, states could make categorical judgments that protection of the public necessitates community notification with respect to all offenders with certain characteristics or in certain offense categories.

Releases of information for public-protection purposes short of general community notification—such as giving notice about an offender's location to the victims of his offenses, or to agencies or organizations in specified categories—are also permitted under paragraph (3).

The language in paragraph (3), like that in paragraphs (1) and (2), is permissive, and does not require states

to release information. Paragraph (3) also does not deprive states of the authority to exercise centralized control over the release of information, or if the state prefers, to generally authorize local agencies to release information as necessary. In addition to permitting proactive community notification and other notification, as discussed above, paragraph (3) and other provisions of the Act do not bar states from making registration information available upon request, if it is determined that such access is necessary for the protection of the public concerning who are required to register.

A proviso at the end of paragraph (3) in subsection (d) states that the identity of the victim of an offense that requires registration under the Act shall not be released. The purpose of this proviso is to protect the privacy of victims, and its restrictions may accordingly be waived at the victim's option. The proviso only applies to paragraph (3), and does not limit the disclosure of victim identity pursuant to paragraphs (1) and (2), relating to law enforcement uses and confidential background checks.

Immunity for Good Faith Conduct—Subsection (e)

Subsection (e) states that law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under the Act.

Compliance—Subsection (f)

States have three years from the date of enactment (i.e., September 13, 1994) to come into compliance with the Act unless the Attorney General grants an additional two years where a state is making good faith efforts at implementation. States that fail to come into compliance within the specified time period will be subject to a mandatory 10% reduction of Byrne Formula Grant funding, and any funds that are not allocated to noncomplying states will be reallocated to states that are in compliance. The reallocated funds will be distributed among complying states in proportion to their populations.

States are encouraged to submit descriptions of their existing or proposed registration systems for sex offenders to the Department of Justice as promptly as possible. States may find it convenient, for example, to submit such descriptions in conjunction with their applications for Byrne Formula Grant funding. These submissions will enable the Department of Justice to review the status of state compliance with the Act, and to suggest any necessary changes to achieve compliance before the funding reduction goes into effect.

To maintain eligibility for full Byrne Formula Grant funding following the end of the three-year implementation period provided by the Act, states will be required to submit information that shows compliance with the Act in at least one program year, or an explanation of why compliance cannot be achieved within that period and a description of good faith efforts that justify an extension of time (but not more than two years) for achieving compliance. States will also be required to submit information in subsequent program years concerning any changes in sex offender registration systems that may affect compliance with the Act.

Dated: March 27, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–8186 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree in *United States* versus *American Recovery Company, et al.*, Civil Action No. 95–1590, was lodged on March 22, 1996 with the United States District Court for the Western District of Pennsylvania. The Consent Decree requires defendant Thomas A. Mekis & Sons, Inc. to pay $14,135 to reimburse a portion of the United States' past costs associated with the investigation and clean up of the Municipal & Industrial Disposal Company Superfund Site (''Site''), located in Elizabeth Township, Pennsylvania.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* versus *American Recovery Company, et al.*, DOJ Ref. #90–11–2–949.

The proposed consent decree may be examined at the office of the United States Attorney, 633 Post Office & Courthouse, 7th & Grant Streets, Pittsburgh, PA 15219; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–8194 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Amendment to Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Amendment to Consent Decree in *United States* v. *Citizens Util. Co. of Ill.*, Civil Action No. 92 C 5132, was lodged on March 27, 1996, with the United States District Court for the Northern District of Illinois. The Amendment to Consent Decree modifies the injunctive relief provisions of a Consent Decree entered by the Court on March 23, 1995, to permit Citizens' to implement either the remedial program described in the original decree or an alternative remedial program set out in the Amendment to Consent Decree. The purpose of both the original remedial program and the alternative remedial program is to ensure that Citizens achieves and maintains compliance with its National Pollutant Elimination Discharge System (''NPDES'') permit for the West Suburban Treatment Plant No. 1 (''WSB #1''), a wastewater treatment plant owned and operated by citizens in Bolingbrook, Illinois. The original remedial program included the construction of improvements and implementation of operational changes at WSB #1, primarily to improve the plant's secondary treatment capacity. The alternative remedial program, if elected by Citizens, would include connecting WSB #1 to a nearby publicly-owned treatment plant operated by the Town of Bolingbrook and thereafter eliminating all direct discharges from WSB #1, except for limited discharges of excess flow form an equalization lagoon in accordance with terms and conditions of the NPDES permit for the WSB #1 facility.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be

addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Citizens Util. Co. of Ill.*, DOJ Ref. # 90–5–1–1–3653.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Judiciary Center Bldg., 555 Fourth St., N.W., Washington, D.C. 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $3.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Dated: April 2, 1996.

Joel M. Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 96–8193 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 117–96]

Privacy Act of 1974; Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice proposes to modify a system of records. Specifically:

The ''Priority Automated Commuter Entry System (PACES), Justice/INS-017'' (last published on June 11, 1991 (56 FR 26836)) has been retitled: The ''Global Enrollment System (GES), Justice/INS-017.''

The PACES system is being retitled to more accurately reflect the scope of the system. PACES was established to support an innovative, voluntary program designed to reduce inspection delays at selected land border ports of entry by establishing dedicated commuter lanes (DCL's) for an identified group of low-risk frequent border crossers who has been pre-screened and pre-authorized to enter the United States through Canada and Mexico. Under the program, this low-risk group would be identified by an appropriate decal on the vehicle; they would be required to reapply each year; and the information would be used to adjudicate applications and to track approvals and denials. INS is now modifying the PACES system to (1) add some form of automated inspection at certain border crossing sites; and (2) include biometric data in its automated database(s) in order to accomplish the automated inspection.

Specifically, INS is adding the use of electronic inspections to identify those individuals and vehicles using selected DCL's. A transponder will be attached to the vehicle which will be read by an electronic antenna on the dedicated commuter lanes. The information received will be matched against personal identifying data, including biometric data, in an INS automated database to verify the eligibility of the individual(s) to use these lanes.

Further, INS will now include some form of automated inspection at other land border ports of entry and at airports. Similarly, these inspections may also include methods which will permit the automated comparison of personal data provided by the individual, including biometric data, against an INS automated database to determine their eligibility to enter the United States.

The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires a 40-day period in which to conclude its review of this proposal. OMB, the Congress, and the public are invited to send written comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: March 21, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/INS–017

SYSTEM NAME:

Global Enrollment System (GES)

SYSTEM LOCATION:

Land border ports of entry *and airports* inspection facilities under the District Offices of the Immigration and Naturalization Service (INS) in the United States as detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States citizens and lawful permanent residents of the United States as determined eligible by the Commissioner of the INS who apply to use any form of automated or other expedited inspection for verifying eligibility to cross the borders into the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain application data such as full name, place and date of birth, sex, addresses, telephone numbers, country of citizenship, alien registration number (if applicable), *biometric data*, driver's license number and issuing state or province, the make, model, color, year, license number and license issuing state or province of the applicant's vehicle, the name and address of the vehicle's registered owner if different from the applicant, and the amount of fee paid. The application will also include such information as the frequency of border crossings, and the most frequent reason for crossing the border, together with an indication from the individuals as to whether he or she has been convicted of any violations of law. In addition, the file may contain a brief notation indicating that (1) through an independent check of other law enforcement agency systems, INS determined that the applicant had been convicted of a specific violation(s) of law (a finding which could prompt denial of the application) or (2) through a random border inspection, INS identified a specific violation(s) of law which provided cause to remove the individual from the program. Finally, the file will contain letters to the applicants indicating the disposition of their applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1101, 1103, 1201, 1304, and 1356 (Pub. L. No. 101–515 *103–121, 103–217).*

PURPOSE OF THE SYSTEM:

Information in this system is used to adjudicate applications to enter the United States by any available form of automated or other expedited inspection, including that offered to travelers arriving in the United States via dedicated commuter lanes, to pedestrians and vehicles arriving at remote ports of entry, to pedestrians and vehicles arriving at other land borders, and to air travelers. Alternative methods of inspection have been established to reduce delays by allowing low-risk frequent border crossers, who have been pre-screened and pre-authorized, to enter the United States subject only to some form of automated inspection and random border inspections.

ROUTINE USERS OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed to the following:

A. To Federal, State, and local government agencies, foreign governments, individuals, and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the INS to carry out its functions and statutory mandates.

B. Where there is an indication of a violation or potential violation of law (whether civil, criminal or regulatory in nature), to the appropriate agency (whether Federal, State, local or foreign), charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

C. Where there is an indication of a violation or potential violation of the law of another nation (whether civil, criminal or regulatory in nature), to the appropriate foreign government agency charged with the responsibility of investigating or prosecuting such violations or with enforcing or implementing such laws, and to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

D. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

E. To the General Services Administration and the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in manila folders and on hard disk and diskette.

RETRIEVABILITY:

These records are retrieved by name, address, and/or vehicle license number.

SAFEGUARDS:

INS offices are located in building under guard and access to the premises is by official identification. Personal computers are accessed by user identification and password levels to assure that accessibility is limited to persons having a need-to-know. Similarly, paper records are protected from unauthorized access in locked files.

RETENTION AND DISPOSAL:

(a) Destroy all records three years after the dedicated commuter lane permit expires or three years after the denial of an application or removal of an individual from the program. (b) Litigation records will be destroyed three years after resolution or court decision. At the end of the three years, automated records will be erased, and paper records will be destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Inspections, 425 I Street, NW, Washington, DC 20536.

NOTIFICATION PROCEDURE:

Address your inquiries to the Port Director (if known) or to the system manager identified above.

RECORDS ACCESS PROCEDURES:

Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) Officer at the nearest INS Office, or in the INS office maintaining the desired records (if known) by using the List of JUSTICE/INS–999, published in the Federal Register. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name and date of birth, with a notarized signature of the individual who is the subject of the records, and a return address.

CONTESTING RECORD PROCEDURE:

Direct all requests to contest or amend information in the record to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name and date of birth, with a notarized signature of the individual who is subject of the records, and a return address.

RECORD SOURCE CATEGORIES:

The primary source of information is the application. Other law enforcement records systems may be used as sources.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 96–8192 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–10–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 12 of the Code of Federal Regulations (CFR), this is notice that on January 26, 1996, Ganes Chemicals, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms (9273)	II

The firm plans to manufacture the controlled substances for distribution as bulk product to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1996.

Dated: March 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8305 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a

bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 12, 1996, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501) a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone to manufacture dextroamphetamine sulfate.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 6, 1996.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8306 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 31, 1996, Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone : 9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230))	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropozyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to produce bulk finished products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1996.

Dated: March 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8307 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I of II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 31, 1996, Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

The firm plans to import the listed controlled substances to manufacture bulk, finished product.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 6, 1996.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Officer of Diversion

Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8308 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 31, 1996, Radian Corporation, P.O. Box 201088, 8501 Mopac Blvd., Austin, Texas 78720, has made written request to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol except Levo-Alphacetylmethadol (9603)	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Morphine (9300)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to make drug reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. Federal Register Representative (CCR), and must be filed no later than June 3, 1996.

Dated: March 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8309 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 31, 1996, Radian Corporation, 8501 Mopac Blvd., P.O. Box 201088, Austin, Texas 78720, made written request to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Ibogaine (7260)	I
Etorphine (except HCl) (9056)	I
Heroin (9200)	I
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

The firm plans to import small quantities of the listed controlled substances to make drug reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 6, 1996.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42–(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8310 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 18, 1996, Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Fenethylline (1503)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470)	I
Etorphine (except HCl) (9056)	I
Difenoxin (9168)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Etonitazene (9624)	I
1-Methyl-4-phenyl-4-propionoxypiperidine (9661)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Beta-hydorxyfentanyl (9830)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Oxymorphene (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to repackage the controlled substances in order to supply pure drugs for drug testing and analysis.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 6, 1996.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–8311 Filed 4–3–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meetings and Agenda

The regular Spring meetings of the Business Research Advisory Council and its committees will be held on April 24 and 25, 1996. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, N.E., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, April 24, 1996

10:00–11:30 a.m.—Committee on Price Indexes

1. Update on program developments
   a. Consumer Price Index
   b. Producer Price Indexes
2. Election of vice-chair
3. Other committee business

1:00–2:30 p.m.—Committee on Employment and Unemployment Statistics

1. Discussion: SIC Revision—implementation plan
2. Updates: New workforce legislation; New directions for the Occupational Employment Survey

3:00–4:30 p.m.—Productivity and Foreign Labor Statistics

1. Report on recent developments in the Office of Productivity and Technology
2. Revisions of major sector labor productivity series: adoption of new output indexes
3. Trends in productivity in retail trade industries

4. International comparisons of hourly compensation of manufacturing production workers

Thursday, April 25, 1996

8:30–10:00 a.m.—Committee on Employment Projections

1. Brief update on program
   a. Impact of shutdown
   b. Budget outlook
2. Discussion of proposed change in target date of projections
3. Evaluation of 1995 projections—what went right and why and what did not and why
4. Discussion of plans to initiate the next set of projections in Fall 1996

10:30–12:30 p.m.—Council Meeting

1. Chairperson's opening remarks
2. Commissioner Abraham's address and discussion
3. Report on a test of methods for collecting racial and ethnic information
4. Chairperson's closing remarks

1:30–3:00 p.m.—Committee on Compensation and Working Conditions

1. COMP2000 plans and progress
2. Plans for collective bargaining series
3. Compensation research
4. Other business

1:30–3:00 p.m.—Committee on Occupational Safety and Health Statistics

1. Report on the 1994 Survey of Occupational Injuries and Illnesses: industry summary information
2. Update on occupational safety and health data available on the INTERNET
3. Impact of the OSHA recordkeeping revision on the Survey of Occupational Injuries and Illnesses
4. Report on the potential for using the Census of Fatal Occupational Injuries as a tool for evaluating the impact on safety of commercial driver's license requirements

The meetings are open to the public. Persons with disabilities wishing to attend should contact Constance B. DisCesare, Liaison, Business Research Advisory Council, at (202) 606–5903, for appropriate accommodations.

Signed at Washington, D.C. the 28th day of March 1996.

Katharine G. Abraham,

Commissioner

[FR Doc. 96–8338 Filed 4–3–96; 8:45 am]

BILLING CODE 4510–24–M

Pension and Welfare Benefits Administration

[Application No. D–09334, et al.]

Proposed Exemptions Wells Fargo Bank

AGENCY: Pension and Welfare Benefits Administration, Labor

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Wells Fargo Bank, N.A. (the Bank); Located in San Francisco, CA

[Application No. D–09334]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Internal Revenue Code (the Code) and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[1]

Section I. Exemption for the In-Kind Transfer of Assets.

If the exemption is granted, the restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) of the Code, shall not apply, effective July 2, 1993 until October 1, 1993, to the in-kind transfer of all or a *pro rata* portion of the assets of employee benefit plans (the Plans) that are held in certain collective investment funds (the CIF or CIFs), for which the Bank or any of its affiliates (collectively, Wells Fargo) serves as fiduciary, to the Stagecoach

[1] For purposes of this proposed exemption, references to provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

Funds, Inc. (the Fund or Funds), an open-end investment company registered under the Investment Company Act of 1940 (the '40 Act), as amended, for which Wells Fargo acts as investment adviser and may provide other services, in exchange for shares of the Funds (the CIF Exchanges), in connection with the partial termination of the CIFs.

This proposed exemption is subject to the following conditions and the general conditions of Section II:

(a) The CIF Exchange is a one-time transaction between the Plan and the respective Fund.

(b) No sales commissions or other fees are paid by the Plans in connection with the CIF Exchanges and no redemption fees are paid by the Plan in connection with the sale by the Plan of shares acquired in a CIF Exchange.

(c) A fiduciary of each Plan who is independent of and unrelated to Wells Fargo (the Second Fiduciary) receives advance written notice of the CIF Exchange and full written disclosure of information concerning the Funds which includes, but is not limited to the following:

(1) A current prospectus for each Fund in which the Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, any secondary services (the Secondary Services) as referred to in paragraph (h) of Section III, and all other fees to be charged to, or paid by, the Plan (and by such Fund) to Wells Fargo, including the nature and extent of any differential between the rates of the fees;

(3) The reasons why Wells Fargo considers an investment in the Fund to be appropriate for the Plan; and

(4) A statement describing whether there are any limitations applicable to Wells Fargo with respect to which assets of a Plan may be invested in a Fund, and, if so, the nature of such limitations.

(d) On the basis of the foregoing information, the Second Fiduciary approves, in writing, the CIF Exchange.

(e) Each Plan receives shares of the Funds which have a total net asset value equal to the value of all or the Plan's *pro rata* share of the Plan's assets invested in the CIF on the date of the transfer, based on the current market value of the CIF's assets, as objectively determined in a single valuation, performed in the same manner at the close of the same business day by a principal pricing service (the Principal Pricing Service), disclosed previously by Wells Fargo to the Second Fiduciary, and/or as applicable, by the amortized cost method.

(f) The terms of the transaction are no less favorable to each Plan than those obtainable in an arm's length transaction with an unrelated party.

(g) Wells Fargo sends by regular mail to each affected Plan a written confirmation, not more than 7 days after the completion of the transaction, containing the date of the transaction, the number of shares acquired by the Plan in each of the Funds, the price paid per share for the shares in each of the Funds and the total dollar amount involved in the transaction with each Fund.

(h) As to each Plan, the combined total of all fees received by Wells Fargo for the provision of services to such Plan, and in connection with the provision of services to any of the Funds in which the Plan may invest, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(i) Wells Fargo does not receive any fees payable pursuant to Rule 12b-1 of the '40 Act in connection with the transactions involving the Funds.

(j) The Plans are not sponsored or maintained by Wells Fargo.

(k) Wells Fargo provides the Second Fiduciary of such Plan with—

(1) A copy of the proposed exemption and/or the final exemption, if granted;

(2) A copy of an updated prospectus of such Fund, at least annually;

(3) A report or statement (which may take the form of the most recent financial report, the current statement of additional Information, or some other written statement) which contains a description of all fees paid by the Fund to Wells Fargo, upon the request of the Second Fiduciary; and

(4) A statement specifying—

(A) The total, expressed in dollars, of brokerage commissions that are paid to Wells Fargo by such Fund;

(B) The total, expressed in dollars, of brokerage commissions that are paid by such Fund to brokerage firms unrelated to Wells Fargo;

(C) The average brokerage commissions per share, expressed as cents per share, paid to Wells Fargo by such Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by such Fund to brokerage firms unrelated to Wells Fargo. (Such statement will be provided at least annually with respect to each of the Funds in which a Plan invests in the event a Fund places brokerage transactions with Wells Fargo.)

(l) All dealings between the Plans and the Funds are on a basis no less favorable to the Plans than dealings with other shareholders of the Funds.

Section II. General Conditions

(a) Wells Fargo maintains for a period of six years the records necessary to enable the persons described below in paragraph (b) of Section II to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Wells Fargo, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest, other than Wells Fargo shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below; and

(b)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504 (a)(2) and (b) of the Act, the records referred to in paragraph (a) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of the Plans who has authority to acquire or dispose of shares of the Funds owned by the Plans, or any duly authorized employee or representative of such fiduciary, and

(C) Any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1) (B) and (C) shall be authorized to examine trade secrets of Wells Fargo, or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption,

(a) The term ''Wells Fargo'' means Wells Fargo Bank, N.A. and any affiliate of Wells Fargo Bank, N.A., as defined in paragraph (b) of this Section VI.

(b) An ''affiliate'' of Wells Fargo includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Wells Fargo;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee;

(c) The term ''control'' means the power to exercise a controlling

influence over the management or policies of a person other than an individual.

(d) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(e) The term ''Second Fiduciary'' means a fiduciary of a Plan who is independent of and unrelated to Wells Fargo. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Wells Fargo if—

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with Wells Fargo;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary is an officer, director, partner, or employee of Wells Fargo (or is a relative of such persons);

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this proposed exemption.

If an officer, director, partner, or employee of Wells Fargo (or a relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in the choice of the Plan's investment manager/adviser, the approval of any purchase or sale by the Plan of shares of the Funds, and the approval of any change of fees charged to or paid by the Plan, in connection with any of the transactions described in Section I above, then paragraph (e)(2) of this Section III, shall not apply.

(f) The term ''Fund or Funds'' means a diversified open-end investment company or companies registered under the '40 Act for which Wells Fargo serves as investment adviser and may also provide Secondary Services as approved by such Fund. The Funds are limited to six investment Fund portfolios of the Stagecoach Funds, Inc. These Fund portfolios include include the Asset Allocation Fund, the Bond Index Fund, the Growth Stock Fund, the Short-Intermediate Term Fund, the S&P 500 Stock Fund and the U.S. Treasury Allocation Fund.

(g) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales of shares in a Fund calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to such Fund, less the liabilities charged to the Fund, by the number of outstanding shares in such Fund.

(h) The term ''Secondary Service'' means a service other than an investment management, investment advisory or similar service which is provided by Wells Fargo to the Funds. However, for purposes of this proposed exemption, Secondary Services will include only brokerage services provided to the Funds by Wells Fargo for the execution of securities transactions engaged in by the Funds.

(i) The term ''Principal Pricing Service'' means an independent, recognized pricing service that has determined the aggregate dollar value of marketable securities involved in a CIF Exchange. Prior to the CIF Exchange, the Principal Pricing Service was disclosed in writing by Wells Fargo to the Second Fiduciary.

EFFECTIVE DATE: If granted, this proposed exemption will be effective from July 2, 1993 until October 1, 1993 with respect to CIF Exchanges that occurred on July 2, August 19, and October 1, 1993.

Summary of Facts and Representations

Description of the Parties

1. The applicants involved herein are the Bank, Wells Fargo Nikko Investment Advisors (WFNIA) and Wells Fargo International Trust Company (WFITC).

(a) *The Bank*, a wholly owned subsidiary of Wells Fargo & Company (WFC), is the eighth largest commercial bank in the United States. It serves as a non-discretionary trustee to a number of employee benefit plans. In addition, the Bank serves as a trustee of certain collective trust funds, including certain of the CIFs involved herein. Six of the CIFs, all of which are trusteed by the Bank, hold on a commingled basis, assets of the Bank's Plan clients. These six CIFs do not invest directly but instead are ''shadow'' CIFs (the Shadow CIFs) that hold interests in separate corresponding ''master'' CIFs (the Master CIFs). Two of the Master CIFs are trusteed by the Bank; the four remaining Master CIFs are trusteed by WFITC. Aside from trusteeing some of the CIFs, the Bank serves as an investment adviser to the Funds described below. As of January 6, 1996, the Bank had total assets under management of $5.5 billion.

(b) *WFITC* is a trust company that was formerly 99.9 percent owned by WFNIA and 0.1 percent by WFC. In addition to serving as trustee to some of the Master CIFs, WFITC serves as custodian of certain Wells Fargo Funds.

(c) *WFNIA* is a general partnership that was formerly owned 50 percent by a subsidiary of the Bank and 50 percent by a subsidiary of The Nikko Securities Co., Ltd., a Japanese securities firm unaffiliated with the Bank or WFC. WFNIA, a registered investment adviser, serves as sub-adviser to some of the Funds as well as adviser to WFITC.

Effective December 31, 1995, WFC sold interests in WFNIA and WFITC to Barclays Bank PLC and certain of its affiliates which are entities unrelated to Wells Fargo. WFNIA and WFITC were subsequently incorporated into BZW Barclays Global Investors, N.A. (BZW).

2. *The Plans* include various pension plans, as defined in section 3(2) of the Act, as well as Wells Fargo-sponsored master and prototype pension and profit sharing plans, independently sponsored pension and profit sharing plans and qualified plans of owner-employees. None of the Plans involved in the subject transactions are sponsored by Wells Fargo and/or its affiliates.

3. *The CIFs*, as indicated in part above, consist of (a) six separate portfolios of the Wells Fargo Bank Declaration of Trust Establishing Funds for Retirement Plans, a collective investment trust of which the Bank serves as trustee (i.e., the Shadow CIFs) and (b) six corresponding Master CIFs (of which the Bank serves as trustee with respect to two CIFs and WFITC serves as trustee with respect to four CIFs). The six Shadow CIFs and their corresponding Master CIFs are further identified as follows:

Shadow CIFs	Master CIFs
Asset Allocation Fund for Employee Retirement Plans	WFITC U.S. Tactical Asset Allocation E Fund.
Bond Index Fund for Employee Retirement Plans	WFITC Government/Corporate Bond Fund.
Growth Stock Fund for Employee Retirement Plans	Growth Stock Fund for Retirement Plans.
Intermediate Bond Fund for Retirement Plans	Intermediate Bond Fund for Employee Retirement Plans.
S&P 500 Stock Fund for Employee Retirement Plans	WFITC Equity Index E Fund.
U.S. Treasury Allocation Fund for Employee Retirement Plans	WFITC U.S. Treasury Allocation E Fund.

The interests in the Shadow CIFs are owned by the Bank's trust clients whereas the interests of the Master CIFs are owned by the clients of BZW. Each of the Shadow CIFs is invested exclusively in the corresponding Master CIF.

3. *The Funds* consist of six series or portfolio investment funds of the Stagecoach Funds, Inc., an open-end investment company which was organized on October 15, 1992 and registered under the '40 Act. The Funds are designed to have investment goals that correspond to the CIFs described above and generally have corresponding names. The Funds are comprised as follows: (a) the Asset Allocation Fund; (b) the Bond Index Fund; (c) the Growth Stock Fund; (d) the Short-Intermediate Term Fund; (e) the S&P 500 Stock Fund; and (f) the U.S. Treasury Allocation Fund.

The Bank serves as investment adviser to each of the Funds. WFNIA serves as the sub-adviser with respect to all of the Funds except the Growth Stock Fund and the Short-Intermediate Term Fund. As investment adviser to Funds sub-advised by WFNIA, Wells Fargo provides investment guidance and policy direction with respect to the Funds' daily portfolio management. As sub-adviser, WFNIA is responsible for investing and reinvesting Fund assets, including implementing and monitoring the performance of the investment models used in connection with model-driven funds.

The Bank also serves as the transfer agent and selling agent for the Funds. WFITC serves as the custodian. Stephens, Inc. (Stephens), a broker-dealer and investment advisory firm which is unrelated to Wells Fargo, is the sponsor and administrator of the Funds. The Funds are managed by a board of directors, a majority of whose members are independent of Wells Fargo and Stephens.

The CIF Exchanges

4. Since July 2, 1993, Wells Fargo has been offering the Funds primarily to Plans as a commingled investment vehicle alternative to the CIFs. Wells Fargo believes that the CIFs and the Funds have identical investment objectives and that the Fund option would be selected by Plans that desire readily obtainable daily price quotations and ease of trading. Further, Wells Fargo believes that the ability of a Plan to transfer its CIF assets to a corresponding Fund would substantially reduce the transaction costs that otherwise would be incurred in selling such securities for cash and subsequently acquiring shares in the Funds. To this end, Wells Fargo has offered a Plan the opportunity to designate one or more Funds in lieu of the CIFs with respect to all or a *pro rata* portion of the Plan's assets through a CIF Exchange. Wells Fargo represents that the decision by a Plan to invest in any Fund has been made solely by a Second Fiduciary which is independent of Wells Fargo. Also, no dealer mark-up or sales commissions have been paid by the Plans in connection with any CIF Exchange. Further, Wells Fargo nor an affiliate, including any officer or director, has been permitted to purchase from or sell to any of the Plans shares of the Funds.

Accordingly, Wells Fargo requests retroactive exemptive relief from the Department with respect to the CIF Exchanges commencing in July 1993. Wells Fargo is not requesting exemptive relief with respect to future acquisitions or sales of shares of the Funds by the affected Plans. Instead, Wells Fargo represents that such transactions would be covered under Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977). In pertinent part, PTE 77–4 permits the purchase and sale by an employee benefit plan of shares of a registered open-end investment company when a fiduciary with respect to the plan is also the investment adviser of the investment company.[2] In addition, Wells Fargo states that it is not receiving any commissions or 12b–1 fees in connection with the investment of Plan assets in shares of the Funds. Further, Wells Fargo has confirmed that as to each Plan investing in the Funds, the combined total of all fees it or its affiliates are receiving for the provision of services to the Plans, and in connection with the provision of investment advisory services or Secondary Services to any of the Funds in which the Plans may invest, has not and will not be in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.[3]

5. Wells Fargo represents that the CIF Exchanges were effected on July 2, August 19, and October 1, 1993. On these dates, all or a Plan's *pro rata* interest in the securities held by the Shadow CIFs were exchanged for shares of the Funds.[4] Each affected Plan was notified of the opportunity to participate in a CIF Exchange with respect to its interest. The Master CIFs also participated in the CIF Exchanges to the extent that they held securities which were required to be transferred in-kind or redeemed. Further, a Second Fiduciary approved, in writing, the CIF Exchange. Plans that elected to engage in the CIF Exchanges, received shares in the respective Fund. In effect, the applicants represent that the disclosures and approvals were consistent with the requirements of PTE 77–4.[5]

6. The assets exchanged during the CIF Exchanges consisted of stocks, U.S. Treasury obligations, other government and agency obligations, certain fixed income obligations, asset-backed securities and other securities. All of the securities exchanged were valued on the date of the transfer, by an independent, recognized Principal Pricing Service,[6] except that debt securities that were within 60 days of maturity were valued by the amortized cost method,[7] in the

[2] In this proposed exemption, the Department expresses no opinion on whether any transactions between the Plans the Funds would be covered by PTE 77–4.

[3] The fact that certain transactions and fee arrangements are the subject of an administrative exemption does not relieve the fiduciaries of the Plans from the general fiduciary responsibility provisions of section 404 of the Act. Thus, the Department cautions the fiduciaries of the Plans investing in the Funds that they have an ongoing duty under section 404 of the Act to monitor the services provided to the Plans to assure that the fees paid by the Plans for such services are reasonable in relation to the value of the services provided. Such responsibilities would include determinations that the services provided are not duplicative and that the fees are reasonable in light of the level of services provided.

[4] Due to the ''feeder'' relationship existing between the Shadow CIFs and the Master CIFs, the effect of the in-kind transfers was such that all or a *pro rata* portion of a Plan's interest held in the Master CIFs was exchanged for shares of the Funds.

[5] Section II(d) of PTE 77–4 requires, among other things, that an independent plan fiduciary receive a current prospectus issued by the investment company and a full and detailed written disclosure of the investment advisory and other fees charged to or paid by the plan and the investment company, including a discussion of whether there are any limitations on the fiduciary/investment adviser with respect to which plan assets may be invested in shares of the investment company and, if so, the nature of such limitations.

[6] Wells Fargo represents that a pricing service is recognized within the industry when it is used on a regular basis by a number of clients other than Wells Fargo. In effect, the Principal Pricing Service agrees to perform all of the functions of obtaining the (closing) market price or last-reported bid price where available, determining a price where market or bid prices are not available or consulting with market-makers where it cannot determine the price. For this purpose, Wells Fargo asserts that the Principal Pricing Service would have its own internal procedures and pricing methodologies and would provide a single quotation to its clients.

[7] Wells Fargo states that the ''amortized cost'' method refers to an approach to valuing debt securities that are recognized in different contexts by various regulatory agencies and accounting standards boards. Wells Fargo notes that the amortized cost method is a permitted, rather than required, valuation approach and that the term also refers to the value of a security derived from the methodology. For example, Wells Fargo explains that the Securities and Exchange Commission's ''Codification of Financial Reporting Policies,'' describes in detail the use of the amortized cost methodology and recognizes that a mutual fund's board of directors may determine in good faith that,

same manner and at the close of the same business day.

7. Wells Fargo represents that with respect to the CIF Exchanges, on each of the closing dates, the CIFs did not hold any securities other than securities that could be valued by a Principal Pricing Service selected by Wells Fargo, or, if applicable, by the amortized cost method, prior to such CIF Exchange. In this regard, Wells Fargo states that pricing of the securities held by the CIFs and the Funds was determined by the same Principal Pricing Service such that the price of each security involved in each CIF Exchange was identical for the purposes of valuing the Plan's interest in the CIF and for purposes of valuing the net asset value of the relevant Funds. In effect, Wells Fargo explains that the determination of the net asset value of the Funds and of the value of securities held by the CIF involved in the exchange was objectively determined because, for purposes of the transaction, each security was valued either by an independent, recognized Principal Pricing Service identified prior to each CIF exchange or mechanically by the amortized cost method.

8. Wells Fargo states that the pro rata interest of the Plans in the securities underlying the CIFs were transferred to the Funds in connection with each CIF exchange, except to the extent that fractional shares of the underlying securities would have been created by the transaction. In this event, the fraction of the share to be transferred was automatically rounded up or down to the next nearest whole number (i.e., up or down from 0.50 for fractional shares or up and down from $0.005 in the case of fractional dollar amounts). The cash value of any fractional shares of securities that were transferred to the respective Fund or retained by the CIFs was calculated. To the extent the value of the fractional shares retained by the respective CIF exceeded the value of the fractional shares transferred to the respective Fund, that net amount was transferred in cash to the respective Fund. Assuming the value of the fractional shares involved in the transfer to the respective Fund was less than the value of the fractional shares to be retained by the respective CIF, the net amount was transferred in cash from the Fund to the CIF.

Written Disclosures

9. After a CIF Exchange, each Plan received a confirmation which provided the date of the transaction, the number of shares acquired by the Plan in each of the Funds, the price paid per share for the shares in each of the Funds and the total dollar amount involved in the transaction with each Fund. Such confirmations were sent to Plan investors not more than 7 days after the completion of the transaction.

With respect to ongoing disclosures, Wells Fargo represents that it will provide a copy of the proposed exemption and/or the final exemption, if granted, to the Second Fiduciary of each affected Plan. In addition, at least annually, Wells Fargo will furnish the Second Fiduciary of a Plan with a copy of a current prospectus for the Funds and, upon the request of the Second Fiduciary, with a copy of the statement of additional information containing a description of all fees paid by the Funds to Wells Fargo. Further, in the event that a Fund places brokerage transactions with it, Wells Fargo will provide the Second Fiduciary, at least on an annual basis, with a statement specifying (a) the total, expressed in dollars, of brokerage commissions that are paid to Wells Fargo by such Fund; (b) the total, expressed in dollars, of brokerage commissions that are paid by such Fund to brokerage firms unrelated to Wells Fargo; (c) the average brokerage commissions per share, expressed as cents per share, paid to Wells Fargo by such Fund; and (d) the average brokerage commissions per share, expressed as cents per share, paid by such Fund to brokerage firms that are unrelated to Wells Fargo.

10. In summary, it is represented that the CIF Exchanges have satisfied the statutory criteria for an exemption under section 408(a) of the Act for the following reasons:

(a) Neither the CIFs nor the Plans have paid any sales commissions or redemption fees in connection with the CIF Exchanges nor will they pay any fees in connection with purchases or redemptions of shares of the Funds.

(b) Prior to the investment by a Plan in the Funds, the Second Fiduciary has received a full and detailed written disclosure of information concerning such Fund and, on the basis of such disclosures, such Second Fiduciary has authorized the transactions.

(c) Each CIF or Plan has received shares of a Fund that are equal in value to the assets of the CIF or the Plan exchanged for such shares, as determined in a single valuation performed in the same manner and as of the close of the same business day using either an independent, recognized Principal Pricing Service that has been disclosed by Wells Fargo to the Second Fiduciary prior to the CIF Exchange and/or, if applicable, by the amortized cost method.

(d) With respect to the CIF Exchanges, Wells Fargo has sent the Second Fiduciary of each affected Plan written confirmation, not more than 7 days after the completion of each transaction, containing the date of the transaction, the number of shares acquired by the Plan in each of the Funds, the price paid per share for each of the Funds and the total dollar amount involved in the transaction with each Fund.

(e) Neither Wells Fargo nor an affiliate, including any officer or director has been or will be permitted to purchase from or sell to any of the Plans shares of any of the Funds.

(f) Wells Fargo has not and will not receive any 12b-1 Fees in connection with the transactions.

(g) As to each individual Plan, the combined total of all fees received by Wells Fargo for the provision of services to the Plan, and in connection with the provision of services to any of the Funds in which the Plan may invest, has not and will not be in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(h) All dealings between the Plans, the Funds and Wells Fargo have or will be on a basis no less favorable to such Plans than dealings between the Funds and other shareholders holding the same shares of the same class as the Plans.

Notice to Interested Persons

Those persons who may be interested in the pendency of the requested exemption include fiduciaries of Plans invested in the CIFs or the Funds on each of the dates the CIF Exchanges were completed. Accordingly, the Department has determined that the only practical form of providing notice to interested persons is the distribution, by Wells Fargo, of a copy of the proposed exemption by first class mail within 30 days of the date of the publication of the pendency notice in the Federal Register. Such distribution will be made to Second Fiduciaries of the Plans that engaged in the CIF Exchanges. The distribution will include a copy of the notice of proposed exemption, as published in the Federal Register, as well as a supplemental statement, as required, pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on and/or to request a hearing. Comments and hearing requests with

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except in unusual circumstances, amortized cost approximates the fair market value of debt securities with remaining maturities of 60 days or less (based on cost for securities acquired within 60 days of maturity or fair market value on the 61st day prior to maturity for securities already owned).

respect to the proposed exemption are due 60 days after the date of publication of the proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Teachers Insurance and Annuity Association of America (TIAA), Located in New York, New York

[Application No. D–09915]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I—Exemption for Certain Transactions Involving the Purchase and Sale of Certain Units in a Real Estate Separate Account by TIAA

If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective October 2, 1995, to the transactions described below, if each of the conditions set forth in

Section III have been satisfied:

(a) the purchase by TIAA of certain units (the Liquidity Units), as defined in Section IV(g) below, in a real estate separate account established and operated by TIAA (the Separate Account), as defined in Section IV(l) below, in the event of net withdrawals from the Separate Account; and

(b) the sale of Liquidity Units of the Separate Account by TIAA in the event of net contributions to the Separate Account.

Section II—Exemption for the Purchase of Liquidity Units owned by TIAA in the Separate Account In Connection with a Decrease in TIAA's Participation in the Separate Account under Certain Circumstances

If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective October 2, 1995, to: (a) the use of cash flow from the Separate Account (the Cash Flow), as defined in Section IV(d) below; (b) the use of liquid investments in the Separate Account; or (c) the use of the proceeds from the sale of certain properties (the Properties), as defined in Section IV(i) below, owned by the Separate Account, for the purpose of purchasing Liquidity Units in the Separate Account from TIAA in connection with a decrease in the participation by TIAA in the Separate Account after the trigger point (the Trigger Point), as defined in Section IV(o) below, has been reached or during the wind down period of the Separate Account (the Wind Down), as defined in Section IV(q) below, provided that the conditions set forth in Section III have been satisfied.[8]

Section III—General Conditions

The exemption is conditioned upon the adherence by TIAA to the material facts and representations described in this notice of proposed exemption (the Notice) and upon satisfaction of the following requirements:

(a) The decision to elect to add the Separate Account as an additional pension funding option for employee benefit plans (the Plan or Plans), as defined in Section IV(h) below, which invest in the Separate Account has been and is made by the fiduciaries of such Plans (the Fiduciary or Fiduciaries), as defined in Section IV(e) below, or in the case of a contract between TIAA and a supplemental retirement account (SRA) or an individual retirement account (IRA), the decision to elect to add the Separate Account as an additional pension funding option to a SRA or an IRA has been and is made by the participant in such SRA or IRA, if the Fiduciaries of the Plans and the IRA and SRA participants are unrelated to TIAA and its affiliates (the Affiliates or Affiliate), as defined in Section IV(b) below;

(b) Each of the Properties in the Separate Account has been and is valued at least annually by an independent, qualified appraiser;

(c) Except as otherwise specified below in paragraph (c)(10) of this Section III, prior to investment of funds in the Separate Account by any participant in a Plan (the Participant or Participants) (and, if applicable, by any of the Plans) which participate in the Separate Account, TIAA has furnished and will furnish to the Fiduciaries of such Plans and, in the case of a contract between TIAA and a SRA or an IRA, to the participant in such SRA or IRA, the following information:

(1) a copy of the most recent prospectus for the Separate Account, the most recent quarterly and other financial reports for the Separate Account filed with the Securities and Exchange Commission (SEC), and the most recent copy of any supplemental schedule of information, publications, or ancillary materials which have been made available to Plan Sponsors or Participants invested in the Separate Account;

(2) full disclosure concerning the investment guidelines, structure, manner of operation, and administration of the Separate Account; the method of valuation applicable to accumulation units (the Accumulation Units), as defined in Section IV(a) below, and the method of valuation of the Properties, and all other assets owned by the Separate Account;

(3) a written description of potential conflicts of interest that may result from TIAA's acquisition, purchase, retention, redemption, or sale of Accumulation Units in the Separate Account;

(4) the rules and procedures for withdrawal, transfer, redemption, distribution, and payout applicable throughout the term of the Separate Account to TIAA, to individual Participants (and, if applicable, to Plans) which participate in the Separate Account;

(5) the expense and fee provisions of the Separate Account (including but not limited to a description of any services rendered by TIAA, a schedule of fees for such services, and an estimate of the amount of fees to be paid by the Separate Account annually);

(6) a list of all assets in the Separate Account, as of the end of the most recent fiscal period of the Separate Account, and a list of the Properties which the Separate Account acquired or sold within twelve months prior to the end of the most recent fiscal period of the Separate Account;

(7) the appropriate financial statements pertaining to the Separate Account (including but not limited to the most recent audited annual report, income statement, and balance sheet on the Separate Account);

(8) copies of the most recent reports on the Separate Account, including but not limited to information relating the value of units in the Separate Account (the Units), as defined in Section IV(p) below; and the quarterly return for the Separate Account, and the most recent quarterly updates of the valuation of the Separate Account (including a list of the holdings of the Separate Account during the period);

(9) any reasonably available information which TIAA believes to be necessary, or which any fiduciary of a plan or any sponsor of a plan reasonably

[8] For purposes of this proposed exemption references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

requests in order to determine whether such plan should elect to add the Separate Account as an additional pension funding option for the benefit of participants (or, if applicable, for such plan), or, in the case of a contract between TIAA and a SRA or an IRA, which the participant in such SRA or IRA reasonably requests in order to determine if he or she should elect to add the Separate Account as an additional pension funding option under such SRA or IRA contract with TIAA; and

(10) upon publication of this Notice, a copy of such Notice, as it appears in the Federal Register, shall be provided to the Fiduciaries of the Plans, to the sponsors of the Plans (the Plan Sponsors or Plan Sponsor), to the sponsors of any SRA, and to the participants in any TIAA IRA which have elected to add the Separate Account as an additional pension funding option and which have been or are invested in the Separate Account. If this proposed exemption is granted, the Fiduciaries of the Plans, the Plan Sponsors, the sponsors of any SRA, and the participants in any TIAA IRA which have elected to add the Separate Account as an additional pension funding option and which have been or are invested in the Separate Account shall receive upon publication of a Grant of Exemption (the Grant), a copy of such Grant, as it appears in the Federal Register. If subsequent to the publication of the Grant, any fiduciaries of plans, any sponsors of plans, the sponsors of any SRA, or the participants in any TIAA IRA choose to elect to add the Separate Account as an additional pension funding option to enable such plans to invest in the Separate Account, the fiduciaries of such plans, the sponsors of such plans, the sponsors of such SRA, and the participants in any such IRA shall be provided, at least thirty (30) days prior to investment in the Separate Account, with a copy of both the Notice and the Grant, as such documents appeared upon publication in the Federal Register.

(d) TIAA has made and will make available, within the time periods specified below in subparagraphs (1) through (4) of this paragraph (d), to the Fiduciaries of the Plans, or in the case of a contract between TIAA and a SRA or an IRA, to the participant in such SRA or IRA:

(1) information relating to the value of the Units in the Separate Account to be available daily over a toll-free telephone number and/or to be distributed in writing to Participants in the Separate Account in quarterly confirmation statements within five (5) to ten (10) days after the end of each calendar quarter;

(2) information concerning the quarterly return of the Separate Account to be available daily over a toll-free telephone number and/or to be distributed in writing to Participants in the Separate Account in quarterly confirmation statements within five (5) to ten (10) days after the end of each calendar quarter;

(3) a prospectus for the Separate Account to be distributed annually; and

(4) any information or TIAA publication, to be distributed from time to time, which TIAA reasonably believes to be necessary or which the Fiduciaries request, or in the case of a contract between TIAA and a SRA or an IRA, which the participant in such SRA or IRA requests (including but not limited to quarterly financial reports filed with the SEC) in order to determine whether any Participant in such Plan, or participant in such SRA or IRA should buy, sell, or continue to hold the Units in the Separate Account, as defined in Section IV(p) below;

(e) An independent, qualified fiduciary (the Independent Fiduciary), as defined in Section IV(f) below, has been appointed prior to or coincident with the start of operations of the Separate Account (and is subject to renewal and removal described herein) whose responsibilities include, but are not limited to:

(1) reviewing and approving the written investment guidelines of the Separate Account as established by TIAA, and approving any changes to such investment guidelines;

(2) monitoring whether the Properties acquired by the Separate Account conform with the requirements of such investment guidelines;

(3) reviewing and approving valuation procedures for the Separate Account and approving changes in those procedures;

(4) reviewing and approving the valuation of Units in the Separate Account and the valuation of Properties held in the Separate Account, as described in the Summary of Facts and Representations in the Notice;

(5) approving the appointment of all independent, qualified appraisers retained by TIAA to perform periodic valuations of the Properties in the Separate Account;

(6) requiring appraisals in addition to those normally conducted, whenever, the Independent Fiduciary believes that the characteristics of any of the Properties have changed materially, or with respect to any of the Properties, whenever the Independent Fiduciary deems an additional appraisal to be necessary or appropriate in order to assure the correct valuation of the Separate Account;

(7) reviewing the purchases and sales of Units in the Separate Account by TIAA and the Participants (and, if applicable, by the Plans) which participate in the Separate Account to assure that the correct values of the Units and of the Separate Account are applied; reviewing the fixed repayment schedule applicable to the redemption of certain seed money units (the Seed Money Units), as defined in Section IV(k) below, as approved by the State of New York Insurance Department; reviewing any exercise of discretion by TIAA to accelerate the fixed repayment schedule applicable to the redemption of Seed Money Units; and, approving TIAA's exercise of discretion only if such acceleration would benefit the Participants in the Separate Account;

(8) after (and, if necessary, during) the Start Up Period, as defined in Section IV(m) below, determining the appropriate Trigger Point, with respect to the ongoing ownership by TIAA of Liquidity Units; establishing a method to implement any changes to the Trigger Point; adjusting the percentage which serves as the Trigger Point; approving or requiring any reduction of TIAA's interest in the Separate Account; and, approving the manner in which such reduction of TIAA's participation in the Separate Account in excess of the Trigger Point is to be effected;

(9) in the event the Trigger Point is reached, participating and planning any program of sales of the assets of the Separate Account, which would include the selection of the Properties to be sold, the guidelines to be followed in making such sales, and the approval of such sales, if in the opinion of the Independent Fiduciary, such sales are desirable at the Trigger Point in order to reduce the ownership by TIAA of Liquidity Units in the Separate Account or to facilitate the Wind Down;

(10) supervising the operation of the Separate Account during the Wind Down of such Separate Account;

(11) during the Wind Down, planning any program of sales of the assets of the Separate Account, including the selection of the Properties to be sold, determining the guidelines to be followed in making such sales, and approving the sale of the Properties in the Separate Account, in the event of the termination of the Separate Account, if in the opinion of the Independent Fiduciary, such sales are desirable to facilitate the Wind Down; and

(12) reviewing any other transactions or matters involving the Separate Account that are submitted to the

Independent Fiduciary by TIAA and determining whether such transactions or other matters are fair to the Separate Account and in the best interest of the Separate Account.

(f) The exemption is also subject to the condition that the following transactions involving the Separate Account have not occurred and will not occur:

(1) participation by the Independent Fiduciary, TIAA, any Affiliate of TIAA, TIAA's general account (the General Account), or any other separate account over which TIAA or its Affiliates has any investment control in any joint venture with the Separate Account, or in the ownership of the Properties of the Separate Account either alone or together with a joint venture partner;

(2) the borrowing of funds from the Separate Account by the Independent Fiduciary, TIAA, any Affiliate of TIAA, TIAA's General Account, or any other separate account over which TIAA or its Affiliates has investment control, or the lending of funds to the Separate Account by the Independent Fiduciary, TIAA, any Affiliate of TIAA, TIAA's General Account, or any other separate account over which TIAA or its Affiliates has investment control in order to leverage any purchase by the Separate Account of any of the Properties, or otherwise; and

(3) the acquisition by the Separate Account of any Properties from or the sale by the Separate Account of any Properties to the Independent Fiduciary, TIAA, any Affiliate of TIAA, TIAA's General Account, or any other separate account over which TIAA or its Affiliates has investment control.

(g) The liquidation of any Accumulation Units held by a Participant or participating Plan, for which a withdrawal request is pending, has not been and will not be delayed by reason of the redemption of Seed Money Units held by TIAA, and TIAA has advanced and will always advance funds by purchasing Liquidity Units to fund the withdrawal requests of Participants or Plans on a timely basis;

(h) TIAA must maintain for a period of six (6) years from the date of any transaction, the records necessary to enable the persons described in paragraph (i) of this Section III to determine whether the conditions of this exemption have been met. However, a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of TIAA and its Affiliates, the records are lost or destroyed prior to the end of the six-year period, and no parties in interest, other than TIAA or its Affiliates, shall be subject to a civil penalty that may be assessed under section 502(i) of the Act, or to taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (i) below.

(i)(1) Except as provided in subparagraph (2) of this paragraph (i) and notwithstanding any provision of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (h) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service;

(B) Any Fiduciary of a Plan which participates in the Separate Account, or in the case of a contract between TIAA and a SRA or an IRA, any participant in such SRA or IRA, who has authority to acquire or dispose of the interests of such SRA or IRA contract, or any duly authorized employee or representative of such Fiduciary of a Plan or participant in such SRA or IRA;

(C) Any contributing employer to any Plan participating in the Separate Account, or any duly authorized employee or representative of such employer; and

(D) Any Participant or beneficiary of any Plan participating in the Separate Account, or any duly authorized employee or representative of such Participant or beneficiary.

(2) None of the persons described in subparagraphs (1)(B) through (D) of this paragraph (i) shall be authorized to examine the trade secrets of TIAA or any of its Affiliates, or any of its commercial or financial information which is privileged or confidential.

Section IV—Definitions

For the purpose of this exemption:

(a) ''Accumulation Units'' mean the units of interest into which equity participation in the Separate Account is divided during the accumulation phase of the annuity contracts prior to retirement by a Participant. Seed Money Units, as defined in Section IV(k) below, and Liquidity Units, as defined in Section IV(g) below, are Accumulation Units.

(b) ''Affiliate'' or ''Affiliates'' of TIAA include(s):

(1) any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with TIAA.

(2) any officer, director, or employee of TIAA, or of a person described in paragraph (b)(1) of Section IV, and

(3) any partnership in which TIAA is a partner.

(c) ''Control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) ''Cash Flow'' means: (1) the sum of: (a) income received by the Separate Account from investments (including dividends and/or interest from non-real estate investments, and net operating income, less payment of capital expenditures and changes in reserves for capital expenditures, from equity real estate investments); and (b) Participant and Plan contributions (including transfers to the Separate Account) MINUS (2) the sum of: (a) Separate Account expense charges (including investment and administrative expenses for mortality and expense guarantees); and (b) any redemption of Seed Money Units at fair market value.

(e) ''Fiduciary'' or ''Fiduciaries'' mean(s) the individual fiduciary or fiduciaries acting on behalf of each of the Plans that invest in the Separate Account.

(f) ''Independent Fiduciary''—

(1) For purposes of this definition, an Independent Fiduciary means a person who:

(A) Is not an Affiliate of TIAA;

(B) Does not have an ownership interest in TIAA or its Affiliates;

(C) Is not a corporation or partnership in which TIAA or any of its Affiliates has an ownership interest;

(D) Is not a Fiduciary with respect to any Plan which participates in the Separate Account;

(E) Has acknowledged in writing acceptance of fiduciary responsibility; and

(F) Is either:

(i) a business organization which has at least five (5) years of experience with respect to commercial real estate investments or other appropriate experience;

(ii) a committee comprised of three to five individuals who each have had at least five (5) years of experience with respect to commercial real estate investments or other appropriate experience; or

(iii) a committee comprised both of a business organization or organizations and individuals having the qualifications described in paragraphs (f)(1)(A) through (E) of Section IV above.

(2) For the purposes of the definition of Independent Fiduciary, no organization or individual may serve as Independent Fiduciary for the Separate Account for any fiscal year, if the gross income received from TIAA or its Affiliates by such organization or

individual (or by any partnership or corporation of which such organization or individual is an officer, director, or ten percent (10%) or more partner or shareholder) for that fiscal year exceeds five percent (5%) of its or his annual gross income from all sources for the prior fiscal year. If such organization or individual had no income for the prior fiscal year, the five percent (5%) limitation is applied with reference to the fiscal year in which such organization or individual serves as an Independent Fiduciary. The income limitation includes services rendered to the Separate Account as Independent Fiduciary, as described in this exemption.

(3) No organization or individual who is an Independent Fiduciary, and no partnership or corporation of which such organization or individual is an officer, director, or ten percent (10%) or more partner or shareholder, during the period that such organization or individual serves as an Independent Fiduciary and continuing for a period of six (6) months after such organization or individual ceases to be an Independent Fiduciary, may

(A) acquire any property from or sell any property to TIAA, its Affiliates, TIAA's General Account, or any separate account maintained by TIAA or its Affiliates, including the Separate Account;

(B) borrow any funds from, or lend any funds to TIAA, its Affiliates, TIAA's General Account, or any separate account maintained by TIAA or its Affiliates, including the Separate Account;

(C) participate in any joint venture with TIAA, its Affiliates, TIAA's General Account, or any separate account maintained by TIAA or its Affiliates, including the Separate Account, or participate, either alone or together with a joint venture partner, in the ownership of the Properties with TIAA, its Affiliates, TIAA's General Account, or any separate account maintained by TIAA or its Affiliates, including the Separate Account; or

(D) negotiate any such transactions, described above in paragraph (f)(3) (A) through (C) of Section IV.

(4) No Fiduciary of a Plan or Plan Sponsor which participates in the Separate Account or a designee of such Fiduciary, Plan Sponsor, or Plan may serve as the Independent Fiduciary with respect to the Separate Account.

(g) ''Liquidity Units'' mean Accumulation Units, as defined in Section IV(a) above, that are purchased from Participants (or, if applicable, from the Plans who participate in the Separate Account) by TIAA's General Account, when the Cash Flow of the Separate Account, as defined above in Section IV(d), and liquid investments of the Separate Account are insufficient, in order to guarantee liquidity for such Participants (or, if applicable, for such Plans) who wish to withdraw or transfer funds from the Separate Account.

(h) ''Plan or Plans'' mean(s) an employee benefit plan or employee benefit plans (primarily participant-directed defined contribution plans, but also some defined benefit plans) qualified pursuant to sections 401(a), 403(a), 403(b), 414(d) and 457(b) of the Code, as well as any TIAA IRA and SRA, as described, respectively, under section 408 and section 403(b) of the Code, which may participate in ownerships of Units in the Separate Account and which are subject to section 406 of the Act and/or section 4975 of the Code.

(i) ''Properties'' mean the geographically dispersed retail and office buildings, light industrial facilities, and residential apartment space with good operating income (and such other Properties that may be acquired pursuant to changes in the investment guidelines for the Separate Account that are approved by the Independent Fiduciary) which TIAA has acquired on behalf of the Participants (and, if applicable, the Plans) that invest in the Separate Account.

(j) ''Seed Money'' means the total amount (not to exceed $100 million) actually contributed by TIAA's General Account to the Separate Account for the purpose of acquiring Properties for the Separate Account. Seed Money will be applied to purchase Accumulation Units at the fair market value of those Units at the time of purchase.

(k) ''Seed Money Units'' mean the Accumulation Units, as defined in Section IV(a) above, that are issued by the Separate Account to TIAA's General Account in exchange for Seed Money, as defined above in Section IV(j), during the Start Up Period of the Separate Account.

(l) ''Separate Account'' means the real estate equity pooled separate account invested in by Participants (and, if applicable by Plans), as described herein.

(m) ''Start Up Period'' means the period during which repayment of TIAA's General Account of Seed Money, as defined in Section IV(j) above, must be made on a fixed repayment schedule as approved by the State of New York Insurance Department (NYID). In this regard, the redemption of Seed Money Units by TIAA will begin on the *earlier* to occur of:

(1) two (2) years from the date on which TIAA first opened the Separate Account to Participants (and, if applicable, to Plans) for paying premiums to the Separate Account, or

(2) the date on which the value of the Separate Account first reaches $200 million. Thereafter, at least 20 percent (20%) of the original number of Seed Money Units acquired by TIAA's General Account from the contribution of Seed Money to the Separate Account are to be redeemed on predetermined dates in each year, as established by TIAA, for a period of five (5) years (at fair market value based on the value of Accumulation Units on the date of each redemption). The exercise of any discretion by TIAA to accelerate the fixed repayment schedule applicable to the redemption of Seed Money Units is subject to the advance review and approval of the Independent Fiduciary, and any such acceleration will not be applied so as to prevent a redemption of Seed Money Units scheduled to occur on any of the predetermined dates during any year. The Start Up Period will expire when all the Seed Money Units originally acquired by TIAA's General Account from the contribution of Seed Money to the Separate Account have been redeemed by TIAA.

(n) ''TIAA Pension Plans'' mean certain defined benefit and certain defined contribution plans maintained by TIAA. Among the defined contribution plans maintained by TIAA are the TIAA Retirement Plan, which is tax-qualified under the Code, and the TIAA Tax-Deferred Annuity Plan, which is a salary reduction annuity plan, pursuant to section 403(b) of the Code. Participants in the TIAA Retirement Plan and the TIAA Tax-Deferred Annuity Plan are permitted to invest in the Separate Account.

(o) ''Trigger Point'' means the point, as established by the Independent Fiduciary, at which TIAA's participation in the Separate Account through the ownership of Liquidity Units is decreased with the approval of or as required by the Independent Fiduciary, acting on behalf of the Participants (and, if applicable, the Plans).

(p) ''Units'' mean the units of interest into which equity participation in the Separate Account is divided.

(q) ''Wind Down'' means the period which begins on the date on which TIAA notifies all Participants (and, if applicable, all Plans invested in the Separate Account) that TIAA has decided to terminate the Separate Account and concludes on the date on which no Accumulation Units are held

by Participants (or, if applicable, by Plans).

Effective Date: If the proposed exemption is granted, the exemption will be effective, as of October 2, 1995, the date the Separate Account was first opened to Participants and Plans for investment.

Summary of Facts and Representations

1. TIAA, a non-profit stock life insurance company, was founded on March 18, 1918, by the Carnegie Foundation for the Advancement of Teaching. TIAA offers traditional annuities, which guarantee principal and a specified rate of interest while providing the opportunity for the crediting of additional amounts. TIAA also offers life insurance, long-term disability insurance, and long-term care insurance.

TIAA is organized as a corporation under the laws of the State of New York. All of the stock of TIAA is held by the TIAA Board of Overseers, a non-profit New York corporation. The TIAA Board of Overseers generally monitors TIAA's affairs to assure that TIAA is meeting its Charter purpose. The Board of Overseers do not directly supervise the management of TIAA, but they do elect members of the Board of Trustees of TIAA, which does exercise such supervision. The Board of Trustees consists of twenty (20) members, three of whom are employees of TIAA.

TIAA is the companion organization of the College Retirement Equities Fund (CREF). CREF is a non-profit membership corporation established under the laws of the State of New York in 1952. CREF is registered with the SEC as an investment company under the Investment Company Act of 1940. CREF typically offers to Plans individual annuity contracts with a variety of investment funds. In this regard, CREF currently offers seven (7) investment funds, namely, a stock fund, a money market fund, a bond fund, a social choice fund, a global equities fund, an equity index fund, and a growth fund.

As of December 31, 1993, TIAA had approximately $67 billion in assets. As of the same date, the combined assets of TIAA and CREF totalled approximately $128 billion. In 1993, TIAA's General Account contained $7 billion in real estate investments.

2. It is represented that TIAA and CREF together form the principal retirement annuity funding system for education and research communities in the United States. In this regard, TIAA and CREF serve approximately 1.8 million individuals who are employed at approximately 5,500 educational and research institutions. Typically, TIAA and CREF issue individual annuity contracts (and occasionally group annuity contracts) in order to provide funding for pension plans which are sponsored by these educational institutions for their employees.

It is represented that the Plans involved in the proposed transactions are participant directed defined contribution plans, as described in section 401(a), 403(a), 403(b), 414(d) and 457(b) of the Code, as well as any TIAA IRA and SRA, as described, respectively, under section 408 and section 403(b) of the Code. In addition, participants in certain TIAA Pension Plans, as defined in Section IV(n) above, are permitted to invest in the Separate Account.[9] Further, it is represented that less than fifty (50) defined benefit pension plans may also be involved in the proposed transactions.

3. TIAA anticipates that almost all of the educational institutions participating in the TIAA annuity funding system are interested in adding a real estate separate account as an endorsed enhancement to individual annuity contracts. For this reason, TIAA established the Separate Account in which certain Plans covered by the Act and their participants and beneficiaries have invested and will invest.[10]

4. The Separate Account is an open-end commingled equity real estate separate account which invests eligible retirement plan assets primarily in equity real estate, and other real estate related investments, including marketable securities. It is represented that the Separate Account has not invested and will not invest in loans and leases to, or securities issued by, TIAA or its Affiliates. The Separate Account is a separate account, as defined in section (3)(17) of the Act, and was established and is operated in accordance with section 4240 of the New York Insurance law. Units in the Separate Account are registered with the SEC under the Securities Act of 1933. It is represented that TIAA operates the Separate Account so that it is not subject to registration as an investment company under the Investment Company Act of 1940.

TIAA provides investment management services to the Separate Account.[11] As investment manager to the Separate Account, TIAA is a fiduciary, within the meaning of section 3(21)(A) of the Act, with respect to the assets of the Plans held in the Separate Account, and therefore, qualifies as a party in interest, pursuant to section 3(14)(A) of the Act, with respect to the Plans which participate in the Separate Account.

5. TIAA proposes to operate the Separate Account with a sufficiently diverse portfolio of Properties to offer to investing Participants (and, if applicable, to investing Plans). In this regard, it is anticipated that the Properties acquired by the Separate Account will be geographically dispersed retail and office buildings, light industrial facilities, and residential apartment space with good operating income. In order to acquire such Properties, TIAA believes that the Separate Account required an initial contribution of $100 million in Seed Money.

Accordingly, on July 3, 1995, TIAA contributed $100 million in Seed Money in a lump sum to the Separate Account from its General Account. In return for the contribution of Seed Money, TIAA received from the Separate Account, Seed Money Units representing 100% of the value of the Separate Account at the time of the contribution. Thereafter, TIAA proposes to redeem Seed Money Units under a fixed repayment schedule, subject to the approval of the NYID. In the opinion of TIAA, this approach would permit the Separate Account flexibility to acquire equity real estate investments, thereby enhancing the ability of the Separate Account to generate greater returns sooner for Participants (and, if applicable, for Plans).

[9] It is represented that any acquisition of Units in the Separate Account by plans sponsored by TIAA will not violate section 406(a) or 406(b) of the Act by reason of the statutory exemption contained in section 408(b)(5) of the Act. The Department is offering no view, herein, as to whether the acquisition by any plans sponsored by TIAA of Units in the Separate Account is covered by the statutory exemption provided in section 408(b)(5) of the Act.

[10] TIAA has represented its understanding that this proposed exemption, if granted, will apply only to those Plans that are subject to section 406 of the Act and/or section 4975 of the Code.

[11] It is represented that TIAA receives fees for serving as investment manager of the Separate Account. In this regard, TIAA anticipates that the total investment management fees to Participants (and, if applicable, to Plans) which invest in the Separate Account will be in the range of from 50 to 75 basis points. It is represented that the overall expenses charged for the Separate Account will not exceed a maximum of 250 basis points. No other fees or charges are made or will be made, except for operating expenses and taxes that are net of gross income for a specific Property. TIAA maintains that statutory exemptions, pursuant of sections 408(b)(2) or 408(b)(5) of the Act, are available to provide relief for the fees received by TIAA with respect to the management of the Separate Account. The Department is offering no view, herein, as to whether the receipt of fees from the Separate Account by TIAA is covered by the statutory exemptions provided in sections 408(b)(2) or 408(b)(5) of the Act, nor is the Department providing any relief herein with respect to such fees charged by TIAA to the Separate Account.

It is represented that the NYID has approved the redemption by TIAA of its Seed Money Units to begin on the *earlier* to occur of: (i) two years from the date (*i.e.* October 2, 1995) on which TIAA first opened the Separate Account to Participants (and, if applicable, to Plans) for paying premiums to the Separate Account, or (ii) the date on which the value of the Separate Account first reaches $200 million. Thereafter, it is represented that at least 20 percent (20%) of the original number of Seed Money Units acquired by TIAA's General Account from the contribution of the Seed Money to the Separate Account will be redeemed on predetermined dates in each year, as established by TIAA, for a period of five (5) years. In this regard, it is represented that TIAA will select twelve dates each year (*i.e.* the fifteenth day of each calendar month, or if such date is not a business day, then the next following day on which TIAA is open for business) on which it will redeem one-twelfth of the number of Seed Money Units to be redeemed in that calendar year in order to satisfy the requirement that at least 20 percent (20%) of its Seed Money Units is redeemed annually.[12]

Notwithstanding the fixed repayment schedule, described above, TIAA has discretion to accelerate the redemption of Seed Money Units, but represents that it will exercise such discretion, subject to the advance review and approval of the Independent Fiduciary, and only if such exercise would be in the best interest of the Participants invested in the Separate Account. It is further represented that any such acceleration will not be applied so as to prevent a redemption of Seed Money Units scheduled to occur on any of the predetermined dates during any year.

TIAA proposes to redeem the Seed Money Units at the fair market value of such Units on the date of each redemption. TIAA believes that the redemption by the General Account of TIAA's Seed Money Units at the fair market value of such units on the date redeemed is equitable and appropriate from the standpoint of both the General Account and the Separate Account. In this regard, it is represented that New York Insurance law requires TIAA to invest General Account assets in a prudent fashion. Further, TIAA maintains that Seed Money, as part of the General Account, must be invested for the benefit of those who depend upon the assets of the General Account to support their contractual obligations. Accordingly, in the opinion of TIAA, the General Account must share in both the upside and downside risks resulting from its investment of the Seed Money in the Separate Account.

TIAA represents that cash to redeem its Seed Money Units at fair market value will be obtained from the following sources: (a) Cash Flow from the Separate Account; (b) liquid investments in the Separate Account; or (c) the proceeds from the sale of Properties held by the Separate Account. TIAA believes this method of redemption of TIAA's Seed Money Units will allow the Separate Account to purchase additional Properties even during the time when the Seed Money initially contributed by TIAA is being repaid. In the opinion of TIAA, the creation of a more substantial, more diverse real estate portfolio in the Separate Account benefits Participants (and, if applicable, Plans) which invest in the Separate Account by achieving greater investment returns.

6. In accordance with the provisions of the Separate Account, each Participant (and, if applicable, each Plan) that invests in the Separate Account is entitled to withdraw or transfer funds from the Separate Account at the current daily fair market value of the Units of the Separate Account pursuant to the valuation methodology described below. Payouts to individual Participants are made in accordance with any limitations on the timing and frequency of such payouts which may be imposed under applicable Plan provisions.

In order to ensure that Participants (and, if applicable, Plans) may withdraw or transfer amounts from the Separate Account at any time, TIAA proposes to guarantee the liquidity of the Separate Account. In this regard, TIAA will provide a ''safety net'' or ''back-up'' liquidity feature to the Separate Account whenever certain sources of funds in the Separate Account are insufficient to satisfy all of the requests for withdrawal or for transfer from the Separate Account. In this regard, it is represented that in satisfying withdrawal or transfer requests from Participants (and, if applicable, from Plans), the Separate Account first relies on Cash flow, as defined in Section IV(d).

If the Cash Flow of the Separate Account is not sufficient to fund such requests, then TIAA looks to the liquid investments in the Separate Account. It is represented that generally the liquid investments of the Separate Account are expected to represent from 10 to 25 percent (10%–25%) of the assets of the Separate Account and to include Treasury bonds and notes, corporate bonds, money market instruments, collateralized mortgage obligations, shares of real estate investment trusts, and other real estate related companies. Finally, if the Cash Flow and liquid investments of the Separate Account are insufficient, TIAA represents that it will purchase a sufficient number of Liquidity Units, as defined in Section IV(g), from the Separate Account to fund the request for withdrawal or transfer from an exiting Participant (or, if applicable, from an exiting Plan).

TIAA recognizes that, through potential purchases of Liquidity Units, it may retain an unanticipated level of ownership in the Separate Account. As a result of such purchases, TIAA's interest in the Separate Account may at any time increase beyond a predetermined percentage (*i.e.* the Trigger Point, as defined in Section IV(o)) of the total value of the Accumulation Units of the Separate Account, as defined in Section IV(a). In the event of such an increase beyond the Trigger Point through the purchase of Liquidity Units by TIAA from the Separate Account, TIAA proposes to reduce its holding of Liquidity Units by selling such Liquidity Units to the Separate Account. In this regard, cash to purchase Liquidity Units is obtained from the following sources: (a) Cash Flow from the Separate Account; (b) liquid investments in the Separate Account; or (c) the proceeds from the sale of Properties held by the Separate Account.

7. TIAA retains the authority to terminate the Separate Account and wind down the operation of the Separate Account. It is represented that

[12] TIAA believes that the analysis contained in Advisory Opinion 83–38A (July 22, 1983) is applicable to TIAA's transfer of the Seed Money to the Separate Account, and to the Separate Account's redemption of Seed Money Units from TIAA which were acquired when TIAA contributed the Seed Money to the Separate Account. This opinion held that seed money allocated to separate accounts by an insurance company in order to aid in the start-up and management of those accounts would not be treated as assets of the plans which invested in the separate accounts, and that the redemption by the insurance company of participation units in the separate accounts would not constitute a violation of the prohibited transaction provisions of the Act, solely by reason of the transfer of seed money from the separate accounts to the insurance company's general account. In this regard, TIAA maintains that similar transfers of Seed Money between its Separate Account and its General Account do not violate section 406(a)(1) (A) and (D) or section 406 (b)(1) and (b)(2) of the Act. The Department is offering no relief, herein, for the transfer of the Seed Money into the Separate Account or the redemption by the Separate Account of TIAA's Seed Money Units acquired with the Seed Money, as above described. The Department notes that Advisory Opinion 83–38A did not address the situation involving the redemption of units of the separate account by the insurance company, when, at the same time, there were outstanding requests for withdrawal or transfer by participants (or, if applicable, plans) invested in the separate account.

the Wind Down will begin when TIAA informs the Participants (and, if applicable, the Plans) which participate in the Separate Account of its intention to terminate the Separate Account, and will conclude on the date on which no Units are held by any of the Participants or Plans which participate in the Separate Account. Such notification of the intent to terminate the Separate Account must be provided in writing by TIAA at least one year in advance of the termination of the Separate Account to Participants (and, if applicable, Plans) at their last known addresses in TIAA's business records. It is represented, that for one year prior to its termination, the Separate Account will continue to operate and honor withdrawal requests from Participants (and, if applicable, Plans). However, no new contributions or transfers from Participants (and, if applicable, from Plans) will be permitted into the Separate Account during that one-year period.

TIAA has provided rules for the redemption of Units during the Wind Down by Participants (and, if applicable, by Plans) which must be approved by the Independent Fiduciary prior to becoming effective. It is represented that once such rules are approved, TIAA has no discretion regarding their application. Under the rules applicable to Participants, there is no limitation on the amount of withdrawals during Wind Down. With respect to any Plan funded with a TIAA deposit administration type group annuity contract, the redemption of Accumulation Units is tied to the size of such Plan's interest in the Separate Account. If the value of the Accumulation Units held by such a Plan is equal to or less than $1 million on the effective date of the termination of the Separate Account, the entire interest of the Plan will be redeemed. If the value of the Accumulation Units held by such Plan exceeds $1 million on the effective date of the termination of the Separate Account, the distribution of the value of the Accumulation Units of that Plan will occur *pro rata* (with other similarly situated Plans) over no longer than a twelve (12) month period. It is further represented that any Participant (and, if applicable, any Plan) may elect to defer the redemption of Accumulation Units until all Properties in the Separate Account are sold. It is represented that upon termination and liquidation of the Separate Account, any Accumulation Units held by TIAA will be the last Units redeemed, unless the Independent Fiduciary directs otherwise.

8. In the absence of an exemption, under the circumstances described above, the transactions which may be deemed to violate the prohibited transactions provisions of the Act include: (a) the purchase of Liquidity Units by TIAA to provide liquidity to the Participants (and, if applicable, to the Plans) which participate in the Separate Account in the event of net withdrawals; (b) the purchase of Liquidity Units by the Separate Account from TIAA in the event of net contributions to the Separate Account; and (c) the use of Cash Flow and liquid investments in the Separate Account and proceeds from the sale of Properties owned by the Separate Account in order to generate cash to purchase TIAA's Liquidity Units after the Trigger Point has been exceeded or during the Wind Down Period. In addition, because cash is transferred indirectly between the General Account and the Separate Account, in connection with contributions, withdrawals, and transfers of Units, such acquisitions or dispositions theoretically could be viewed as an indirect transfer or use of plan assets between TIAA and the Plans and their Participants. TIAA believes that the methods of reducing TIAA's ownership in the Separate Account to a percentage equal to or below the Trigger Point and the process of increasing and decreasing TIAA's interest in the Separate Account through the purchase or sale of Liquidity Units, involve transactions between the General Account and the Separate Account which may constitute prohibited transactions. Accordingly, TIAA requests exemptive relief from sections 406(a), 406(b)(1) and 406(b)(2) of the Act for the subject transactions.

9. TIAA believes that the requested exemption is in the best interest of Participants (and, if applicable, Plans) who participate in the Separate Account. The establishment and operation of the Separate Account permits Participants in the TIAA-CREF annuity funding system to take advantage of valuable investment opportunities available in real estate. In this regard, it is represented that Participants (and, if applicable, Plans) in the Separate Account are better able to diversify risk in a mixed asset pension portfolio. Moreover, the Separate Account is designed to permit unlimited withdrawal and transfer flexibility. This structure makes it possible for Participants (and, if applicable, Plans) to invest in real estate which is by nature too illiquid to permit rapid withdrawals and transfers. In this regard, TIAA represents that under no circumstances will the liquidation of any Accumulation Units held by a Participant or participating Plan, for which a withdrawal request is pending, be delayed by reason of the redemption of Seed Money Units held by TIAA. It is represented that TIAA will always advance funds by purchasing Liquidity Units to fund withdrawal requests from Participants or Plans on a timely basis.

10. TIAA has adopted a number of safeguards intended to fully protect the interests of Participants (and, if applicable, Plans) which invest in the Separate Account. In this regard, the Independent Fiduciary approves and monitors nearly all material transactions that occur during the establishment, operation, and Wind Down of the Separate Account. In addition, other procedures have been adopted to ensure that appropriate valuations and appraisals are made of the Units and of the assets in the Separate Account. Moreover, TIAA is required to provide disclosures to participants and to plans that contemplate investing in the Separate Account and is required to provide Participants, Plan Fiduciaries, and Plan Sponsors access to certain information about the Separate Account on a continuing basis.

One such safeguard is the specified valuation rules and procedures which TIAA and the Independent Fiduciary use in the operation of the Separate Account. In this regard, it is represented that on the day the Separate Account was established, the initial value of each of the Accumulation Units in the Separate Account was set at $100. Thereafter, the value of one Accumulation Unit equals the total value of the net assets of the Separate Account divided by the number of outstanding Accumulation Units in the Separate Account. It is represented that as of October 2, 1995, when the Separate Account was opened for investment by Participants (and, if applicable, Plans), the value of a Unit was $101.25.

In order to calculate the value of an Accumulation Unit, each of the Properties held in the Separate Account is valued at its initial price. Thereafter, each of the Properties is valued annually (the Annual Appraisals) by an independent, qualified appraiser. TIAA is responsible for designating one or more independent appraisers, subject to the approval of the Independent Fiduciary, to perform such Annual Appraisals.

It is represented that the Annual Appraisals are conducted during an assigned valuation month for each Property. Each assigned valuation month is chosen with the intent to schedule the independent appraisals in as even a pattern as is practical over the course of a calendar year. It is represented that the Independent

Fiduciary is involved in the assignment of each valuation month and any alternative thereto.

It is represented that procedures are in place to obtain independent appraisals of the Properties and to ensure the integrity of the valuation of the assets of the Separate Account. In this regard, it is represented that the portfolio manager of the Separate Account has no contact with the independent appraisers of the Properties. Instead, asset managers for the Separate Account, who are responsible for the leasing strategy and capital improvement program for each of the Properties and for oversight of the performance of third-party property managers, convey information about the Properties to the independent appraisers. In addition, TIAA's appraisal group, which reports directly to the Senior Vice President of TIAA's Mortgage & Real Estate Division, is responsible for communicating with the independent appraisers on an ongoing basis, and for reviewing draft appraisals in order to recommend corrections of misinformation and obvious errors, such as mathematical calculations.

It is represented that the independent appraisers have the final authority in the preparation of the Annual Appraisals. In this regard, in preparing the Annual Appraisals of the Properties in the Separate Account, the independent appraiser(s) take into account appropriate valuation methodologies which may include replacement cost, comparable costs, comparable sales, discounted cash flow, current and projected occupancy levels, market conditions, and the condition of the Property where appropriate. The cost of the Annual Appraisals, and any other appraisals as necessary, are reflected in the investment management fee charged to the Separate Account. Once prepared, it is represented that the Independent Fiduciary receives copies of the Annual Appraisals which are subject to the Independent Fiduciary's review and approval.

The Annual Appraisals, as approved by the Independent Fiduciary, are updated at least once every three (3) months by the staff of TIAA (the Quarterly Updates) and will be updated more frequently should events occur which have an impact on the value of any Property. TIAA takes into consideration the current rate of interest and inflation, occupancy levels, cash flow, regional and local market conditions, and other relevant factors, including such other appraisal tools and methodologies as in TIAA's judgment are deemed reasonable, prudent, and appropriate. It is represented that the Quarterly Updates are subject to approval by the Independent Fiduciary and are effective as of the quarterly anniversary of the Annual Appraisals. If at any time between Quarterly Updates or between Quarterly Updates and the Annual Appraisals, an event occurs which impacts the value of any of the Properties, TIAA will review such impact on value. It is represented that the Independent Fiduciary receives copies of the internal appraisals for review and any change in the value of a Property is subject to the approval of the Independent Fiduciary. In addition, the Independent Fiduciary has the authority to require an independent appraisal whenever necessary. In that circumstance, the Independent Fiduciary would select such independent appraiser, who would be deemed approved by TIAA, if TIAA does not object within fourteen (14) days thereof. If TIAA does not object to the Independent Fiduciary's choice, then the independent appraiser will be retain to perform the appraisal. If TIAA objects to the Independent Fiduciary choice, the Independent Fiduciary will choose another independent appraiser. Further, the Independent Fiduciary is authorized to select the appropriate value in the event any appraisals of Properties performed by TIAA conflict with those prepared by independent third party appraisers or a conflict arises between different appraisals each of which was prepared by an independent appraiser.

In addition to updating and reviewing the values of the Properties, TIAA calculates daily accruals (the Daily Accruals) for the recognition of income and expenses of the Properties in the Separate Account. It is represented that such Daily Accruals are based on the projected net monthly operating income or loss for each of the Properties divided by the number of days in the month. The projected net monthly operating income or loss for each of the Properties is based on occupancy and rental information, anticipated expenses and other information. In this regard, it is represented that the Daily Accruals are modified as actual performance is determined and projected amounts change. The Independent Fiduciary is responsible for reviewing and approving the methodology to calculate such Daily Accruals and for monitoring the recurring calculation of such Daily Accruals. The Independent Fiduciary's duties also include observing the methodology and analyzing the calculations employed by TIAA in arriving at the Unit value set by the Daily Accruals and by the ongoing monthly reviews of the value of the Properties.

It is represented that all of the valuation procedures utilized by TIAA regarding the value of Properties in the Separate Account, as well as any other investments in the Separate Account, are subject to the monitoring and approval of the Independent Fiduciary. In this regard, non-real estate assets of the Separate Account are generally liquid investments. For public market securities, TIAA calculates the value of the assets as of the close of every valuation day. It is represented that TIAA generally uses market quotations or independent pricing services to value securities and other investments of the Separate Account. If market quotations or independent pricing services are not readily available, and for ''non-public market assets'' (e.g., mortgages), TIAA uses the fair market value of such assets, as determined in good faith by TIAA. It is represented that as of February 29, 1996, there are no ''non-public market assets'' in the Separate Account. In this regard, TIAA represents that while there is no maximum percentage limitation on the amount of ''non-public market assets,'' TIAA does not anticipate that the Separate Account will invest in a significant percentage of such assets.

It is represented that TIAA's valuations are subject to examination every five (5) years by the New York State Insurance Department. Further, the Separate Account is audited periodically by TIAA's internal auditor and annually by an independent outside auditor, currently the firm of Deloitte & Touche LLP (Deloitte). As part of its audit, Deloitte examines samples of valuations performed by TIAA, including valuations of assets for which there is no readily ascertainable market value. In addition, Deloitte is responsible for determining whether the valuation methods used by TIAA are in accordance with generally accepted accounting principles.

It is represented that TIAA will not alter its valuation methodology without the approval of the Independent Fiduciary and that all valuations of investments of the Separate Account are subject to review and approval by the Independent Fiduciary. Further, without the prior approval of the Independent Fiduciary, TIAA is not permitted to alter any valuation, which results in an increase or decrease of: (a) more than 6 percent (6%) of the value of any of the Properties in the Separate Account since the last independent Annual Appraisal; or (b) more than 2 percent (2%) of the value of the Separate Account since the prior month; or (c) more than 4 percent (4%) in the

value of the Separate Account within any calendar quarter. In addition to these percentage limitations, it is represented that any adjustments to the value of the Properties which are made by TIAA during the first three (3) months after receipt of an Annual Appraisal prepared by an independent, qualified appraiser, are subject to the review and approval of the Independent Fiduciary.

11. It is represented that the proposed exemption is feasible in that it imposes no continuing administrative burden on the Department, because the Independent Fiduciary is responsible for monitoring and approving all significant transactions relating to the establishment and operation of the Separate Account. In this regard, among other things, the Independent Fiduciary must review and approve prior to adoption, the investment guidelines of the Separate Account established by TIAA under which the day-to-day investments of the Separate Account are made. Thereafter, the Independent Fiduciary is responsible for approving any changes to such investment guidelines. Further, it is the duty of the Independent Fiduciary to monitor whether the Properties acquired by the Separate Account conform to the requirements of such investment guidelines.

Prior to adoption by TIAA, the Independent Fiduciary must review and approve the valuation procedures of the Separate Account. In this regard, the Independent Fiduciary, among other things, is responsible for overseeing the methodology used in establishing the value of the Units, monitoring the calculation of Daily Accruals and the procedures for valuing the Properties and other assets of the Separate Account, and assigning the valuation month for each of the Properties. Further, any changes to the existing valuation procedures of the Separate Account are also subject to review and approval by the Independent Fiduciary.

The Independent Fiduciary must oversee the quality of the appraisal functions performed by TIAA and by outside independent, qualified appraisers with respect to the valuation of the Properties in the Separate Account. In this regard, the appointment of all the independent appraisers retained by TIAA to perform periodic valuation of the Properties in the Separate Account must first be reviewed and approved by the Independent Fiduciary. Further, the Independent Fiduciary is responsible for approving the list of appraisers submitted by TIAA, and is authorized to remove any names of appraisers from such list.

The Independent Fiduciary is responsible for reviewing and approving the valuation of the Units in the Separate Account and the value of the Properties held in the Separate Account. In this regard, the Independent Fiduciary is authorized to conduct visits to the Properties. The Independent Fiduciary has discretion to adjust the valuation of the Properties at any time. Whenever the Independent Fiduciary believes that the characteristics of any of the Properties have changed materially, or with respect to any of the Properties, whenever it deems an additional appraisal to be necessary or appropriate in order to assure the correct valuation of the Separate Account, the Independent Fiduciary has discretion to require appraisals in addition to those normally conducted. TIAA is not permitted to alter the valuation of any Property or the Separate Account beyond the limits, described in paragraph ten above, without first obtaining the prior approval of the Independent Fiduciary. The opinion of the Independent Fiduciary on the value of any Property controls in the event of a conflict.

As described earlier in this proposed exemption, TIAA received from the Separate Account Seed Money Units upon contribution of the Seed Money to the Separate Account from its General Account, and subsequently intends to redeem such Seed Money Units under a fixed repayment schedule. It is represented that such fixed repayment schedule in addition to being subject to the approval of the NYID is also subject to review and approval by the Independent Fiduciary. Further, the Independent Fiduciary is responsible for reviewing any exercise of discretion by TIAA to accelerate the fixed repayment schedule applicable to the redemption of Seed Money Units, and approving TIAA's exercise of discretion only if such acceleration would benefit the Participants in the Separate Account.

The Independent Fiduciary must monitor and oversee the liquidity guarantee feature of the Separate Account, as described herein, if, during or after the Start Up Period, the Cash Flow or liquid investments of the Separate Account are insufficient to fund requests for withdrawal by Participants (and, if applicable, by Plans). In this regard, the Independent Fiduciary is responsible for reviewing the purchase and sale of Units by TIAA and the Participants (and, if applicable, the Plans) that are withdrawing from the Separate Account, in order to assure that the correct values of Units and of the Separate Account are applied.

As noted earlier, it is intended that TIAA's interest in the Separate Account will not exceed a certain percentage of the Separate Account established by the Independent Fiduciary as a Trigger Point. In this regard, it is represented that the Independent Fiduciary is responsible for determining the appropriate percentage to serve as the Trigger Point. Further, the Independent Fiduciary must determine whether or not to impose a Trigger Point during or after the Start Up Period with respect to TIAA's ongoing ownership of Liquidity Units in the Separate Account, or whether to impose different Trigger Points during or after the Start Up Period. With respect to TIAA's ongoing ownership of Liquidity Units, both during and after the Start Up Period, the duties of the Independent Fiduciary include: (a) establishing a method to implement any changes to the Trigger Point; (b) adjusting the percentage which serves as the Trigger Point; (c) approving or requiring any adjustment of TIAA's ownership interest in the Separate Account in the form of Liquidity Units; and (d) approving the manner in which TIAA' participation in the Separate Account in excess of the Trigger Point is effected.

In the event the Trigger Point is reached, during or after the Start Up Period, the Independent Fiduciary is authorized to sell assets of the Separate Account, if in the opinion of the Independent Fiduciary such sales are desirable at the Trigger Point to reduce TIAA's ownership of Liquidity Units in the Separate Account. In this regard, the Independent Fiduciary is responsible for: (a) participating in the planning of any program of sales of the assets of the Separate Account, including the selection of Properties to be sold; (b) approving the order which causes the sale of any of the Properties; (c) establishing the guidelines to be allowed in making such sales; and (d) approving of such sales. It is represented that the opinion of the Independent Fiduciary controls in any conflict with TIAA over the sale of any of the Properties, and that the Independent Fiduciary is authorized to request appraisals upon the sale of any of the Properties in the Separate Account.

In addition to overseeing the redemption of Seed Money Units, controlling the Trigger Point, and managing the liquidity feature offered by TIAA's General Account to the Separate Account, the Independent Fiduciary is responsible for the activity of the Separate Account in the event of

its termination and during the subsequent liquidation of its assets. During the Wind Down, the Independent Fiduciary must supervise the operation of the Separate Account. It is represented that in the event of termination of the Separate Account, the Independent Fiduciary is responsible for approving all sales of Properties in the Separate Account, and will do so, only if in the opinion of the Independent Fiduciary such sales are desirable to facilitate the Wind Down. In this regard, the Independent Fiduciary must review any program of sales of the assets of the Separate Account, including the selection of Properties to be sold, and the guidelines to be followed in making such sales. It is represented that the Independent Fiduciary also is responsible for approving the order in which the Properties are sold, approving the price for such Properties, and determining the timing of the disposition of such Properties.

It is represented that in addition to performing the duties described herein, the Independent Fiduciary, acting on behalf of Participants (and, if applicable, Plans) invested in the Separate Account, is responsible for reviewing any other transactions or matters involving the Separate Account that are submitted to the Independent Fiduciary by TIAA, and determining whether such transactions are fair to the Separate Account and in the best interest of such account. In order to fulfill all of its duties, it is represented that the Independent Fiduciaries is responsible for developing formats for periodic reports of information on the Separate Account to be provided by TIAA.

12. The Independent Fiduciary must be qualified to act on behalf of the Plans with respect to this proposed exemption. In this regard, the Independent Fiduciary must be an established firm with substantial expertise in real estate matters, such as the acquisition, management, investment valuation, financing, and disposition of real estate.

Such Independent Fiduciary appointed for the Separate Account must be independent of TIAA or its Affiliates. In this regard, the Independent Fiduciary cannot have an ownership interest in TIAA or its Affiliates, and cannot be a fiduciary with respect to any of the Plans that participate in the Separate Account. Further, the Independent Fiduciary may not receive from TIAA or its Affiliates more than 5 percent (5%) of such Independent Fiduciary's annual gross income from all sources, including amounts received for services rendered to the Separate Account during its term as Independent Fiduciary. The Independent Fiduciary must also agree that during its term as Independent Fiduciary (and for six (6) months after the conclusion of its term as Independent Fiduciary), it will not: (a) acquire property from, sell any property to, borrow money from, or lend money to TIAA, its Affiliates, TIAA's General Account, or any separate account over which TIAA or its Affiliates have any investment control, including the Separate Account; (b) participate in any joint venture with TIAA, its Affiliates, TIAA's General Account, or any separate account maintained by TIAA or its Affiliates, including the Separate Account, or participate, either alone or together with a joint venture partner, in the ownership of the Properties with TIAA, its Affiliates, TIAA's General Account, or any separate account maintained by TIAA or its Affiliates, including the Separate Account; or (c) negotiate any such transactions.

It is represented that TIAA has the discretion to appoint the Independent Fiduciary. The Board of Trustees of TIAA established on December 19, 1995, a special subcommittee (the Subcommittee) of the Mortgage Committee. The Mortgage Committee is one of several standing committees of the Board of Trustees of TIAA which traditionally has been responsible for supervising the investment of funds of TIAA's General Account in real estate mortgages and real estate. The Subcommittee is composed exclusively of trustees who are independent outside members of the Mortgage Committee. In this regard, it is represented that the Subcommittee consists of five (5) individuals at least two (2) of which are employees of institutions participating in the TIAA annuity funding system and three (3) of which are otherwise independent of TIAA.

It is represented that TIAA has contractually bound itself to rely solely on the judgment of the Subcommittee with respect to the removal of the Independent Fiduciary ''with'' or ''without cause,'' under the terms of the Agreement between TIAA and the current Independent Fiduciary. It is represented that the current Independent Fiduciary, was appointed for an initial term of five (5) years and thereafter may be reappointed for successive terms of three (3) years each. It is represented that the Subcommittee may remove the Independent Fiduciary, ''without cause,'' only at the expiration of the initial 5-year term or at the expiration of any successive 3-year term. In this regard, the Independent Fiduciary is subject to removal ''with'' or ''without cause,'' if a majority of the Subcommittee members (i.e. three of the five members) vote in favor of such removal, following receipt by the Subcommittee of a report on the Independent Fiduciary's activities respecting the Separate Account.

It is represented that the Board of Trustees has delegated to the Subcommittee alone the power to renew the Independent Fiduciary agreement. In this regard, any agreement with the Independent Fiduciary will not be renewed, if 40 percent (40%) of the Subcommittee members (*i.e.* two of the five members) disapprove of such renewal.

In the event the Independent Fiduciary is removed or the agreement with Independent Fiduciary is not renewed, it is represented that the Board of Trustees of TIAA will delegate to the Subcommittee the authority to select and appoint any successor Independent Fiduciary for the Separate Account. In this regard, it is represented that any successor Independent Fiduciary will perform all of the duties of Independent Fiduciary and comply with all of the conditions, as described herein.

The Independent Fiduciary may resign upon providing TIAA with 180 days' advance written notice of such resignation. In the event of resignation, it is represented that the Board of Trustees of TIAA will delegate to the Subcommittee the authority to select and appoint any successor Independent Fiduciary for the Separate Account, who will perform all of the duties of Independent Fiduciary and comply with all of the conditions, as described herein.

Prior to investing in the Separate Account, it is represented that each prospective participant (and, if applicable, each fiduciary of prospective participating plans) has been and will be provided with information regarding the role of the Independent Fiduciary with respect to the Separate Account and has been and will be advised of the identity of the party appointed to serve as the Independent Fiduciary. In this regard, a decision by a Fiduciary or Plan Sponsor or by a participant in a SRA or IRA to elect to add the Separate Account as an additional pension funding option and to participate in the Separate Account, after full disclosure by TIAA, constitutes approval and acceptance by such Fiduciary or Plan Sponsor or such participant in a SRA or IRA of such Independent Fiduciary.

Further, it is represented that in the event the Independent Fiduciary were to change, TIAA would within thirty (30) days of such change supplement the prospectus of the Separate Account

and distribute such prospectus to participating institutions and to participants who express an interest in the Separate Account or who transfer money into the Separate Account.

13. As of May 17, 1995, TIAA appointed Institutional Property Consultants, Inc. (IPC) to serve as the Independent Fiduciary on behalf of the Separate Account. Thereafter, TIAA and IPC entered into an agreement (the Agreement) for a term of five (5) years which describes the conditions of such appointment and the duties performed by each party in accordance with the requirements of the Act. It is represented that on June 9, 1995, IPC accepted and executed the Agreement.

IPC is a sub-Chapter S Corporation, 100% owned by its senior professionals, which provides professional real estate counseling services nationwide. In this regard, it is represented that IPC maintains a principal office in San Diego, California, and a secondary office in Hudson, Wisconsin. It is further represented that IPC is a Registered Investment Advisor under the Investment Advisors Act of 1940 and qualifies as a Women Business Enterprise.

IPC provides services for business, financial, and non-profit institutions. In this regard, IPC clients are tax-exempt institutions, including public pension funds, corporate funds, Taft Hartley funds, and retirement funds. It is represented that the total plan assets of the IPC client group are approximately $250 billion, with real estate investments comprising $12 billion. Of IPC's corporate and Taft Hartley clients, approximately 10 percent (10%), calculated on the basis of total plan assets, are subject to the Act.

It is represented that IPC has considerable background, qualifications, and expertise in order to perform Independent Fiduciary services for the Separate Account. In this regard, IPC has represented to TIAA that it has at least five (5) years of experience with respect to commercial real estate investments.

It is represented that IPC is independent of TIAA and its Affiliates. In this regard, it is represented that gross income received by IPC (or by any partnership or corporation of which IPC is a 10 percent (10%) or more partner or shareholder) from TIAA and its Affiliates for any fiscal year ending during the term of the Agreement does not exceed 5 percent (5%) of its annual gross income from all sources for the preceding fiscal years. Such income limitation includes the fees for services rendered to the Separate Account by IPC for serving as the Independent Fiduciary.

It is represented that IPC has acknowledged in writing that it has assumed responsibility, as a fiduciary under the Act, with regard to the Separate Account, particularly on behalf of the Participants (and, if applicable, the Plans) who participate in the Separate Account. It is represented that IPC has undertaken to perform for the exclusive benefit for the individual Participants in the Plans and their beneficiaries the duties of the Independent fiduciary, as described in TIAA's Application for a Prohibited Transaction Exemption and in subsequent supplemental information submitted by TIAA, and as described herein.

On September 13, 1995, IPC provided the Department with a report on its activities to date with respect to the Separate Account. As of that date, IPC reported that the Separate Account was in its Start-Up Period, no Properties had been acquired by the Separate Account, and no Units had been issued to the public. Nevertheless, subsequent to its appointment as Independent Fiduciary, it is represented that TIAA furnished IPC with detailed information on the expected operation of the Separate Account. Further, IPC has engaged in numerous discussions with the senior TIAA real estate staff involved in establishing and managing the Separate Account. In this regard, IPC represents that to date, it has reviewed and approved the investment guidelines established by TIAA for the Separate Account and that TIAA and IPC are currently working out specific procedures to ensure the flow, on a weekly and monthly basis, of all the information, including real estate valuations, that IPC deems necessary to fulfill its fiduciary obligation to the Separate Account.

With respect to valuation, IPC has reviewed, and approved the valuation procedures of the Separate Account. In this regard, IPC represents that it understands the need for independence in the valuation structure and has maintained an independent position with respect to TIAA and its staff. Because no Properties had, as of September 13, 1995, been acquired by the Separate Account, no independent appraisers had been appointed. IPC has been provided with a list of appraisers that TIAA intends to use for valuation purposes, and IPC has approved such list. In carrying out its responsibility as Independent Fiduciary once Properties are acquired by the Separate Account, IPC will oversee the appraisal function conducted by TIAA and by outside independent appraisers and will, if it deems necessary, conduct surprise visits of Separate Account Properties. Further, IPC has authority to require an independent appraisal whenever it deems it necessary to do so. While TIAA would hire the independent appraiser in that circumstance, such independent appraiser would initially be chosen by IPC and will be deemed approved, if TIAA does not object within fourteen (14) days thereof.

IPC expects that the structuring of the relationship between TIAA, as investment manager, and IPC, as Independent Fiduciary, protects against the manipulation of the Separate Account by TIAA. Further, IPC represented that it will maintain a written record of its monitoring of appraisals and valuation of Properties acquired by the Separate Account. In this regard, IPC believes that the monitoring process is protective of the interests of Participants (and, if applicable, of Plans) in the Separate Account.

14. It is represented that during the operation of the Separate Account, no member of the Board of Trustees of TIAA or of CREF has had or will have a role in the selection of the Separate Account as a funding vehicle for any of the Plans or has served or will serve as a Fiduciary to any Plan participating in TIAA investment funding options. In this regard, Fiduciaries of the Plans unrelated to TIAA, or in the case of a SRA or an IRA, participants unrelated to TIAA who participate in such SRA or IRA, have made and will make the decision to invest in the Separate Account.[13]

Before making the decision to invest in the Separate Account, TIAA is required to make certain disclosures to prospective investors in the Separate Account. Such disclosures include the information described above in Section III(c) of this proposed exemption. TIAA proposes to meet these disclosure obligations, by distributing a prospectus of the Separate Account, under the Securities Act of 1933. It is represented that the prospectus contains, among other things, a list of all the Properties in the Separate Account and their values, detailed audited financial information, and information about the operation and investment objectives of the Separate Account. Specifically, TIAA represents that prior to the investment in the Separate Account by any Participants (and, if applicable, by

[13] TIAA has not requested and the Department is not proposing, herein, any relief for the selection of the Separate Account as a funding vehicle for any of the Plans for which TIAA or CREF issue annuity contracts.

any Plans), it has furnished and will furnish, either in a prospectus of the Separate Account or in ancillary materials, the disclosures, as required pursuant to Section III(c) of this proposed exemption, to any participant who expresses an interest in the Separate Account, all Plan Sponsors and Fiduciaries of Plans which participate in the Separate Account, and in the case of a contract between TIAA and a SRA or an IRA, to the participant in such SRA or IRA. In the event a Participant transfers money to the Separate Account before receiving a prospectus, it is represented that such a prospectus is sent to him concurrently with the required confirmation statement.

With respect to disclosure on an on-going basis to Fiduciaries of the Plans or in the case of a contract between TIAA and an SRA or an IRA, to the participant in such SRA or IRA, it is represented that TIAA under the Securities Act of 1933 is required to update information set forth in the prospectus on an annual basis. In addition, the prospectus is updated as the Separate Account acquires or sells Properties; provided such acquisition or sale has a material impact on the Separate Account. It is represented that each Participant and all of the Plan Sponsors have received and will receive annually an updated prospectus and such updated information has and will become part of the prospectus sent to potential investors in the Separate Account.

The Separate Account is required to file quarterly and other financial reports with the SEC, pursuant to the Securities and Exchange Act of 1934. It is represented that these reports are available directly from the SEC. In addition, TIAA represents that it includes, either as part of these financial reports filed with the SEC, or as a supplemental schedule, a list of the Properties in the Separate Account and their market values. It is represented that TIAA has made and will make such quarterly and other financial reports, including the supplemental schedule, available to Plan Sponsors and Participants in the Separate Account upon request.

It is represented that TIAA has sent and will send to Participants written information relating the value of the Units in the Separate Account and information on the quarterly return for the Separate Account in quarterly confirmation statements which are mailed within five (5) to ten (10) days after the end of a calendar quarter. Further, TIAA has published and will publish in a TIAA publication, which is provided at least quarterly to all Plan Sponsors and Fiduciaries of the Plans, a written notice that the quarterly financial reports (including the list of Properties and their current values) are available on request. It is represented that TIAA intends to establish an 800 number telephone system that allows Fiduciaries and Participants access 24 hours per day every day to information about the current market value of the Units in the Separate Account. Starting with the quarter ending December 31, 1995, it is represented that the 800 number telephone system will also include a quarterly valuation update on the investment performance of the Separate Account. It is represented that once established TIAA will publish the 800 telephone number in its quarterly publication in order to enable Plan Sponsors and Fiduciaries of the Plan to easily get prompt delivery of quarterly financial reports upon request.

In addition, upon publication of this Notice and, if this proposed exemption is granted, upon publication of the Grant, a copy of such Notice and such Grant, as each appears in the Federal Register, will be provided to the Fiduciaries of the Plans, to Plan Sponsors, to the sponsors of any SRA, and to participants in any TIAA IRA which were invested in the Separate Account and have withdrawn or are at the time invested in the Separate Account. Further, if subsequent to the publication of the Grant, any fiduciaries of plans, plan sponsors, the sponsors of any SRA, or the participants in any TIAA IRA chose to elect to add the Separate Account as an additional pension funding option to enable such participants (or, if applicable plans) to invest in the Separate Account, the fiduciaries of such plans, plan sponsors, the sponsors of such SRA, or the participants in any such IRA will be provided, at least thirty (30) days prior to investment in the Separate Account, with a copy of both the Notice and the Grant, as such documents appeared upon publication in the Federal Register.

15. In summary, TIAA, the applicant, represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(a) The decision to elect to add the Separate Account as an additional pension funding option for the Plans which invest in the Separate Account has been and is made by the Fiduciaries of such Plans or in the case of a contract between TIAA and a SRA or an IRA, the decision to elect to add the Separate Account as an additional pension funding option to a SRA or and IRA has been and is made by the participant in such SRA or IRA;

(b) Each of the Properties in the Separate Account is valued at least annually by an independent, qualified appraiser;

(c) Prior to the investment of funds in the Separate Account by any Participants (and, if applicable, by any of the Plans) which participate in the Separate Account, TIAA has furnished and will furnish certain disclosures to the Fiduciaries of such Plans and, in the case of a contract between TIAA and a SRA or an IRA, to the participant in such SRA or IRA;

(d) TIAA periodically has made and will make available information which TIAA reasonably believes to be necessary or which the Fiduciaries of the Plans, or in the case of a contract between TIAA and a SRA or an IRA, which the participant in such SRA or IRA may reasonably request in order to determine whether any Participant in such Plan, or participant in such SRA or IRA should buy, sell, or continue to hold Units in the Separate Account;

(e) the Independent Fiduciary was appointed prior to or coincident with the start of operations of the Separate Account (and is subject to renewal and removal described herein) and is responsible, among other things, for reviewing and approving the value of the Units and the assets of the Separate Account, establishing the Trigger Point, and supervising the operation of the Separate Account during the Wind Down of such Separate Account;

(f) Neither the Independent Fiduciary, TIAA, any Affiliate of TIAA, TIAA's General Account, nor any other separate account over which TIAA or its Affiliates has any investment control:

(i) has participated or will participate in any joint venture with the Separate Account, or in the ownership of the Properties of the Separate Account either alone or together with a joint venture partner;

(ii) has borrowed or will borrow any funds from the Separate Account or has lent or will lend any funds to the Separate Account in order to leverage any purchase of any of the Properties, or otherwise; or

(iii) has acquired or will acquire any Properties from or has sold or will sell any Properties to the Separate Account;

(g) The liquidation of any Accumulation Units held by a Participant or participating Plan, for which a withdrawal request is pending, has not been and will not be delayed by reason of the redemption of Seed Money Units held by TIAA, and TIAA has advanced and will always advance funds by purchasing Liquidity Units to fund Participants' or Plans' withdrawal requests on a timely basis; and

(h) TIAA will maintain for a period of six (6) years from the date of any transaction, the records necessary to enable certain persons to determine whether the conditions of this exemption have been met.

Notice to Interested Persons

Those persons who may be interested in the pendency of the requested exemption include, but are not limited to, the Fiduciaries of the Plans which have in the past invested, are invested, and may invest in the Separate Account, the individual Participants in such Plans, and in the case of a contract between TIAA and an IRA or SRA, to the participants in any such IRA or SRA which have in the past invested, are invested, and may invest in the Separate Account. Because of the large number of potentially interested parties and because TIAA does not know which participants (or, if applicable, which plans) may choose from time to time in the future to invest in the Separate Account, TIAA maintains that it is not possible to provide a separate copy of the Notice to each participant (or, if applicable, to each plan) which therefore may be affected by the requested exemption. Accordingly, the Department has determined that the only practical form of providing notice to interested persons is the distribution by TIAA of a copy of the Notice, as published in the Federal Register, together with a supplemental statement, in the form set forth in the Department's regulations under 29 CFR 2570.43(b)(2), to the Fiduciaries of any Plans, to the Plan Sponsors, to the sponsors of any SRA, and to the participants any TIAA IRA which have in the past or are invested in the Separate Account at the time the Notice is published in the Federal Register. Distribution of the Notice will be effected by first-class mail, postage prepaid, within fifteen (15) days of the date of publication of the Notice in the Federal Register.

Further, if this proposed exemption is granted, the Fiduciaries of the Plans, the Plan Sponsors, the sponsors of any SRA, and the participants in any TIAA IRA which have elected to add the Separate Account as an additional pension funding option and which have been or are invested in the Separate Account shall receive upon publication of the Grant, a copy of such Grant, as it appears in the Federal Register. If subsequent to the publication of the Grant, any fiduciaries of plans, the sponsors of plans, the sponsors of any SRA, or the participants in any TIAA IRA choose to elect to add the Separate Account as an additional pension funding option to enable such plans to invest in the Separate Account, the fiduciaries of such plans, the sponsors of such plans, the sponsors of such SRA, and the participants in any such IRA shall be provided, at least thirty (30) days prior to investment in the Separate Account, with a copy of both the Notice and the Grant, as such documents appeared upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Sprague Electric Company Retirement and Savings Plan (the Plan), Located in Cincinnati, Ohio

[Application No. D–10049]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) by the Plan of its 34.2 interest in both the Group Annuity Contract No. CG0128203A (ELIC Contract) issued by Executive Life Insurance Company (ELIC) and the Group Annuity Contract No. GA–4724 (MBL Contract) issued by Mutual Benefit Life Insurance Company (MBL) to American Annuity Group, Inc., the current sponsor of the Plan (the Employer), and a party in interest with respect to the Plan; provided that the following conditions are met: (1) the Sale is a one-time transaction for cash; (2) the Plan experiences no loss and incurs no expense from the Sale; (3) the Plan receives as consideration for the Sale the greater of either (a) 34.2 percent of the fair market value of the ELIC Contract and the MBL Contract, respectively, as determined on the date of the Sale, or (b) 34.2 percent of the accumulated book value of the ELIC Contract and the MBL Contract, respectively, as set forth in paragraph 4 of this Notice, with such determinations as to the consideration for the Sale to be made by the State Street Bank and Trust Company, the Plan fiduciary.

Summary of Facts and Representations

1. The Employer, a Delaware corporation, the current sponsor of the Plan with its principal offices located in Cincinnati, Ohio, is a holding company whose primary asset is the capital stock of Great American Life Insurance Company (GALIC). GALIC was incorporated in New Jersey in 1959, and redomiciled as an Ohio corporation in 1982. Prior to 1976, GALIC primarily wrote whole-life, term-life, and accident and health insurance policies; and in 1976, GALIC entered the tax-deferred annuity business.

The Employer also is the successor corporation to the STI Group, Inc. (STI), which was formerly known as Sprague Technologies, Inc. In May 1987 STI was formed for the purpose of divesting itself of the electronic components businesses. In two transactions on December 19, 1990, and November 14, 1991, STI disposed of substantially all of its assets, including Sprague Electric Company, a wholly-owned subsidiary, and the original sponsor of the Plan, to Allegro Microsystems, Inc. and Vishay Intertechnology, Inc.

2. The Plan is a defined contribution plan intended to be tax-qualified under sections 401(a) and 401(k) of the Code. It has a total of 1,396 participants and beneficiaries, as of May 22, 1995, and total assets of $1,548,598.20, as of May 31, 1995. As provided by Plan documents and instruments, the Board of Directors of the sponsoring employer from time to time appointed a committee (the Committee) from its employees to administer the Plan. The duties of the Committee included, *inter alia,* selecting the investment funds or vehicles used by the Plan participants when self-directing investments for their respective Plan accounts, and appointing a trustee, accountants, investment advisors, and legal counsel for the Plan. The assets of the Plan are held in trust and invested in accordance with a Master Trust Agreement executed by and between the sponsoring employer of the Plan and State Street Bank and Trust Company (the Trustee), a Massachusetts trust company, with its principal offices located in Boston, Massachusetts. The Trustee is represented by the applicant to not only hold in trust the Plan assets, but is the investment manager for the Plan, overseeing the establishment and maintenance of investments and disbursements of the respective participant accounts in the Plan.

The Plan provided for investments in several different investment vehicles or funds, which included one designated as the Selection Fund. The Selection Fund was invested in several guaranteed contracts, including the ELIC Contract and the MBL Contract. The ELIC Contract was issued to the Trustee of the Plan, as of February 10,

1988, guaranteeing an interest rate yield of 7.90 percent net, and maturing on June 30, 1992. The MBL Contract was issued to the Trustee of the Plan and is dated July 1, 1985, and provided a guaranteed interest rate of 8.65 percent through June 30, 1988, and 8.30 percent from July 1, 1988, through the maturity date of June 30, 1992. After STI divested itself of its electronics business in two transactions on December 19, 1990, and November 14, 1991, respectively, the applicant represents that on January 23, 1991, the Plan's Selection Fund spun-off 32.6 percent of its interest in the ELIC Contract and MBL Contract to the Allegro Plan, and on May 15, 1992, 33.2 percent of its interest in the ELIC Contract and MBL Contract to the Vishay Plan.[14] The transfer of these parital interests was done to allow certain former employees of the Employer and former participants of the Plan to transfer their accounts in the Selection Fund of the Plan to employee benefit plans sponsored by their new employers.

As of December 31, 1992, the assets in the Plan totalled $2,860,686.94, of which the ELIC Contract represented 3.2 percent and involved approximately 1,131 participants, and the MBL Contract represented 2.09 percent of the total assets and involved approximately 1,074 participants, Also, as of December 31, 1992, the book value of the Plan's 34.2 percent interest in the ELIC Contract was $91,514.88 and the book value of the Plan's 34.2 percent interest in the MBL Contract was $59,686.08. The book value of each contract was determined from the total deposits made to each contract, plus the interest earned, and less any withdrawals or distributions from each contract.

On May 5, 1995, the Plan filed an application with the Internal Revenue Service requesting a favorable determination letter with respect to terminating the Plan. The Plan is being terminated because no active employees of the Employer remain as participants in the Plan. Other than the partial investment (34.2 percent) in the ELIC Contract and the MBL Contract, respectively, all assets of the Plan are now invested in short-term funds to provide liquidity for distribution of its assets to Plan participants and beneficiaries when the Plan terminates.

[14] The Allegro Plan is sponsored by Allegro Microsystems, Inc., a Delaware corporation located in Worcester, Massachusetts, which is a wholly-owned subsidiary of Sanken Electric Co., Ltd., a Japanese corporation located in Saitama-ken, Japan. The Vishay Plan is sponsored by Vishay Intertechnology, Inc., a Delaware corporation located in Malvern, Pennsylvania.

3. On April 11, 1991, the California Department of Insurance obtained a court order from the Superior Court of California for the County of Los Angeles placing ELIC under conservatorship and freezing as of March 31, 1991, the value of the ELIC Contract and any interest payments thereunder.[15] The following month First Executive Corporation, a Delaware corporation, which wholly owns ELIC, filed for reorganization under Chapter 11 of the Bankruptcy Code.

On August 13, 1993, the Superior Court of California approved a Rehabilitation Plan of the Department of Insurance for California with respect to ELIC and its successor, Aurora National Life Insurance Company (Aurora), a California corporation. The Rehabilitation Plan provided two options to every contract-holder with ELIC. Under the first option the contract-holder could continue coverage through Aurora. The second option provides a choice to opt-out of the Rehabilitation Plan and receive the book value of the ELIC Contract as of April 11, 1991, which includes interest to April 11, 1991, computed at the contract rate, and thereafter at a specified reduced rate of return over an extended period of time.

In 1994, the Trustee, as investment manager for the Plan, decided to have the Plan opt-out of the ELIC Rehabilitation Plan. To reach this decision the Trustee conducted a credit review of Aurora and completed an economic analysis of the option provisions. Also, consideration was given to other factors, such as, priority legislation in California, the status of a new contract with Aurora in any liquidation proceedings in the future, and the ability of Aurora to meet cash flow requirements when its contracts mature.

On July 16, 1991, the New Jersey Department of Insurance took control of MBL pursuant to an order of the Superior Court of New Jersey. The court's order imposed a moratorium on cash withdrawals from the MBL Contract.[16] On November 10, 1993, the Superior Court of New Jersey approved a Rehabilitation Plan for MBL which provided two options to the Plan. The first option allowed the holders of the MBL Contract to opt-in the Rehabilitation Plan, allowing the Plan to receive the accumulated book value of the MBL Contract (which represents the deposits made to MBL by the Plan), less distributions, and plus interest earned. The interest will be calculated at the guaranteed rate as provided by the MBL Contract, which is 8.65 percent through June 30, 1988, and 8.30 percent from July 1, 1988, through maturity date of June 30, 1992, and thereafter the rate prescribed by the Rehabilitation Plan of 5.75 percent in 1992, 5.25 percent in 1993, 5.10 percent in 1994, 5.10 percent in 1995, and 5.10 percent through 1996.

The second option allowed the holders of the MBL Contract to opt-out of the Rehabilitation Plan and receive on April 29, 1994, 55 percent of the MBL Contract value as of July 16, 1991, in a lump sum and interest at the rate of 3.50 percent from July 16, 1991 through April 29, 1994.

The Trustee of the plan elected to have the Plan opt-in the MBL Rehabilitation Plan.

There have been quarterly distributions from the MBL Contract in the amount of 0.25 percent of the contract balance for the months of August 1991 through October 1991, 1.375 percent for November 1991 through September 1992, and 0.375 percent for October 1992 through December 1992.

4. The Employer seeks an exemption from the prohibited transaction provisions of the Act so that the Plan may be terminated and the cash received by the Plan from the proposed Sale may be distributed to Plan participants and beneficiaries whose respective accounts remain invested in the ELIC Contract and the MBL Contract. The Employer proposes to pay the Trustee of the Plan cash in an amount equal to the greater of either the fair market value of the Plan's 34.2 percent interest in the ELIC Contract, as determined by the Trustee on the date of the Sale, or an amount equal to 34.2 percent of the Plan's deposits under the ELIC Contract, plus the 7.90 percent net interest yield guaranteed through the maturity date of June 30, 1992, of the ELIC Contract, and thereafter at an interest rate equal to the interest yield of the ''Yield Enhanced STIF Interest Checking Rate Fund'', which is sponsored by the Trustee, and invests in

[15] The Department notes that the decision to acquire and hold the ELIC Contract is governed by the fiduciary responsibility provisions of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the ELIC Contract by the Plan.

[16] The Department notes that the decision to acquire and hold the MBL Contract is governed by fiduciary responsibility provisions of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the MBL Contract by the Plan.

CDs, Time Deposits, and Short Term Bonds.[17]

Any proceeds received by the Plan from the ELIC Contract on or before the date of the Sale will be subtracted from the consideration for the Sale.

The Employer proposes also to purchase from the Trustee of the Plan in a one-time, cash transaction the 34.2 percent interest in the MBL Contract owned by the Plan. The consideration for the partial interest in the MBL Contract will be the greater of either the fair market value of the 34.2 percent interest in the MBL Contract as determined by the Trustee on the date of the Sale, or 34.2 percent of the amount of the funds deposited with MBL, plus interest credited to the date of the Sale. This interest yield will be determined by the Trustee by computing the guaranteed rate under the terms of the MBL Contract during the period the terms of the MBL Contract provided accrual, plus, thereafter through the date of the Sale, at the rate of interest provided for under the Rehabilitation Plan for MBL, described above in paragraph 3. Any proceeds received by the Plan from MBL on or before the date of Sale will be subtracted from the consideration paid by the Employer for the Plan's 34.2 percent interest in the MBL Contract.

All expenses incurred from the Sale of both the ELIC Contract and the MBL Contract will be paid by the Employer.

The applicant and the Trustee both represent that the proposed Sale is in the best interests of the Plan and its participants and beneficiaries and is protective of the rights of the participants and beneficiaries. It is represented that the Sale will permit the Plan to avoid the risks associated with continuing to hold the ELIC Contract and the MBL Contract and will permit the Plan to complete its termination. The Trustee further represents that in its capacity of independent fiduciary for the Plan, it will calculate the values of both the ELIC Contract and MBL Contract so that the consideration for the Sale will be the greater of either the fair market value or the alternatives as stated above.

5. In summary, the applicant represents that the proposed exemption will satisfy the criteria for an exemption under section 408(a) of the Act because (a) the proposed transaction is a one-time transaction for cash; (b) the proposed transaction will enable the plan and its participants and beneficiaries to avoid any risks associated with the continue holding of the ELIC Contract and the MBL Contract and permit the termination of the Plan; (c) the Plan will receive the greater of either the fair market value of 34.2 percent interest in the ELIC Contract and MBL Contract, respectively, or the accumulated book value as determined by the Trustee and described above in paragraph 3, for the 34.2 percent interest in the ELIC Contract and for the 34.2 interest in the MBL Contract, respectively; and (d) the Plan will not incur any expense or loss from the proposed transaction.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

The Buchanan Broadcasting Co., Inc. Profit Sharing Plan and Trust (the Plan), Located in Birmingham, AL

[Application Nos. D–10133 and D–10134]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed leasing of certain office space in a building (the Property) by the individual account of Robert M. Buchanan, Jr. (the Account) in the Plan to Buchanan Broadcasting Co., Inc. (Buchanan Broadcasting) and to Westwood Square, Ltd. (Westwood Square), both parties in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) The terms and conditions of the leases are and continue to be at least as favorable to the Account as those the Account could obtain in comparable arm's length transactions with unrelated parties;

(b) The rent charged by the Account under the leases is and continues to be no less than the fair market rental value of the Property, as established every three years by the independent property manager;

(c) At all times, the fair market value of the leased premises represents no more than 25 percent of the total assets of the Account;

(d) Mr. Buchanan is the only participant of the Plan to be affected by the proposed transactions; and

(e) Within 90 days of the publication in the Federal Register of a notice granting this proposed exemption, both Buchanan Broadcasting and Westwood Square file Form 5330 with the Internal Revenue Service (the Service) and pay all excise taxes applicable under section 4975(a) of the Code that are due by reason of certain prior prohibited lease transactions.

Summary of Facts and Representations

1. The Plan is a profit sharing plan sponsored by Buchanan Broadcasting. Buchanan Broadcasting, a Mississippi corporation, is engaged in the business of radio broadcasting and is located in Jackson, Mississippi. The Plan, which was established on January 1, 1995, is as yet completely unfunded. The Plan provides for individually directed accounts and is to have approximately 4 participants and beneficiaries. It is represented that Mr. Buchanan will roll over to the Account all of his assets in the Union Health Care, Inc. d/b/a Laird Hospital Profit Sharing Plan and Trust (the Laird Plan), which is sponsored by his former employer. As of March 31, 1994, the Laird Plan had 411 participants and beneficiaries and total assets of $3,766,262. As of that date, Mr. Buchanan's Laird Plan account had total assets of $1,433,609. The trustee of both the Plan and the Laird Plan is J. Thomas Murfee IV, an independent third party.

2. Among Mr. Buchanan's assets in the Laird Plan to be rolled over to the Account is the Property. The Property consists of a two-story commercial office building located at 1985 Lakeland Drive, Jackson, Mississippi. The applicant represents that the Property is not near any other real property personally owned or used by Mr. Buchanan. The applicant further represents that the Property is not subject to any debt.

The Property is currently being leased to seven tenants. Among these tenants are Buchanan Broadcasting and Westwood Square. Westwood Square is a partnership organized for purposes of investing in commercial real estate. In light of the fact that Mr. Buchanan is the sole owner of Buchanan Broadcasting and a limited partner (having a 99% interest) in Westwood Square, the applicant acknowledges that the leases of office space by Mr. Buchanan's Laird Plan account to Buchanan Broadcasting and to Westwood Square constitute violations of the prohibited transaction provisions of the Act. Further details concerning these prohibited leases and the steps taken by the applicant to correct them are provided in paragraph 4.

[17] The Fund, which is sponsored by the Trustee had an interest rate of 3.85 percent for 1992, 3.42 percent for 1993, 4.08 percent for 1994, 5.88 percent for 1995.

3. The fair market rental value of the Property was initially established by the independent property manager, Chad D. Clark. Mr. Clark is president of Chad D. Clark, Commercial Properties, a real estate brokerage firm. Taking into account other comparable rentals and the condition, location, and features of the Property, Mr. Clark concluded that the fair market rental value of the Property was the annual rate of $7 per square foot. Mr. Clark twice later updated his appraisal, on July 20, 1995 and again on January 18, 1996, and concluded that the fair market rental value of the Property remained unchanged.

The Property was appraised by Robert L. Lloyd, SRA, an independent general real estate appraiser certified in the State of Mississippi. Mr. Lloyd employed all three basic valuation methodologies utilized in the appraisal field but gave greatest credence to the income approach, due to the nature of the Property's use, along with consideration of the sales comparison approach. He concluded that the fair market value of the Property, as of September 9, 1994, was $245,000. Mr. Lloyd also concluded as of that date, that the Property, with its net rentable area of 8,061 square feet, had a fair market rental value of $7 per square foot per annum, thus corroborating Mr. Clark's valuation. In arriving at this figure, Mr. Lloyd took into account the occupancy levels of nearby competing buildings, the Property's past leasing history, and the average quality of the improvements.

4. Mr. Buchanan's Laird Plan account first began leasing approximately 300 square feet of office space in the Property to Buchanan Broadcasting on January 1, 1994. On December 1, 1994, an additional 1,117 square feet of office space was leased to Buchanan Broadcasting, for a total of approximately 1,417 square feet. On December 1, 1994, Mr. Buchanan's Laird Plan account also began leasing approximately 846 square feet of office space in the Property to Westwood Square. The applicant represents that Buchanan Broadcasting and Westwood Square have each paid rent at the annual rate of $7 per square foot (or $9,919/yr. and $5,922/yr., respectively), since the inception of their leases.

The applicant represents that the then trustee of the Laird Plan Charles E. Gibson III, who negotiated the leases on behalf of Mr. Buchanan's Laird Plan account, was not aware that such leasing was in violation of the Act. Both Buchanan Broadcasting and Westwood Square have since filed Form 5330 with the Service and paid all excise taxes applicable under section 4975(a) of the Code that were due for the years 1994–1995 by reason of these prior prohibited transactions with the Laird Plan. It is represented that within 90 days of the publication in the Federal Register of a notice granting this proposed exemption, both Buchanan Broadcasting and Westwood Square will pay any additional excise taxes that are still outstanding.

5. The applicant now requests an exemption to lease office space in the Property by the Account to Buchanan Broadcasting and to Westwood Square, after rolling over all of Mr. Buchanan's assets in the Laird Plan to the Account. Both of these entities are employers whose employees are covered by the Plan. The proposed leases each provide for a primary term of 10 years, which may be extended at the option of the lessor for a period of five years. Buchanan Broadcasting and Westwood Square will each pay rent to the Account at the annual rate of $7 per square foot (or $9,919/yr. and $5,922/yr., respectively), which is the fair market rental value of the Property, with the rent to be adjusted (upwards only) every three years.

Mr. Clark, the independent property manager, and Mr. Murfee, the Plan trustee, have both reviewed the terms and conditions of the leases on behalf of the Account. Mr. Clark represents that such terms and conditions are at least as favorable to the Account as those the Account could obtain in comparable arm's length transactions for commercial property in Jackson, Mississippi. Mr. Murfee represents that he believes the leases are in the best interests of the Account and that he will monitor and enforce compliance with the terms and conditions of the leases and of the exemption for the duration of the leases.

The applicant himself represents that the leases are in the best interests of the Account because they will maximize the cash flow and earnings from the Property. Further, the costs of this exemption application will be borne by Buchanan Broadcasting and Westwood Square.

6. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (a) the terms and conditions of the leases will be at least as favorable to the Account as those the Account could obtain in comparable arm's length transactions with unrelated parties; (b) the rent charged by the Account under the leases will be no less than the fair market rental value of the Property, as established every three years by the independent property manager; (c) at all times, the fair market value of the leased premises will represent no more than 25 percent of the total assets of the Account; (d) Mr. Buchanan will be the only participant of the Plan to be affected by the proposed transactions; and (e) within 90 days of the publication in the Federal Register of a notice granting this proposed exemption, both Buchanan Broadcasting and Westwood Square will file Form 5330 with the Service and pay all excise taxes applicable under section 4975(a) of the Code that are due by reason of the prior prohibited lease transactions.

Notice to Interested Persons

Because the only Plan assets involved in the proposed transactions are those to be rolled over to the Account, and Mr. Buchanan is the only participant affected by the proposed transactions, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing on the proposed exemption are due 30 days after the date of publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number)

Puckett Machinery Company Profit Sharing Plan (the Plan), Located in Jackson, Mississippi

[Exemption Application No. D–10149]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR, part 2570, subpart B (55 FR 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)((A) through (E) of the Code shall not apply to the proposed sale (the Sale) of improved real property (the Property) by the Plan to Richard H. Puckett, a party in interest with respect to the Plan provided that: (a) the Sale is a one time transaction for cash; (b) the Plan will receive the greater of $315,000 or the fair market value of the Property at the time of the Sale; (c) the Property has been appraised by a independent and qualified real estate appraiser; (d) the Plan will pay no fees or commissions associated with the Sale; and (e) the terms and conditions of the

Sale are at least as favorable as those obtainable with an unrelated third party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan having 200 participants and net assets of $6,030,711 as of December 31, 1995. The trustee of the Plan, Trustmark National Bank, has investment discretion over the assets involved in the Sale.

2. The Plan is sponsored by Puckett Machinery Company (the Employer) which maintains its principal place in Jackson, Mississippi and is engaged in the business of selling equipment and machinery. Richard H. Puckett is an officer of the Employer and holder of 17% of the issued and outstanding common shares of the Employer. In addition, Mr. Puckett is the son of Ben Puckett who holds 43% of the issued and outstanding shares of the Employer.

3. The Property consists of a 6.5 acre tract of real property and a building located on Highway 61 North in Natchez, Mississippi. In 1970, a predecessor to the Plan acquired the Property for $250,000. The Property is currently leased to the Employer.[18] Under the terms of this lease, the Employer has paid all real estate taxes, insurance premiums and certain repair and maintenance costs incurred on the Property. On March 28, 1995, the Property was appraised by Dan Bland, a Certified Real Estate Appraiser who calculated the fair market value of the Property to be $240,000. The appraisal method employed by Mr. Bland was the market approach which is directly related to the sales prices and asking prices of similar properties in competing areas near the subject property. The Property was also appraised by Robert E. Gavin, a Certified Real Estate Appraiser, who determined the fair market value of the Property to be $315,000 as of February 1995.

4. Mr. Puckett proposes to purchase the Property for $315,000 for cash. The Applicant represents that the Sale will result in a conversion of Plan assets from real property to a liquid investment. This will enable the Plan to offer participants and beneficiaries an additional opportunity for self-directed investments. Further, retaining the Property in the Plan would make it difficult to properly and fairly allocate the value of the earnings from the Property to those participants and beneficiaries who desire self-directed investments.

[18] On October 26, 1988, the Department granted PTE 88–98 to permit the lease of the Property by the Plan to the Employer.

5. In summary, the applicant represents that the requested exemption will satisfy the criteria of section 408(a) of the Act for the following reasons: (a) the Sale is a one time transaction for cash; (b) the Plan will receive the greater of $315,000 or the fair market value of the Property at the time of the transaction; (c) the fair market value of the Property has been determined by an independent and qualified real estate appraiser; and (d) the Plan will pay no fees or commissions associated with the Sale.

FOR FURTHER INFORMATION CONTACT: Allison Padams of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

James Flynn & Associates, Ltd. Pension Plan (the Plan), Located in Scottsdale, Arizona

[Application No. D–10164]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: 1) the proposed transfer of a parcel of real property (Lot 1) to the Plan by James T. and Britt Marie Flynn (the Flynns), disqualified persons with respect to the Plan, together with a cash payment by the Flynns to the Plan of $29,000, and 2) the proposed transfer of a parcel of real property (Lot 2) by the Plan to the Flynns, provided the following conditions are satisfied: a) the Plan receives not less than the fair market value of Lot 2 as of the date of the transfers; b) the fair market values of Lots 1 and 2 are determined by a qualified, independent appraiser; and c) the Flynns are the only participants in the Plan to be affected by the transactions, and they both desire that the transactions be consummated.[19]

Summary of Facts and Representations

1. In 1972, James Flynn established James Flynn & Associates, Ltd. (JFA) as a professional service corporation providing architectural services. Since that time, Mr. Flynn has been the sole shareholder and the only corporate officer of JFA. Shortly after incorporating, Mr. Flynn adopted the Plan, a defined benefit plan. In 1989, Mr. Flynn began to wind down his practice, and several employees approached him about forming their own architectural firm with intentions of continuing the practice that JFA had operated. A transition period was established, and shortly thereafter, JFA became inactive with two employees, the Flynns.

2. In 1989, the benefits that had accrued to the Plan participants (other than the Flynns) were distributed and set aside in a profit sharing plan which became the plan of the new architectural firm. Shortly thereafter, the Flynns began to take distributions from the Plan as retired participants, and to this date they remain the only employees of JFA and the only participants covered by the Plan. The Plan currently has assets with an approximate aggregate fair market value of $4,893,100.

3. The Flynns currently own Lot 1, a parcel of property located on 136 Street, Maricopa County, Arizona. The Plan owns Lot 2, a parcel of real property adjacent to Lot 1, also located on 136 Street, Maricopa County, Arizona. The Flynns have requested the exemption proposed herein to permit the transfer of the two Lots, so that the Plan would own Lot 1 and the Flynns would own Lot 2. The applicants represent that the Plan would enter into the transaction for the following reasons. Lot 2, which is currently held by the Plan, is more suitable for improvements on a near-term basis. Such improvements, if completed, would increase the marketability of both Lots 1 and 2. However, the Plan does not wish to get involved with the project of improving Lot 2. The applicants represent that Lot 1, currently owned by the Flynns, has greater long-term potential as investment property. The applicants further represent that if the improvements are made to Lot 2, the marketability of both Lots 1 and 2 would improve, thus protecting the Plan's prospective investment in Lot 1.

4. The Lots have both been appraised by Roy E. Morris III, SRA FASA, an independent certified real estate appraiser in Scottsdale, Arizona. Mr. Morris has determined that as of July 18, 1995, Lot 1 had a fair market value of $191,000, and Lot 2 had a fair market value of $220,000. The applicants represent that if the exemption proposed herein is granted, the Flynns would also make a cash payment to the Plan of $29,000, which is equal to the difference in appraised values of the Lots as determined by Mr. Morris.

[19] Since Mr. Flynn is the sole stockholder of JFA and the Flynns are the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3 (b) and (c). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

5. In summary, the applicants represent that the proposed transactions satisfy the criteria contained in section 4975(c)(2) of the Code because: a) the Plan will receive not less than the fair market value of Lot 2; b) the fair market values of Lots 1 and 2 have been determined by a qualified, independent appraiser; and c) the only Plan participants to be affected by these transactions are the Flynns, and they both desire that the transactions be consummated.

NOTICE TO INTERESTED PERSONS: Since the Flynns are the only Plan participants to be affected by the proposed transactions, the Department has determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due within 30 days from the date of publication of this notice of proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 29th day of March, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 96–8138 Filed 4–3–96; 8:45 am]

BILLING CODE 4510–29–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Meeting

AGENCY: Border Environment Cooperation Commission (BECC).

ACTION: Notice of public meeting.

SUMMARY: This notice announces the 8th public meeting of the BECC Board of Directors on Tuesday, April 30, 1996, from 9:00 a.m. to 3:00 p.m. at the Hotel Lucerna, located at Paseo Triunfo de la Republica No. 3976, in Ciudad Juarez, Chihuahua, Mexico.

FOR FURTHER INFORMATION CONTACT: M.R. Ybarra, Secretary, United States Section, International Boundary and Water Commission, telephone (915) 534–6698; or Tracy Williams, Public Relations Officer, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, Texas 79913; telephone (011–52–16) 29–23–95; Fax: (0110–52–16) 29–23–97; E-mail: becc@cocef.interjuarez.com.

SUPPLEMENTARY INFORMATION: The U.S. Section, International Boundary and Water Commission, on behalf of the Border Environment Cooperation Commission (BECC) cordially invites all interested persons to attend the 8th Public Meeting of the Board of Directors on Tuesday, April 30, 1996, from 9:00 a.m.–3:00 p.m., at the Hotel Lucerna, located at Paseo Triunfo de la Republica No. 3976, in Ciudad Juarez, Chihuahua.

Proposed Agenda

9:00 a.m.—Welcome
Report from General Manager (Information)
—Report on status of previously certified projects
—Availability of BECC Annual Report
—Status of Small Communities Initiative
—Status of Technical Assistance Program
Consideration of Project Certification (Action)
—Procedure for Complaints
—Procedure for Confidentiality Requests
—Public Comments
General Comments by Board of Directors and Advisory Council
3:00—Adjourn

Any member of the public interested in submitting written comments to the Board of Directors on the projects proposed for certification should send written material to the BECC staff 15 days prior to the scheduled public meeting. Anyone interested in making a brief statement to the Board may do so during the public meeting.

Dated: March 27, 1996.

M.R. Ybarra,

Secretary, U.S. IBWC.

[FR Doc. 96–8274 Filed 4–3–96; 8:45 am]

BILLING CODE 4710–03–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, April 18, 1996.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Manalapan Mining Co., Docket Nos. KENT 93–646 and KENT 93–884. (Issues include whether the judge should have assumed the existence of a fire emergency when analyzing whether Manalapan's violation of sections 75.1101 and 77.1109(c) were S&S, and whether the judge correctly determined that Manalapan's violation of section 75.360(a) was not S&S.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those

needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629 (202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: April 1, 1996.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 96–8524 Filed 4–2–96; 3:17 pm]

BILLING CODE 6735–01–M

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, April 11, 1996.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor o.b.o. Poddey* v. *Tanglewood Energy, Inc.*, Docket No. WEVA 93–339–D. (Issues include whether the judge erred in applying three section 110(i) criteria in assessing a civil penalty for a section 105(c) violation, and whether the judge erred by deducting unemployment compensation received from the back pay award.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: April 1, 1996.

Jean H. Ellen,

Chief Docket CLerk.

[FR Doc. 96–8525 Filed 4–2–96; 3:17 pm]

BILLING CODE 6735–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Temporary Closing of Reference Service on Certain Textual Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of revised schedule of closure and reopening of reference services for certain testual records holdings in the National Archives related to the move to the National Archives at College Park (Archives II) and the relocation of some records to the National Archives Building.

SUMMARY: This notice provides information about the period of time that reference service on certain textual records holdings of the National Archives will be unavailable due to the move of those holdings from their current locations in the National Archives Building in Washington, DC, and the Washington National Records Center in Suitland, Maryland, to new locations in either the new Archives II facility in College Park, Maryland, or the National Archives Building in Washington, DC.

During the periods shown for the record groups listed on the schedule at the end of this notice, the National Archives will be unable to provide records for research, or process requests for reproductions (fee orders) or requests for information from these records. Requests received during the periods of suspended service will be returned for resubmission after the date indicated for reopening the records for reference service.

Background

Changes in the overall move schedule to accommodate necessary space for records to move from the Washington National Records Center in Suitland, MD, to the National Archives Building in Washington, DC, required changes in the closure and reopening dates for the record groups listed below.

For schedule updates and information on the new location of the records, call: User Services Division at (202) 501–5400.

Dated: March 29, 1996.

Geraldine N. Phillips,

Acting Assistant Archivist for the National Archives.

Cluster title	RG No.	Record group short title	Close date	Reopen date
Genealogical Related Records	015	Veterans Administration	04/09/96	07/01/96
Genealogical Related Records	029	Bureau of the Census	04/15/96	07/10/96
Genealogical Related Records	049	Bureau of Land Management	05/01/96	09/22/96
Genealogical Related Records	059	Department of State	07/15/96	09/27/96
Genealogical Related Records	085	Immigration and Naturalization Service	07/22/96	07/12/96
Genealogical Related Records	117	American Battle Monuments Commission.	07/29/96	10/11/96
Genealogical Related Records	147	Selective Service System (World War II).	08/05/96	10/17/96
Genealogical Related Records	163	Selective Service System (World War I).	08/19/96	10/23/96
Genealogical Related Records	210	War Relocation Authority	08/26/96	10/29/96
Genealogical Related Records	241	Patent and Trademark Office	08/30/96	12/06/96
Modern Army	338	U.S. Army Commands, 1942-	05/01/96	09/25/96
New Deal and Great Depression	009	National Recovery Administration	06/21/96	11/08/96
New Deal and Great Depression	068	U.S. Coal Commission	06/21/96	11/12/96
New Deal and Great Depression	089	Federal Fuel Distributor	06/25/96	11/14/96
New Deal and Great Depression	150	National Bituminous Coal Commission, 1935–36.	06/25/96	11/18/96
New Deal and Great Depression	222	Bituminous Coal Division	06/28/96	11/21/96
New Deal and Great Depression	223	Office of the Bituminous Coal Consumers' Counsel.	07/08/96	11/26/96
Old Navy	143	Bureau of Supplies and Accounts	03/13/96	07/02/96
Old Navy	181	Naval Districts and Shore Establishments.	03/25/96	07/09/96
Old Navy	313	Naval Operating Forces	03/13/96	07/15/96
World War I Period Agencies	002	National War Labor Board (World War I).	04/15/96	09/25/96
World War I Period Agencies	004	U.S. Food Corporation	04/17/96	10/03/96
World War I Period Agencies	005	U.S. Grain Corporation	04/24/96	10/07/96
World War I Period Agencies	006	U.S. Sugar Equalization Board, Inc.	04/24/96	10/07/96

Cluster title	RG No.	Record group short title	Close date	Reopen date
World War I Period Agencies	014	U.S. Railroad Administration	04/29/96	10/10/96
World War I Period Agencies	061	War Industries Board	04/30/96	10/16/96
World War I Period Agencies	062	Council on National Defense	05/06/96	10/18/96
World War I Period Agencies	067	U.S. Fuel Administration	05/08/96	10/24/96
World War I Period Agencies	158	Capital Issues Committee	05/13/96	10/28/96
World War I Period Agencies	182	War Trade Board	05/17/96	11/01/96
World War I Period Agencies	194	War Minerals Relief Commission	05/24/96	11/07/96

[FR Doc. 96–8263 Filed 4–3–96; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meeting

TYPE: Quarterly Meeting.

AGENCY: National Council on Disability.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability. Notice of this meeting is required under Section 522b(e)(1) of the Government in the Sunshine Act, (P.L. 94–409).

DATES: May 20–21, 1996, 8:30 a.m. to 5:00 p.m.

LOCATION: The Westin Hotel, Renaissance Center, Detroit, Michigan, 48243; (313) 568–8000.

FOR FURTHER INFORMATION CONTACT: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F Street NW., Suite 1050, Washington, DC 20004–1107; (202) 272–2004 (Voice), (202) 272–2074 (TT), (202) 272–2022 (Fax).

AGENCY MISSION: The National Council on Disability is an independent federal agency led by 15 members appointed by the President of the United States and confirmed by the U.S. Senate. The overall purpose of the National Council is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature or severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing interpreters or other accommodations should notify the National Council on Disability prior to this meeting.

ENVIRONMENTAL ILLNESS: People with environmental illness must reduce their exposure to volatile chemical substances in order to attend this meeting. In order to reduce such exposure, we ask that you not wear perfumes or scents at the meeting. We also ask that you smoke only in designated areas and the privacy of your room. Smoking is prohibited in the meeting room and surrounding area.

OPEN MEETING: This quarterly meeting of the National Council shall be open to the public.

AGENDA: The proposed agenda includes:

Reports from the Chairperson and the Executive Director
Committee Meetings and Committee Reports
National Disability Policy: A Progress Report Update
National Summit on Disability Policy Update
Unfinished Business
New Business
Announcements
Adjournment.

Records shall be kept of all National Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on April 1, 1996.

Ethel D. Briggs,

Executive Director.

[FR Doc. 96–8457 Filed 4–2–96; 2:16 pm]

BILLING CODE 6820–B5–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: April 22, 1996; 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 565, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Edward H. Bryan, Program Director, Biochemical Engineering, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Equipment 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8323 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences (#1754).

Dates and Times: April 25, 1996 from 8:15 am to 10:00 pm; April 26, 1996 from 8:15 am to 5:00 pm.

Place: Room 360, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Gerald Selzer, Program Director, Division of Biological Instrumentation and Resources (BIR), Room 615, National Science Foundation, 4201 Wilson Blvd. Arlington, VA 22230, Tel: (703) 306–1469.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF.

Agenda: To review and evaluate formal proposals submitted in response to the BIO Research Training Groups announcement (NSF 95–114).

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 within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8325 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Biological Sciences (BIO); 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: Advisory Committee for Biological Science (BIO) (1110).

Date and Time: April 25, 1996; 8:45 a.m.–5:00 p.m.; April 26, 1996; 8:45 a.m.–12:00 Noon.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 375.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Tel No.: (703) 306–1400.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: FY 1997 Budget and the Changing Environment for Biological Sciences.

Dated: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8326 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Cell Biology; 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: Advisory Panel for Cell Biology (1136)–(Panel A).

Date and Time: April 22–23, 1996, 08:30 a.m. to 06:00 p.m.

Place: Room 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Barbara Zain and Dr. Randolph Addison, Program Directors for the Cell Biology Program, National Science Foundation, Room 655 South, Arlington, VA 22230. Telephone: 703/306–1442.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Signal Transduction 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8316 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (P.L. 92–463), as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on the NSFNET Program (1115).

Date & Time: April 25–26, 1996; 8:30 am–5:00 pm each day.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1150, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Douglas Gatchell, Associate Program Director, Division of Networking and Communications Research Infrastructure, 4201 Wilson Boulevard, Arlington, VA 22230. Phone: (703) 306–1950.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To help shape the Directorate's plans and priorities for research and to assess the extent to which current and planned programs provide the necessary base for future research directions.

Agenda: Review current and planned activities in the NSFNET Program.

Dated: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8321 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(#1194).

Date and Time: April 26, 1996, 8:30 a.m.–5:00 p.m.

Place: Room 530, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. G. Patrick Johnson, SBIR Program Manager, (703) 306–1391 and Dr. John Cross, BIO Program Manager, (703) 306–1472, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Biological/Instrumentation and Resources Phase II 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 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8328 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Earth Sciences Proposal Review Panel; Notice of Meeting

In accordance with the Federal Adivsory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel (#1569) (CSEDI) (1756).

Date: April 25 and 26, 1996.

Time: 8:00 a.m. to 6:00 p.m. each day.

Place: Room 730, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ms. Robin Reichlin, Program Director, Geophysics Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA 22230, (703) 306–1556.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate earth sciences 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 proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8318 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Genetics and Nucleic Acids; 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: Advisory Panel for Genetics and Nucleic Acids (1149) (Panel C).

Date and Time: Wednesday, April 24 thru Friday, April 26, 1996 at 8:30am to 5:00pm.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Todd M. Martensen, Program Director for Biochemical Genetics, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1439.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Biochemical Genetics 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8317 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (#1756).

Date and Time: April 22–24, 1996, 1996 8:30 am–5:00 pm.

Place: Rooms 330. Place., 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate U.S. GLOBEC (Global Ocean Ecosystems Dynamics) 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8319 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Information, Robotics and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information, Robotics and Intelligence Systems (#1200).

Date and Time: April 22, 1996, 8:30 a.m. to 5:00 p.m.

Place: St. James Hotel, 950 24th Street, NW, Washington, DC 20037.

Type of Meeting: Closed

Contact Person: Dr. Maria Zemankova, Deputy Division Director, Robotics and Intelligent Systems, room 1115N, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1929.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Interactive Systems 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8324 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical and Physical 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: Advisory Committee for Mathematical and Physical Sciences (#66).

Date and Time: April 25, 1996 8:30 am–7:00 pm; April 26, 1996 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: John B. Hunt, Executive Officer, MPS, Room 1005, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1800.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations on development of MPS strategic planning mechanisms; provide advice on the appropriateness of current disciplinary boundaries; evaluate the current MPS interfaces with academia and industry; and advise on methods of achieving overall program excellence in MPS.

Agenda

April 25, 1996

AM—
Introductory Remarks
Discussion on MPS Portfolio
PM—
Information Items; Working Group Meetings

April 26, 1996

AM—
Working Group Reports; Strategic Planning
PM—
Strategic Planning/MPS Portfolio Discussion/Summary of Issues

Dated: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8322 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical & Physical 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: Advisory Committee for Mathematical and Physical Sciences, Subcommittee on Astronomical Sciences (66).

Date and Time: April 23 and 24, 1996, 8:30 a.m.–6:00 p.m.

Place: Room 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Hugh M. Van Horn, Director, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1820.

Purpose of Meeting: To provide advice and recommendations and discuss status of NSF-funded astronomy projects with the objective of achieving the highest quality forefront research for the funds allocated.

Agenda: Discussion of Draft Strategic Plan for the Division of Astronomical Sciences. Discussion of Committee of Visitors' Report. Discussion of Current Budget Situation.

Dated: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8327 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel In Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel In Mathematical Sciences (1204).

Date and Time: April 23–24, 1996, 8:30 a.m. until 5:00 p.m.

Place: Room 1020, 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 Scientific Computing Research Environments for the Mathematical Sciences (SCREMS) 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8320 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; 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: Advisory Panel for Neuroscience (1158).

Date and Time: April 5–6, 1996, 9:00 a.m. to 5:00 p.m.

Place: Cherry Creek Inn, 600 South Colorado Boulevard, Denver, CO.

Type of Meeting: Part-Open.

Contact Person: Dr. James I. Koenig, Program Director, Neuroendocrinology; Division of Integrative Biology and Neuroscience, Room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1424.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: Friday, April 5, 1996; 11:00 p.m. to 12:00 p.m., To discuss research trends and opportunities in Neuroendocrinology. Closed Session: April 5, 1996, 9:00 a.m. to 11:00 a.m.; 12:00 p.m. to 5:00 p.m. April 6, 1996, 9:00 a.m. to 5:00 p.m. To review and evaluate Neuroendocrinology 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8314 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior; 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: Advisory Panel for Physiology and Behavior (#1160).

Date and Time: April 25–26, 1996, 8:30 a.m. to 5:00 p.m..

Place: Room 680, National Science Foundation 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Part-Open.

Contact Person: Dr. Randy Nelson, Program Director, IBN, Room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230, (703) 306–1419.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support..

Agenda: Open session: April 26, 1996, 3:00 p.m. to 4:00 p.m. To discuss research trends and opportunities in the area of Animal Behavior.

Closed session: April 25, 1996 8:30 a.m. to 5:00 p.m., April 26, 1996, 8:30 a.m. to 3:00 p.m. and 4:00 p.m. to 5:00 p.m. To review and evaluate Animal Behavior 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8313 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior; 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: Advisory Panel for Physiology and Behavior (#1160).

Date and Time: April 24 & 25, 1996, 8:30 am to 5:00 pm.

Place: Room 630, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Persons: Dr. Machi F. Dilworth & Dr. Hans J. Bohnert, Program Directors, Integrative Plant Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, 22203. Telephone: (703) 306–1422.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Integrative Plant Biology proposals as part of the selection process for awards. Open Session: April 24, 1996, 3:30 to 4:30 p.m. To discuss research trends and opportunities in Integrative Plant Biology. Closed Session: April 24, 1996, 8:30 am to 3:30 pm, 4:30 pm to 5:30 pm and April 25, 1996, 8:30 am to 5:30 pm. To review and evaluate Integrative Plant Biology 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: April 1, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–8315 Filed 4–3–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390; License No. NPF–90]

Tennessee Valley Authority, Watts Bar Nuclear Plant; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a Petition dated February 14, 1996, Ms. Faith Young (Petitioner) requests that the NRC take action regarding the use of nearby Watts Bar Lake water to cool the radioactive core of the Watts Bar Nuclear Plant. Petitioner asks that the NRC rescind Watts Bar's license to operate until the issue of increased radioactive contamination of the plant's emissions can be studied and resolved.

Petitioner believes that the lake containing the water used to cool Watts Bar's core contains sediment previously contaminated by radioactive material. Over the lifetime of Watts Bar's operation, according to Petitioner, uncontrolled access to the lake by the plant will disturb this sediment, which will in turn contaminate water drawn into the plant's cooling system. Petitioner believes that the issue of heightened radioactive contamination of nuclear power plant emissions has not been previously addressed. Petitioner requests to be kept advised over the course of the NRC's review, and states both that the utility should not be consulted in advance and that independent evaluation should be a part of the review process.

The Petition is being treated pursuant to 10 CFR § 2.206 of the Commission's regulations and has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW, Washington, DC 20037.

Dated at Rockville, Maryland this 27th day of March, 1996 .

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–8297 Filed 4–3–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

TIME AND DATE: 1:00 p.m., April 10, 1996.

PLACE: OPM Conference Center, Room 1350, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC 20415–0001. The conference center is located on the first floor.

STATUS: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

MATTERS TO BE CONSIDERED: The NPC will work on its strategic action plan and meeting calendar for 1996.

CONTACT PERSON FOR MORE INFORMATION: Mr. Michael Cushing, Director, Labor Management Partnership Center, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5554, Washington, DC 20415–0001, (202) 606–0010.

SUPPLEMENTARY INFORMATION: We invite interested persons and organizations to submit written comments. Mail or deliver your comments to Mr. Michael Cushing at the address shown above. Written comments should be received by April 5 in order to be considered at the April 10 meeting.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 96–8187 Filed 4–3–96; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

[Docket No. A96–13; Order No.1106]

Kemp, Oklahoma 74747 (Jackie & Linda Dobbins, Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued March 29, 1996.

Docket Number: A96–13.

Name of Affected Post Office: Kemp, Oklahoma 74747.

Name(s) of Petitioner(s): Jackie & Linda Dobbins.

Type of Determination: Consolidate.

Date of Filing of Appeal Papers: March 25, 1996.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404(b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders:

(a) The Postal Service shall file the record in this appeal by April 9, 1996.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Margaret P. Crenshaw,

Secretary.

March 25, 1996 Filing of Appeal letter

March 29, 1996 Commission Notice and Order of Filing of Appeal

April 19, 1996 Last day for filing petitions to intervene [*see* 39 CFR § 3001.111(b)]

April 29, 1996 Petitioner's Participant Statement or Initial Brief [*see* 39 CFR § 3001.115(a) and (b)]

May 20, 1996 Postal Service's Answering Brief [*see* 39 CFR § 3001.115(c)]

June 3, 1996 Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR § 3001.115(d)]

June 10, 1996 Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR § 3001.116]

July 23, 1996 Expiration of the Commission's 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5)]

[FR Doc. 96–8233 Filed 4–3–96; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* Evidence for Application of Overall Minimum.
(2) *Form(s) submitted:* G–319, G–320.
(3) *OMB Number:* 3220–0083.
(4) *Expiration date of current OMB clearance:* April 30, 1996.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 290.
(8) *Total annual responses:* 290.
(9) *Total annual reporting hours:* 121.
(10) *Collection description:* Under Section 3(f)(3) of the Railroad Retirement Act, the total monthly benefits payable to a railroad employee and his family are guaranteed to be no less than the amount which would be payable if the employee's railroad service has been covered by the Social Security Act.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–8204 Filed 4–3–96; 8:45 am]

BILLING CODE 7905–01–M

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: Annual Earnings Questionnaire for Annuitants in Last Pre-Retirement Non-Railroad Employment; OMB 3220–0179. Under Section 2(e)(3) of the Railroad Retirement Act (RRA), an annuity is not payable for any month in which a beneficiary works for a railroad. In addition, an annuity is reduced for any month in which the beneficiary works for an employer other than a railroad employer and earns more than prescribed amounts. Under the 1988 amendments to the RRA, the Tier II portion of the regular annuity and any supplemental annuity must be reduced by one dollar for each two dollars of Last Pre-Retirement Non-Railroad Employment (LPE) earnings for each month of such service. However, the reduction cannot exceed fifty percent of the Tier II and supplemental annuity amount for the month to which such deductions apply. LPE generally refers to an annuitants last employment with a non-railroad person, company, or institution prior to retirement which was performed whether at the same time of, or after an annuitant stopped railroad employment. The collection obtains earnings information needed by the RRB to determine if possible reductions in annuities because of Last Pre-Retirement Non-Railroad Employment Earnings (LPE) are in order.

The RRB utilizes Form G–19L to obtain LPE earnings information from annuitants. Companion Form G–19L.1, which serves as an instruction sheet and contains the Paperwork Reduction/Privacy Act Notice for the collection accompanies each Form G–19L sent to an annuitant. One response is requested of each respondent. Completion is required to retain a benefit. The RRB proposes minor editorial changes to Form G–19L and Form G–19L.1.

The estimated annual respondent burden is as follows:

Form #(s)	Annual re-sponses	Time (Min)	Burden (Hrs)
G–19L	6,000	30	3,000

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. 96–8259 Filed 4–3–96; 8:45 am]

BILLING CODE 7905–01–M

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Railroad Job Vacancies.
(2) *Form(s) submitted:* N/A.
(3) *OMB Number:* 3220–0122.
(4) *Expiration date of current OMB clearance:* May 31, 1996.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Business or other for-profit.
(7) *Estimated annual number of respondents:* 250.
(8) *Total annual responses:* 750.
(9) *Total annual reporting hours:* 125.
(10) *Collection description:* Under Section 12(k) of the Railroad Unemployment Insurance Act, the Railroad Retirement Board maintains a list of railroad job vacancies available with rail carriers. The collection obtains notice of the job vacancies. The information issued to find jobs for individuals separated from railroad employment.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 606011–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–8257 Filed 4–3–96; 8:45 am]

BILLING CODE 7905–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2845]

Alabama; Declaration of Disaster Loan Area

Tallapoosa County and the contiguous counties of Chambers, Clay, Coosa, Elmore, Lee, Macon, and Randolph in the State of Alabama constitute a disaster area as a result of damages caused by severe storms and tornadoes which occurred on March 18, 1996. Applications for loans for physical damage may be filed until the close of business on May 28, 1996 and for economic injury until the close of business on December 26, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.250
Homeowners without credit available elsewhere	3.625
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 284512, and for economic injury the number is 881300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 26, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–8348 Filed 4–3–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2844]

Alabama; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on March 20, 1996, I find that Dallas, Macon, and Montgomery Counties in the State of Alabama constitute a disaster area due to damages caused by severe storms, flooding, and tornadoes which occurred March 5–6, 1996. Applications for loans for physical damages may be filed until the close of business on May 20, 1996, and for loans for economic injury until the close of business on December 20, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Autauga, Bullock, Chilton, Crenshaw, Elmore, Lee, Lowndes, Marengo, Perry, Pike, Russell, Tallapoosa, and Wilcox in the State of Alabama.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.250%
Homeowners without credit available elsewhere	3.625%
Businesses with credit available elsewhere	8.000%
Businesses and non-profit organizations without credit available elsewhere	4.000%
Others (including non-profit organizations) with credit available elsewhere	7.125%
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000%

The number assigned to this disaster for physical damage is 284412 and for economic injury the number is 881200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 27, 1996.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 96–8349 Filed 4–3–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2824]

Pennsylvania; Declaration of Disaster Loan Area Amendment #2

In accordance with a Notice from the Federal Emergency Management Agency (FEMA) dated March 15, 1996, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages until April 20, 1996.

All other information remains the same; i.e., the termination date for filing applications for economic injury is October 21, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 26, 1996.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 96–8346 Filed 4–3–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2846]

Tennessee; Declaration of Disaster Loan Area

Overton County and the contiguous counties of Clay, Fentress, Jackson, Pickett, and Putnam in the State of Tennessee constitute a disaster area as a result of damages caused by severe storms and tornadoes which occurred on March 16, 1996. Applications for loans for physical damage may be filed until the close of business on May 30, 1996 and for economic injury until the close of business on December 30, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.250
Homeowners without credit available elsewhere	3.625
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 284612, and for economic injury the number is 883100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: March 29, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–8347 Filed 4–3–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2837; Amendment #2]

Washington; Declaration of Disaster Loan Area

In accordance with a Notice from the Federal Emergency Management Agency (FEMA) dated March 19, 1996, the

above-numbered declaration is hereby amended to establish the incident period for this disaster as beginning on January 26, 1996 and continuing through February 23, 1996.

All other information remains the same, i.e., the termination date for filing applications for physical damage is April 11, 1996, and for loans for economic injury the deadline is November 12, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 26, 1996.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 96–8350 Filed 4–3–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

[Docket No. 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 96–2–11 established the currently effective two-month SFFL applicable through March 31, 1996.

In establishing the SFFL for the two-month period beginning April 1, 1996, we have projected non-fuel costs based on the year ended December 31, 1995 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 96–3–61 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic—1.4368

Latin America—1.5211

Pacific-1.4879

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation:
Dated: April 1, 1996.

Patrick v. Murphy

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–8336 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD 96–015]

Tug-of-Opportunity System Plan for the Olympic Coast Marine Sanctuary and the Strait of Juan de Fuca

AGENCY: Coast Guard, DOT.

ACTION: Notice of inquiry.

SUMMARY: The Coast Guard seeks information that may be useful in preparing a plan to be submitted to Congress on the most cost-effective means of implementing an international private-sector tug-of-opportunity system to provide timely response to a vessel in distress transiting the waters within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca. This plan is mandated by Section 401 of the Alaska Power Administration Asset Sale and Termination Act.

DATES: Comments are requested by June 3, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. The Executive Secretary maintains the public docket for this notice. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Commander William Carey, Commander (mep), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA 98174–1067, (206) 220–7221.

SUPPLEMENTARY INFORMATION:

Request for Information

The Coast Guard encourages interested persons to participate in this request for comments by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this notice [CGD 96–015] and the specific section or question of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period.

Drafting Information: The principal persons involved in drafting this document are Commander William Carey, Project Manager, Thirteenth Coast Guard District, Marine Safety Division and Lieutenant Laticia Argenti, Project Counsel, Thirteenth Coast Guard District, Legal Office.

Background and Purpose

On November 28, 1995, the President signed the Alaska Power Administration Asset Sale and Termination Act (Pub. L. 104–58), authorizing exports of Alaskan North Slope (ANS) crude oil when transported in U.S. flag tankers. Section 401 of the statute directs the Coast Guard to submit within 15 months of enactment of the Act, a plan to Congress on the most cost-effective means of implementing an international private-sector tug-of-opportunity system. The plan is to include a coordinated system of communication, using existing towing vessels to provide timely emergency response to a vessel in distress transiting the waters within the boundaries of the Olympic Coast Marine Sanctuary or the Strait of Juan de Fuca.

Specific Comments Requested

To ensure that the Coast Guard provides to Congress the most cost-effective plan for implementing an international private-sector tug-of-opportunity system, the Coast Guard needs more information. The Coast Guard is particularly interested in receiving information, views, and data on the following questions and areas of concern:

1. What topics should the plan address?
2. How might a private sector tug-of-opportunity system be implemented and operated? What private sector entity would be best suited to administer a tug-of-opportunity system?
3. What are the historical and current volumes and types of traffic transiting through the area of concern? What are the projections for traffic in future years?
4. What are the numbers and types (ship particulars, horsepower, bollard pull, etc.) of tugs operating in the area of concern?
5. What are the costs for tugs of varying capability?
6. What are the various cost components of a tug-of-opportunity system?
7. How might the private sector allocate the system costs among the various users? Should costs be passed on to ship operators on a operator by operator basis, voyage basis, risk basis or some combination of these or other factors?

8. Are there alternatives to a tug-of-opportunity system? What are the costs/benefits of these alternatives and why are they more cost-effective? What specific resources and funding do they require?

9. If you represent an ocean carrier or towing company that routinely transits the Strait of Juan de Fuca or the Washington coast, do your vessels currently observe the IMO approved area to be avoided (ATBA) off the Washington coast? When your vessels transit along the Washington coast, how far off shore do they routinely transit?

All respondents are requested to please identify their status or affiliation in the marine industry, if any, and please provide the basis upon which costs were calculated.

Dated: March 28, 1996.

J. C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Marine Safety and Environmental Protection Directorate.

[FR Doc. 96–8354 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Federal Aviation Administration Life Cycle Acquisition Management System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of FAA's new Acquisition Management System, which is effective April 1. This document contains policy guidance that implements the FY 1996 Transportation Appropriation Bill, signed by President Clinton in November 1995, that gave FAA an exemption from acquisition laws and provided authority to create a flexible, more cost effective system. Guidance is focused on the acquisition management system, the life cycle acquisition process, the procurement system and process, and an acquisition work force learning system. Acquisitions are handled by integrated product teams, who provide support through all stages of the process.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: FAA Hotline number 202/267–7029.

SUPPLEMENTARY INFORMATION: Internet Home Page: http://www.faa.gov/asu/asu100/acq-reform/acq__home.htm

Background

The 1996 Department of Transportation Appropriations Act, Public Law 104–50, signed by the President on November 22, 1995, required the FAA to ''develop an acquisition management system that addresses the unique needs of the agency and, at a minimum, provides for more timely and cost-effective acquisitions of equipment and materials.'' FAA was directed to create this system ''notwithstanding provisions of Federal acquisition law.'' A team of FAA employees designed a new system with input from industry, the aviation community, and other government agencies. The provisions in the FAA Acquisition Management System take effect on April 1, 1996. The information collection associated with this system is approved under OMB control number 2120–0595. This is an emergency clearance through June 30, 1996. The FAA will be accepting comments on this system until April 22 and submitting a request at that time for a three year clearance. When the clearance is received, the expiration date will be published in the Federal Register. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Issued in Washington, DC, on March 29, 1996.

Gilbert B. Devey, Jr.,

Deputy Director, Office of Acquisitions.

[FR Doc. 96–8245 Filed 4–1–96; 10:08 am]

BILLING CODE 4910–13–M

Federal Transit Administration

Transfer of Federally Assisted Land or Facility

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to transfer Federally assisted land or facility.

SUMMARY: The Federal Transit Laws permit the Administrator of the Federal Transit Administration (FTA) to authorize a recipient of FTA funds to transfer land or a facility to a public body for any public purpose with no further obligation to the Federal Government if, among other things, no Federal agency is interested in acquiring the asset for Federal use. Accordingly, FTA is issuing this Notice to advise Federal agencies that the Rochester-Genesee Regional Transportation Authority intends to transfer a parcel of land, located at 105 Barrington Street in Rochester, New York to the City of Rochester.

EFFECTIVE DATE: Any Federal agency interested in acquiring the land or facility must notify the FTA, Region II, of its interest, by May 6, 1996.

ADDRESSES: Interested parties should notify the Regional Office by writing the Federal Transit Administration, 26 Federal Plaza, Suite 2940, New York, NY 10278.

FOR FURTHER INFORMATION CONTACT: Hans Point Du Jour, FTA, Region II, 212–264–8162 or Ann Catlin, Office of Grants Management at 202/366–1647.

SUPPLEMENTARY INFORMATION:

Background

49 U.S.C. section 5334(g) (formerly, Section 12(k) of the FT Act, as amended) provides guidance on the transfer of capital assets. Specifically, if a recipient of FTA assistance determines that capital assets (including land) acquired, in whole or part, with such assistance are no longer needed for the purposes for which they were acquired, the Administrator may authorize the transfer of such assets to any public body to be used for any public purpose with no further obligation to the Federal Government.

Section 5334(g) Determinations

The provision also provides that before the FTA may authorize such a transfer, the FTA must first determine that:

(A) The asset being transferred will remain in public use for not less than 5 years after the date of the transfer;

(B) There are no purposes eligible for assistance under the Federal Transit Laws for which the asset should be used;

(C) The overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

(D) In any case in which the asset is a facility or land, there is no interest in acquiring the asset for Federal use.

Federal Interest in Acquiring Land or Facility

This document implements the requirements of 49 U.S.C. section 5334(g)(1)(D). Accordingly, FTA hereby provides notice of the availability of the land or facility further described below. Any Federal agency interested in acquiring the affected land or facility should promptly notify the FTA.

If no Federal agency is interested in acquiring the existing land or facility, FTA will make certain that the other requirements specified in section 49 U.S.C. section 5334(g)(1) (A) through (C) are met before permitting the asset to be transferred.

Additional Description of Land or Facility

The parcel of land is located at 105 Barrington Street, Rochester, New York, and having an area of approximately 9,585 sq. ft. The land is currently used as a neighborhood park with a brick walkway and two metal benches as improvements.

Issued on: March 20, 1996.

Thomas J. Ryan,

Regional Administrator.

[FR Doc. 96–8337 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–57–P

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements to Support the Demonstration and Evaluation of Safe Communities Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Announcement of discretionary cooperative agreements to support the demonstration and evaluation of Safe Communities programs.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to demonstrate and evaluate the effectiveness of the Safe Communities concept for traffic safety initiatives. The Safe Communities program offers communities a new way to control traffic injuries. This approval recognizes that traffic-related deaths and injuries are primarily a local community problem. The Safe Communities program adopts a comprehensive injury control approach to address traffic injury problems within the context of all injuries. Recognizing that traffic fatalities are only a small part of the total traffic injury problem, it focuses on injuries (as opposed to fatalities) to define the traffic safety problem, and asks who is paying the costs of the injuries. Four characteristics define the Safe Communities approach: data linkage, expanded partnerships, citizen involvement in setting priorities, and integrated and comprehensive injury control.

This notice solicits applications from public and private, non-profit, not-for-profit and commercial organizations, governments and their agencies, or a consortium of these organizations that are interested in developing, implementing and evaluating the Safe Communities approach in their community. The funds from this program may only be used to support traffic safety activities within the larger context of community injury control efforts. NHTSA anticipates awarding two (2) demonstration and evaluation projects for a period of three years as a result of this announcement.

DATES: Applications must be received at the office designated below on or before June 4, 1996.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Amy Poling, 400 7th Street, S.W., Room 5301, Washington, D.C. 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–96–H–05166. Interested applicants are advised that no separate package exists beyond the contents of this announcement.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Amy Poling, Office of Contracts and Procurement, at (202)–366–9552. Programmatic questions relating to this cooperative agreement program should be directed to Dr. Maria E. Vegega, Policy Advisor, Traffic Safety Programs, NHTSA, Room 5125 (NTS–01), 400 7th Street, S.W., Washington, D.C. 20590 (202) 366–1755, or by e-mail at mvegega@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The past several decades witnessed dramatic advances in medical care and shifts in health behaviors. Despite the advances, injuries remain a major health care problem, and the leading cause of death for persons from age 1 to 44. Fatalities, however, are only a small part of the total injury picture. For each injury-related death, there are 19 injury hospitalizations and over 300 injuries that require medical attention. These injuries account for almost 10 percent of all physician office visits and 38 percent of all emergency department visits. For an individual, these injuries can vastly diminish quality of life. For society, injuries pose a significant drain on the health care system, incurring huge treatment, acute care and rehabilitation costs.

Motor vehicle injuries, in particular, are the leading cause of all injury deaths and the leading cause of death for each age from 5 through 27. Motor vehicle-related injuries are the principal cause of on-the-job fatalities, and the fatalities, and the third largest cause of all deaths in the U.S. Only heart disease and cancer kill more people. However, far more people are injured and survive motor vehicle crashes than die in these crashes. In 1994, for example, while over 40,000 persons were killed in motor-vehicle related incidents, over 3.1 million were injured in police-reported incidents; an even greater number utilized emergency departments. These injured persons often required medical care and many required long-term care. The costs of these injuries are enormous, over $137 billion each year in economic costs and $14 billion in medical costs.

The vast majority of these injuries and deaths are not acts of fate, but are predictable and preventable. Injury patterns, including traffic-related injury patterns, vary by age group, gender, and cultural group. There are also seasonal and geographic patterns to injury. Once the cause of the injury is identified, intervention can be designed to address the cause and reduce the number of injuries.

Safe Communities: A New Generation of Community Programs

American traffic safety advocates have traditionally worked in partnerships with many organizations and groups to achieve a successful, long and established history in preventing and reducing traffic-related injuries and fatalities. For over 15 years, community-based traffic safety programs have been and remain an effective means for identifying local crash problems and providing local solutions.

Building on past success, the Safe Communities program offers communities a new way to control traffic injuries. This approach recognizes that traffic-related deaths and injuries are primarily a local community problem. Effective preventive efforts require a coordinated approach involving Federal, State and local organizations. The Safe Communities approach adopts a comprehensive injury control approach to address traffic injury problems within the context of all injuries. Recognizing that traffic fatalities are only a small part of the total traffic injury problem, Safe Communities focus on injuries (as opposed to fatalities) to define their traffic safety problem, and ask who is paying the costs of the injuries. Safe Communities recognize the importance of citizens in identifying community problems and solutions, as well as the importance of partnerships in implementing solutions to community problems.

The Safe Communities approach represents an evolutionary (rather than revolutionary) way in which community programs are established and managed. Four characteristics define the Safe Communities approach: data linkage,

expanded partnerships, citizen involvement in setting priorities, and integrated and comprehensive injury control. Each of these characteristics is described below.

Data linkage is critical to Safe Communities because addressing traffic-related injuries suggests that not only fatalities are reduced, but injuries and health care costs as well. This shift from an emphasis on fatalities to one emphasizing injuries and cost reduction means that different data bases need to be identified. Police crash reports tell only part of the story. Health departments, hospitals, EMS providers, business, rehabilitation programs, and insurance companies become sources for understanding the magnitude and consequences of traffic injuries and monitoring progress in reducing the problem. Data linkage also identifies common risk factors (e.g., young people who drink are at risk for impaired driving, violence, sex, drowning, etc.) so that countermeasures can be designed to address them (e.g., traffic safety and violence prevention efforts can join forces to reduce youth access to alcohol).

Expanded partnerships are important to solve local injury problems effectively through comprehensive and collaborative strategies. Traffic safety advocates have long recognized that traffic problems are too complex and resources too limited for them to solve in isolation. As a result, over the years, the traffic safety community has worked with law enforcement, emergency medical services, local government, schools, courts, business, health departments, and community and advocacy organizations to reduce traffic injuries. Safe Communities continue to work with these existing partners, but also seek to expand the partnership base to involve actively the medical, acute care and rehabilitation communities. These groups, which have traditionally been focused on treating disease, need to be engaged as integral partners in preventing injuries.

Safe Communities enlist business and employers as full partners in community injury prevention activities. Employers need to understand how traffic-related injuries contribute to their overall costs, and how participation in community-wide injury prevention efforts can help them reduce their own costs due to motor vehicle injuries. Through partnerships and collaboration, Safe Communities spread program ownership and delivery systems throughout the community. Finally, Safe Communities provide an opportunity for traditional traffic safety partners—such as law enforcement and schools—to understand better the linkages among risk-taking behaviors. For example, individuals who commit traffic offenses may also be involved with other kinds of problem or illegal behaviors.

Citizen involvement and input are essential to establish community priorities for identified problems. Town meetings are routinely used to solicit citizen input and feedback about community injury problems. Individual citizens are actively involved in identifying, designing and implementing solutions to their injury problems. Citizens actively participate in problem identification, assume responsibility and ownership for shaping solutions, and share in both the successes and challenges of their program.

An integrated and comprehensive injury control system is used, incorporating prevention, acute care, and rehabilitation as active and essential participants in solving community injury problems. This is the crux of the Safe Communities approach, and often one or more of these groups have not traditionally been involved in addressing community traffic injury problems. Involvement of the three component groups will not happen overnight or in every community, but it is something to strive for over time.

The ''evolutionary shift'' from current programs to Safe Communities is summarized in Table 1 (below). Community partners participate as equals in developing solutions, sharing success, assuming program risks, planning for self-sufficiency, and building a community infrastructure and process for continual improvement of community life through reduction of traffic-related injuries, fatalities, and costs.

TABLE 1.—NEW THINKING ABOUT COMMUNITY PROGRAMS

Current program emphasis	Evolving program emphasis
Reducing fatalities	Reducing fatal and non-fatal injuries & health care and social costs.
Traffic safety as the objective	Traffic safety integrated into broader injury control efforts.
Prevention-based solutions	Systems-based solutions (integration of prevention, acute care, rehabilitation).
Agency-based delivery system	Community/citizen ownership.
Traditional traffic safety partners	Adds new or expanded health, injury, business and government partners.
Administrative evaluation	Impact evaluation/cost benefit analysis.

Objectives

Under this cooperative agreement program, the effectiveness of the Safe Communities approach for traffic safety initiatives shall be demonstrated and evaluated to determine the impact on reducing traffic related injuries and associated costs to the community. Specific objectives for this cooperative agreement program are as follows:

1. Work with existing community traffic safety and/or injury control coalitions and apply the defining characteristics to establish a Safe Communities approach for reducing traffic injuries.

2. Use community and/or state data, as appropriate, to define the community's traffic injury problem within the context of the community's overall injury problem. Where possible, population based data are preferred. Data sources in addition to police crash reports are to be used for this purpose. Where possible, the costs of traffic injuries to the community (which may include emergency medical services, acute care, hospital, medical, rehabilitation, insurance, lost wages, and workmen's compensation) are to be documented.

3. Actively engage community residents in defining both the community's traffic injury problem as well as solutions to the problem. The grantee shall develop strategies for ensuring citizen involvement throughout the project.

4. In addition to traditional traffic safety partners (e.g., law enforcement) identify and actively engage health care (both provider and payer) and business partners in the Safe Communities approach. The grantee is responsible for ensuring active and committed participation from these two sectors.

5. Implement a program to reduce traffic-related injuries in the community. The programs could address any area of traffic safety

including alcohol-impaired driving, use of occupant restraints, speeding, emergency medical services, or pedestrian or bicycle safety. The intervention program should be based on data and citizen input and should actively engage all sectors of the community, including health care, business, local government, law enforcement, schools, and media.

6. Evaluate the effectiveness of the Safe Communities approach in reducing traffic-related injuries and associated costs. In addition, evaluate the process of establishing a Safe Communities approach (what works, what does not work, how to engage partners, how to overcome barriers, challenges, how to turn challenges into opportunities, etc.).

Availability of Funds and Period of Support

A total of $675,000 is available in Fiscal Year 1996 to fund two (2) demonstration and evaluation projects for a project of three years. In each project, $150,000 must be dedicated to evaluation activities. Given the amount of Federal funds available for this effort, applicants are strongly encouraged to seek other funding opportunities to supplement the Federal funds.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of each cooperative agreement and to coordinate activities between the grantees and NHTSA.

2. Provide information and technical assistance from government sources within available resources and as determined appropriate by the COTR.

3. Serve as a liaison between NHTSA Headquarters, Regional Officers and other (Federal, State and local) interested in the Safe Communities approach and the activities of the grantee.

4. Stimulate the transfer of information among cooperative agreement recipients and others engaged in Safe Communities activities.

Eligibility Requirements

Applications may be submitted by public and private, non-profit, not-for-profit and commercial organizations, and governments and their agencies or a consortium of the above. Universities, colleges, research institutions, hospitals, other public and private organizations, and State and local governments are eligible to apply. Interested applicants are advised that no fee or profit will be allowed under this cooperative agreement program. These demonstration projects will require extensive collaboration among each of these various organizations in order to achieve the program objectives. It is envisioned during the pre-application process, these various organizations will designate one organization to prepare and submit the formal application.

Application Procedure

Each applicant must submit one original and two copies of the application package to: NHTSA, Office of Contracts and Procurement (NAD–30), ATTN: Amy Poling, 400 7th Street, S.W., Room 5301, Washington, DC 20590. Submission of three additional copies will expedite processing, but is not required. Applications must be typed on one side of the page only, and must include a reference to NHTSA Cooperative Agreement No. DTNH22–96–H–05166. Unnecessarily elaborate applications beyond what is sufficient to present a complete and effective response to this invitation are not desired. Only complete application packages received on or before June 4, 1996 will be considered.

Application Content

1. The application package must be submitted with OMB standard Form 424 (Rev. 4–88, including 424A and 424B), Application for Federal Assistance, with the requirement information filled in and certified assurances signed. While the form 424A deals with budget information, and Section B identified Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed total costs. A supplemental sheet shall be provided which presents a detailed breakdown of the proposed costs, as well as any costs which the applicant indicates will be contributed locally in support of the demonstration project.

2. The application shall include a program narrative statement which addresses the following information in separately labeled sections:

a. A description of the community in which the applicant proposes to work. For the purposes of this program, a ''community'' includes a city, town or county, small metropolitan area, or even a large neighborhood (i.e., it does not have to correspond with a political jurisdiction). It should be large enough so that the program can have a demonstrable effect on injuries, while not so large as to lose a sense of community. The description of the community should include, at a minimum, community demographics, the community's traffic injury problem, data sources available, exiting traffic safety or injury control coalitions, and community resources.

b. A description of the goal of the program and how the applicant plans to establish a Safe Communities program in the proposed site. What will the applicant do to ''move'' the site towards the Safe Communities concept? What will be different from existing community programs? How will the applicant obtain citizen involvement in setting program priorities? What health and business partners will be engaged? How will they be engaged? What will they do?

c. An Implementation Plan that describes the interventions or activities proposed to achieve the objectives of the Safe Communities program. If this application is submitted by a community with an existing traffic safety program that will serve as the starting point for the Safe Communities program, and has done problem identification, then the specific interventions or activities proposed should be described. If this application proposes establishing a new program, then a description of the types of activities and interventions which the Safe Communities program will give priority consideration should be provided. What action will the community undertake to reach its objectives? How will the intervention be delivered? How will delivery be monitored? What are the expected results from the intervention?

d. A detailed Evaluation Plan (both quantitative and qualitative) that describes the kinds of questions to be addressed by the evaluation design, what the outcome measures are, how they will be measured, the methodology for collecting the data, how often data will be collected, and how the data will be analyzed. The plan should indicate how action undertaken by the community will be linked with outcome measures. It is important that the area encompassed by the Safe Communities program coincide with the population covered by the data to be used in the evaluation, or that the data systems allow the disaggregation of the relevant population.

e. A description of the full working partnership that has been or will be established to conduct the Safe Communities program. The application shall describe all the partners that will participate in the program (e.g., local government, law enforcement, health care, injury prevention, insurance, business, education, media, citizens) and what the role of each partner will

be. A complete set of letters of commitment from major partners, organizations, groups, and individuals proposed for involvement in this project shall detail what each partner is willing to do over the course of the project period. For partners serving as data sources, the letter shall also indicate the data which will be provided, or for which access is authorized, and any limitations on the use of the data by the Safe Communities program, or by the NHTSA.

f. A description of how the project will be managed, both at the applicant-level and at the community level. The application shall identify the proposed project manager and any personnel considered critical to the successful accomplishment of this project, including a brief description of their qualifications and respective organizational responsibilities. The roles and responsibilities of the applicant, the community and any others included in the application package shall be specified. The proposed level of effort in performing the various activities shall also be identified. A staffing plan and resume for all key project personnel shall be included in the application.

g. A separately-labeled section with information demonstrating that the applicant meets all of the following special competencies:

(1) Knowledge and familiarity with data sources such as police crash and crime reports, EMS files, emergency department data, hospital discharge data, and injury cost data (i.e. cost of injuries to the community), and injury surveillance systems (including analyzing and linking such data files). Availability of and accessibility to relevant data in their community for use by the Safe Communities Team and includes at least the police crash reports and one or two injury data sources.

(2) Capable of:

i. Designing comprehensive program evaluations;

ii. Collecting and analyzing both quantitative and qualitative data;

iii. Synthesizing, summarizing and reporting evaluation results which are usable and decision-oriented.

(3) Experience in working in partnership with others, especially business, health care systems (providers and payers) and government organizations, media and with local citizens in implementing solutions to community problems.

(4) Experience in implementing injury control programs (prevention, acute care, rehabilitation) at the community level.

h. A Dissemination Plan that describes how the results of this demonstration and evaluation project will be shared with interested parties. The Dissemination Plan should include preparation of a final report and process manual (see reporting requirements), a briefing at the NHTSA headquarters, presentation at one or more national meetings (e.g., APHA, Lifesavers * * *), and if appropriate, preparation and submission of a paper for publication in a professional journal.

Application Review Process and Evaluation Factors

Each application package will initially be reviewed to confirm that the applicant is an eligible recipient and that the application contains all of the items specified in the Application Contents section of this announcement. Each complete application from an eligible recipient will then be evaluated by an Evaluation Committee. The applications will be evaluated using the following criteria:

1. Understanding of the Community (10%). The extent to which the applicant has demonstrated an understanding of the proposed community, including the community's demographics, traffic safety problem, resources (including data), and political structure. The extent to which the applicant is knowledgeable about community data sources, is able to use the data sources to define the community traffic injury problem, and has demonstrated the community's need for a Safe Communities approach to controlling traffic injuries and the community's willingness to commit and participate in the program. The extent to which the applicant has access to the community and potential target populations in the community.

2. Goals, Objectives and Implementation Plan (20%). The extent to which the applicant's goals are clearly articulated and the objectives are time-phased, specific, measurable, and achievable. The extent to which the Implementation Plan will achieve an outcome-oriented result that will reduce traffic-related injuries and costs to the community. The Implementation Plan should address what the applicant proposes to implement in the proposed community and how this will be accomplished. The Implementation Plan will be evaluated with respect to its feasibility, realism, and ability to achieve the desired outcomes.

3. Collaboration (20%). The extent to which the applicant has demonstrated that a full working partnership for data acquisition and analysis, design, implementation, and evaluation of the program has been established among the applicant and critical components in the community. Has the applicant specified who will be involved in the program and what the role of each partner will be? The extent to which the applicant has demonstrated access to partners deemed critical to this effort, such as health care, business, and local government. Has the applicant shown that potential partners are committed to working with the program? In what way will potential partners participate? The extent to which the applicant describes how citizens will be actively engaged in the Safe Communities program.

4. Evaluation Plan (25%). How well the applicant describes the proposed evaluation design and the methods for measuring the processes and outcomes of the proposed interventions (countermeasures). How well will the Evaluation Plan be able to measure the effectiveness of the Safe Communities approach? Does the applicant provide sufficient evidence that the proposed community partnership is committed to evaluation? Are there sufficient data sources and is there sufficient capacity to collaborate with appropriate community program partners to ensure access to data; identify/create and test appropriate instruments; and collect and analyze quantitative and qualitative data for measuring the effectiveness of the Safe Communities approach? How well does the applicant ensure the availability of staff and facilities to carry out the submitted Evaluation Plan?

5. Special Competencies (15%). The extent to which the applicant has demonstrated knowledge and experience accessing and using relevant data sources, designing and implementing comprehensive program evaluations (using both qualitative and quantitative data), implementing injury control programs, and working in partnership with others on community programs.

6. Project Management and Staffing (10%). The applicant provides a reasonable plan for accomplishing the objectives of the project within the time frame set out in this announcement. The extent to which the proposed staff, including management and program staff and community partners, are clearly described, appropriately assigned, and have adequate skills and experiences. The extent to which the applicant has the capacity and facilities to design, implement, and evaluate a complex and comprehensive community program. The extent to which the applicant provides details regarding the level of effort and allocation of time for each staff position. Did the applicant submit an

organizational chart and resume for each proposed staff member?

Special Award Selection Factors

While not a requirement, applicants are strongly urged to seek funds from other Federal, State, local and private sources to augment those available under this announcement. For those applications that are evaluated as meritorious for consideration of award, preference may be given to those that have proposed cost-sharing strategies and/or have other proposed funding sources in addition to those in this announcement.

Terms and Conditions of Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR Part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR Part 29, Department of Transportation Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug Free Workplace (Grants).

2. Reporting Requirements and Deliverables:

a. Quarterly Progress Reports should include a summary of the previous quarter's activities and accomplishments, as well as the proposed activities for the upcoming quarter. Any decisions and actions required in the upcoming quarter should be included in the report. The grantee shall supply the progress report to the Contracting Officer's Technical Representative (COTR) every ninety (90) days, following date of award.

b. Program Implementation and Evaluation Review. The grantee shall submit a revised program Implementation and Evaluation Plan no more than 12 months after award of the cooperative agreement, or as soon as the Safe Communities program has completed the problem identification activity, has determined what traffic safety problem or problems will be addressed, and determined what program or programs will be implemented to reduce the traffic-related injuries. The NHTSA COTR will review and comment on this revised plan. The plan should describe the problem identification effort (data sources used, how analyzed, and the results including costs of traffic injuries to the community), how the community's traffic injury problems and proposed solutions were determined, how input was obtained from citizens, and how the program will be evaluated. This final Evaluation Plan should describe how the effectiveness of the Safe Communities program will be determined and how the process issues involved in establishing and implementing a Safe Communities program will be determined.

c. Draft Final Report and Draft Process Manual. The grantee shall prepare a Draft Final Report that includes a description of the community (including the traffic safety problem and data sources to support the problem), partners, intervention strategies, program implementation, evaluation methodology and findings from the program evaluation. The grantee shall also prepare a Draft Process Manual describing what happened in the community in establishing a Safe Communities approach to traffic injury. In terms of technology transfer, it is important to know what worked and did not work, under what circumstances, and what can be done to avoid potential problems in implementing community programs. This Process Manual shall contain the ''lessons learned'' in establishing a safe community. The grantee shall submit the Draft Final Report and Draft Process Manual to the COTR 90 days prior to the end of the performance period. The COTR will review each draft document and provide comments to the grantee within 30 days of receipt of the documents.

d. Final Report and Process Manual. The grantee shall revise the Draft Final Report and Draft Process Manual to reflect the COTR's comments. The revised documents shall be delivered to the COTR on or before the end of the performance period. The grantee shall supply the COTR one camera-ready copy, one computer disk copy in WordPerfect format, and four additional hard copies of each revised document.

3. Meetings and Briefings. The grantee shall plan for at least one meeting per year in Washington, D.C. with the NHTSA COTR and other interested parties, as well as an interim briefing approximately midway through the Project Period, and a final briefing at the end of the project period. In addition, a presentation at one or more national meetings (e.g., APHA, Lifesavers * * *) should be considered as part of the Dissemination Plan.

4. During the effective performance period of cooperative agreements awarded as a result of this announcement, the agreement, as applicable to the grantee, shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreements.

Issued on March 29, 1996.

James Hedlund,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 96–8312 Filed 4–3–96; 8:45 am]

BILLING CODE 4910–59–M

Surface Transportation Board [1]

[STB Finance Docket No. 32883]

Chester Valley Railway, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation

Chester Valley Railway, Inc. (CVR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate 2.14 route miles of rail line from Consolidated Rail Corporation known as the Bridgeport Industrial Track, between the connection with the Consolidated Rail Corporation at approximately milepost 0.0 to milepost 2.14 at Henderson Road. This 2.14 mile rail line is located entirely within Bridgeport, Montgomery County, PA.

The parties expect to consummate the proposed transaction on March 31, 1996.

This proceeding is related to *John C. Nolan—Continuance in Control Exemption—Chester Valley Railway, Inc.*, STB Finance Docket No. 32884, wherein John C. Nolan has concurrently filed a verified notice to continue to control CVR, upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32883, must be filed with the Office of the Secretary, Surface Transportation Board, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on John K. Fiorilla, Esq., Watson, Stevens, Fiorilla & Rutter, 290 George Street, P.O. Box 1185, New Brunswick, NJ 08903.

Decided: March 29, 1996.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–8291 Filed 4–3–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board[1]

[STB Finance Docket No. 32884]

John C. Nolan—Continuance in Control Exemption—Chester Valley Railway, Inc.

John C. Nolan (Nolan), a noncarrier, has filed a notice of exemption to acquire control of the Chester Valley Railway, Inc. (CVR) through ownership of 100% of its stock, upon CVR's becoming a Class III rail carrier.

This proceeding is related to *Chester Valley Railway, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation,* STB Finance Docket No. 32883, wherein CVR seeks to acquire and operate certain rail lines from the Consolidated Rail Corporation.

Nolan controls, through stock ownership, three existing Class III rail carriers all of which are operating in Pennsylvania: Lancaster Northern Railway; Bristol Industrial Terminal Railway; and East Penn Railway.

Nolan states that: (i) The railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the four railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32884, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: John K. Fiorilla, Esq., Watson, Stevens, Fiorilla & Rutter, 390 George Street, P.O. Box 1185, New Brunswick, NJ 08903.

Decided: March 29, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–8292 Filed 4–3–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

Corrections

Federal Register
Vol. 61, No. 66
Thursday, April 4, 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.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Child Nutrition Programs - Income Eligibility Guidelines

Correction

In notice document 96–6143 beginning on page 10720 in the issue of Friday, March 15, 1996 make the following correction:

On page 10721, in the table, under ALASKA, under column ''Reduced price meals - 185%'', under ''Week'', corresponding to ''Housedhold size'' of 2, ''451'' should read ''461''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-017-1920-4686; CACA 36507]

Notice of Intent to Amend Bishop Resource Management Plan, Bakersfield District, California; Notice of Exchange Proposal: Manzanar Exchange, California

Correction

In notice document 96–7390 appearing on page 13872 in the issue of Thursday, March 28, 1996, make the following correction:

On page 13872, in the third column, in the last paragraph, in the first line ''March 13, 1996'' should read ''May 13, 1996''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 175, 179 and 181

46 CFR Parts 2, 159, and 160

[CGD 93–055]

RIN 2115–AE58

Approval of Inflatable Personal Flotation Devices (PFDs) for Recreational Boaters

Correction

In rule document 96–7302 beginning on page 13924 in the issue of Thursday, March 28, 1996, make the following correction:

§ 160.048–7 [Corrected]

On page 13930, in the first column, in § 160.048–7, in the second line, ''(b)'' should read ''(d)''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE-14-81]

Proposed Collection; Comment Request

Correction

In notice document 96–6154 beginning on page 10844 in the issue of Friday, March 15, 1996 make the following correction:

On page 10844, in the third column, in the first paragraph, in the sixth line ''§1.04A'' should read ''§1.404A''.

BILLING CODE 1505–01–D

federal register

Thursday
April 4, 1996

Part II

Department of Housing and Urban Development

Low-Income Housing, Drug Elimination Grants, Funding Availability—FY 1996; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4043–N–01]

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Federally Assisted Low-Income Housing, Drug Elimination Grants, Notice of Funding Availability—FY 1996

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1996.

SUMMARY: This NOFA announces the availability of approximately $17,000,000 in FY 1996 funds for Federally Assisted Low-Income Housing Drug Elimination Grants. The purposes of the Assisted Housing Drug Elimination Program are to eliminate drug-related crime and related problems in and around the premises of Federally assisted low-income housing, and to make available grants to help owners of such housing carry out plans to address these issues. This document describes the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, financial requirements, management, and application processing, including how to apply, how selections will be made, and how applicants will be notified of results.

Note: The Congress has not yet enacted an FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of the amount likely to be enacted in 1996. HUD is not bound by the estimate set forth in this notice. The estimated amount may be adjusted based on the enacted 1996 appropriation.

DATES: Applications must be received at the local HUD Field Office on or before June 3, 1996 at 4 p.m., LOCAL TIME. This Application Deadline is Firm as to Date and Hour. In the interest of fairness to all competing applicants, HUD will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A facsimile transmission (FAX) will not constitute delivery.

ADDRESSES: (a) Application Form: An application form may be obtained from the HUD Field Office having jurisdiction over the location of the applicant project. A list of HUD Field Offices is attached to this NOFA as Appendix A. The HUD Field Office will be available to provide technical assistance in the preparation of applications during the application period. In addition, applications may be obtained from the Multifamily Housing Clearinghouse by calling 1–800–685–8470.

(b) Application Submission: Applications (original and one copy) must be received by the deadline at the appropriate HUD Field Office with jurisdiction over the applicant project, Attention: Director of Multifamily Housing. It is not sufficient for the application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. HUD will not consider applications received after the deadline.

FOR FURTHER INFORMATION CONTACT: For application materials and project-specific guidance, please contact the Office of the Director of Multifamily Housing in the HUD Field Office having jurisdiction over the project(s) in question. A list of HUD Field Offices is attached to this NOFA as Appendix A.

Policy questions of a general nature may be referred to Michael Diggs, Office of Multifamily Housing Asset Management, Department of Housing and Urban Development, Room 6182, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–0614, ext. 2514. (This number is not toll-free.) Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this Notice of Funding Availability (NOFA) have been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced in the Federal Register.

I. Purpose and Substantive Description

(a) Authority

These grants are authorized under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.), as amended by section 581 of the National Affordable Housing Act of 1990 (NAHA) (Pub. L. 101–625; approved November 28, 1990), and section 161 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992).

Note: This NOFA does NOT apply to the funding available under the statute for Public and Indian Housing.

(b) Allocation Amounts

(1) Federal Fiscal Year (FY) 1996 Funding. This NOFA announces the availability of approximately $17,000,000 in FY 1996 funds.

Note: The Congress has not yet enacted an FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of the amount likely to be enacted in 1996. HUD is not bound by the estimate set forth in this notice. The estimated amount may be adjusted based on the enacted 1996 appropriation.

HUD is allocating grant funds under this NOFA to four ''Award Offices'' on the basis of a formula allocation. This formula allocation reflects the number of eligible Federally assisted low-income housing units in specific geographic areas and the level of drug-related crime within each area, based on statistics compiled by the U.S. Department of Justice, Federal Bureau of Investigation (''Uniform Crime Reports for Drug Abuse Violations—1990'').

(2) Maximum Grant Award Amounts. The maximum grant award amount is limited to $125,000 per project.

(3) Reallocation. Any grant funds under this NOFA that are allocated but that are not reserved for grantees must be released to HUD Headquarters for reallocation. HUD reserves the right to fund portions of full applications. If the HUD Award Office determines that an application cannot be partially funded and there are insufficient funds to fund the application fully, any remaining funds after all other applications have been selected will be released to HUD Headquarters for reallocation. Amounts that may become available due to deobligation will also be reallocated to Headquarters.

All reallocated funds will be awarded in the following manner: HUD Award Offices will submit to Headquarters a list of applications, with their scores and amount of funding requested, that would have been funded had there been sufficient funds in the appropriate allocation to do so. Headquarters will select applications from those submitted by the HUD Award Offices, using a random number lottery overseen by the Offices of Housing, General Counsel, and Inspector General, and make awards from any available reallocated funds.

(4) Reduction of Requested Grant Amounts. HUD may award an amount less than requested if:

(i) HUD determines the amount requested for an eligible activity is unreasonable;

(ii) Insufficient amounts remain under the allocation to fund the full amount requested by the applicant, and HUD determines that partial funding is a viable option;

(iii) HUD determines that some elements of the proposed plan are suitable for funding and others are not;

(iv) HUD determines that a reduced grant would prevent duplicative Federal funding; or

(v) For any other reason where good cause exists.

(5) Distribution of Funds. HUD is allocating funds to four Award Offices that will receive the scores from each HUD Field Office that has received, rated, ranked, and scored its applications. Those Award Offices will, in turn, request funding for the properties with the highest score from each HUD Field Office. If sufficient funds remain, the next highest scored applications, regardless of HUD Field Office, will be awarded funds. HUD intends to allocate grant funds under this NOFA to the four Award Offices, in accordance with the following schedule:

Award office	States covered	Allocation
Buffalo	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, West Virginia, Virginia.	$4,200,000
Knoxville	Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Puerto Rico, Mississippi, Florida, Iowa, Kansas, Missouri, Nebraska.	4,300,000
Minneapolis	Illinois, Indiana, Minnesota, Wisconsin, Michigan, Ohio	4,100,000
Little Rock	Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, Arizona, California, Hawaii, Nevada, Alaska, Idaho, Oregon, Washington.	4,400,000

Note: The Congress has not yet enacted an FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of the amount likely to be enacted in 1996. HUD is not bound by the estimate set forth in this notice. The estimated amount may be adjusted based on the enacted 1996 appropriation.

(c) Eligibility

The following is a listing of eligible activities, ineligible activities, eligible applicants, and general grant requirements under this NOFA:

(1) *Eligible activities.* Please note that the maximum term of the grant is 12 months.

It is the goal and intent of the Federally Assisted Low-Income Housing Drug Elimination Grant Program to foster a sense of community in dealing with the issues of drug-related criminal activity. HUD greatly desires and encourages programs that foster interrelationships among the residents, the housing owner and management, the local law enforcement agencies, and other community groups affecting the housing. Resident participation in the determination of programs and activities to be undertaken is critical to the success of all aspects of the program. Working jointly with community groups, the neighborhood law enforcement precinct, residents of adjacent properties, and the community as a whole can enhance and magnify the effect of specific program activities and should be the goal of all applicants.

(i) *Physical Improvements to Enhance Security.* Physical improvements that are specifically designed to enhance security are eligible for funding under this program. The improvements may include (but are not limited to) systems designed to limit building access to project residents, the installation of barriers, lighting systems, fences, bolts, locks; the landscaping or reconfiguration of common areas to discourage drug-related crime; and other physical improvements designed to enhance security and discourage drug-related activities. In particular, HUD is seeking plans that provide successful, proven, and cost-effective deterrents to drug-related crime that are designed to address the realities of low-income assisted housing environments. All physical improvements must also be accessible to persons with disabilities. For example, some types of locks or buzzer systems are not accessible to persons with limited strength, mobility, or to persons who are hearing-impaired. All physical improvements must meet the accessibility requirements of 24 CFR part 8.

(ii) *Programs to Reduce the Use Of Drugs.* Programs designed to reduce the use of drugs in and around Federally-assisted low-income housing projects including drug-abuse prevention, intervention, referral, and treatment programs are eligible for funding under this program. The program should facilitate drug prevention, intervention, and treatment efforts, including outreach to community resources and youth activities, and facilitate bringing these resources onto the premises, or provide resident referrals to treatment programs or transportation to out-patient treatment programs away from the premises. Funding is permitted for reasonable, necessary, and justified leasing of vehicles for resident youth and adult education and training activities directly related to programs to reduce the use of drugs under this section of the NOFA. Alcohol-related activities/programs are not eligible for funding under this NOFA.

(A) *Drug Prevention.* Drug prevention programs that will be considered for funding under this NOFA must provide a comprehensive drug prevention approach for residents that will address the individual resident and his or her relationship to family, peers, and the community. Prevention programs must include activities designed to identify and change the factors present in Federally-assisted low-income housing that lead to drug-related problems, and thereby lower the risk of drug usage. Many components of a comprehensive approach, such as refusal and restraint skills training programs or drug-related family counseling, may already be available in the community of the applicant's housing projects, and the applicant must act to bring those available program components onto the premises. Activities that should be included in these programs are:

(*1*) *Drug Education Opportunities for Residents.* The causes and effects of illegal drug usage must be discussed in a formal setting to provide both young people and adults the working knowledge and skills they need to make informed decisions to confront the potential and immediate dangers of illegal drugs. Grantees may contract (in accordance with 24 CFR 85.36) with drug education professionals to provide appropriate training or workshops. The drug education professionals contracted to provide these services shall be required to base their services upon the

program plan of the grantee. These educational opportunities may be a part of resident meetings, youth activities, or other gatherings of residents.

(*2*) *Family and Other Support Services.* Drug prevention programs must demonstrate that they will provide directly or otherwise make available services designed to distribute drug education information, to foster effective parenting skills, and to provide referrals for treatment and other available support services in the project or the community for families living in Federally assisted low-income housing.

(*3*) *Youth Services.* Drug prevention programs must demonstrate that they have included groups composed of young people as a part of their prevention programs. These groups must be coordinated by adults with the active participation of youth to organize youth leadership, sports, recreational, cultural, and other activities involving housing youth. The dissemination of drug education information, the development of peer leadership skills, and other drug prevention activities must be a component of youth services. Activities or services funded under this program may not also be funded under the Youth Sports Program.

(*4*) *Economic/Educational Opportunities for Residents and Youth.* Drug prevention programs should demonstrate the ability to provide residents the opportunity for referral to established higher education or vocational institutions with the goal of developing or building on the residents' skills to pursue educational, vocational, and economic goals. The program must also demonstrate the ability to provide residents the opportunity to interact with private sector businesses in their immediate community for the same desired goals.

(B) *Intervention.* The aim of intervention is to identify Federally-assisted low-income housing resident drug users and assist them in modifying their behavior and in obtaining early treatment, if necessary. The applicant must establish a program with the goal of preventing drug problems from continuing once detected.

(C) *Drug Treatment.*

(*1*) Treatment funded under this program shall be in and around the premises of the Federally-assisted low-income housing projects proposed for funding.

(*2*) Funds awarded under this program shall be targeted towards the development and implementation of new drug referral treatment services and/or aftercare, or the improvement or expansion of such program services for residents.

(*3*) Each proposed drug treatment program should address the following goals:

(*i*) Increase resident accessibility to drug treatment services;

(*ii*) Decrease criminal activity in and around Federally-assisted low-income housing projects by reducing illicit drug use among residents; and

(*iii*) Provide services designed for youth and/or maternal drug abusers, e.g., prenatal/postpartum care, specialized counseling in women's issues, parenting classes, or other drug supportive services.

(*4*) Approaches that have proven effective with similar populations will be considered for funding. Programs should meet the following criteria:

(*i*) Applicants may provide the service of formal referral arrangements to other treatment programs not in and around the project when the resident is able to obtain treatment costs from sources other than this program. Applicants may also provide transportation for residents to out-patient treatment and/or support programs.

(*ii*) Provide family/collateral counseling.

(*iii*) Provide linkages to educational/vocational counseling.

(*iv*) Provide coordination of services to appropriate local drug agencies, HIV-related service agencies, and mental health and public health programs.

(*v*) Applicants must demonstrate a working partnership with the Single State Agency or State license provider or authority with drug program coordination responsibilities to coordinate, develop, and implement the drug treatment proposal. In particular, applicants must review and determine with the Single State Agency or State license provider or authority with drug program coordination responsibilities whether:

(*A*) The drug treatment provider(s) has provided drug treatment services to similar populations, identified in the application, for two prior years; and

(*B*) The drug treatment proposal is consistent with the State treatment plan and the treatment service meets all State licensing requirements.

(iii) *Resident Councils (RCs).* Providing funding to resident councils to strengthen their role in developing programs of eligible activities involving site residents is eligible for funding under this program.

(2) *Ineligible activities.* Funding is not permitted for any activities listed below:

(i) Any activity or improvement that is normally funded from project operating revenues for routine maintenance or repairs, or those activities or improvements that may be funded through reasonable and affordable rent increases.

(ii) The acquisition of real property or physical improvements that involve the demolition of any units in the project or displacement of tenants.

(iii) Costs incurred prior to the effective date of the grant agreement, including, but not limited to, consultant fees for surveys related to the application or its preparation.

(iv) Reimbursement of local law enforcement agencies for additional security and protective services.

(v) The employment of one or more individuals:

(A) To investigate drug-related crime on or about the real property comprising any Federally-assisted low-income project; or

(B) To provide evidence relating to such crime in any administrative or judicial proceeding.

(vi) The provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials.

(vii) Funding is not permitted for treatment of residents at any in-patient medical treatment programs/facilities.

(viii) Funding is not permitted for detoxification procedures, short term or long term, designed to reduce or eliminate the presence of toxic substances in the body tissues of a patient.

(ix) Funding is not permitted for maintenance drug programs. Maintenance drugs are medications that are prescribed regularly for a long period of supportive therapy (e.g., methadone maintenance), rather than for immediate control of a disorder.

(3) *Eligible Applicants.* The applicant must be the owner of a Federally assisted low-income housing project under:

(i) Section 221(d)(3), section 221(d)(4), or section 236 of the National Housing Act. (Note however, only section 221(d)(4) and section 221(d)(3) market rate projects with project-based assistance contracts are considered Federally assisted low-income housing. Therefore, section 221(d)(4) and section 221(d)(3) market rate projects with tenant-based assistance contracts are not considered Federally assisted low-income housing and are not eligible for funding.);

(ii) Section 101 of the Housing and Urban Development Act of 1965; or

(iii) Section 8 of the United States Housing Act of 1937.

(4) *General Grant Requirements.* The following requirements apply to all activities, programs, or functions used

to plan, budget and evaluate the work funded under this program.

(i) After applications have been ranked and selected, HUD and the applicant shall enter into a grant agreement setting forth the amount of the grant, the physical improvements or other eligible activities to be undertaken, financial controls, and special conditions, including sanctions for violation of the agreement.

(ii) The policies, guidelines and requirements of this NOFA, 48 CFR part 31, other applicable OMB cost principles, HUD program regulations, HUD Handbooks, and the terms of grant/special conditions and subgrant agreements apply to the acceptance and use of assistance by grantees and will be followed in determining the reasonableness and allocability of costs. All costs must be reasonable and necessary.

(iii) The term of funded activities may not exceed 12 months.

(iv) Owners must ensure that any funds received under this program are not commingled with other HUD or project operating funds.

(v) To avoid duplicate funding owners must establish controls to assure that any funds from other sources, such as Reserve for Replacement or Rent Increases, are not used to fund the physical improvements to be undertaken under this program.

(vi) Employment preference. A grantee under this program shall give preference to the employment of residents, and comply with section 3 of the Housing and Urban Development Act of 1968 and 24 CFR part 135, to carry out any of the eligible activities under this part, so long as such residents have comparable qualifications and training as nonresident applicants.

(vii) Termination of funding. HUD may terminate funding if the grantee fails to: undertake the approved program activities on a timely basis in accordance with the grant agreement, adhere to grant agreement requirements or special conditions, or submit timely and accurate reports.

(viii) Subgrants (subcontracting):

(A) A grantee may directly undertake any of the eligible activities under this NOFA, or it may contract with a qualified third party, including incorporated Resident Councils (RCs). Resident groups that are not incorporated RCs may share with the grantee in the implementation of the program, but may not receive funds as subgrantees.

(B) Subgrants or cash contributions to incorporated RCs may be made only under a written agreement executed between the grantee and the RC. The agreement must include a program budget that is acceptable to the grantee, and that is otherwise consistent with the grant application budget. The agreement must obligate the incorporated RC to permit the grantee to inspect and audit the RC financial records related to the agreement, and to account to the grantee on the use of grant funds and the implementation of program activities. In addition, the agreement must describe the nature of the activities to be undertaken by the subgrantee, the scope of the subgrantee's authority, and the amount of insurance to be obtained by the grantee and the subgrantee to protect their respective interests.

(C) The grantee shall be responsible for monitoring, and for providing technical assistance to, any subgrantee to ensure compliance with HUD program requirements, including OMB Circular Nos. A–110 and A–122, which apply to the acceptance and use of assistance by private nonprofit organizations. The procurement requirements of Attachment O of Circular A–110 apply to RCs. The grantee must also ensure that subgrantees have appropriate insurance liability coverage.

(d) Selection Criteria and Ranking Factors

HUD will review each application to determine that it meets the requirements of this NOFA and to assign points in accordance with the selection criteria. A total of 200 points is the maximum score available under the selection criteria. An application must receive a score of at least 151 points out of the maximum of 200 points that may be awarded under this competition to be eligible for funding. After assigning points to each application, HUD Field Offices will rank the applications in order. The Award Office will select the highest ranking application from each HUD Field Office whose eligible activities can be fully funded. The Award Office will then select the highest scored unfunded application submitted to it regardless of Field Office and continue the process until all funds allocated to it have been awarded or to the point that there are insufficient acceptable applications for which to award funds.

Grants under this program are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321). However, prior to the award of grant funds under the program, HUD will perform an environmental review to the extent required under the provisions of 24 CFR 50.4.

Each application submitted will be evaluated on the basis of the following selection criteria:

(1) The Quality of the Plan to Address the Problem. (maximum points: 60)

In assessing this criterion, HUD will consider the following factors:

(i) The quality of the applicant's plan to address the drug-related crime problem, and the problems associated with drug-related crime, in the projects proposed for funding, and how well the activities proposed for funding fit in with the plan. (maximum points: 10)

(ii) The anticipated effectiveness of the plan and the proposed activities in reducing or eliminating drug-related crime problems over an extended period. (maximum points: 10)

(iii) How the activities identified in the plan will affect and address the problem of drug-related crime in adjacent properties. (maximum points: 5)

(iv) Evidence that the proposed activities have been found successful in similar circumstances in terms of controlling drug-related crime. (maximum points: 5)

(v) Whether the property is located within an area identified as having a Safe Neighborhood Action Plan (SNAP) or similar plan or program designated for combatting drug-related criminal activity. (0 points if not, 20 points if so located.)

(vi) Whether the property is participating in Neighborhood Networks (NN) (formerly called Computerized Community Connections (CCC)) and has submitted a NN Plan or other evidence of commitment to NN (see section III.(j) of this NOFA). (maximum points: 10 for submitting a NN Plan, 5 for submitting other evidence committing to NN.)

(2) The Support of Local Government/ Law Enforcement Agencies. (maximum points: 20)

In assessing this criterion, HUD will consider the following factors:

(i) Evidence that the project owner has sought assistance in deterring drug-related crime problems and the extent to which the owner has participated in programs that are available from local governments or law enforcement agencies; (maximum points: 10); and

(ii) The level of support by the local government or law enforcement agency for the applicant's proposed activities. (maximum points: 10)

(3) The Extent of the Drug-Related Crime Problem in the Housing Project Proposed for Assistance. (maximum points: 50)

In assessing this criterion, HUD will consider the degree of severity of the drug-related crime problem in the project proposed for funding, as

demonstrated by the information required to be submitted under section III.(h) of this NOFA.

(4) The Support of Residents in Planning and Implementing the Proposed Activities. (maximum points: 30)

In assessing this criterion, HUD will consider the following factors:

(i) Evidence that comments and suggestions have been sought from residents to the proposed plan for this program, and the degree to which residents will be involved in implementation. (maximum points: 20)

(ii) Evidence of resident support for the proposed plan. (maximum points: 10)

(5) Capacity of Owner and Management to Undertake the Proposed Activities: (maximum points: 40)

In assessing this criterion, HUD will consider the following:

(i) The most recent Management Review completed by the HUD Field Office. (Note: The HUD Field Office will conduct another management review after application submission if the most recent management review is more than one year old). (maximum points: 30)

(ii) Submission of evidence that project owners have initiated other efforts to reduce drug-related crime by working with tenant/law enforcement groups (e.g., establishment of Tenant Watches or similar efforts). (maximum points: 5)

(iii) Submission of evidence that project management carefully screens applicants for units and takes appropriate steps to deal with known or suspected tenants exhibiting drug-related criminal behavior. (maximum points: 5)

II. Application Process

(a) Application Form: An application form may be obtained from the HUD Field Office having jurisdiction over the location of the applicant project. The HUD Field Office will be available to provide technical assistance on the preparation of applications during the application period.

(b) Application Submission: A separate application must be submitted for each project. An application (original and one copy) must be received by the deadline at the appropriate HUD Field Office with jurisdiction over the applicant project, Attention: Director of Multifamily Housing. It is not sufficient for the application to bear a postage date within the submission time period. Applications submitted by facsimile (FAX) are not acceptable and will not be considered. Applications received after the deadline will not be considered. No applications will be accepted after 4:00 PM (local time) in the appropriate HUD Field Office on June 3, 1996. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

(c) Application Notification. HUD will notify all applicants whether or not they were selected for funding.

III. Checklist of Application Submission Requirements

To qualify for a grant under this program, an applicant must submit an application to HUD that contains the following:

(a) Application for Federal Assistance form (Standard Form SF–424 and SF–424A). The form must be signed by the applicant.

(b) A description of the applicant's plan for addressing the problem of drug-related crime in the projects for which funding is sought, which should include the activities to be funded under this program along with all other initiatives being undertaken by the applicant. The description should also include a discussion of:

(1) The anticipated effectiveness of the plan and the proposed activities in reducing or eliminating drug-related crime problems over an extended period.

(2) How the activities identified in the plan will affect and address the problem of drug-related crime in adjacent properties.

(3) Other efforts that project owners have initiated to reduce drug-related crime by working with tenant/law enforcement groups (e.g., establishment of Tenant Watches or similar efforts).

(4) Procedures that project management uses to screen applicants for units, and steps taken to deal with known or suspected tenants exhibiting drug-related criminal behavior.

(c) Each applicant for funding for physical improvements must submit a written plan fully describing the physical improvements to be undertaken with per unit dollar costs for each item. This plan must be signed by the owner.

(d) Each applicant must submit a letter from the local government or police (law enforcement) agency that describes the type of drug-related crime in the project proposed for grant funding and its immediate environs, and expresses a commitment to assist the owner in taking steps to reduce or eliminate the drug-related crime problems of the project.

(e) A description of the procedure used to involve residents in the development of the plan, and written summaries of any comments and suggestions received from residents on the proposed plan, along with evidence that the owner carefully considered the comments of residents and incorporated their suggestions in the plan, when practical.

(f) A description of the support of residents for the proposed activities, and the ways in which residents will be involved in implementing the plan. Letters of support from residents or a resolution from the resident organization may be used.

(g) A copy of the most recent management review performed by HUD, and evidence supporting the capacity of the owner and management to undertake the proposed activities.

(h) Detailed information, such as local government and police reports, showing the degree of drug-related crime in the project and adjacent properties to demonstrate the degree of severity of the drug-related crime problem. This information may consist of:

(1) Objective data. The best available objective data on the nature, source, and extent of the drug-related crime problem, and the problems associated with drug-related crime. These data may include (but are not necessarily limited to) crime statistics from Federal, State, tribal, or local law enforcement agencies, or information from the applicant's records on the types and sources of drug-related crime in the project proposed for assistance; descriptive data as to the types of offenders committing drug-related crime in the applicant's project (e.g., age, residence, etc.); the number of lease terminations or evictions for drug-related criminal activity; the number of emergency room admissions for drug use or drug-related crime; the number of police calls for drug-related criminal activity; the number of residents placed in treatment for substance abuse; and the school drop-out rate and level of absenteeism for youth. If crime statistics are not available at the project or precinct level, the applicant may use other reliable objective data including those derived from the owner's records or those of private groups that collect such data. The crime statistics should be reported both in real numbers and as a percentage of the residents in each project (e.g., 20 arrests for distribution of heroin in a project with 100 residents reflects a 20 percent occurrence rate).

The data should cover the past 3-year period and, to the extent feasible, should indicate whether these data reflect a percentage increase or decrease in drug-related crime over the past several years. Applicants must address in their assessment how these crimes have affected the project and how the applicant's overall plan and strategy is specifically tailored to address these drug-related crime problems.

(2) Other data on the extent of drug-related crime. To the extent that objective data as described under paragraph (1)(i) of this section may not be available, or to complement that data, the assessment may use relevant information from other sources that have a direct bearing on drug-related crime problems in the project proposed for assistance. However, if other relevant information is to be used in place of, rather than to complement, objective data, the application must indicate the reason(s) why objective data could not be obtained and what efforts were made to obtain it. Examples of other data include: resident/staff surveys on drug-related issues or on-site reviews to determine drug activity; the use of local government or scholarly studies or other research conducted in the past year that analyze drug activity in the targeted project; vandalism costs and related vacancies attributable to drug-related crime; information from schools, health service providers, residents and police; and the opinions and observations of individuals having direct knowledge of drug-related crime problems concerning the nature and extent of those problems in the project proposed for assistance. (These individuals may include law enforcement officials, resident or community leaders, school officials, community medical officials, drug treatment or counseling professionals, or other social service providers.)

(i) If applying for drug treatment program funding, a certification that the applicant has notified and consulted with the relevant Single State Agency or other local authority with drug program coordination responsibilities concerning its application; and that the proposed drug treatment program has been reviewed by the relevant Single State Agency or other local authority and that it is consistent with the State treatment plan; and that the relevant Single State Agency or other local authority has determined that the drug treatment provider(s) has provided drug treatment services to similar populations identified in the application for two prior years.

(j) If applying for Neighborhood Network (NN) points under section I.(d)(1)(vi) of this NOFA, an applicant must have an approved NN Plan, submitted a Plan to the Field Office for review, or provide other evidence that a commitment to NN is forthcoming. This evidence may include either a resolution of the resident council supporting NN for the project to be established during the period of the Drug Elimination Grant or a similar statement from the owner and managing agent.

(k) Drug-free workplace. The certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F and appendix C.

(l) Disclosure of Lobbying Activities. If the amount applied for is greater than $100,000, the certification with regard to lobbying required by 24 CFR part 87 must be included. See section VI.(g), below, of this NOFA. If the amount applied for is greater than $100,000 and the applicant has made or has agreed to make any payment using nonappropriated funds for lobbying activity, as described in 24 CFR part 87, the submission must also include the Disclosure of Lobbying Activities Form (SF-LLL).

(m) Form HUD–2880, Applicant/Recipient Disclosure/Update Report.

IV. Corrections to Deficient Applications

HUD will notify the applicant within ten (10) working days of the receipt of the application if there are any curable technical deficiencies in the application. Curable technical deficiencies relate to minimum eligibility requirements (such as certifications, signatures, etc.) that are necessary for funding approval but that do not relate to the quality of the applicant's program proposal under the selection criteria. The owner must submit corrections in accordance with the information provided by HUD within 14 calendar days of the date of the HUD notification.

VI. Other Matters.

(a) Nondiscrimination and Equal Opportunity. The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) (42 U.S.C. 3600–20) and implementing regulations issued at 24 CFR chapter I, subchapter A; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(3) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR part 60–1;

(4) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(5) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701a), and with implementing regulations in 24 CFR part 135.

(b) Environmental Impact. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying from 7:30 to 5:30 weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC.

(c) Federalism Impact. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the provisions of this NOFA do not have ''federalism implications'' within the meaning of the Order. The NOFA announces the availability of funds and provides the application requirements for Federally Assisted Low-Income Housing Drug Elimination Grants focusing on activities designed to deter drug-related crime. Deterring drug-related crime 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.

(d) Family Impact. The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the policies announced in this NOFA will not have a significant impact on the formation, maintenance, and general well-being of

families, except indirectly to the extent of the social and other benefits expected from this program of assistance.

(e) Section 102 HUD Reform Act Applicant/Recipient Disclosures. *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 in 24 CFR part 4. 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 in the Federal Register (57 FR 1942) 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. 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 5-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 part 4, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Disclosures. HUD will make available to the public for 5 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 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 15, subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(f) Section 103 HUD Reform Act. HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified in 24 CFR part 4, apply to this funding competition. The requirements of the regulations 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 about what information may be discussed with them during the selection may contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD should contact the appropriate Field Office Counsel or Headquarters counsel for the program to which the question pertains.

(g) 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 subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Authority: 42 U.S.C. 11901 et seq.

Dated: March 27, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix A: Field Office Addresses and Telephone Numbers

Note: The first line of the mailing address for all offices is Department of Housing and Urban Development. Telephone numbers listed are not toll-free.

HUD—NEW ENGLAND AREA

CONNECTICUT STATE OFFICE
First Floor
330 Main Street
Hartford, CT 06106–1860
(203) 240–4523

MAINE STATE OFFICE
99 Franklin Street
Bangor, ME 04401–4925
(207) 945–0467

MASSACHUSETTS STATE OFFICE
Room 375
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street
Boston, MA 02222–1092
(617) 565–5234

NEW HAMPSHIRE STATE OFFICE
Norris Cotton Federal Building
275 Chestnut Street
Manchester, NH 03101–2487
(603) 666–7681

RHODE ISLAND STATE OFFICE
Sixth Floor
10 Weybosset Street
Providence, RI 02903–2808
(401) 528–5351

VERMONT STATE OFFICE
Room 244
Federal Building
11 Elmwood Ave.
P.O. Box 879
Burlington, VT 05402–0879
(802) 951–6290

HUD—NEW YORK, NEW JERSEY AREA

NEW JERSEY STATE OFFICE
Thirteenth Floor
One Newark Center
Newark, NJ 07102–5260
(201) 622–7900

NEW YORK STATE OFFICE
26 Federal Plaza
New York, NY 10278–0068
(212) 264–6500

ALBANY AREA OFFICE
52 Corporate Circle
Albany, NY 12203–5121
(518) 464–4200

BUFFALO AREA OFFICE
Fifth Floor
Lafayette Court
465 Main Street
Buffalo, NY 14203–1780
(716) 846–5755

CAMDEN AREA OFFICE
Second Floor
Hudson Building
800 Hudson Square
Camden, NJ 08102–1156
(609) 757–5081

HUD—MIDATLANTIC AREA

DELAWARE STATE OFFICE
Suite 850
824 Market Street
Wilmington, DE 19801–3016
(302) 573–6300

DISTRICT OF COLUMBIA OFFICE
820 First Street, NE
Washington, D.C. 20002–4205
(202) 275–9200

MARYLAND STATE OFFICE
Fifth Floor
City Crescent Building
10 South Howard Street
Baltimore, MD 21201–2505
(401) 962–2520

PENNSYLVANIA STATE OFFICE
The Wanamaker Building
100 Pennsylvania Sq. East
Philadelphia, PA 19107–3390
(215) 656–0548

VIRGINIA STATE OFFICE
The 3600 Centre
3600 West Broad Street
P.O. Box 90331
Richmond, VA 23230–0331
(804) 278–4507

WEST VIRGINIA STATE OFFICE
Suite 708
405 Capitol Street
Charleston, WV 25301–1795
(304) 347–7000

PITTSBURGH AREA OFFICE
412 Old Post Office Courthouse
7th Avenue and Grant Street
Pittsburgh, PA 15219–1906
(412) 644–6428

HUD—SOUTHEAST/CARIBBEAN AREA

ALABAMA STATE OFFICE
Suite 300
Beacon Ridge Tower
600 Beacon Parkway, West
Birmingham, AL 35209–3144
(205) 290–7617

CARIBBEAN OFFICE
New San Juan Office Building
159 Carlos E. Chardon Avenue
San Juan, PR 00918–1804
(809) 766–6121

FLORIDA STATE OFFICE
1320 S. Dixie Highway
Coral Gables, FL 33146–2911
(305) 662–4500

GEORGIA STATE OFFICE
Richard B. Russell Federal Building
75 Spring Street, S.W.
Atlanta, GA 30303–3388
(404) 331–5136

KENTUCKY STATE OFFICE
601 West Broadway
P.O. Box 1044
Louisville, KY 40201–1044
(502) 582–5251

MISSISSIPPI STATE OFFICE
Suite 910
Doctor A.H. McCoy Federal Building
100 West Capitol Street
Jackson, MS 39269–1096
(601) 965–5308

NORTH CAROLINA STATE OFFICE
Koger Building
2306 West Meadowview Road
Greensboro, NC 27407–3707
(919) 547–4001

SOUTH CAROLINA STATE OFFICE
Strom Thurmond Federal Building
1835 Assembly Street
Columbia, SC 29201–2480
(803) 765–5592

TENNESSEE STATE OFFICE
Suite 200
251 Cumberland Bend Drive
Nashville, TN 37228–1803
(615) 736–5213

JACKSONVILLE AREA OFFICE
Suite 2200
Southern Bell Tower
301 West Bay Street
Jacksonville, FL 32202–5121
(904) 232–2626

KNOXVILLE AREA OFFICE
Third Floor
John J. Duncan Federal Building
710 Locust Street, SW
Knoxville, TN 37902–2526
(423) 545–4384

MEMPHIS AREA OFFICE
Suite 1200
One Memphis Place
200 Jefferson Avenue
Memphis, TN 38103–2335
(901) 544–3367

ORLANDO AREA OFFICE
Suite 270
Langley Building
3751 Maguire Boulevard
Orlando, FL 32803–3032
(407) 648–6441

TAMPA AREA OFFICE
Suite 700
Timberlake Federal Building Annex
501 East Polk Street
Tampa, FL 33602–3945
(813) 228–2501

HUD—MIDWEST AREA

ILLINOIS STATE OFFICE
Ralph H. Metcalfe Federal Building
77 West Jackson Boulevard
Chicago, IL 60604–3507
(312) 353–5680

INDIANA STATE OFFICE
151 North Delaware Street
Indianapolis, IN 46204–2526
(317) 226–6303

MICHIGAN STATE OFFICE
Patrick V. McNamara Federal Building
477 Michigan Avenue
Detroit, MI 48226–2592
(313) 226–7900

MINNESOTA STATE OFFICE
220 Second Street, South
Minneapolis, MN 55401–2195
(612) 370–3000

OHIO STATE OFFICE
200 North High Street
Columbus, OH 43215–2499
(614) 469–5737

WISCONSIN STATE OFFICE
Suite 1380
Henry S. Reuss Federal Plaza
310 West Wisconsin Avenue
Milwaukee, WI 53203–2289
(414) 297–3214

CINCINNATI AREA OFFICE
Room 9002 Federal Office Building
550 Main Street
Cincinnati, OH 45202–3253
(513) 684–2884

CLEVELAND AREA OFFICE
Fifth Floor
Renaissance Building
1350 Euclid Avenue
Cleveland, OH 44115–1815
(216) 522–4058

FLINT AREA OFFICE
Room 200
605 North Saginaw Street
Flint, MI 48502–1953
(313) 766–5109

GRAND RAPIDS AREA OFFICE
2922 Fuller Avenue, NE
Grand Rapids, MI 49503–3499
(616) 456–2100

SPRINGFIELD AREA OFFICE
Suite 206
509 West Capitol Street
Springfield, IL 62704–1906
(217) 492–4085

HUD—SOUTHWEST AREA

ARKANSAS STATE OFFICE
Suite 900
TCBY Tower
425 West Capitol Avenue
Little Rock, AR 72201–3488
(501) 324–5931

LOUISIANA STATE OFFICE
Fisk Federal Building
1661 Canal Street
New Orleans, LA 70112–2887
(504) 589–7200

NEW MEXICO STATE OFFICE
625 Truman Street, NE
Albuquerque, NM 87110–6443
(505) 262–6463

OKLAHOMA STATE OFFICE
500 Main Street
Oklahoma City, OK 73102–3202
(405) 553–7500

TEXAS STATE OFFICE
1600 Throckmorton Street
P.O. Box 2905
Fort Worth, TX 76113–2905
(817) 885–5401

DALLAS AREA OFFICE
Room 860
525 Griffin Street
Dallas, TX 75202–5007
(214) 767–8359

HOUSTON AREA OFFICE
Suite 200
Norfolk Tower
2211 Norfolk
Houston, TX 77098–4096
(713) 834–3274

LUBBOCK AREA OFFICE
Federal Office Building
1205 Texas Avenue
Lubbock, TX 79401–4093
(806) 743–7265

SAN ANTONIO AREA OFFICE
Washington Square
800 Dolorosa Street
San Antonio, TX 78207–4563
(210) 229–6800

SHREVEPORT AREA OFFICE
Suite 1510

401 Edwards Street
Shreveport, LA 71101–3107
(318) 676–3385

TULSA AREA OFFICE
Suite 110
Boston Place
1516 South Boston Street
Tulsa, OK 74119–4032
(918) 581–7434

GREAT PLAINS

IOWA STATE OFFICE
Room 239
Federal Building
210 Walnut Street
Des Moines, IA 50309–2155
(515) 284–4512

KANSAS/MISSOURI STATE OFFICE
Room 200
Gateway Tower II
400 State Avenue
Kansas City, KS 66101–2406
(913) 551–5462

NEBRASKA STATE OFFICE
Executive Tower Centre
10909 Mill Valley Road
Omaha, NE 68154–3955
(402) 492–3100

SAINT LOUIS AREA FIELD OFFICE
Third Floor
Robert A. Young Federal Building
1222 Spruce Street
St. Louis, MO 63103–2836
(314) 539–6583

HUD—ROCKY MOUNTAINS AREA

COLORADO STATE OFFICE
633 17th Street
Denver, CO 80202–3607
(303) 672–5440

MONTANA STATE OFFICE
Room 340
Federal Office Building, Drawer 10095
301 S. Park
Helena, MT 59626–0095
(406) 449–5205

NORTH DAKOTA STATE OFFICE
Federal Building
653 2nd Avenue North
P.O. Box 2483
Fargo, ND 58108–2483
(701) 239–5136

SOUTH DAKOTA STATE OFFICE
Suite I–201
2400 West 49th Street
Sioux Falls, SD 57105–6558
(605) 330–4223

UTAH STATE OFFICE
Suite 550
257 Tower
257 East, 200 South
Salt Lake City, UT 84111–2048

WYOMING STATE OFFICE
4225 Federal Office Building
100 East B Street
P.O. Box 120
Casper, WY 82602–1918
(307) 261–5252

HUD—PACIFIC/HAWAII AREA

ARIZONA STATE OFFICE
Suite 1600
Two Arizona Center
400 North 5th Street
Phoenix, AZ 85004–2361
(602) 379–4434

CALIFORNIA STATE OFFICE
Philip Burton Federal Building and U.S. Courthouse
450 Golden Gate Avenue
P.O. Box 36003
San Francisco, CA 94102–3448
(415) 556–4752

HAWAII STATE OFFICE
Suite 500
7 Waterfront Plaza
500 Ala Moana Boulevard
Honolulu, HI 96813–4918
(808) 522–8175

NEVADA STATE OFFICE
Suite 205
1500 E. Tropicana Avenue
Las Vegas, NV 89119–6516
(702) 388–6500

FRESNO AREA OFFICE
Suite 138
1630 E. Shaw Avenue
Fresno, CA 93710–8193
(209) 487–5033

LOS ANGELES AREA OFFICE
1615 West Olympic Boulevard
Los Angeles, CA 90015–3801
(213) 251–7122

RENO AREA OFFICE
Suite 114
1575 Delucchi Lane
Reno, NV 89502–6581
(702) 784–5356

SACRAMENTO AREA OFFICE
Suite 200
777 12th Avenue
Sacramento, CA 95814–1997
(916) 551–1351

SAN DIEGO AREA OFFICE
Suite 300
Mission City Corporate Center
2365 Northside Drive
San Diego, CA 92108–2712
(619) 557–5310

SANTA ANA AREA OFFICE
Suite 500
3 Hutton Centre
Santa Ana, CA 92707–5764
(714) 957–7333

TUCSON AREA OFFICE
Suite 700
Security Pacific Bank Plaza
33 North Stone Avenue
Tucson, AZ 85701–1467
(602) 670–6237

HUD—NORTHWEST/ALASKA AREA

ALASKA STATE OFFICE
Suite 401
University Plaza Building
949 East 36th Avenue
Anchorage, AK 99508–4399
(907) 271–4170

IDAHO STATE OFFICE
Suite 220
Plaza IV
800 Park Boulevard
Boise, ID 83712–7743
(208) 334–1990

OREGON STATE OFFICE
520 S.W. 6th Avenue
Portland, OR 97204–1596
(503) 326–2561

WASHINGTON STATE OFFICE
Suite 200
Seattle Federal Office Building
909 First Avenue
Seattle, WA 98104–1000
(206) 220–5101

SPOKANE AREA OFFICE
Eighth Floor East
Farm Credit Bank Building
West 601 First Avenue
Spokane, WA 99204–0317
(509) 353–2510

[FR Doc. 96–8271 Filed 4–3–96; 8:45 am]

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federal register

Thursday
April 4, 1996

Part III

The President

Proclamation 6877—National Day of Prayer, 1996

Federal Register
Vol. 61, No. 66
Thursday, April 4, 1996

Presidential Documents

Title 3—

The President

Proclamation 6877 of April 2, 1996

National Day of Prayer, 1996

By the President of the United States of America

A Proclamation

America's heritage is rich with expressions of faith in God. Indeed, the desire for religious freedom was one of the chief reasons that early settlers risked their lives to come to this land. Many of those who braved the long ocean journey were men and women of devout religious beliefs who sought a new home where they might worship without persecution. The authors of our Constitution recognized this history in the language of the first amendment, and through times of uncertainty, sorrow, and pain, the citizens of the United States have called upon the wisdom and mercy of the Almighty for guidance and strength.

A National Day of Prayer, first proclaimed by the Continental Congress in 1775, stems from the understanding that faith is a fundamental part of our Nation's social fabric. In an impassioned speech before the Constitutional Convention in 1787, Benjamin Franklin put the importance of prayer in perspective, proposing that ''. . . prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business . . . . '' And so it has been to this day in statehouses all over our great land.

Today we cherish the liberties the first immigrants fought so hard to obtain, and we enjoy a degree of freedom and prosperity only dreamed of 200 years ago. And though our citizens come from every nation on Earth and observe an extraordinary variety of religious faith and traditions, prayer remains at the heart of the American spirit. We face many of the same challenges as our forebears—ensuring the survival of freedom and sustaining faith in an often hostile world—and we continue to pray, as they did, for the blessings of a just and benevolent God to guide our Nation's course.

This occasion calls us to affirm our country's spiritual roots and to humbly express our gratitude to the source of our abundant good fortune. As we seek to renew the values that have long strengthened America's families and communities, let us reach out to God and to one another for wisdom and courage. We should celebrate this day in the tradition of our founders who believed that God governs in the affairs of men and women, and who based their greatest hopes, dreams, and aspirations on the surety of divine protection.

The Congress, by Public Law 100–307, has called on our citizens to reaffirm annually our dependence on Almighty God by recognizing a ''National Day of Prayer.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 2, 1996, as a National Day of Prayer. I encourage every citizen of this great Nation to pray, each in his or her own manner, seeking strength from God to face the challenges of today, requesting guidance for the uncertainties of tomorrow, and giving thanks for the rich blessings that our Nation has enjoyed throughout our history. ''Do not pray for easy lives,'' said John F. Kennedy in 1963, ''Pray to be stronger . . . .'' May it be so with each of us.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of April, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96–8605
Filed 4–3–96; 11:10 am]
Billing code 3195–01–P

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Vol. 61, No. 66

Thursday, April 4, 1996

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