

# Federal Register

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



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

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:	
Paper or fiche	202-512-1800
Assistance with public subscriptions	512-1806
General online information	202-512-1530
Single copies/back copies:	
Paper or fiche	512-1800
Assistance with public single copies	512-1803

FEDERAL AGENCIES

Subscriptions:	
Paper or fiche	523-5243
Assistance with Federal agency subscriptions	523-5243
For other telephone numbers, see the Reader Aids section at the end of this issue.	

FEDERAL REGISTER WORKSHOP

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

- FOR: Any person who uses the Federal Register and Code of Federal Regulations.
- WHO: Sponsored by the Office of the Federal Register.
- WHAT: Free public briefings (approximately 3 hours) to present:
  1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

- WHEN: May 14, 1996 at 9:00 am  
May 21, 1996 at 9:00 am
- WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)
- RESERVATIONS: 202-523-4538



# Contents

Federal Register

Vol. 61, No. 90

Wednesday, May 8, 1996

## Agency for Toxic Substances and Disease Registry

### NOTICES

Grants and cooperative agreements; availability, etc.:  
Hazardous waste sites; human health studies; applied  
research and development, 20821–20824

## Agricultural Marketing Service

### RULES

Florida grapefruit, oranges, tangelos, and tangerines; grade  
standards, 20702–20716

Marketing orders; stipulation procedures, 20717–20718

Melons grown in Texas, 20718–20719

Milk marketing orders:

New York–New Jersey and Middle Atlantic, 20719–20721

### PROPOSED RULES

Fluid milk promotion order, 20759–20760

Limes grown in Florida and imported, 20754–20756

Prunes grown in Washington and Oregon and imported,  
20756–20759

## Agriculture Department

See Agricultural Marketing Service

See Animal and Plant Health Inspection Service

See Foreign Agricultural Service

See Forest Service

## Air Force Department

### NOTICES

Environmental statements; notice of intent:

Base realignment and closure—

McChord AFB, WA, 20809

Holloman Air Force Base, NM; German Air Force aircraft  
operations expansion, 20809

## Alcohol, Tobacco and Firearms Bureau

### RULES

Technical amendments, 20721–20726

## Animal and Plant Health Inspection Service

### RULES

Plant-related quarantine, domestic:

Karnal bunt disease—

California; correction, 20877

## Army Department

See Engineers Corps

### NOTICES

Meetings:

Science Board, 20810

## Centers for Disease Control and Prevention

### NOTICES

Agency information collection activities:

Proposed collection; comment request, 20825

Grants and cooperative agreements; availability, etc.:

Childhood immunization demonstration projects;  
academic medical center/community health network,  
20826–20831

## Commerce Department

See Export Administration Bureau

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

See Patent and Trademark Office

## Commodity Futures Trading Commission

### NOTICES

Agency information collection activities:

Submission for OMB review; comment request, 20808

## Corporation for National and Community Service

### NOTICES

Grants and cooperative agreements; availability, etc.:

Learn and Serve America—

K–12 school-based programs for Indian tribes and U.S.  
territories, 20808–20809

## Defense Department

See Air Force Department

See Army Department

See Engineers Corps

See Navy Department

## Employment and Training Administration

### NOTICES

Adjustment assistance:

Bayer Clothing Group, Inc., et al., 20835

Haggar Clothing Co., 20835

Nesor Alloy Corp., 20836

Quantum Corp., 20836

R.D. Simpson, Inc., et al., 20836

Zena Enterprises, 20836

Agency information collection activities:

Proposed collection; comment request, 20836–20837

NAFTA transitional adjustment assistance:

R.D. Simpson, Inc., et al., 20837–20838

## Employment Standards Administration

### NOTICES

Minimum wages for Federal and federally-assisted

construction; general wage determination decisions,  
20838–20839

## Energy Department

See Federal Energy Regulatory Commission

## Engineers Corps

### NOTICES

Environmental statements; notice of intent:

Miami River, Dade County, FL; maintenance dredging,  
20810

## Environmental Protection Agency

### RULES

Air pollution; standards of performance for new stationary  
sources:

Small industrial-commercial-institutional steam  
generating units, 20734–20736

Air pollution control; new motor vehicles and engines:

New non-road spark-ignition and compression-ignition  
engines; reduced certification reporting requirements,  
20738–20742

## Air programs:

## Fuel and fuel additives—

Reformulated gasoline sold in California; Reid Vapor  
Pressure lower limit adjustment, 20736–20738

Air quality implementation plans; approval and  
promulgation; various States:

Idaho, 20730–20732

Texas, 20732–20734

Pesticides; tolerances in food, animal feeds, and raw  
agricultural commodities:

Avermectin B1 and delta-8,9-isomer, 20745–20746

Clomazone, 20743–20745

Lactofen, 20742–20743

## Water pollution control:

## Clean Water Act—

State permitting programs; State law challenge  
requirement; approval or denial of Section 402  
permits, 20972–20980

**PROPOSED RULES**

## Air pollutants, hazardous; national emission standards:

Radon emissions from phosphogypsum stacks, 20775–  
20779

## Air pollution control; new motor vehicles and engines:

New non-road spark ignition and compression-ignition  
engines; reduced certification reporting requirements,  
20779–20780

## Air programs:

## Fuel and fuel additives—

Reformulated gasoline sold in California; Reid Vapor  
Pressure lower limit adjustment, 20779

Pesticides; tolerances in food, animal feeds, and raw  
agricultural commodities:

Avermectin B1 and delta-8,9-isomer, 20780–20781

Fluorine compounds, 20781–20785

## Superfund program:

National oil and hazardous substances contingency  
plan—

National priorities list update, 20785–20789

**NOTICES**

## Agency information collection activities:

Proposed collection; comment request; correction, 20814

## Endocrine disruption by chemicals:

Screening and testing strategy development; public  
meeting, 20815

## Pesticide registration, cancellation, etc.:

Ciba-Geigy Corp. et al., 20816

## Pesticides; emergency exemptions, etc.:

Carbofuran, 20816–20817

## Pesticides; temporary tolerances:

Glufosinate-ammonium, 20818

Superfund; response and remedial actions, proposed  
settlements, etc.:

Albion-Sheridan Landfill Site, MI, 20818–20819

National Pin Service Site, NC, 20819

## Water pollution control:

## Clean Water Act—

Class II administrative penalty assessments, 20819

**Equal Employment Opportunity Commission****PROPOSED RULES**

## Unsupervised Waivers of Rights and Claims under Age

Discrimination in Employment Act Regulatory

Guidance Negotiated Rulemaking Advisory Committee:

Meetings, 20768

**Executive Office of the President**

See Management and Budget Office

**Export Administration Bureau****NOTICES**

## Meetings:

President's Export Council, 20790

**Federal Aviation Administration****RULES**

## Airworthiness standards:

Manned free balloons—

Burner testing; correction, 20877

**PROPOSED RULES**

## Airworthiness directives:

Airbus, 20762–20764

Gulfstream, 20764–20766

## Airworthiness standards:

Special conditions—

Sikorsky model S76C helicopter, 20760–20762

**NOTICES**

## Environmental statements; availability, etc.:

John F. Kennedy International and La Guardia Airports,

NY; terminal Doppler weather radar, 20874–20875

Seattle-Tacoma International Airport, WA, 20875

**Federal Communications Commission****RULES**

## Common carrier services:

Calling number identification service (Caller ID);  
interstate calls—

Waiver, 20746–20747

## Radio stations; table of assignments:

California, 20747

**PROPOSED RULES**

## Radio stations; table of assignments:

Iowa, 20789

**NOTICES***Applications, hearings, determinations, etc.:*

Southwestern Broadcasting Corp., 20819–20820

**Federal Emergency Management Agency****NOTICES**

Federal radiological emergency response plan, 20944–20970

**Federal Energy Regulatory Commission****NOTICES**

## Environmental statements; availability, etc.:

Power Authority of State of New York, 20813–20814

*Applications, hearings, determinations, etc.:*

Boston Edison Co., 20811

Granite State Gas Transmission, Inc., 20812

MidAmerican Energy Co., 20812–20813

Semass Partnership, 20813

**Federal Maritime Commission****NOTICES**

## Freight forwarder licenses:

CJC International Services, Inc., et al., 20820

**Federal Reserve System****NOTICES**

## Banks and bank holding companies:

Formations, acquisitions, and mergers, 20820

Permissible nonbanking activities, 20821

Meetings; Sunshine Act, 20821

**Fish and Wildlife Service****NOTICES**

Endangered and threatened species permit applications,

20833

**Food and Drug Administration****NOTICES**

## Meetings:

Advisory committees, panels, etc., 20831–20833

**Foreign Agricultural Service****NOTICES**

## Meetings:

World Food Summit, U.S. Public Forum, 20790

**Foreign-Trade Zones Board****NOTICES***Applications, hearings, determinations, etc.:*

New York, 20791

Washington, 20791

**Forest Service****RULES**

## National recreation areas:

Smith River National Recreation Area, CA; mineral operations, 20726

**NOTICES**

## Land and jurisdiction transfers, etc.:

Sam Rayburn Dam and Reservoir Project, TX; correction, 20877

## Meetings:

Western Washington Cascades Provincial Interagency Executive Committee Advisory Committee, 20790

**Health and Human Services Department**

See Agency for Toxic Substances and Disease Registry

See Centers for Disease Control and Prevention

See Food and Drug Administration

See Health Care Financing Administration

**Health Care Financing Administration****NOTICES**

## Agency information collection activities:

Proposed collection; comment request, 20833

**Housing and Urban Development Department****PROPOSED RULES**

## Low income housing:

Housing assistance payments (Section 8)—

Fair market rent schedules (1997 FY), 20982–21041

**Interior Department**

See Fish and Wildlife Service

See Land Management Bureau

See National Park Service

See Surface Mining Reclamation and Enforcement Office

**Internal Revenue Service****PROPOSED RULES**

## Employment taxes and collection of income taxes at source:

Federal Unemployment Tax Act (FUTA) and Federal Insurance Contributions Act (FICA); taxation of amounts under employee benefit plans

Hearing, 20767–20768

## Income taxes:

Loans to plan participants or beneficiaries; hearing, 20766–20767

## Income taxes and employment taxes and collection of income taxes at source:

Temporary employment; information reporting and backup withholding; hearing, 20767

**International Trade Administration****NOTICES**

## Antidumping:

Ferrosilicon from—

Brazil, 20793–20795

Titanium sponge from—

Russian Federation, 20795

## Antidumping and countervailing duties:

Administrative review requests, 20791–20792

## Countervailing duties:

Antifriction bearings (other than tapered roller bearings) and parts from—

Singapore, 20796–20799

Ball bearings and parts from—

Thailand, 20799–20803

Extruded rubber thread from—

Malaysia, 20803

**Labor Department**

See Employment and Training Administration

See Employment Standards Administration

See Mine Safety and Health Administration

**Land Management Bureau****NOTICES**

## Meetings:

Green River Basin Advisory Committee, 20833

## Motor vehicle use restrictions:

California, 20834

**Management and Budget Office****NOTICES**

Cost principles for educational institutions (Circular A–21), 20880–20941

**Mine Safety and Health Administration****RULES**

## Coal mine safety and health:

Underground coal mines—

Ventilation; safety standards; correction, 20877

**National Aeronautics and Space Administration****NOTICES**

## Meetings:

Space Science Advisory Committee, 20839, 20839

**National Labor Relations Board****NOTICES**

Meetings; Sunshine Act, 20839–20840

**National Oceanic and Atmospheric Administration****PROPOSED RULES**

## Fishery conservation and management:

Atlantic bluefish, 20789

**NOTICES**

## Grants and cooperative agreements; availability, etc.:

Chesapeake Bay stock assessments; research projects for improvement in stock conditions of Chesapeake Bay fisheries, 20803–20807

## Meetings:

South Atlantic Fishery Management Council, 20808

## Permits:

Marine mammals, 20808

**National Park Service****PROPOSED RULES**

## Special regulations:

Voyageurs National Park, MN; aircraft operations; designation of areas, 20775

**NOTICES**

## Meetings:

Gates of Arctic National Park Subsistence Resource Commission, 20834

## Realty actions; sales, leases, etc.:

Alabama, 20834  
New Jersey, 20834–20835

**Navy Department****NOTICES**

## Environmental statements; availability, etc.:

Reactor plants from decommissioned and defueled cruisers and Ohio and Los Angeles Class submarines; disposal, 20810–20811

**Nuclear Regulatory Commission****NOTICES**

## Operating licenses, amendments; no significant hazards considerations; biweekly notices, 20842–20865

## Privacy Act:

Systems of records, 20865–20867

*Applications, hearings, determinations, etc.:*

Cleveland Electric Illuminating & Ohio Edison Co. et al., 20840  
Philadelphia Electric Co., 20840–20842

**Office of Management and Budget**

See Management and Budget Office

**Patent and Trademark Office****PROPOSED RULES**

## Patent cases:

Fee revisions  
Correction, 20877

**Personnel Management Office****RULES**

Prevailing rate systems, 20701–20702

**NOTICES**

## Agency information collection activities:

Proposed collection; comment request, 20867

**Presidential Documents****PROCLAMATIONS***Special observances:*

Asian/Pacific American Heritage Month (Proc. 6892), 21045

**Public Health Service**

See Agency for Toxic Substances and Disease Registry

See Centers for Disease Control and Prevention

See Food and Drug Administration

**Railroad Retirement Board****NOTICES**

Meetings; Sunshine Act, 20867

**Research and Special Programs Administration****RULES**

## Hazardous materials:

Radioactive materials transportation; International Atomic Energy Agency regulations compatibility, 20747–20753

**Securities and Exchange Commission****RULES**

## Organization, functions, and authority delegations:

Enforcement Division Director, 20721

**NOTICES**

## Self-regulatory organizations; proposed rule changes:

American Stock Exchange, Inc., 20871–20872

*Applications, hearings, determinations, etc.:*

Corporacion Financiera Nacional Y Suramericana S.A., 20867–20869

Indigo Group, Ltd., et al., 20869–20871

**Social Security Administration****NOTICES**

## Agency information collection activities:

Proposed collection; comment request, 20872–20873

**State Department****NOTICES**

## Environmental statements; availability, etc.:

Eagle Pass, TX; new international bridge, 20873–20874

## Presidential permits:

Eagle Pass, TX; new international bridge, 20874

**Surface Mining Reclamation and Enforcement Office****PROPOSED RULES**

## Federal regulatory review:

Permanent program and abandoned mine land reclamation plan submissions, 20768–20773

## Permanent program and abandoned mine land reclamation plan submissions:

Wyoming, 20773–20775

**Surface Transportation Board****PROPOSED RULES**

## Practice and procedure:

Licensing and related services; user fees  
Correction, 20877

**Toxic Substances and Disease Registry Agency**

See Agency for Toxic Substances and Disease Registry

**Transportation Department**

See Federal Aviation Administration

See Research and Special Programs Administration

See Surface Transportation Board

**Treasury Department**

See Alcohol, Tobacco and Firearms Bureau

See Internal Revenue Service

**United States Information Agency****NOTICES**

## Art objects; importation for exhibition:

Olmec Art of Ancient Mexico, 20875

**Veterans Affairs Department****RULES**

## Adjudication; pensions, compensation, dependency, etc.:

Miscellaneous amendments, 20726–20727

## Vocational rehabilitation and education:

Educational assistance; technical amendments, 20727–20730

**NOTICES**

## Meetings:

Cemeteries and Memorials Advisory Committee, 20875–20876

**Separate Parts In This Issue****Part II**

Office of Management and Budget, 20880–20941

---

**Part III**

Federal Emergency Management Agency, 20944–20970

**Part IV**

Environmental Protection Agency, 20972–20980

**Part V**

Department of Housing and Urban Development, 20982–  
21041

**Part VI**

The President, 21045

---

**Reader Aids**

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

---

**Electronic Bulletin Board**

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

**CFR PARTS AFFECTED IN THIS ISSUE**

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

<b>3 CFR</b>	902.....	20768
<b>Proclamations:</b>	904.....	20768
6892.....	906.....	20768
	913.....	20768
<b>5 CFR</b>	914.....	20768
532.....	915.....	20768
	916.....	20768
<b>7 CFR</b>	917.....	20768
51.....	918.....	20768
301.....	920.....	20768
900.....	950.....	20768
979.....		
1002.....	<b>36 CFR</b>	
1004.....	292.....	20726
	<b>Proposed Rules:</b>	
<b>Proposed Rules:</b>	7.....	20775
911.....		
924.....	<b>37 CFR</b>	
944 (2 documents).....	<b>Proposed Rules:</b>	
	1.....	20877
1160.....		
	<b>38 CFR</b>	
<b>14 CFR</b>	3.....	20726
31.....	21.....	20727
	<b>Proposed Rules:</b>	
29.....		
39 (2 documents).....	<b>40 CFR</b>	
	52 (2 documents).....	20730,
		20732
	60.....	20734
<b>17 CFR</b>	80.....	20736
200.....	89.....	20738
	90.....	20738
<b>24 CFR</b>	123.....	20972
<b>Proposed Rules:</b>	180 (3 documents).....	20743,
888.....		20743, 20745
	<b>Proposed Rules:</b>	
<b>26 CFR</b>	61.....	20775
<b>Proposed Rules:</b>	80.....	20779
1 (2 documents).....	89.....	20779
	90.....	20779
31.....	180 (2 documents).....	20780,
32.....		20781
35a.....	185.....	20780
	186 (2 documents).....	20780,
<b>27 CFR</b>		20781
1.....	300.....	20785
4.....		
7.....	<b>47 CFR</b>	
16.....	64.....	20746
19.....	73.....	20747
20.....	<b>Proposed Rules:</b>	
21.....	73.....	20789
22.....		
24.....	<b>49 CFR</b>	
25.....	172.....	20747
53.....	173.....	20747
55.....	174.....	20747
71.....	176.....	20747
170.....	<b>Proposed Rules:</b>	
178.....	1002.....	20877
179.....		
194.....	<b>50 CFR</b>	
197.....	<b>Proposed Rules:</b>	
200.....	628.....	20789
250.....		
251.....		
252.....		
270.....		
275.....		
285.....		
290.....		
296.....		
	<b>29 CFR</b>	
<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	
Ch. XIV.....	Ch. XIV.....	20768
<b>30 CFR</b>		
75.....		
<b>Proposed Rules:</b>		
901.....		

# Rules and Regulations

Federal Register  
Vol. 61, No. 90  
Wednesday, May 8, 1996

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

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

## OFFICE OF PERSONNEL MANAGEMENT

**5 CFR Part 532**  
**RIN 3206-AH28**

### Prevailing Rate Systems; Changes in Survey Responsibilities for Certain Appropriated Fund Federal Wage System Wage Areas

**AGENCY:** Office of Personnel Management.  
**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a final rule to change survey responsibilities for several appropriated fund Federal Wage System (FWS) wage areas in recognition of shifting employment patterns among agencies and the need for lead agencies to balance their wage

survey workloads throughout the 2-year survey cycle. The changes are designed to improve administration of the Federal Wage System and affect the following local wage areas: Eastern South Dakota; Ft. Wayne-Marion, Indiana; Madison, Wisconsin; Buffalo, New York; Pittsburgh, Pennsylvania; Augusta, Maine; Southeastern Michigan; and Southwestern Oregon.

**EFFECTIVE DATE:** June 7, 1996.  
**FOR FURTHER INFORMATION CONTACT:** Angela Graham Humes, (202) 606-2848.

**SUPPLEMENTARY INFORMATION:** On February 9, 1996, OPM published a proposed rule (61 FR 4940) to change the survey responsibilities (lead agency designation and/or wage survey timing) for eight appropriated fund FWS wage areas (Eastern South Dakota; Ft. Wayne-Marion, Indiana; Madison, Wisconsin; Buffalo, New York; Pittsburgh, Pennsylvania; Augusta, Maine; Southeastern Michigan; and Southwestern Oregon). The proposed rule provided for a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the proposed rule is being adopted as a final rule.

Regulatory Flexibility Act  
I certify that these regulations will not have a significant economic impact on

a substantial number of small entities because they will affect only Federal agencies and employees.

### List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.  
Lorraine A. Green,  
*Deputy Director.*

Accordingly, OPM is amending 5 CFR part 532 as follows:

### PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix A to subpart B of part 532 is amended by revising the entries for Fort Wayne-Marion, Indiana; Augusta, Maine; Southwestern Michigan; Buffalo, New York; Southwestern Oregon; Pittsburgh, Pennsylvania; Eastern South Dakota; and Madison, Wisconsin, and by adding a footnote to read as follows:

### APPENDIX A TO SUBPART B OF PART 532—NATIONWIDE SCHEDULE OF APPROPRIATED FUND REGULAR WAGE SURVEYS

State	Wage area	Lead agency	Beginning month of survey	Fiscal year of full scale odd or even
Indiana	Fort Wayne-Marion	DoD	October	Odd.
Maine	Augusta <sup>1</sup>	VA	May	Even.
Michigan	Southwestern Michigan <sup>1</sup>	VA	October	Odd.
New York	Buffalo <sup>1</sup>	DoD	September	Odd.
Oregon	Southwestern Oregon	VA	June	Even.
Pennsylvania	Pittsburgh	VA	July	Odd.
South Dakota	Eastern South Dakota <sup>1</sup>	DoD	October	Even.
Wisconsin	Madison	DoD	July	Even.

APPENDIX A TO SUBPART B OF PART 532—NATIONWIDE SCHEDULE OF APPROPRIATED FUND REGULAR WAGE SURVEYS—Continued

State	Wage area	Lead agency	Beginning month of survey	Fiscal year of full scale odd or even
*	*	*	*	*

<sup>1</sup> The revised fiscal year entries are scheduled to begin for Augusta, Maine, in fiscal year 1996; for Buffalo, New York, and Southwestern Michigan in fiscal year 1997; and for Eastern South Dakota in fiscal year 1998.

[FR Doc. 96-11379 Filed 5-7-96; 8:45 am]  
BILLING CODE 6325-01-M

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 51**

[Docket Number FV-93-301]

**Florida Grapefruit, Florida Oranges and Tangelos, and, Florida Tangerines; Grade Standards**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the United States Standards for Grades of Florida Grapefruit, United States Standards for Grades of Florida Oranges and Tangelos, and, United States Standards for Grades of Florida Tangerines. The Agricultural Marketing Service (AMS), in cooperation with industry, and other interested parties develops and improves standards of quality, condition, quantity, grade and packaging in order to facilitate commerce by providing buyers, sellers, and quality assurance personnel uniform language and criteria for describing various levels of quality and condition as valued in the marketplace.

The revisions will: Redefine terms to reflect more clearly current cultural and marketing practices; add and revise the grades so as to make them uniform and consistent with each other and other recently revised U.S. grade standards; express defect tolerances in terms of percentages instead of specific numbers of defective fruit; revise the size sections to provide greater flexibility in marketing and packaging new varieties of fruit; and, delete references to a visual aid which is no longer available.

**EFFECTIVE DATE:** This regulation is effective August 1, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 1, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Frank O'Sullivan, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2056 South Building, Washington, DC 20090-6456, (202) 720-2185.

**SUPPLEMENTARY INFORMATION:** The U.S. Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. The revision of U.S. Standards for Grades of Florida Grapefruit, U.S. Standards for Grades of Florida Oranges and Tangelos, and U.S. Standards for Grades of Florida Tangerines will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses.

The final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The proposed rule, United States Standards for Grades of Florida Grapefruit, Florida Orange and Tangelos, and Florida Tangerines, was published in the Federal Register on February 22, 1995, (60 FR 9990-10004).

The Florida Citrus Packers (FCP), which represents the majority of citrus growers and packers in Florida,

requested that the standards be revised in order to bring them into conformity with current cultural, harvesting and marketing practices developed since the standards were last revised in December 1980.

The 60-day comment period ended April 24, 1995, and a total of fourteen comments were received from growers, shippers, receivers, and researchers.

Nine comments from growers, and shippers were in favor of the proposal in its entirety. These commentators agreed that due to changes in current cultural, harvesting, and marketing practices of Florida citrus, it was necessary to change the standards as proposed.

A copy of the proposed rule was provided to the Agricultural Research Service (ARS) for help in identifying studies, data collection or other information concerning the possible effect of the proposed revision on pesticide use. ARS was unable to identify any relevant information.

One comment from a broker did not address the provisions of the proposal, and indicated that the standards do not pertain to them.

One comment stated that they were "not in favor of the proposed changes and that there needs to be an effort to bring about standardization of grades of citrus." AMS disagrees. In light of the vast differences between the various citrus growing regions in the United States and the necessary differences in their respective citrus products, it would not be helpful to commerce in these commodities to create one U.S. standard that could not accurately identify quality and condition characteristics.

Two comments were in favor of the proposal except for its provisions regarding size, bruising, oil spots and skin breakdown. One comment from a grower/shipper/marketer stated that in the proposal §§ 51.762, 51.1153, and 51.1822 paragraph (a) concerning "approved and recognized methods" could be misconstrued to refer to pack patterns in the current size sections and therefore should reference the Florida Department of Citrus Code, a State regulation. AMS disagrees. Although

size and pack may be closely associated, it is not AMS's intent to dictate how the fruit is packed, but to create a uniform and consistent size for the type of pack that the marketplace demands. In light of this, AMS is of the view that references to Florida State regulations are no longer needed and that the size section remain as proposed.

The grower/shipper/marketer also commented that the defects, oil spotting and skin breakdown should be scored on the same basis as they are often mistaken for one another. AMS agrees that these defects may be mistaken for each other. Nonetheless, it is AMS's experience that AMS Agricultural Commodity Graders and others who are familiar with these defects can distinguish them. Moreover, as oil spotting is a permanent defect and skin breakdown is a condition defect of a progressive nature, that it is important to identify between these two defects. Many who trade in these commodities need to know whether they have defects of a progressive nature or not, in order to market the fruit accordingly. Therefore, these defects will remain as proposed.

A receiver commented that the size sections should remain as it is currently. It is their opinion that the present size designations "provide for great flexibility in the packing of numerous varieties of fruit in various types and sizes of containers." However, this is not the case. Due to the shapes of some of the new varieties of citrus, and the various sizes of containers, the current size and pack provisions are too stringent for growers/shippers to market these types of citrus fruits. Also, certain markets request that the fruit be packed in a specific way in order to meet their market demands. Therefore, AMS is of the view that proposed changes to the size section will give the flexibility needed to the entire citrus industry when marketing these new varieties of citrus.

The receiver also commented on the proposed changes to bruising, in that they should remain as they are in the current standards. There appears to be some confusion as to how bruises would be scored based on the proposed changes. Bruising will be scored the same as it is in the current standards. The only change to the defect, bruising, is where it appears in the standards. Rather than being under the basic requirements section of the standards it will be under the "free from injury, free from damage, free from serious damage, and free from very serious damage" sections and defined in the classification of defects sections. Therefore, with no change as to how

bruising will be scored, but only the location of the defect in the standards, no change is warranted.

Further, due to an oversight the proposed §§ 51.762, 51.1153, and 51.1822, are not included in this final rule. Because the standards are revising the tolerances from a specific number of defective fruit to percentages, a specified sample size is no longer needed. Also, by deleting a specific sample size the application of tolerance sections were updated to allow for defects in consumer type packages. Similar provisions appear currently in the California and Arizona citrus standards.

As a matter of technical change and updating references, the paragraphs incorporating text by reference to maturity requirements for citrus grown in Florida have been revised. Specifically, §§ 51.767, 51.1158 and 51.1823 Maturity, for grapefruit, oranges and tangelos, and tangerines, respectively, have been revised to incorporate by reference the latest Florida citrus requirements. The latest edition of the State of Florida Citrus Fruit Laws is 1995 edition, and the latest edition of the Official Rules Affecting the Florida Citrus Industry is effective January 1, 1975, as amended. There are no apparent procedure changes as a result of this change, however, this does make the incorporation by reference current.

AMS develops and improves standards of quality, condition, grade, and packaging in order to facilitate efficient marketing. The provisions of this final rule are the same as those in the proposed rule, except for the changes noted above in response to the comments received, and several minor editorial changes made for clarity.

#### List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Incorporation by reference, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

#### **PART 51—[AMENDED]**

1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In part 51, subpart—United States Standards for Grades of Florida Grapefruit is revised to read as follows:

#### **Subpart—United States Standards for Grades of Florida Grapefruit**

##### Grades

##### Sec.

51.750	U.S. Fancy.
51.751	U.S. No. 1 Bright.
51.752	U.S. No. 1.
51.753	U.S. No. 1 Golden.
51.754	U.S. No. 1 Bronze.
51.755	U.S. No. 1 Russet.
51.756	U.S. No. 2 Bright.
51.757	U.S. No. 2.
51.758	U.S. No. 2 Russet.
51.759	U.S. No. 3.

##### Tolerances

51.760 Tolerances.

##### Application of Tolerances

51.761 Application of tolerances.

##### Size

51.762 Size.

##### Definitions

51.763	Similar varietal characteristics.
51.764	Well colored.
51.765	Firm.
51.766	Well formed.
51.767	Mature.
51.768	Smooth texture.
51.769	Injury.
51.770	Discoloration.
51.771	Fairly well colored.
51.772	Fairly smooth texture.
51.773	Damage.
51.774	Fairly firm.
51.775	Slightly misshapen.
51.776	Slightly rough texture.
51.777	Serious damage.
51.778	Slightly colored.
51.779	Poorly colored.
51.780	Misshapen.
51.781	Slightly spongy.
51.782	Very serious damage.
51.783	Diameter.
51.784	Classification of defects.

#### **Subpart—United States Standards for Grades of Florida Grapefruit**

##### Grades

##### **§ 51.750 U.S. Fancy.**

"U.S. Fancy" consists of grapefruit which meet the following requirements:

(a) Basic requirements:  
(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.770.);

(2) Firm;  
(3) Mature;  
(4) Similar varietal characteristics;  
(5) Smooth texture;  
(6) Well colored; and,  
(7) Well formed.

(b) Free from:

(1) Ammoniation;  
(2) Buckskin;  
(3) Caked melanose;  
(4) Decay;  
(5) Scab;  
(6) Sprayburn;

- (7) Unhealed skin breaks; and,
  - (8) Wormy fruit.
- (c) Free from injury caused by:

- (1) Bruises;
- (2) Green spots;
- (3) Oil spots;
- (4) Scale;
- (5) Scars;
- (6) Skin breakdown; and,
- (7) Thorn scratches.

- (d) Free from damage caused by:
- (1) Dirt or other foreign material;
  - (2) Disease;
  - (3) Dryness or mushy condition;
  - (4) Hail;
  - (5) Insects;
  - (6) Sprouting;
  - (7) Sunburn; and,
  - (8) Other means.
- (e) For tolerances see § 51.760.

**§ 51.751 U.S. No. 1 Bright.**

The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.760.

**§ 51.752 U.S. No. 1.**

“U.S. No. 1” consists of grapefruit which meet the following requirements:

- (a) Basic requirements:

(1) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.770.);

- (2) Fairly smooth texture;

- (3) Fairly well colored;

- (4) Firm;

- (5) Mature;

- (6) Similar varietal characteristics;

and,

- (7) Well formed.

- (b) Free from:

- (1) Decay;

- (2) Unhealed skin breaks; and,

- (3) Wormy fruit.

- (c) Free from damage caused by:

- (1) Ammoniation;

- (2) Bruises;

- (3) Buckskin;

- (4) Caked melanose;

- (5) Dirt or other foreign material;

- (6) Disease;

- (7) Dryness or mushy condition;

- (8) Green spots;

- (9) Hail;

- (10) Insects;

- (11) Oil spots;

- (12) Scab;

- (13) Scale;

- (14) Scars;

- (15) Skin breakdown;

- (16) Sprayburn;

- (17) Sprouting;

- (18) Sunburn;

- (19) Thorn scratches; and,

- (20) Other means.

- (d) For tolerances see § 51.760.

**§ 51.753 U.S. No. 1 Golden.**

The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. For tolerances see § 51.760.

**§ 51.754 U.S. No. 1 Bronze.**

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on each of these fruits shall be of rust mite type. For tolerances see § 51.760.

**§ 51.755 U.S. No. 1 Russet.**

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.760.

**§ 51.756 U.S. No. 2 Bright.**

The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.760.

**§ 51.757 U.S. No. 2.**

“U.S. No. 2” consists of grapefruit which meet the following requirements:

- (a) Basic requirements:

(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.770.);

- (2) Fairly firm;

- (3) Mature;

- (4) Similar varietal characteristics;

- (5) Slightly colored;

- (6) Not more than slightly misshapen;

and,

- (7) Not more than slightly rough

texture.

- (b) Free from:

- (1) Decay;

- (2) Unhealed skin breaks; and,

- (3) Wormy fruit.

(c) Free from serious damage caused by:

- (1) Ammoniation;

- (2) Bruises;

- (3) Buckskin;

- (4) Caked melanose;

- (5) Dirt or other foreign material;

- (6) Disease;

- (7) Dryness or mushy condition;

- (8) Green spots;

- (9) Hail;

- (10) Insects;

- (11) Oil spots;

- (12) Scab;

- (13) Scale;

- (14) Scars;

- (15) Skin breakdown;

- (16) Sprayburn;

- (17) Sprouting;

- (18) Sunburn;

- (19) Thorn scratches; and,

- (20) Other means.

- (d) For tolerances see § 51.760.

**§ 51.758 U.S. No. 2 Russet.**

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.760.

**§ 51.759 U.S. No. 3.**

“U.S. No. 3” consists of grapefruit which meet the following requirements:

- (a) Basic requirements:

- (1) Mature;

- (2) Misshapen;

- (3) Poorly colored;

- (4) Rough texture, not seriously bumpy;

- (5) Similar varietal characteristics; and,

- (6) Slightly spongy.

- (b) Free from:

- (1) Decay;

- (2) Unhealed skin breaks; and,

- (3) Wormy fruit.

- (c) Free from very serious damage caused by:

- (1) Ammoniation;

- (2) Bruises;

- (3) Buckskin;

- (4) Caked melanose;

- (5) Disease;

- (6) Dryness or mushy condition;

- (7) Hail;

- (8) Insects;

- (9) Oil spotting;

- (10) Scab;

- (11) Scale;

- (12) Scars;

- (13) Skin breakdown;

- (14) Sprayburn;

- (15) Sprouting;

- (16) Sunburn; and,

- (17) Other means.

- (d) For tolerances see § 51.760.

**Tolerances**

**§ 51.760 Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

- (a) *Defects.* (1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet,

U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet.

(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay or wormy fruit.

(2) U.S. No. 3.

(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, that included in this amount not more than 1 percent shall be for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 3 percent for decay or wormy fruit.

(b) *Discoloration*—(1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within percentage specified.

(2) *U.S. No. 1 Golden.* Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more than 40 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot

averages within the percentage specified.

(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet.* At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 20 percent of the fruit with required discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(4) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further*, that the entire lot averages within the percentage specified.

#### Application of Tolerances

##### § 51.761 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, unless otherwise specified in § 51.760: *Provided*, that the average for the entire lot are within the tolerances specified for the grade:

(a) For packages which contain more than 15 pounds, and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 15 pounds, and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one decayed or very seriously damaged fruit may be permitted in any package.

(b) For packages which contain 15 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided*, that not more than one fruit which is decayed or otherwise very seriously damaged may be permitted in any package and, in addition, en route or at destination not more than 10 percent of the packages may have more than one fruit which is decayed or otherwise very seriously damaged.

#### Size

##### § 51.762 Size.

(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.

(b) "Fairly uniform in size" means that not more than 10 percent of the grapefruit per sample may vary more than one-half inch in diameter.

(c) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

#### Definitions

##### § 51.763 Similar varietal characteristics.

*Similar varietal characteristics* means that the fruits in any container are similar in color and shape.

##### § 51.764 Well colored.

*Well colored* means that the fruit has characteristic color for the variety with practically no trace of green color.

##### § 51.765 Firm.

*Firm* means that the fruit is not soft, or noticeably wilted or flabby, and the skin is not spongy or puffy.

##### § 51.766 Well formed.

*Well formed* means that the fruit has the shape characteristic of the variety.

##### § 51.767 Mature.

*Mature* shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These grapefruit maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.16, 601.17, and 601.18, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20-13 Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids in effect as of February 12, 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, Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065-S, 14th and Independence Ave., Washington, DC 20250 or at the Office of the Federal Register, Suite 700, 800 North Capitol Street, Washington, DC.

##### § 51.768 Smooth texture.

*Smooth texture* means that the skin is thin and smooth for the variety and size of the fruit. "Thin" means that the skin thickness does not average more than 3/8 inch (9.5 mm), on a central cross section, on grapefruit 4 1/8 inches (104.8 mm) in diameter.

##### § 51.769 Injury.

*Injury* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any

<sup>1</sup> Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.770 Discoloration.**

*Discoloration* means russetting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck-type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed in the grade.

**§ 51.771 Fairly well colored.**

*Fairly well colored* means that except for an aggregate area of green color which does not exceed the area of a circle 1 inch (25.4 mm) in diameter, the characteristic color predominates over the green color.

**§ 51.772 Fairly smooth texture.**

*Fairly smooth texture* means that the skin is fairly thin and not coarse for the variety and size of the fruit. "Fairly thin" means that the skin thickness does not average more than 1/2 inch (12.7 mm), on a grapefruit 4 1/8 inches (104.8 mm) in diameter.

**§ 51.773 Damage.**

*Damage* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.774 Fairly firm.**

*Fairly firm* means that the fruit may be slightly soft, but not bruised, and the skin is not spongy or puffy.

**§ 51.775 Slightly misshapen.**

*Slightly misshapen* means that the fruit has fairly good shape characteristic of the variety and is not more than slightly elongated or pointed or otherwise deformed.

**§ 51.776 Slightly rough texture.**

*Slightly rough texture* means that the skin may be slightly thick but not excessively thick, materially ridged or grooved. "Slightly thick" means that the skin thickness does not average more than 5/8 inch (15.9 mm), on a central cross section, on a grapefruit 4 1/8 inches (104.8 mm) in diameter.

**§ 51.777 Serious damage.**

*Serious damage* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance,

or the edible or marketing quality of the fruit.

**§ 51.778 Slightly colored.**

*Slightly colored* means that except for an aggregate area of green color which does not exceed the area of a circle 2 inches (50.8 mm) in diameter, the fruit surface shows some characteristic color.

**§ 51.779 Poorly colored.**

*Poorly colored* means that not more than 25 percent of the surface may be of a solid dark green color.

**§ 51.780 Misshapen.**

*Misshapen* means that the fruit is decidedly elongated, pointed, or flatsided.

**§ 51.781 Slightly spongy.**

*Slightly spongy* means that the fruit is puffy or slightly wilted but not flabby.

**§ 51.782 Very serious damage.**

*Very serious damage* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.783 Diameter.**

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end.

**§ 51.784 Classification of defects.**

TABLE I

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation .....	.....	Not occurring as light speck type.	Scars are cracked or dark and aggregating more than a circle 1 inch (25.4 mm) in diameter.	Aggregating more than 25 percent of the surface.
Bruises .....	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Fruit is split open, peel is badly water-soaked, or rag is ruptured and juice sacs are ruptured causing a mushy condition affecting all segments more than 3/4 inch (19.1 mm) at bruised area or the equivalent of this amount, by volume, when affecting more than one area on the fruit.
Buckskin .....	.....	Aggregating more than a circle 1-1/4 inches (31.8 mm) in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose .....	.....	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than a circle 1 inch (25.4 mm) in diameter.	Aggregating more than 25 percent of the surface.

TABLE I—Continued

Factor	Injury	Damage	Serious damage	Very serious damage
Dryness or mushy condition		Affecting all segments more than ¼ inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ½ inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than ¾ inch (19.1 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots	Aggregating more than a circle ½ inch (12.7 mm) in diameter, caused by scale.	Aggregating more than a circle ¾ inch (19.1 mm) in diameter, caused by scale.	Aggregating more than a circle 1 inch (25.4 mm) in diameter, caused by scale.	Aggregating more than 1/3 of the surface, caused by scale.
Oil spots	Aggregating more than a circle ½ inch (12.7 mm) in diameter.	Aggregating more than a circle 1 inch (25.4 mm) in diameter.	Aggregating more than a circle 1½ inches (38.1 mm) in diameter.	Aggregating more than ⅓ of the surface.
Scab		Materially detracts from the shape or texture, or aggregating more than a circle ¾ inch (19.1 mm) in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 7/8 inch (22.2 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scale	More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit.	Blotch aggregating more than a circle ¾ inch (19.1 mm) in diameter, or occurring as a ring more than a circle 1¾ inches (31.8 mm) in diameter.	Blotch aggregating more than a circle 1 inch (25.4 mm) in diameter, or occurring as a ring more than a circle 1½ inches (38.1 mm) in diameter..	Aggregating more than 25 percent of the surface.
Scars, Hail, or Thorn scratches [For smooth or fairly smooth superficial scars see §51.770.]	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Very deep or very rough aggregating more than a circle ½ inch (12.7 mm) in diameter; deep or rough aggregating more than a circle 1 inch (25.4 mm) in diameter; slightly rough or of slight depth aggregating more than 10 percent of fruit surface.	Very deep or very rough aggregating more than a circle 1 inch (25.4 mm) in diameter; deep or rough aggregating more than 5 percent of fruit surface; slight depth or slightly rough aggregating more than 15 percent of fruit surface.	Very deep or very rough or unsightly that appearance is very seriously affected.
Skin breakdown	Aggregating more than a circle ⅜ inch (9.5 mm) in diameter.	Aggregating more than a circle ¾ inch (19.1 mm) in diameter.	Aggregating more than a circle 1 inch (25.4 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprayburn		Aggregating more than a circle ¾ inch (19.1 mm) in diameter.	Hard and aggregating more than a circle 1½ inches (38.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprouting		More than six seeds have sprouts of more than ¼ inch (6.4 mm) in length, or more than 3 seeds with sprouts over ¾ inch (19.1 mm) in length.	More than six seeds have sprouts of more than ½ inch (12.7 mm) in length, or more than 3 seeds with sprouts over 1 inch (25.4 mm) in length.	More than six seeds have sprouts of more than ¾ inch (19.1 mm) in length, or more than 3 seeds with sprouts over 1¼ inches (31.8 mm) in length.
Sunburn		Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface.	Skin is hard and affects more than one-third of the surface.	Aggregating more than 50 percent of the surface.

**Note:** All references to area or aggregating area, or length in this standard are based on a grapefruit 4⅞ inches (104.8 mm) in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

3. In part 51, Subpart—United States Standards for Grades of Florida Oranges and Tangelos is revised to read as follows:

**Subpart—United States Standards for Grades of Florida Oranges and Tangelos**

General

Sec.

51.1140 General.

Grades

51.1141 U.S. Fancy.

51.1142 U.S. No. 1 Bright.

51.1143 U.S. No. 1.

51.1144 U.S. No. 1 Golden.

51.1145 U.S. No. 1 Bronze.

51.1146 U.S. No. 1 Russet.

51.1147 U.S. No. 2 Bright.

51.1148 U.S. No. 2.

51.1149 U.S. No. 2 Russet.

51.1150 U.S. No. 3.

Tolerances

51.1151 Tolerances.

## Application of Tolerances

51.1152 Application of tolerances.

## Size

51.1153 Size.

## Definitions

51.1154 Similar varietal characteristics.

51.1155 Well colored.

51.1156 Firm.

51.1157 Well formed.

51.1158 Mature.

51.1159 Smooth texture.

51.1160 Injury.

51.1161 Discoloration.

51.1162 Fairly smooth texture.

51.1163 Damage.

51.1164 Fairly well colored.

51.1165 Reasonably well colored.

51.1166 Poorly colored.

51.1167 Fairly firm.

51.1168 Slightly misshapen.

51.1169 Slightly rough texture.

51.1170 Serious damage.

51.1171 Misshapen.

51.1172 Slightly spongy.

51.1173 Very serious damage.

51.1174 Diameter.

51.1175 Classification of defects.

Standards for Internal Quality of Common Sweet Oranges (*Citrus Sinensis* (L) Osbeck)

51.1176 U.S. Grade AA Juice (Double A).

51.1177 U.S. Grade A Juice.

51.1178 Maximum anhydrous citric permissible for corresponding total soluble solids.

51.1179 Method of juice extraction.

**Subpart—United States Standards for Grades of Florida Oranges and Tangelos**

## General

**§ 51.1140 General.**

The standards contained in this subpart apply only to the common or sweet orange group and varieties and hybrids of varieties belonging to the Mandarin group, except tangerines, and to the citrus fruit commonly known as "tangelo"—a hybrid between tangerine or mandarin orange (*Citrus reticulata*) with either the grapefruit or pomelo (*C. paradisi* and *C. grandis*). Separate U.S. standards apply to tangerines. The standards for internal quality contained in §§ 51.1176 through 51.1179 apply only to common sweet oranges (*Citrus sinensis* (L) Osbeck).

## Grades

**§ 51.1141 U.S. Fancy.**

"U.S. Fancy" consists of oranges which meet the following requirements:

## (a) Basic requirements:

(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.1161.);

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well colored; and,

(7) Well formed.

(b) Free from:

(1) Ammoniation;

(2) Buckskin;

(3) Caked melanose;

(4) Creasing;

(5) Decay;

(6) Scab;

(7) Split navels;

(8) Sprayburn;

(9) Undeveloped segments;

(10) Unhealed skin breaks; and,

(11) Wormy fruit.

(c) Free from injury caused by:

(1) Bruises;

(2) Green spots;

(3) Oil spots;

(4) Rough, wide or protruding navels;

(5) Scale;

(6) Scars;

(7) Skin breakdown; and,

(8) Thorn scratches.

(d) Free from damage caused by:

(1) Dirt or other foreign material;

(2) Disease;

(3) Dryness or mushy condition;

(4) Hail;

(5) Insects;

(6) Riciness or woodiness;

(7) Sunburn; and,

(8) Other means.

(e) For tolerances see § 51.1151.

(f) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1142 U.S. No. 1 Bright.**

The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1143 U.S. No. 1.**

"U.S. No. 1" consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Color;

(i) Early and midseason varieties shall be fairly well colored.

(ii) For Valencia and other late varieties, not less than 50 percent, by count, shall be fairly well colored and the remainder reasonably well colored.

(2) Discoloration: Not more than one-third of the surface, in the aggregate,

may be affected by discoloration. (See § 51.1161.);

(3) Fairly smooth texture;

(4) Firm;

(5) Mature;

(6) Similar varietal characteristics; and,

(7) Well formed.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and,

(3) Wormy fruit.

(c) Free from damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Dirt or other foreign material;

(7) Disease;

(8) Dryness or mushy condition;

(9) Green spots;

(10) Hail;

(11) Insects;

(12) Oil spots;

(13) Riciness or woodiness;

(14) Scab;

(15) Scale;

(16) Scars;

(17) Skin breakdown;

(18) Split, rough or protruding navels;

(19) Sprayburn;

(20) Sunburn;

(21) Thorn scratches; and,

(22) Other means.

(d) For tolerances see § 51.1151.

(e) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1144 U.S. No. 1 Golden.**

The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1145 U.S. No. 1 Bronze.**

The requirements for this grade are the same as for U.S. No. 1 except at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on each fruit shall be of rust mite type.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade

AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1146 U.S. No. 1 Russet.**

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1147 U.S. No. 2 Bright.**

The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1148 U.S. No. 2.**

"U.S. No. 2" consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.1161.)

(2) Fairly firm;

(3) Mature;

(4) Reasonably well colored;

(5) Similar varietal characteristics;

(6) Not more than slightly misshapen; and

(7) Not more than slightly rough texture.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and

(3) Wormy fruit.

(c) Free from serious damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Dirt or other foreign material;

(7) Disease;

(8) Dryness or mushy condition;

(9) Green spots;

(10) Hail;

(11) Insects;

(12) Oil spots;

(13) Riciness or woodiness;

(14) Scab;

(15) Scale;

(16) Scars;

(17) Skin breakdown;

(18) Split, rough or protruding navels;

(19) Sprayburn;

(20) Sunburn;

(21) Thorn scratches; and

(22) Other means.

(d) For tolerances see § 51.1151.

(e) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1149 U.S. No. 2 Russet.**

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

**§ 51.1150 U.S. No. 3.**

"U.S. No. 3" consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Mature;

(2) Misshapen;

(3) Poorly colored;

(4) Rough texture, not seriously

lumpy;

(5) Similar varietal characteristics; and

(6) Slightly spongy.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and

(3) Wormy fruit.

(c) Free from very serious damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Disease;

(7) Dryness or mushy condition;

(8) Hail;

(9) Insects;

(10) Riciness or woodiness;

(11) Scab;

(12) Scale;

(13) Scars;

(14) Skin breakdown;

(15) Split navels;

(16) Sprayburn;

(17) Sunburn; and

(18) Other means.

(d) For tolerances see § 51.1151.

(e) Internal quality: Lots meeting the internal requirements for "U.S. Grade AA Juice (Double A)" or "U.S. Grade A Juice" may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

Tolerances

**§ 51.1151 Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *Defects.* (1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet, U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet grades.

(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having

permanent defects; or,

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay or wormy fruit.

(2) U.S. No. 3.

(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, that included in this amount not more than 1 percent shall be for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having

permanent defects; or,

(B) 3 percent for decay or wormy fruit.

(b) *Discoloration.*—(1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and*

<sup>1</sup> Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

*U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Golden.* Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more than 40 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet.* At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 20 percent of the fruit with required discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(4) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further*, that the entire lot averages within the percentage specified.

#### Application of Tolerances

##### § 51.1152 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, unless otherwise specified in § 51.1151: *Provided*, that the average for the entire lot are within the tolerances specified for the grade:

(a) For packages which contain more than 15 pounds, and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 15 pounds, and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one decayed or very seriously damaged fruit may be permitted in any package.

(b) For packages which contain 15 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided*, that not more than one fruit which is decayed or otherwise very seriously damaged may be permitted in any package and, in

addition, en route or at destination not more than 10 percent of the packages may have more than one fruit which is decayed or otherwise very seriously damaged.

#### Size

##### § 51.1153 Size.

(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.

(b) "Fairly uniform in size" means that not more than 10 percent of the oranges per sample may vary more than one-half inch in diameter.

(c) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

#### Definitions

##### § 51.1154 Similar varietal characteristics.

*Similar varietal characteristics* means that the fruits in any container are similar in color and shape.

##### § 51.1155 Well colored.

*Well colored* as applied to common oranges and tangelos means that the fruit has characteristic color for the variety with practically no trace of green color.

##### § 51.1156 Firm.

*Firm* as applied to common oranges and tangelos means that the fruit is not soft, or noticeably wilted or flabby; as applied to oranges of the Mandarin group (Satumas, King, Mandarin), "firm" means that the fruit is not extremely puffy, although the skin may be slightly loose.

##### § 51.1157 Well formed.

*Well formed* means that the fruit has the shape characteristic of the variety.

##### § 51.1158 Mature.

*Mature* shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These orange maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.19, and 601.20, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20-13 Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids in effect as of February 12, 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, Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065-S, 14th and Independence Ave., Washington, DC 20250 or at the Office of the Federal Register, Suite 700, 800 North Capitol Street, Washington, DC.

##### § 51.1159 Smooth texture.

*Smooth texture* means that the skin is thin and smooth for the variety and size of the fruit.

##### § 51.1160 Injury.

*Injury* means any specific defect described in § 51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

##### § 51.1161 Discoloration.

*Discoloration* means russetting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed for the grade.

##### § 51.1162 Fairly smooth texture.

*Fairly smooth texture* means that the skin is fairly thin and not coarse for the variety and size of the fruit.

##### § 51.1163 Damage.

*Damage* means any specific defect described in § 51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

##### § 51.1164 Fairly well colored.

*Fairly well colored* as applied to common oranges and tangelos means that except for an aggregate area of green color which does not exceed the area of a circle 1 inch (25.4 mm) in diameter, the characteristic color predominates over the green color.

##### § 51.1165 Reasonably well colored.

*Reasonably well colored* as applied to common oranges means that the characteristic color predominate over

the green color on at least two-thirds of the fruit surface, in the aggregate.

**§ 51.1166 Poorly colored.**

*Poorly colored* as applied to common oranges means that not more than 25 percent of the surface may be solid dark green color.

**§ 51.1167 Fairly firm.**

*Fairly firm* as applied to common oranges and tangelos, means that the fruit may be slightly soft, but not bruised; as applied to oranges of the Mandarin group (Satumas, King, Mandarin), means that the skin of the fruit is not extremely puffy or extremely loose.

**§ 51.1168 Slightly misshapen.**

*Slightly misshapen* means that the fruit is not of the shape characteristic of the variety but is not appreciably

elongated or pointed or otherwise deformed.

**§ 51.1169 Slightly rough texture.**

*Slightly rough texture* means that the skin is not of smooth texture but is not materially ridged, grooved, or wrinkled.

**§ 51.1170 Serious damage.**

*Serious damage* means any specific defect described in § 51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.1171 Misshapen.**

*Misshapen* means that the fruit is decidedly elongated, pointed or flatsided.

**§ 51.1172 Slightly spongy.**

*Slightly spongy* means that the fruit is puffy or slightly wilted but not flabby.

**§ 51.1173 Very serious damage.**

*Very serious damage* means any specific defect described in § 51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.1174 Diameter.**

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end.

**§ 51.1175 Classification of defects.**

TABLE I

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation .....	.....	Not occurring as light speck type.	Scars are cracked or dark and aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Bruises .....	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Fruit is split open, peel is badly water-soaked, or rag is ruptured and juice sacs are ruptured causing a mushy condition affecting all segments more than 3/4 inch (19.9 mm) at bruised area or the equivalent of this amount, by volume, when affecting more than one area on the fruit.
Buckskin .....	.....	Aggregating more than a circle 1 inch (25.4 mm) in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose .....	.....	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Creasing .....	.....	Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.
Dryness or mushy condition .....	.....	Affecting all segments more than 1/4 inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 1/2 inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 3/4 inch (19.1 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots .....	Aggregating more than a circle 3/8 inch (9.5 mm) in diameter, caused by scale.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter, caused by scale.	Aggregating more than a circle 7/8 inch (22.2 mm) in diameter, caused by scale.	Aggregating more than 1/3 of the surface, caused by scale.
Oil spots .....	Aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Aggregating more than a circle 7/8 inch (22.2 mm) in diameter.	Aggregating more than a circle 1 1/4 inches (31.8 mm) in diameter.	Aggregating more than 1/3 of the surface.
Scab .....	.....	Materially detracts from the shape or texture, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.

TABLE I—Continued

Factor	Injury	Damage	Serious damage	Very serious damage
Scale .....	More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scars, Hail, or Thorn scratches [For smooth or fairly smooth superficial scars see §51.1161.]	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Deep or rough aggregating more than a circle 1/4 inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle 7/8 inch (22.2 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1 1/4 inches (31.8 mm) in diameter.	Deep or rough aggregating more than a circle 1/2 inch (12.7 mm) in diameter; slightly rough with depth aggregating more than a circle 1 1/4 inches (31.8 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10 percent of fruit surface.	Deep or rough or unsightly that appearance is very seriously affected.
Skin breakdown .....	Aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Aggregating more than a circle 1/2 inch (12.7 mm) in diameter.	Aggregating more than a circle 7/8 inch (22.2 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprayburn .....	.....	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Hard and aggregating more than a circle 1 1/2 inches (38.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Split, rough, protruding navels.	Split is unhealed, or more than 1/8 inch (3.2 mm) in length, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from the appearance.	Split is unhealed, or more than 1/4 inch (6.4 mm) in length, or more than three well healed splits, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed, or more than 1/2 inch (12.7 mm) in length, or two or more splits aggregate more than 1 inch (25.4 mm) in length, or navel protrudes beyond general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed or fruit is seriously weakened.
Sunburn .....	.....	Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface.	Skin is hard and affects more than one-third of the surface.	Aggregating more than 50 percent of the surface.

**Note:** All references to area or aggregating area, or length in this standard are based on an orange or tangelo 2 7/8 inches (73.0 mm) in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

Standards for Internal Quality of Common Sweet Oranges (*Citrus Sinensis* (L) Osbeck)

**§ 51.1176 U.S. Grade AA Juice (Double A).**

Any lot of oranges, the juice content of which meets the following requirements, may be designated "U.S. Grade AA Juice (Double A)":

(a) Each lot of fruit shall contain an average of not less than 5 gallons (18.9 liters) of juice per standard packed box of 1 3/5 bushels.

(b) The average juice content for any lot of fruit shall have not less than 10 percent total soluble solids, and not less than one-half of 1 percent anhydrous citric acid, or more than the permissible maximum acid specified in Table II of § 51.1178.

**§ 51.1177 U.S. Grade A Juice.**

Any lot of oranges, the juice content of which meets the following

requirements, may be designated "U.S. Grade A Juice":

(a) Each lot of fruit shall contain an average of not less than 4 1/2 gallons (17.0 liters) of juice per standard packed box of 1 3/5 bushels.

(b) The average juice content for any lot of fruit shall have not less than 9 percent total soluble solids, and not less than one-half of 1 percent anhydrous citric acid, or more than the permissible maximum acid specified in Table II of § 51.1178.

**§ 51.1178 Maximum anhydrous citric acid permissible for corresponding total soluble solids.**

For determining the grade of juice, the maximum permissible anhydrous citric acid content in relation to corresponding total soluble solids in the fruit is set forth in the following Table II together with the minimum ratio of total soluble solids to anhydrous citric acid:

TABLE II

Total soluble solids (average pct)	Maximum anhydrous citric acid (average pct)	Minimum ratio of total soluble solids to anhydrous citric acid
9.0 .....	0.947	9.50-1
9.1 .....	.963	9.45-1
9.2 .....	.979	9.40-1
9.3 .....	.995	9.35-1
9.4 .....	1.011	9.30-1
9.5 .....	1.027	9.25-1
9.6 .....	1.043	9.20-1
9.7 .....	1.060	9.15-1
9.8 .....	1.077	9.10-1
9.9 .....	1.094	9.05-1
10.0 .....	1.111	9.00-1
10.1 .....	1.128	8.95-1
10.2 .....	1.146	8.90-1
10.3 .....	1.164	8.85-1
10.4 .....	1.182	8.80-1
10.5 .....	1.200	8.75-1
10.6 .....	1.218	8.70-1
10.7 .....	1.237	8.65-1

TABLE II—Continued

Total soluble solids (average pct)	Maximum anhydrous citric acid (average pct)	Minimum ratio of total soluble solids to anhydrous citric acid
10.8	1.256	8.60-1
10.9	1.275	8.55-1
11.0	1.294	8.50-1
11.1	1.306	8.50-1
11.2	1.318	8.50-1
11.3	1.329	8.50-1
11.4	1.341	8.50-1
11.5	1.353	8.50-1
11.6	1.365	8.50-1
11.7	1.376	8.50-1
11.8	1.388	8.50-1
11.9	1.400	8.50-1
12.0	1.412	8.50-1
12.1	1.424	8.50-1
12.2	1.435	8.50-1
12.3	1.447	8.50-1
12.4	1.459	8.50-1
12.5	1.471	8.50-1
12.6	1.482	8.50-1
12.7	1.494	8.50-1
12.8	1.506	8.50-1
12.9	1.517	8.50-1
13.0	1.530	8.50-1
13.1	1.541	8.50-1
13.2	1.553	8.50-1
13.3	1.565	8.50-1
13.4	1.576	8.50-1
13.5	1.588	8.50-1
13.6	1.600	8.50-1
13.7	1.612	8.50-1
13.8	1.624	8.50-1
13.9	1.635	8.50-1
14.0	1.647	8.50-1
14.1	1.659	8.50-1
14.2	1.671	8.50-1
14.3	1.682	8.50-1
14.4	1.694	8.50-1
14.5	1.705	8.50-1
14.6	1.718	8.50-1
14.7	1.729	8.50-1
14.8	1.741	8.50-1
14.9	1.753	8.50-1
15.0	1.765	8.50-1
15.1	1.776	8.50-1
15.2	1.788	8.50-1
15.3	1.800	8.50-1
15.4	1.812	8.50-1
15.5	1.824	8.50-1
15.6 or more		8.50-1

**§ 51.1179 Method of juice extraction.**

The juice used in the determining of solids, acids and juice content shall be extracted from representative samples as thoroughly as possible with a hand reamer or by such mechanical extractor or extractors as may be approved. The juice shall be strained through cheese cloth or other approved straining device of extra fine mesh to prevent passage of juice cells, pulp, or seeds.

4. In part 51, Subpart—United States Standards for Grades of Florida Tangerines is revised to read as follows:

**Subpart—United States Standards for Grades of Florida Tangerines**

**Grades**

**Sec.**

- 51.1810 U.S. Fancy.
- 51.1811 U.S. No. 1 Bright.
- 51.1812 U.S. No. 1.
- 51.1813 U.S. No. 1 Golden.
- 51.1814 U.S. No. 1 Bronze.
- 51.1815 U.S. No. 1 Russet.
- 51.1816 U.S. No. 2 Bright.
- 51.1817 U.S. No. 2.
- 51.1818 U.S. No. 2 Russet.
- 51.1819 U.S. No. 3.

**Tolerances**

- 51.1820 Tolerances.

**Application of Tolerances**

- 51.1821 Application of tolerances.

**Size**

- 51.1822 Size.

**Definitions**

- 51.1823 Mature.
- 51.1824 Firm.
- 51.1825 Well formed.
- 51.1826 Damage.
- 51.1827 Highly colored.
- 51.1828 Discoloration.
- 51.1829 Well colored.
- 51.1830 Fairly well colored.
- 51.1831 Fairly firm.
- 51.1832 Fairly well formed.
- 51.1833 Serious damage.
- 51.1834 Reasonably well colored.
- 51.1835 Very serious damage.
- 51.1836 Diameter.
- 51.1837 Classification of defects.

**Subpart—United States Standards for Grades of Florida Tangerines**

**§ 51.1810 U.S. Fancy.**

“U.S. Fancy” consists of tangerines which meet the following requirements:

- (a) Basic requirements:
  - (1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.1828.);
  - (2) Firm;
  - (3) Highly colored;
  - (4) Mature; and,
  - (5) Well formed.
- (b) Free from:
  - (1) Caked melanose;
  - (2) Decay;
  - (3) Unhealed skin breaks; and,
  - (4) Wormy fruit.
- (c) Free from damage caused by:
  - (1) Ammoniation;
  - (2) Bruises;
  - (3) Buckskin;
  - (4) Creasing;
  - (5) Dirt or other foreign material;
  - (6) Dryness or mushy condition;
  - (7) Disease;
  - (8) Green spots;
  - (9) Hail;
  - (10) Insects;
  - (11) Oil spots;

- (12) Scab;
- (13) Scale;
- (14) Scars;
- (15) Skin breakdown;
- (16) Sprayburn;
- (17) Sunburn; and,
- (18) Other means.
- (d) For tolerances see § 51.1820.

**§ 51.1811 U.S. No. 1 Bright.**

The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.1820.

**§ 51.1812 U.S. No. 1.**

“U.S. No. 1” consists of tangerines which meet the following requirements:

- (a) Basic requirements:
  - (1) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.1828.);
  - (2) Fairly well colored;
  - (3) Firm;
  - (4) Mature; and,
  - (5) Well formed.
- (b) Free from:
  - (1) Decay;
  - (2) Unhealed skin breaks; and,
  - (3) Wormy fruit.
- (c) Free from damage caused by:
  - (1) Ammoniation;
  - (2) Bruises;
  - (3) Buckskin;
  - (4) Caked melanose;
  - (5) Creasing;
  - (6) Dirt or other foreign material;
  - (7) Disease;
  - (8) Dryness or mushy condition;
  - (9) Green spots;
  - (10) Hail;
  - (11) Insects;
  - (12) Oil spots;
  - (13) Scab;
  - (14) Scale;
  - (15) Scars;
  - (16) Skin breakdown;
  - (17) Sprayburn;
  - (18) Sunburn; and
  - (19) Other means.
- (d) For tolerances see § 51.1820.

**§ 51.1813 U.S. No. 1 Golden.**

The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have than more one-third of their surface, in the aggregate, affected by discoloration. For tolerances see § 51.1820.

**§ 51.1814 U.S. No. 1 Bronze.**

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their

surface, in the aggregate, affected by discoloration. The predominating discoloration on each fruit shall be of rust mite type. For tolerances see § 51.1820.

**§ 51.1815 U.S. No. 1 Russet.**

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.1820.

**§ 51.1816 U.S. No. 2 Bright.**

The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.1820.

**§ 51.1817 U.S. No. 2.**

"U.S. No. 2" consists of tangerines which meet the following requirements:

(a) Basic requirements:  
(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.1828.);

(2) Fairly firm;  
(3) Fairly well formed;  
(4) Mature; and  
(5) Reasonably well colored.  
(b) Free from:  
(1) Decay;  
(2) Unhealed skin breaks; and  
(3) Wormy fruit.  
(c) Free from serious damage caused

by:

(1) Ammoniation;  
(2) Bruises;  
(3) Buckskin;  
(4) Caked melanose;  
(5) Creasing;  
(6) Dirt or other foreign material;  
(7) Disease;  
(8) Dryness or mushy condition;  
(9) Green spots;  
(10) Hail;  
(11) Insects;  
(12) Oil spots;  
(13) Scab;  
(14) Scale;  
(15) Scars;  
(16) Skin breakdown;  
(17) Sprayburn;  
(18) Sunburn; and  
(19) Other means.  
(d) For tolerances see § 51.1820.

**§ 51.1818 U.S. No. 2 Russet.**

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.1820.

**§ 51.1819 U.S. No. 3.**

"U.S. No. 3" consists of tangerines which meet the following requirements:

(a) Basic requirements:  
(1) Mature;  
(2) Not flabby; and  
(3) Not seriously lumpy.  
(b) Free from:  
(1) Decay;  
(2) Unhealed skin breaks; and  
(3) Wormy fruit.  
(c) Free from very serious damage

caused by:

(1) Ammoniation;  
(2) Bruises;  
(3) Caked melanose;  
(4) Creasing;  
(5) Dirt or other foreign material;  
(6) Disease;  
(7) Dryness or mushy condition;  
(8) Hail;  
(9) Insects;  
(10) Scab;  
(11) Scale;  
(12) Scars;  
(13) Skin breakdown;  
(14) Sprayburn;  
(15) Sunburn; and,  
(16) Other means.  
(d) For tolerances see § 51.1820.

Tolerances

**§ 51.1820 Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *Defects.*

(1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet, U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet grades.

(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay or wormy fruit.

(2) U.S. No. 3.

(i) *For defects at shipping point.*<sup>1</sup> Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, that included in this amount not more than 1 percent shall be for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 3 percent for decay or wormy fruit.

(b) *Discoloration.*—(1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Golden.* Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more than 40 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet.* At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 20 percent of the fruit with required discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(4) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further*, that the entire lot averages within the percentage specified.

Application of Tolerances

**§ 51.1821 Application of tolerances.**

The contents of individual packages in the lot, based on sample inspection,

<sup>1</sup> Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

are subject to the following limitations, unless otherwise specified in § 51.1820: *Provided*, that the average for the entire lot are within the tolerance specified for the grade:

(a) For packages which contain more than 15 pounds, and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 15 pounds, and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one decayed or very seriously damaged fruit may be permitted in any package.

(b) For packages which contain 15 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided*, that not more than one fruit which is decayed or otherwise very seriously damaged may be permitted in any package and, in addition, en route or at destination not more than 10 percent of the packages may have more than one fruit which is decayed or otherwise very seriously damaged.

#### Size

##### § 51.1822 Size.

(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.

(b) "Fairly uniform in size" means that not more than 10 percent of the tangerines per sample may vary more than one-half inch in diameter.

(c) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

#### Definitions

##### § 51.1823 Mature.

*Mature* shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These tangerine maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.21, and 601.22, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20-13 Market Classification, Maturity Standards and

Processing or Packing Restrictions for Hybrids in effect as of February 12, 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, Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065-S, 14th and Independence Ave., Washington, DC 20250 or at the Office of the Federal Register, Suite 700, 800 North Capitol Street, Washington, DC.

##### § 51.1824 Firm.

*Firm* means that the flesh is not soft and the fruit is not badly puffy and that the skin has not become materially separated from the flesh of the tangerine.

##### § 51.1825 Well formed.

*Well formed* means that the fruit has the characteristic tangerine shape and is not deformed.

##### § 51.1826 Damage.

*Damage* means any specific defect described in § 51.1837, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

##### § 51.1827 Highly colored.

*Highly colored* means that the ground color of each fruit is a deep tangerine color, or characteristic color for the variety, with practically no trace of yellow color.

##### § 51.1828 Discoloration.

*Discoloration* means russetting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed in the grade.

##### § 51.1829 Well colored.

*Well colored* means that a good yellow or better ground color

predominates over the green color on the entire fruit surface with no distinct green color present, and that some portion of the surface has a reddish tangerine blush, or characteristic color for the variety.

##### § 51.1830 Fairly well colored.

*Fairly well colored* means that the surface of the fruit may have green color which does not exceed the aggregate area of a circle 1-1/4 inches (31.8 mm) in diameter and that the remainder of the surface has a yellow or better ground color with some portion of the surface showing reddish tangerine blush, or characteristic color for the variety.

##### § 51.1831 Fairly firm.

*Fairly firm* means that the flesh may be slightly soft but is not bruised or badly puffy, and that the skin has not become seriously separated from the flesh of the tangerine.

##### § 51.1832 Fairly well formed.

*Fairly well formed* means that the fruit may not have the shape characteristic of the variety but that it is not badly deformed.

##### § 51.1833 Serious damage.

*Serious damage* means any specific defect described in § 51.1837, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

##### § 51.1834 Reasonably well colored.

*Reasonably well colored* means that a good yellow or reddish tangerine color shall predominate over the green color on at least one-half of the fruit surface in the aggregate, and that each fruit shall show practically no lemon color.

##### § 51.1835 Very serious damage.

*Very serious damage* means any specific defect described in § 51.1837, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

##### § 51.1836 Diameter.

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end.

§ 51.1837 Classification of defects.

TABLE I

Factor	Damage	Serious damage	Very serious damage
Ammoniation .....	Not occurring as light speck type, or detracts more than discoloration permitted in the grade.	Scars are cracked or dark and aggregating more than a circle $\frac{5}{8}$ inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Bruises .....	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured.	Fruit is split open, peel is badly watersoaked, or rag is ruptured and juice sacs are ruptured causing a mushy condition affecting all segments more than $\frac{1}{2}$ inch (12.7 mm) at bruised area or the equivalent of this amount, by volume, when affecting more than one area on the fruit.
Buckskin .....	Aggregating more than a circle $\frac{3}{4}$ inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose .....	Aggregating more than a circle $\frac{3}{8}$ inch (9.5 mm) in diameter.	Aggregating more than a circle $\frac{5}{8}$ inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Creasing .....	Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.
Dryness or mushy condition .....	Affecting all segments more than $\frac{1}{8}$ inch (3.2 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than $\frac{1}{4}$ inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than $\frac{1}{2}$ inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots .....	Aggregating more than a circle $\frac{1}{2}$ inch (12.7 mm) in diameter.	Aggregating more than a circle $\frac{5}{8}$ inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Oil spots .....	Aggregating more than a circle $\frac{1}{2}$ inch (12.7 mm) in diameter.	Aggregating more than a circle $\frac{3}{4}$ inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scab .....	Materially detracts from the shape or texture, or aggregating more than a circle $\frac{3}{8}$ inch (9.5 mm) in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle $\frac{5}{8}$ inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scale .....	Aggregating more than a circle $\frac{3}{8}$ inch (9.5 mm) in diameter.	Aggregating more than a circle $\frac{5}{8}$ inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scars, Hail, and Thorn scratches [For smooth or fairly smooth superficial scars see § 51.1828.]	Deep or rough aggregating more than a circle $\frac{1}{4}$ inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle $\frac{3}{4}$ inch (19.1 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle $1\frac{1}{8}$ inches (28.6 mm) in diameter.	Deep or rough aggregating more than a circle $\frac{1}{2}$ inch (12.7 mm) in diameter; slightly rough with slight depth aggregating more than a circle $1\frac{1}{8}$ inches (28.6 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10 percent of fruit surface.	Deep or rough or unsightly that appearance is very seriously affected.
Skin breakdown .....	Aggregating more than a circle $\frac{1}{2}$ inch (12.7 mm) in diameter.	Aggregating more than a circle $\frac{3}{4}$ inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprayburn .....	Skin is hard and aggregating more than a circle $\frac{3}{4}$ inch (19.1 mm) in diameter.	Skin is hard and aggregating more than a circle $1\frac{1}{4}$ inches (31.8 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sunburn .....	Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface.	Skin is hard and affects more than one-third of the surface.	Aggregating more than 50 percent of the surface.

**Note:** All references to area or aggregate area, or length are based on a tangerine  $2\frac{1}{2}$  inches in diameter (63.5 mm), allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

Dated: May 2, 1996.  
 Robert C. Keeney,  
 Director, Fruit and Vegetable Division.  
 [FR Doc. 96-11457 Filed 5-7-96; 8:45 am]  
 BILLING CODE 3410-02-P

**7 CFR Part 900****[Docket No. FV95-900-1FR]****Amendment of General Regulations for Marketing Orders; Adding Stipulation Procedures****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** This rule amends the general regulations for federal marketing orders and marketing agreements covering fruits, vegetables and nuts, by adding a provision for implementing stipulation procedures to resolve certain violations of marketing orders, marketing agreements, Section 8e import regulations, and provisions regulating nonsignatory peanut handlers. Marketing orders, marketing agreements, and the other regulatory provisions listed above regulate handlers and/or importers of various agricultural commodities and are authorized under the Agricultural Marketing Agreement Act of 1937 (Act). The Act gives the Department of Agriculture (Department) authority to institute formal administrative proceedings against handlers and/or importers who violate marketing orders, marketing agreements, and other regulatory provisions under the Act. This rule would give the Department another tool for enforcement by allowing the Department to enter into a written agreement with a violator who agrees to waive a hearing and pay a civil penalty without a formal administrative proceeding.

**EFFECTIVE DATE:** May 9, 1996.

**FOR FURTHER INFORMATION CONTACT:** Barbara Schulke, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC. 20090-6456, telephone (202) 720-4607, facsimile (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule (1) preempts all State or local laws and regulations that are inconsistent with this rule, (2) has no retroactive effect, and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

The Act provides authority for federal marketing order and marketing agreement programs for various fruits, vegetables and nuts. The programs are initiated by interested industries and

voted on by those in the industry. A marketing order allows an industry to solve marketing problems by establishing grade, size, quality, maturity, quantity and container requirements that apply to all handlers in the industry. Section 8e of the Act requires that whenever the Secretary of Agriculture issues grade, size, quality, or maturity regulations under domestic marketing orders for certain commodities, the same or comparable regulations on imports of those commodities must be issued. Thus, handler and importer compliance is essential for marketing order and marketing agreement programs and mandatory import requirements to be effective.

Section 608(c)14(B) of the Act authorizes the Department to institute a formal administrative proceeding against a handler or importer who violates a marketing order or other regulatory provision under the Act. This rule provides an alternative tool for enforcement by allowing the Department to enter into a written agreement, or stipulation, with a violator who agrees to waive a hearing and pay a civil penalty without the Department's initiating a formal administrative proceeding.

Under these stipulation procedures, the Administrator of the Agricultural Marketing Service would give the handler or importer notice of the alleged violation and the opportunity for a hearing. The handler or importer would have the option to waive the hearing and agree to pay a specified civil penalty within a prescribed period of time. In turn, the Administrator would agree to accept the civil penalty in settlement of the particular matter involved if the penalty is paid within the specified time frame. If, however, the handler or importer does not pay the civil penalty within that period of time, the Department would institute a formal administrative proceeding. A civil penalty that the Department offers in a stipulation will have no bearing on the civil penalty that the Department may seek in a formal administrative proceeding.

Formal disciplinary proceedings can take up to two years and are costly for both the Department and the violator. The Department is implementing the use of stipulation agreements, where appropriate, to improve marketing order, marketing agreement, and Section 8e compliance. The intended effect of this rule is to resolve certain cases without the cost of going to a hearing. Accordingly, the general regulations for marketing orders and marketing agreements covering fruits, vegetables

and nuts are amended by adding a subpart on stipulation procedures.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that notice and other procedure with respect thereto are impracticable, unnecessary and contrary to the public interest, and there is good cause for making this rule effective less than 30 days after publication in the Federal Register because (1) these procedures are in effect for other Department programs, (2) this action improves the administration of marketing order, marketing agreement, and Section 8e programs because it affords more timely resolution of cases brought by USDA, and (3) no useful purpose would be served by delaying the effective date of implementing the use of stipulation agreements. This rule is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

**List of Subjects in 7 CFR Part 900**

Administrative practice and procedures, Freedom of information, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 900 is amended as follows:

**PART 900—GENERAL REGULATIONS**

Accordingly, in part 900, immediately following § 900.71, a new subpart is added to read as follows:

Subpart—Supplemental Rules of Practice for Marketing Orders, Marketing Agreements, and Requirements Issued Pursuant to 7 U.S.C. 608b(b) and 7 U.S.C. 608e Covering Fruits, Vegetables, and Nuts

Sec.

900.80 Words in the singular form.

900.81 Definitions.

900.82 Stipulation procedures.

Authority: 7 U.S.C. 601-674.

Subpart—Supplemental Rules of Practice for Marketing Orders, Marketing Agreements, and Requirements Issued Pursuant to 7 U.S.C. 608b(b) and 7 U.S.C. 608e Covering Fruits, Vegetables, and Nuts

**§ 900.80 Words in the singular form.**

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

**§ 900.81 Definitions.**

As used in this subpart, the terms as defined in the act shall apply with equal force and effect. In addition, unless the context otherwise requires:

(a) The term *Act* means Public Act No. 10, 73 Congress (48 Stat. 31) as amended and as reenacted and amended by the

Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended.

(b) The term *Department* means the United States Department of Agriculture.

(c) The term *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) The term *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in his stead.

(e) The term *proceeding* means a proceeding before the Secretary arising under sections 8a, 8b(b), 8c(14), 8e, 10(c) and 10(h).

(f) The term *hearing* means that part of the proceeding which involves the submission of evidence.

(g) The term *marketing agreement* means any marketing agreement or any amendment thereto which may be entered into pursuant to section 8b of the act.

(h) The term *marketing order* means any order or any amendment thereto which may be issued pursuant to section 8c of the act, and after notice and hearing as required by said section.

(i) The term *handler* means any person who, by the terms of a marketing order or marketing agreement, is subject thereto, or to whom a marketing order or marketing agreement is sought to be made applicable.

(j) The term *importer* means any person who, by the terms of section 8e of the act, is subject thereto.

(k) The term *person* means any individual, corporation, partnership, association, or any other business unit.

#### **§ 900.82 Stipulation procedures.**

The Administrator, or the Administrator's representative, may, at any time before the issuance of a complaint seeking a civil penalty under the Act, enter into a stipulation with any handler or importer in accordance with the following procedures:

(a) The Administrator, or the Administrator's representative, shall give the handler or importer notice of the alleged violation of the applicable marketing order or marketing agreement, or the requirements issued pursuant to 7 U.S.C. 608b(b) and 7 U.S.C. 608e, and an opportunity for a hearing thereon as provided by the Act;

(b) In agreeing to the proposed stipulation, the handler or importer expressly waives the opportunity for a

hearing and agrees to pay a specified civil penalty within a designated time;

(c) The Administrator, or the Administrator's representative, agrees to accept the specified civil penalty in settlement of the particular matter involved if it is paid within the designated time;

(d) In cases where the handler or importer does not pay the specified civil penalty within the designated time, or the handler or importer does not agree to the stipulation, the Administrator may issue an administrative complaint; and

(e) The civil penalty that the Administrator may have proposed in a stipulation agreement shall have no bearing on the civil penalty amount that the Department may seek in a formal administrative proceeding against the same handler or importer for the same alleged violation.

Dated: May 2, 1996.

Lon Hatamiya,  
*Administrator.*

[FR Doc. 96-11461 Filed 5-7-96; 8:45 am]

BILLING CODE 3410-02-P

#### **7 CFR Part 979**

[Docket No. FV96-979-1FIR]

#### **Melons Grown in South Texas; Change in Cantaloup Container Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that changed the container requirements for cantaloups grown in South Texas under Marketing Order No. 979 by increasing the depth of cantaloup cartons from 10 $\frac{3}{8}$  to 11 $\frac{3}{8}$  inches. The South Texas Melon Committee (committee), the agency that locally administers the marketing order for melons grown in South Texas, unanimously recommended this change. That change allowed handlers to use deeper cartons in shipping larger cantaloups. The use of deeper cartons is expected to result in less damage during packing and shipment and foster buyer confidence. The interim final rule also corrected telephone area codes and removed out-of-date handler assessment information.

**EFFECTIVE DATE:** June 7, 1996.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501,

telephone 210-682-2833, FAX 210-682-5942, or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-690-0464, FAX 202-720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 156 and Order No. 979 (7 CFR part 979) regulating the handling of melons grown in South Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. 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 section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (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. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 27 handlers of South Texas melons who are subject to regulation under the marketing order and 30 producers in the production area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of handlers and producers of South Texas melons may be classified as small entities.

At a public meeting on December 12, 1995, the committee unanimously recommended, under the authority of § 979.52 of the order, increasing the depth of cantaloup cartons. Section 979.304(b)(1) specified that the depth of cantaloup cartons could be not more than 10<sup>3</sup>/<sub>8</sub> nor less than 9<sup>3</sup>/<sub>4</sub> inches. A tolerance of 1/4 inch was permitted. The committee recommended a one inch increase in depth to 11<sup>3</sup>/<sub>8</sub> inches.

In recent years, buyers have requested increased supplies of larger cantaloups. Handlers had experienced difficulty in packing larger cantaloups without bruising because the container depth did not allow sufficient room for the larger fruit and ice packed with the cantaloups to keep them cool. Also, without adequate carton space, proper stacking on pallets was more difficult and compression damage often occurred to the cantaloups when loading and shipping. Increasing the depth of cantaloup cartons by one inch to 11<sup>3</sup>/<sub>8</sub> inches allows for proper stacking and delivery of cantaloups without bruising and other damage. This change is expected to foster buyer satisfaction and confidence. Handlers will not be prevented from using their current supply of smaller cartons if they desire.

Section 979.304(c)(4) designates inspection stations in Alamo and Laredo, for handlers who do not have permanent packing facilities recognized by the committee. The telephone area codes specified for Alamo and Laredo were not correct. The interim final rule amended § 979.304(c)(4) to correct those area codes from (502) and (512), respectively, to (210).

Section 979.304(c)(5) specified that handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of 3/4 cent per carton. The 3/4 cent per carton rate of assessment has not been in effect for a number of years. The current rate of assessment is 7 cents per carton. Also, because the assessment rate is established by the Department in a separate rulemaking document and handlers are informed of the rate by the committee through handler notices, the

rate of assessment does not need to be referenced in these provisions. Therefore, the words "at the rate of 3/4 cent per carton" in § 979.304(c)(5) were removed.

The interim final rule was published in the Federal Register on February 28, 1996 (61 FR 7408). That rule amended § 979.304 to change the container requirements for cantaloups, to correct the telephone area codes, and to remove the out-of-date handler assessment information. That rule provided that interested persons could file comments through March 29, 1996. No comments were received.

Based on the above, the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reason set forth in the preamble, 7 CFR part 979 is amended as follows:

#### **PART 979—MELONS GROWN IN SOUTH TEXAS**

Accordingly, the interim final rule amending § 979.304 which was published at 61 FR 7408 on February 28, 1996, is adopted as a final rule without change.

Dated: May 2, 1996.  
Robert C. Keeney,  
*Director, Fruit and Vegetable Division.*  
[FR Doc. 96-11462 Filed 5-7-96; 8:45 am]  
BILLING CODE 3410-02-P

#### **7 CFR Parts 1002 and 1004**

[DA-96-02]

#### **Milk in the New York-New Jersey and Middle Atlantic Marketing Areas; Suspension of Certain Provisions of the Orders**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Suspension of rules.

**SUMMARY:** This document suspends a pooling provision of the New York-New Jersey order and a provision in the Middle Atlantic order's base-excess

plan. The request for suspension was submitted on behalf of several handlers (cooperative and proprietary) who market the milk of dairy farmers who are located in a common supply area and who have milk pooled under both orders. This suspension will permit more efficient assembly and transportation of producer milk.

**EFFECTIVE DATE:** May 1, 1996, through September 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** Gino M. Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090-6456, (202) 690-1366.

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 27, 1996; published April 2, 1996 (61 FR 14514).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the orders and thereby receive the benefits that accrue from such pricing.

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or

has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the orders regulating the handling of milk in the New York-New Jersey and Middle Atlantic marketing areas.

Notice of proposed rulemaking was published in the Federal Register on April 2, 1996 (64 FR 14514) concerning the proposed suspension of certain provisions of the orders. Interested persons were afforded opportunity to file written data, views and arguments thereon.

Two comments supporting and one comment opposing the proposed suspension were received.

After consideration of all relevant material, including the proposals in the notice, the comments received, and other available information, it is hereby found and determined that for the months of May 1, 1996, through September 30, 1996, the following provisions of the orders do not tend to effectuate the declared policy of the Act:

1. In § 1002.14 of the New York-New Jersey order, paragraph (d); and
2. In § 1004.92(c) of the Middle Atlantic order, the words "and who held such status in all or part of the 2 months of August and September and who otherwise was a producer only under this part for all of the remaining August through December period".

#### Statement of Consideration

This rule suspends a pooling provision of the New York-New Jersey order (Order 2) and suspends a provision in the Middle Atlantic order (Order 4) base-excess plan. The suspension will allow handlers regulated under Order 2 and Order 4 to assemble and transport the milk of dairy farmers more efficiently and thereby reduce costs. Suspension of these provisions in the two orders would permit handlers to freely shift the milk of individual dairy farmers located in a common supply area between the two markets. Proponents claim that this added flexibility would enable Order 2 and 4 handlers to furnish the fluid needs of bottling plants more effectively. Handlers will be obligated to change the pooling status of individual producers to achieve this efficiency.

Under the terms of Order 2, an individual dairy farmer's milk may not be pool milk during the months of December through June if any of the

dairy farmer's milk was producer milk pooled by the same handler under another Federal order in the preceding months of July through November. Under the Order 4 base-excess plan provisions, a dairy farmer's milk deliveries to handlers regulated under Orders 2 and 4 during August and September would be used to compute the producer's Order 4 base only if the dairy farmer's milk was pooled on Order 4 during the remaining months (October-December) of such base-forming period. Suspending these order provisions would allow milk to be shifted to Order 2 from Order 4 and would also allow Order 2 milk to be shifted to Order 4 without negative consequences to producers.

Several handlers (cooperative and proprietary) who market the milk of dairy farmers under Orders 2 and 4 requested the suspension. Proponents asked that the provisions be suspended for the months of May through September 1996.

In support of the action, proponents indicated that the State of Pennsylvania has become a common milkshed for Orders 2 and 4. In June 1995 there were 3,836 Pennsylvania dairy farmers pooled on Order 2 and 3,717 Pennsylvania producers pooled on Order 4. These dairy farmers represented 37 percent of the total producers on Order 2 and 73 percent of the total producers on Order 4. They produced 27 percent of the Order 2 pool milk and 67 percent of the Order 4 producer receipts. There is significant overlap of producers supplying the two markets in the Pennsylvania counties of Lancaster, Lebanon, Chester, and Berks, proponents stated.

Proponents also indicated in their request that a large percentage of the milk that is picked up in the common supply area of Pennsylvania is delivered to Order 4 fluid milk plants located at Wawa, Spring City, Royersford, and Fort Washington, Pennsylvania, and Florence, New Jersey. Some of the milk produced in this same area is delivered to the Order 2 pool plants located at Lansdale and Reading.

Proponents of the suspension have made plans to combine their milk routes in Pennsylvania to assemble and haul the milk from farms that are most advantageously located to plants where the milk is needed for processing. The commingling of the milk supply of these proponents is scheduled to begin on May 1, 1996, which is the first month the suspension is to be effective.

In their comments the proponents indicated that the number of producers that will be shifted between orders will be small. During April and May of 1996,

two of the proponents intend to change the farm pickup routes of approximately 865 dairy farmers serviced by 41 milk haulers. However, according to one comment, it is expected that 183 producers currently pooled under Order 2 will be changed to Order 4 and that 48 producers currently pooled on Order 4 will be changed to Order 2. Among the producers who will have their hauler changed on May 1 are those picked up on routes which primarily service proponents' pool distributing plants.

Concerns arose regarding the timing of this suspension action and the advisability of loosening the pooling restrictions of the New York-New Jersey order that could result in additional reserve supplies of milk pooled on the orders as a consequence of suspending these order provisions. In comments received from a proprietary handler who distributes Class I, Class II, and Class III products in the Order 2 marketing area and who opposes the suspension, it was stated that there is a potential for a lowering of the blend price to producers historically pooled on the respective orders, although the specific concern was for the lowering of the blend price to Order 2 producers. Similar concerns were expressed by a major cooperative in the Order 2 marketing area who nevertheless supports the suspension because it would help in lowering the costs of doing business to dairy farmers.

In light of the small number of producers who will have their pooling status shifted, it is reasonable to conclude that the changes in producer blend prices will not be significantly affected given the increased efficiencies gained by cost savings in transportation. Additionally, the suspension action is supported by producers who market the majority of milk in the Middle Atlantic and the New York-New Jersey marketing areas.

Accordingly, it is appropriate to suspend the aforesaid provisions from May 1, 1996, through September 30, 1996.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing areas, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who historically supplied the markets without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or

extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded the opportunity to file written data, views and arguments concerning these suspension actions. Two comments supporting and one comment opposing the action were received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the Federal Register.

List of Subjects in 7 CFR Parts 1002 and 1004

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions in Title 7, parts 1002 and 1004 are amended as follows:

**PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA**

1. The authority citation for 7 CFR part 1002 continues to read as follows:

Authority: 7 U.S.C. 601-674.

**§ 1002.14 [Suspended in part]**

2. In § 1002.14, paragraph (d) is suspended.

**PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA**

3. The authority citation for 7 CFR part 1004 continues to read as follows:

Authority: 7 U.S.C. 601-674.

**§ 1004.92 [Suspended in part]**

4. In § 1004.92(c), the words "and who held such status in all or part of the 2 months of August and September and who otherwise was a producer only under this part for all of the remaining August through December period" is suspended.

Dated: May 2, 1996.

Michael V. Dunn,

*Assistant Secretary, Marketing and Regulatory Programs.*

[FR Doc. 96-11463 Filed 5-7-96; 8:45 am]

BILLING CODE 3410-02-P

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 200**

[Release No. 34-37159]

**Delegation of Authority to Director of Division of Enforcement**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending its rules to delegate authority to the Director of the Division of Enforcement to authorize staff to appear in federal bankruptcy court where the debtor is involved with the subject matter of a Commission investigation, and to take necessary action therein to preserve potential Commission claims. This amendment will expedite and enhance the effectiveness of the enforcement process by enabling staff to meet bankruptcy court deadlines that affect potential Commission claims and to preserve and protect such claims.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Judith R. Starr, Division Bankruptcy Counsel, Division of Enforcement, 202/942-4868.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today announced amendments to its rules governing delegation of authority to the Division of Enforcement ("Division").

The amendment to Rule 30-4<sup>1</sup> authorizes the Director of Division of Enforcement to approve staff appearances in federal bankruptcy court where the debtor is involved with the subject matter of a Commission investigation. This delegation will expedite and enhance the effectiveness of the enforcement process by enabling prompt action to protect and preserve potential claims. Notwithstanding this delegation of authority, in instances where contemplated action in a bankruptcy case raises any close or controversial issues, the Division may consult with the Commission before the action is filed in federal court.

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedure Act,<sup>2</sup> that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date is also unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

<sup>1</sup> 17 CFR 200.30-4.

<sup>2</sup> 5 U.S.C. 553(b)(3)(A).

**PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS**

1. The authority citation for Part 200 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d-1, 78d-2, 78w, 78ll(d), 79t, 77sss, 80a-37, 80b-11, unless otherwise noted.

\* \* \* \* \*

2. Section 200.30-4 is amended by adding paragraph (a)(11) to read as follows:

**§ 200.30-4 Delegation of authority to Director of Division of Enforcement.**

\* \* \* \* \*

(a) \* \* \*

(11) To authorize staff to appear in federal bankruptcy court to preserve Commission claims in connection with investigations pursuant to section 19(b) of the Securities Act of 1933 (15 U.S.C. 77s(b)), section 21(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(b)), section 18(c) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r(c)), section 42(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(b)) and section 209(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(b)).

\* \* \* \* \*

By the Commission.

Dated: May 2, 1996.

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-11451 Filed 5-7-96; 8:45 am]

BILLING CODE 8010-01-P

**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Parts 1, 4, 7, 16, 19, 20, 21, 22, 24, 25, 53, 55, 71, 170, 178, 179, 194, 197, 200, 250, 251, 252, 270, 275, 285, 290, and 296**

[T.D. 372]

**RIN 1512-AB47**

**Technical Amendments**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF) Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This Treasury decision makes technical amendments and conforming changes to chapter I of title 27 Code of Federal Regulations (CFR). All changes are to provide clarity and uniformity throughout title 27 Code of Federal Regulations.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Angela R. Shanks, Alcohol and Tobacco Programs Division, Wine, Beer, and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202-927-8230).

**SUPPLEMENTARY INFORMATION:** The Bureau of Alcohol, Tobacco and Firearms administers regulations published in chapter I of title 27 Code of Federal Regulations. These regulations are updated April 1 of each year to incorporate new or revised regulations that were published by ATF in the Federal Register during the preceding year. Upon reviewing title 27 for the annual revision, ATF and the CFR Unit of the Office of the Federal Register identified several amendments and conforming changes that are needed to provide uniformity in chapter I of title 27, Code of Federal Regulations.

These amendments do not make any substantive changes and are only intended to improve the clarity of title 27 or relieve regulatory requirements.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no recordkeeping or reporting requirements.

#### Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply.

#### Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not, (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 Executive Order 12866.

#### Administrative Procedures Act

Because this final rule merely makes technical amendments and conforming

changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

#### Drafting Information

The principal author of this document is Angela R. Shanks, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects

##### *27 CFR Part 1*

Administrative Practice and Procedure, Alcohol and Alcoholic Beverages, Authority Delegations, Imports, Warehouses.

##### *27 CFR Part 4*

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers.

##### *27 CFR Part 7*

Advertising, Alcohol and Alcoholic Beverages, Antitrust, Credit, Trade Practices.

##### *27 CFR Part 16*

Beer, Consumer protection, Customs duties and inspections, Health, Imports, Labeling, Liquors, Packaging and containers, Safety, Wine.

##### *27 CFR Part 19*

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Chemicals, Claims, Customs duties and inspections, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, U.S. Possession, Virgin Islands, Warehouses, Wine.

##### *27 CFR Part 20*

Administrative practice and procedure, Advertising, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Chemicals, Claims, Cosmetics, Excise taxes.

##### *27 CFR Part 21*

Alcohol and alcoholic beverages, Authority delegations (Government agencies), Chemicals, Gasohol.

##### *27 CFR Part 22*

Administrative practice and procedure, Advertising, Alcohol and

alcoholic beverages, Authority delegations (Government agencies), Claims, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

##### *27 CFR Part 24*

Administrative practice and procedure, Authority delegation, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

##### *27 CFR Part 25*

Administrative practice and procedure, Authority delegation, Beer, Claims, Electronic funds transfers, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds, Transportation.

##### *27 CFR Part 53*

Administrative practice and procedure, Arms and munitions, Authority delegation, Exports, Imports, Penalties, Reporting and recordkeeping requirements.

##### *27 CFR Part 55*

Administrative practice and procedure, Authority delegation, Customs duties and inspections, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, and Warehouses.

##### *27 CFR Part 71*

Administrative practice and procedure, Authority delegations, Freedom of Information, Privacy.

##### *27 CFR Part 170*

Alcohol and alcoholic beverages, Authority delegations, Claims, Customs duties and inspections, Disaster assistance, Excise taxes, Labeling, Liquors, Penalties, Reporting requirements, Surety bonds, Wine.

##### *27 CFR Part 178*

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs duties and inspections, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, Transportation.

##### *27 CFR Part 179*

Administrative practice and procedure, Arms and munitions,

Authority delegations, Claims, Customs duties and inspections, Excise taxes, Exports, Imports, Penalties, Reporting requirements, Seizures and forfeitures, Transportation, U.S. Possessions.

*27 CFR Part 194*

Alcohol and alcoholic beverages, Authority delegations, Beer, Claims, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Penalties, Reporting requirements, Wine.

*27 CFR Part 197*

Alcohol and alcoholic beverages, Authority delegations, Claims, Drugs, Excise taxes, Foods, Spices and flavorings, Surety bonds, Reporting requirements.

*27 CFR Part 200*

Administrative practice and procedure, Authority delegations.

*27 CFR Part 250*

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Claims, Customs duties and inspections, Drugs, Electronic funds transfers, Excise taxes, Foods, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds.

*27 CFR Part 251*

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspections, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting requirements, Transportation, Wine.

*27 CFR Part 252*

Aircraft, Alcohol and alcoholic beverages, Armed forces, Authority delegations, Beer, Claims, Excise taxes, Exports, Fishing vessels, Foreign trade zones, Liquors, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

*27 CFR Part 270*

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds.

*27 CFR Part 275*

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Electronic funds transfers,

Claims, Customs duties and inspections, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting requirements, Seizures and forfeitures, Surety bonds, U.S. Possessions, Warehouses.

*27 CFR Part 285*

Administrative practice and procedure, Aircraft, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspections, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Penalties, Surety bonds, Vessels, Warehouses.

*27 CFR Part 290*

Administrative practice and procedure, Aircraft, Authority delegation, Cigarette papers and tubes, Claims, Customs duties and inspections, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Penalties, Surety bonds, Tobacco products, Vessels, Warehouses.

*27 CFR Part 296*

Cigarette papers and tubes, Cigars and cigarettes, Claims, Disaster assistance, Excise taxes, Penalties, Seizures and forfeitures, Surety bonds.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

**PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT**

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

Authority: 27 U.S.C. 203, 204.

Par. 2. In section 1.3, paragraph (b) is removed, paragraph (c) is redesignated as paragraph (b), and the redesignated paragraph (b) is revised to read as follows:

**§ 1.3 Forms prescribed.**

\* \* \* \* \*

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

**PART 4—LABELING AND ADVERTISING OF WINE**

Par. 3. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

**§ 4.3 [Amended]**

Par. 4. In § 4.3, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**§ 4.21 [Amended]**

Par. 5. Section 4.21(g)(1) is amended by removing the phrase “paragraph (b)” and adding in its place the phrase “paragraph (g)(2)”.

**PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS**

Par. 6. The authority citation for part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

**§ 5.3 [Amended]**

Par. 7. In § 5.3, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES**

Par. 8. The authority citation for part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

**§ 7.3 [Amended]**

Par. 9. In § 7.3, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 16—ALCOHOLIC BEVERAGE HEALTH WARNING STATEMENT**

Par. 10. The authority citation for part 16 continues to read as follows:

Authority: 27 U.S.C. 205, 215.

**§ 16.22 [Amended]**

Par. 11. Section 16.22(d) is removed.

**PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE**

Par. 12. The authority citation for part 18 continues to read as follows:

Authority: 26 U.S.C. 5001, 5172, 5178, 5179, 5203, 5511, 5552, 6025, 7805; 44 U.S.C. 3504(h).

**§ 18.16 [Amended]**

Par. 13. In § 18.16, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 19—DISTILLED SPIRITS PLANTS**

Par. 14. The authority citation for part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5211–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 15. In § 19.61, paragraph (b) is removed, paragraph (c) is redesignated as paragraph (b), and the redesignated paragraph (b) is revised to read as follows:

**§ 19.61 Forms prescribed.**

\* \* \* \* \*

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

Par. 16. Section 19.534 is revised to read as follows:

**§ 19.534 Withdrawals of spirits for use in production of nonbeverage wine and nonbeverage wine products.**

Spirits withdrawn without payment of tax may be removed, pursuant to the provisions of part 24 of this chapter, to a bonded wine cellar for use in the production of nonbeverage wine and nonbeverage wine products. (Sec. 455, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5214))

**§ 19.581 [Amended]**

Par. 17. Section 19.581(a) is amended by removing the phrase "part 240" and adding in its place the phrase "part 24".

**§ 19.592 [Amended]**

Par. 18. Section 19.592 is amended by removing the phrase "part 240" and adding in its place the phrase "part 24".

**PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM**

Par. 18a. The authority citation for part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271-5275, 5311, 5552, 5555, 5607, 6065, 7805.

**§ 20.21 [Amended]**

Par. 19. In § 20.21, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 21—FORMULAS FOR DENATURED ALCOHOL AND RUM**

Par. 20. The authority citation for part 21 continues to read as follows:

Authority: 5 U.S.C. 522(a); 26 U.S.C. 5242, 7805.

**§ 21.2 [Amended]**

Par. 21. In § 21.2, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL**

Par. 22. The authority citation for part 22 continues to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5214, 5271-5276, 5311,

5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

**§ 22.21 [Amended]**

Par. 23. In § 22.21, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 24—WINE**

Par. 24. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 24.20 [Amended]**

Par. 25. In § 24.20, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 25—BEER**

Par. 26. The authority citation for part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051-5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401-5403, 5411-5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303-9308.

**§ 25.3 [Amended]**

Par. 27. In § 25.3, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**§ 25.221 [Amended]**

Par. 28. Section 25.221(a) is amended by removing the phrase "beer determined" and adding in its place the phrase "been determined".

**PART 53—MANUFACTURERS EXCISE TAXES—FIREARMS AND AMMUNITION**

Par. 29. The authority citation for part 53 continues to read as follows:

Authority: 26 U.S.C. 4181, 4182, 4216-4219, 4221-4223, 4225, 6001, 6011, 6020, 6021, 6061, 6071, 6081, 6091, 6101-6104, 6109, 6151, 6155, 6161, 6301-6303, 6311, 6402, 6404, 6416.

**§ 53.21 [Amended]**

Par. 30. In § 53.21, paragraph (b) is removed and paragraphs (c) and (d) are redesignated as paragraphs (b) and (c) respectively.

**§ 53.103 [Amended]**

Par. 31. The title of § 53.103 is amended by removing the number

52.103 and adding in its place the number 53.103.

**§ 53.133 [Amended]**

Par. 32. Section 53.133(b) introductory text is amended by removing the word "producer" in the second sentence and adding in its place the word "purchaser".

**PART 55—COMMERCE IN EXPLOSIVES**

Par. 33. The authority citation for part 55 continues to read as follows:

Authority: 18 U.S.C. 847.

**§ 55.21 [Amended]**

Par. 34. In § 55.21, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 71—STATEMENT OF PROCEDURAL RULES**

Par. 35. The authority citation for part 71 continues to read as follows:

Authority: 5 U.S.C. 301, 552.

**§ 71.42 [Amended]**

Par. 36. In § 71.42, paragraph (c)(1) is removed and paragraph (c)(2) is redesignated as paragraph (c).

**PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR**

Par. 37. The authority citation for Part 170 continues to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5064, 5111, 5121, 5171, 5204, 5291, 5301, 5362, 7805; 31 U.S.C. 9304, 9306.

**Subparts B, D, and F [Removed and reserved]**

Par. 38. In Part 170, subparts B, D, and F are removed and reserved.

**PART 178—COMMERCE IN FIREARMS AND AMMUNITION**

Par. 39. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921-930; 44 U.S.C. 3504(h).

**§ 178.21 [Amended]**

Par. 40. In § 178.21, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS**

Par. 41. The authority citation for part 179 continues to read as follows:

Authority: 26 U.S.C. 7805.

**§ 179.21 [Amended]**

Par. 42. In § 179.21, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 194—LIQUOR DEALERS**

Par. 43. The authority citation for part 194 continues to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5111–5117, 5121–5124, 5143, 5145, 5146, 5206, 5207, 5301, 5352, 5555, 5613, 5681, 5691, 6001, 6011, 6061, 6065, 6071, 6091, 6109, 6151, 6311, 6314, 6402, 6511, 6601, 6621, 6651, 6657, 7011, 7805.

**§ 194.41 [Amended]**

Par. 44. In § 194.41, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS**

Par. 45. The authority citation for part 197 continues to read as follows:

Authority: 26 U.S.C. 5010, 5131–5134, 5143, 5146, 5206, 5273, 6065, 6091, 6109, 6402, 6511, 6676, 7213, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 46. In § 197.2, paragraph (b) is removed, paragraph (c) is redesignated as paragraph (b), the redesignated paragraph (b) is revised to read as follows:

**§ 197.2 Forms prescribed.**

\* \* \* \* \*

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

**PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS**

Par. 47. The authority citation for part 200 continues to read as follows:

Authority: 26 U.S.C. 7805; 27 U.S.C. 204.

Par. 48. In § 200.3, paragraph (b) is removed, paragraph (c) is redesignated as paragraph (b), and the redesignated paragraph (b) is revised to read as follows:

**§ 200.3 Forms prescribed.**

\* \* \* \* \*

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

**PART 250—LIQUOR AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS**

Par. 49. The authority citation for part 250 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131–5134, 5141, 5146, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 9301, 9303, 9304, 9306.

**§ 250.2 [Amended]**

Par. 50. In § 250.2, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER**

Par. 51. The authority citation for part 251 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

**§ 251.2 [Amended]**

Par. 52. In § 251.2, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 252—EXPORTATION OF LIQUORS**

Par. 53. The authority citation for part 252 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

**§ 252.2 [Amended]**

Par. 54. In § 252.2, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**§ 252.216 [Amended]**

Par. 55. Section 252.216 is amended by removing the phrase “parts 24 or part 231” and adding in its place the phrase “part 24”.

**PART 270—MANUFACTURE OF TOBACCO PRODUCTS**

Par. 56. The authority citation for part 270 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9404, 9306.

**§ 270.41 [Amended]**

Par. 57. In § 270.41, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES**

Par. 58. The authority citation for part 275 continues to read as follows:

Authority: 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5722, 5723, 5741, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 275.21 [Amended]**

Par. 59. In § 275.21, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 285—MANUFACTURE OF CIGARETTE PAPERS AND TUBES**

Par. 60. The authority citation for part 285 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6302, 6402, 6404, 6676, 6806, 7011, 7212, 7325, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 285.2 [Amended]**

Par. 61. In § 285.2, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX**

Par. 62. The authority citation for part 290 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 290.2 [Amended]**

Par. 63. In § 290.2, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b).

**PART 296—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES**

Par. 64. The authority citation for part 296 continues to read as follows:

Authority: 18 U.S.C. 2341–2346; 26 U.S.C. 5708, 5751, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805; 44 U.S.C. 3504(h); 49 U.S.C. 782.

**Subpart H [Removed and reserved]**

Par. 65. In part 296, subpart H is removed and reserved.

Dated: March 25, 1996.

Bradley A. Buckles,

Acting Director.

Approved: April 8, 1996.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 96-11375 Filed 5-07-96; 8:45 am]

BILLING CODE 4810-31-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 292

RIN 0596-AB39

#### Smith River National Recreation Area

AGENCY: Forest Service, USDA.

ACTION: Final rule; change of effective date.

**SUMMARY:** The Forest Service is giving notice of a change in the effective date of the Smith River National Recreation Area final rule. The Smith River final rule was published in the Federal Register on April 3, 1996, (61 FR 14621) and became effective on that date. However, at the time of submission, the Forest Service was unaware of the new statutory requirements concerning Congressional review of regulations. Public Law 104-121, Subtitle E, Section 251, "Congressional Review" requires the agency to submit a report and a copy of a final regulation to each House of Congress and to the General Accounting Office (GAO), when the rule is published in the Federal Register. The effective date of a published rule must be later than the publication date in order to allow time for Congressional review. A report and a copy of the rule were submitted to Congress and the GAO on May 3, 1996.

**EFFECTIVE DATE:** The new effective date for this rule is May 23, 1996.

**FOR FURTHER INFORMATION CONTACT:** Sam Hotchkiss, Minerals and Geology Management Staff, Forest Service, USDA, (202) 205-1535.

**SUPPLEMENTARY INFORMATION:** This final rule (36 CFR Part 292) implements Section 8(d) of the Smith River National Recreation Area Act of 1990 and sets forth the procedures by which the Forest Service will regulate mineral operations on National Forest System lands within the Smith River National Recreation Area. This rule supplements existing Forest Service regulations and is intended to ensure that mineral operations are conducted in a manner consistent with the purposes for which

the Smith River National Recreation Area was established.

Dated: May 3, 1996.

David G. Unger,

Associate Chief.

[FR Doc. 96-11471 Filed 5-7-96; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900-AH83

#### Adjudication Regulations; Miscellaneous

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

**SUMMARY:** This document amends adjudication regulations by updating various cross-references and authority citations and by making other nonsubstantive changes.

**EFFECTIVE DATE:** This amendment is effective May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273-7210.

**SUPPLEMENTARY INFORMATION:** 38 CFR 3.23(d)(5) concerns annual income for improved pension surviving spouses. The authority citation for 38 CFR 3.23(d)(5) is shown incorrectly as "38 U.S.C. 1541 (c), (h)". The authority citation is corrected to read "38 U.S.C. 1541 (c), (g)".

38 CFR 3.24(c)(1) states that in certain situations pension shall be paid to a child in the custody of a person legally responsible for the child's support at an annual rate equal to the difference between the rate for a surviving spouse and one child, and "the sum of the annual income of such person." This paragraph is based on 38 U.S.C. 1542 which states that the child's rate is reduced by the child's income or, if the child is residing with a person legally responsible for the child's support, by "the sum of the annual income of such child and such person." 38 CFR 3.24(c)(1) is amended to restore the words "the annual income of such child and" before "the annual income of such person". These words appear in the Federal Register of September 16, 1987, but were omitted from the July 1, 1988, Federal Register codification of 38 CFR and all subsequent versions. This change will conform the regulation to 38 U.S.C. 1542.

The most recent change to 38 CFR 3.25 appeared in the Federal Register of September 16, 1987. The version of 38 CFR 3.25(c)(2) in the Federal Register of September 16, 1987, contained the following statement: ". . . no payment of DIC to a parent under this paragraph may be less than \$5 monthly. Each time there is a rate increase under 38 U.S.C. 3112, the amount of the reduction under this paragraph shall be recomputed to provide, as nearly as possible, for an equitable distribution of the rate increase." However, the July 1, 1988, codified version of 38 CFR 3.25(c)(2) omitted the following words: "may be less than \$5 monthly. Each time there is a rate increase under 38 U.S.C. 3112, the amount of the reduction under this paragraph". This change restores the words that were inadvertently omitted from 38 CFR 3.25(c)(2).

38 CFR 3.250(d) concerning remarriage of a parent receiving Dependency and Indemnity Compensation (DIC) contains an incorrect reference to "38 U.S.C. 102(a)(2)". The reference is corrected to read "38 U.S.C. 102(b)(1)".

38 CFR 3.252(a), which concerns annual income limitations in old-law pension cases, contains an incorrect reference to "§ 3.26(b)". 38 CFR 3.252(a) is changed to show the correct reference for old-law pension, which is 38 CFR 3.26(c).

In 1991 § 14(d)(8)(b) of Public Law 102-54 eliminated subsection (e) from 38 U.S.C. 6103. The language that was previously in subsection (e) was included under subsection (b). The authority citation for 38 CFR 3.458(f)(2) is changed from "38 U.S.C. 6103(e)" to "38 U.S.C. 6103(b)".

38 CFR 3.100(a), 38 CFR 3.321(b)(1), 38 CFR 3.460(b), 38 CFR 3.461(b)(1), and 38 CFR 3.559(c) are amended to show the current title of the chief officer of the Veterans Benefits Administration. Previously the Under Secretary for Benefits was called the "Chief Benefits Director."

A regulatory change published in the Federal Register of June 24, 1985, moved effective date rules for Dependency and Indemnity Compensation (DIC) from 38 CFR 3.400(c)(3) to 38 CFR 3.400(c)(4). 38 CFR 3.702 on DIC is amended to reflect that change in two references to 38 CFR 3.400.

We are amending 38 CFR 3.852 on institutional awards to add authority citations for paragraphs (a), (c), (d), and (e).

In 1991, § 14(d)(8)(b) of Public Law 102-54 eliminated paragraph (e) from 38 U.S.C. 6103. The authority citation for 38 CFR 3.901(c) is changed from "38

U.S.C. 6103(e)" to "38 U.S.C. 6103". The authority citation for 38 CFR 3.901(d)(3) is changed from "38 U.S.C. 6103(a), (d), (e)" to "38 U.S.C. 6103". The authority citation for 38 CFR 3.902(d)(3) is changed from "38 U.S.C. 6103(d), (e), 6104" to "38 U.S.C. 6104".

38 CFR 3.1612(e)(3) is amended to show the current name of the element within VA which is responsible for furnishing Government headstones and markers. Previously the Office of Memorial Programs was called the "Monument Service."

This final rule makes nonsubstantive changes. Accordingly, this final rule is promulgated without regard to the notice-and-comment and effective-date provisions of 5 U.S.C. 553.

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601-612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: April 30, 1996.

Jesse Brown,

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

### PART 3—ADJUDICATION

#### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

#### § 3.23 [Amended]

2. In § 3.23, the authority citation immediately following paragraph (d)(5) is revised to read as follows:

(Authority: 38 U.S.C. 1541(c), (g))

#### § 3.24 [Amended]

3. In § 3.24, paragraph (c)(1) is amended by adding "the annual income of such child and" immediately following "and the sum of".

#### § 3.25 [Amended]

4. In § 3.25, the concluding text of paragraph (c) is amended by adding "may be less than \$5 monthly. Each time there is a rate increase under 38 U.S.C. 5312, the amount of the reduction under this paragraph" immediately following "to a parent under this paragraph".

#### § 3.100 [Amended]

5. In § 3.100, paragraph (a) is amended by removing "Chief Benefits Director" and "Director" and adding, in their place, "Under Secretary for Benefits" and "Under Secretary", respectively.

#### § 3.250 [Amended]

6. In § 3.250, paragraph (d) is amended by removing "(38 U.S.C. 102(a)(2))" and adding, in its place, "(38 U.S.C. 102(b)(1))".

#### § 3.252 [Amended]

7. In § 3.252, paragraph (a) is amended by removing "§ 3.26(b)" and adding, in its place, "§ 3.26(c)".

#### § 3.321 [Amended]

8. In § 3.321, paragraph (b)(1) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

#### § 3.458 [Amended]

9. In § 3.458, the authority citation immediately following paragraph (f)(2) is revised to read as follows:

(Authority: 38 U.S.C. 6103(b); 6104(c); 6105(a))

#### § 3.460 [Amended]

10. In § 3.460, paragraph (b) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

#### § 3.461 [Amended]

11. In § 3.461, paragraph (b)(1) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

#### § 3.559 [Amended]

12. In § 3.559, paragraph (c) is amended by removing "Chief Benefits Director" and adding, in its place, "Under Secretary for Benefits".

#### § 3.702 [Amended]

13. In § 3.702, paragraph (a) is amended by removing "§ 3.400(c)(3)" and adding, in its place, "§ 3.400(c)(4)".

14. In § 3.702, paragraph (b) is amended by removing "§ 3.400(c)(3)(ii)" and adding, in its place, "§ 3.400(c)(4)(ii)".

15. In § 3.852, an authority citation for paragraphs (a), (c), (d), and (e) is added

immediately following each such paragraph, to read as follows:

#### § 3.852 Institutional awards.

(a) \* \* \*

(Authority: 38 U.S.C. 5503(b)(3))

\* \* \* \* \*

(c) \* \* \*

(Authority: 38 U.S.C. 5307)

(d) \* \* \*

(Authority: 38 U.S.C. 5503(b)(3))

(e) \* \* \*

(Authority: 38 U.S.C. 5502)

\* \* \* \* \*

#### § 3.901 [Amended]

16. In § 3.901, the authority citation immediately following paragraph (c) is revised to read as follows:

(Authority: 38 U.S.C. 6103)

17. In § 3.901, the authority citation immediately following the concluding text of paragraph (d) is revised to read as follows:

(Authority: 38 U.S.C. 6103)

#### § 3.902 [Amended]

18. In § 3.902, the authority citation immediately following the concluding text of paragraph (d) is revised to read as follows:

(Authority: 38 U.S.C. 6104)

#### § 3.1612 [Amended]

19. In § 3.1612, paragraph (e)(3) is amended by removing "Monument Service" and adding, in its place, "Office of Memorial Programs".

[FR Doc. 96-11418 Filed 5-7-96; 8:45 am]

BILLING CODE 8320-01-P

### 38 CFR Part 21

RIN 2900-AH59

#### Educational Assistance: Technical Amendments

AGENCY: Department of Veterans Affairs.  
ACTION: Final rule.

**SUMMARY:** This document amends statutory citations in the educational assistance regulations to reflect that the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103-337) reorganized a portion of title 10, United States Code, by moving sections 2131 through 2137 from chapter 106 to sections 16131 through 16137 in chapter 1606. This document also corrects typographical errors and corrects other citation entries. The changes made by this document concern the Montgomery GI Bill-Selected Reserve program, the Montgomery GI Bill-Active Duty

program, the Survivors' and Dependents' Educational Assistance program, the Post-Vietnam Era Veterans' Educational Assistance program, and the Educational Assistance Test program.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 273-7187.

**SUPPLEMENTARY INFORMATION:** This final rule consists of nonsubstantive changes and, therefore, is not subject to the notice and comment and effective date provisions of 5 U.S.C. 553.

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule would not cause a significant effect on any entity since it does not contain any substantive provisions. Pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory analyses requirements of sections 603 and 604.

The Montgomery GI Bill-Selected Reserve program and the Educational Assistance Test program are not listed in the Catalog of Federal Domestic Assistance. The Catalog of Federal Domestic Assistance numbers for other programs affected by this final rule are 64.117, 64.120, and 64.124.

#### List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Entitlement programs-education, Entitlement programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 1, 1996.

Jesse Brown,

*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 21 (subparts C, D, G, H, K, L) is amended as set forth below.

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

1. The authority citation for part 21, subpart C is revised to read as follows:

Authority: 38 U.S.C. 501(a), 3500-3566, unless otherwise noted.

#### § 21.3022 [Amended]

2. In § 21.3022, paragraph (e) is amended by removing "106" and adding, in its place, "1606".

### Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

3. The authority citation for part 21, subpart D is revised to read as follows:

Authority: 38 U.S.C. 501(a), chs. 34, 35, 36, unless otherwise noted.

#### §§ 21.4005, 21.4009, 21.4022, 21.4134, 21.4151, 21.4153, 21.4201, 21.4206, 21.4207, 21.4250, 21.4251, 21.4263 [Amended]

4. Remove "106" and add, in place thereof, "1606" in the following places:

- a. Section 21.4005(a)(1), (a)(2), (b)(1)(ii)(d), (b)(1)(ii)(e), and (b)(2)(ii)(a);
- b. Section 21.4009(c);
- c. Section 21.4022(a)(6);
- d. Section 21.4134(b)(1), (b)(2), and (c)(2);
- e. Section 21.4151(b)(4);
- f. Section 21.4153(c)(4)(i);
- g. Section 21.4201(c)(4), (e)(2), (f)(1)(ii), and (g)(2);
- h. Section 21.4206 introductory text, (a), and (e)(1);
- i. Section 21.4207 introductory text;
- j. Section 21.4250(c)(2)(ii);
- k. Section 21.4251(a)(6)(iii); and
- l. Section 21.4263 heading and (a).

#### §§ 21.4134, 21.4153, 21.4201, 21.4206, 21.4207, 21.4250 [Amended]

5. Remove "2136" and add, in place thereof, "16136" in the authority citations following:

- a. Section 21.4134(c)(2);
- b. Section 21.4153(c)(4)(i);
- c. Section 21.4201(g)(2) introductory text and (g)(2)(ii);
- d. Section 21.4206 (a) and (e)(1);
- e. Section 21.4207 introductory text; and
- f. Section 21.4250(c)(2)(ii).

#### §§ 21.4005, 21.4009 [Amended]

6. Remove "2136(b)" and add, in place thereof, "16136(b)" in the authority citations following:

- a. Section 21.4005 (a)(1) and (b)(2)(ii)(a); and
- b. Section 21.4009(c).

#### § 21.4020 [Amended]

7. In § 21.4020, paragraph (a)(5) is amended by removing "106 and 107" and adding, in its place, "107 and 1606".

#### § 21.4209 [Amended]

8. In § 21.4209, paragraph (a)(1) is amended by removing "106" and adding, in its place, "1606", and by removing "U.S.C., and (10 U.S.C. 2136, 38 U.S.C. 3034, 3244, 3690)." and adding, in its place, "U.S.C."; and the authority citation following paragraph (a)(2) is amended by removing "38 U.S.C." and adding, in its place, "10 U.S.C. 16136; 38 U.S.C. 3034, 3244,".

#### § 21.4233 [Amended]

9. In § 21.4233, the authority citation for paragraph (c)(1) is amended by removing "3473(c)" and adding, in its place, "3680A(c)".

#### § 21.4263 [Amended]

10. In § 21.4263, the authority citations following paragraphs (a)(2), (b)(2), (c)(2), (d)(3), (e), (g)(4)(x)(A), (h) introductory text, (h)(2), (i)(3), and (i)(4) are amended by removing "2136(c)" and adding, in place thereof, "16136(c)".

11. In § 21.4263, the authority citation following paragraph (h)(3)(ii) is amended by removing "2131" and adding, in its place, "16131".

12. In § 21.4263, the authority citations following paragraphs (h)(1)(iii), (h)(4)(ii), and (h)(4)(iii) are amended by removing "2131(g)" and adding, in place thereof, "16131(g)".

### Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32

13. The authority citation for part 21, subpart G is revised to read as follows:

Authority: 38 U.S.C. 501(a), ch. 32, unless otherwise noted.

#### §§ 21.5040, 21.5065 [Amended]

14. Remove "106" and add, in place thereof, "1606" in the following places:

- a. Section 21.5040(h) heading, (h) introductory text, and (h)(2); and
- b. Section 21.5065(c).

### Subpart H—Educational Assistance Test Program

15. The authority citation for part 21, subpart H is revised to read as follows:

Authority: 10 U.S.C. ch. 107; 38 U.S.C. 501(a), 3695, 5101, 5113, 5303A; 42 U.S.C. 2000; sec. 901, Pub. L. 96-342, 94 Stat. 1111-1114, unless otherwise noted.

#### § 21.5720 [Amended]

16. In § 21.5720, the authority citation following paragraph (c)(3) is amended by removing "1072(2)(E) 2147(d)(1)"

and adding, in its place, "1072(2)(D), 2147(d)(1)".

**§ 21.5741 [Amended]**

17. In § 21.5741, paragraph (c)(3)(ii) is amended by removing "106" and adding, in its place, "1606".

**§ 21.5835 [Amended]**

18. In § 21.5835, the authority citation following paragraph (f) is amended by removing "2143(c)2144" and adding, in its place, "2143(c), 2144".

**Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)**

19. The authority citation for part 21, subpart K is revised to read as follows:

Authority: 38 U.S.C. 501(a), ch. 30, unless otherwise noted.

**§ 21.7042 [Amended]**

20. In § 21.7042, paragraphs (d)(2) introductory text, (d)(2)(i)(B), and (d)(3) are amended by removing "106" and adding, in place thereof, "1606"; and the authority citation following paragraph (d)(3) is amended by removing "3033(c), 10 U.S.C. 2132" and adding, in its place, "3033(c)".

**§ 21.7142 [Amended]**

21. In § 21.7142, paragraph (a)(4) is amended by removing "106" and adding, in its place, "1606".

**Subpart L—Educational Assistance for Members of the Selected Reserve**

22. The authority citation for part 21, subpart L is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.

**§§ 21.7520, 21.7540, 21.7603, 21.7610, 21.7612, 21.7622, 21.7630, 21.7640, 21.7642, 21.7644, 21.7658, 21.7801, 21.7805, 21.7807, 21.7810 [Amended]**

23. Remove "106" and add, in place thereof, "1606" in the following places:

- a. Section 21.7520 introductory text, (a)(1), and (b)(14)(iii);
- b. Section 21.7540(b)(1), (b)(2), and (c);
- c. Section 21.7603;
- d. Section 21.7610(b) introductory text;
- e. Section 21.7612(b);
- f. Section 21.7622(c);
- g. Section 21.7630;
- h. Section 21.7640(b)(1) and (c)(2);
- i. Section 21.7642(a) introductory text;
- j. Section 21.7644(a) and (d)(2);
- k. Section 21.7658(a);
- l. Section 21.7801 (a) and (b);
- m. Section 21.7805;
- n. Section 21.7807; and
- o. Section 21.7810(b) introductory text.

**§§ 21.7520, 21.7610, 21.7620, 21.7622, 21.7640 [Amended]**

24. Remove "2131" and add, in place thereof, "16131" in the authority citations following:

- a. Section 21.7520(a)(2) and (b)(13);
- b. Section 21.7610(a);
- c. Section 21.7620(a);
- d. Section 21.7622(b); and
- e. Section 21.7640(a)(2).

**§§ 21.7500, 21.7650 [Amended]**

25. Remove "2131(a)" and add, in place thereof, "16131(a)" in the authority citations following:

- a. Section 21.7500; and
- b. Section 21.7650.

**§§ 21.7520, 21.7630, 21.7635, 21.7636, 21.7670 [Amended]**

26. Remove "2131(b)" and add, in place thereof, "16131(b)" in the authority citations following:

- a. Section 21.7520 (b)(6), (b)(7), (b)(22) and (b)(28);
- b. Section 21.7630.
- c. Section 21.7635(f)(2), (g)(2), and (h)(2);
- d. Section 21.7636(a); and
- e. Section 21.7670(a)(4), (b)(2)(iii), and (c)(2)(iii).

**§§ 21.7570, 21.7635 [Amended]**

27. Remove "2131(c)" and add, in place thereof, "16131(c)" in the authority citations following:

- a. Section 21.7570; and
- b. Section 21.7635(l).

**§§ 21.7550, 21.7635 [Amended]**

28. Remove "2133" and add, in place thereof, "16133" in the authority citations following:

- a. Section 21.7550 (a)(2) and (a)(3); and
- b. Section 21.7635(m).

**§§ 21.7532, 21.7551 [Amended]**

29. Remove "2133(b)(2)" and add, in place thereof, "16133(b)(2)" in the authority citations following:

- a. Section 21.7532(e)(2); and
- b. Section 21.7551(a)(2), (b)(2)(ii), and (c)(2)(ii).

**§§ 21.7635, 21.7642, 21.7802 [Amended]**

30. Remove "2134" and add, in place thereof, "16134" in the authority citations following:

- a. Section 21.7635 (o) and (p);
- b. Section 21.7642(c); and
- c. Section 21.7802(c).

**§§ 21.7520, 21.7530, 21.7532, 21.7600, 21.7610, 21.7612, 21.7614, 21.7622, 21.7631, 21.7633, 21.7635, 21.7639, 21.7640, 21.7642, 21.7644, 21.7652, 21.7653, 21.7656, 21.7658, 21.7659, 21.7672, 21.7673, 21.7674, 21.7700, 21.7801, 21.7805, 21.7807 [Amended]**

31. Remove "2136(b)" and add, in place thereof, "16136(b)" in the authority citations following:

- a. Section 21.7520(b)(3), (b)(4), (b)(5), (b)(8), (b)(9), (b)(10), (b)(11), (b)(12)(ii)(C), (b)(15), (b)(16), (b)(18), (b)(21), (b)(24), (b)(25), and (b)(26);
- b. Section 21.7530 (a), (b), and (c);
- c. Section 21.7532 (a), (b), (c), (d), and (f);
- d. Section 21.7600(a)(5), (b)(3)(iii), (c)(2), and (d);
- e. Section 21.7610(b)(4);
- f. Section 21.7612(b);
- g. Section 21.7614;
- h. Section 21.7622(a), (c), (d)(3), and (e);
- i. Section 21.7631(a)(4), (d), and (f)(2);
- j. Section 21.7633;
- k. Section 21.7635(b)(1), (b)(2)(ii), (c)(2)(ii)(C), (c)(3), (d)(2), (e)(2), (i), (j), (k)(2)(iii), and (n)(2);
- l. Section 21.7639(b)(1)(B), (c)(3), (d)(3)(ii), and (e);
- m. Section 21.7640(b)(3), (c)(2), (d)(6)(ii), (e), and (f);
- n. Section 21.7642(b) and (d)(3);
- o. Section 21.7644(a), (c)(2)(ii), and (d)(2);
- p. Section 21.7652(a)(5), (b)(3)(ii), and (c)(2)(vi);
- q. Section 21.7653 (a) and (b);
- r. Section 21.7656 (a)(3) and (b)(2);
- s. Section 21.7658(a) and (b)(2);
- t. Section 21.7659;
- u. Section 21.7672(a)(4), (b)(2)(ii)(C), (c)(2)(ii), (c)(4), and (e)(2)(iv);
- v. Section 21.7673(b)(2) and (c)(2);
- w. Section 21.7674(a)(2), (b), and (c);
- x. Section 21.7700;
- y. Section 21.7801 (a) and (b);
- z. Section 21.7805; and
- aa. Section 21.7807.

**§ 21.7520 [Amended]**

32. In § 21.7520, the authority citation following paragraph (b)(2) is amended by removing "2136(b)" and adding, in its place, "16136(b);".

**§ 21.7540 [Amended]**

33. In § 21.7540, the authority citation following paragraph (b)(2) is amended by removing "2132" and adding, in its place, "16132" and the authority citation following paragraph (c) is amended by removing "2132(d), 2134" and adding, in its place, "16132(d), 16134".

**§ 21.7550 [Amended]**

34. In § 21.7550, the authority citation following paragraph (b)(2)(ii) is amended by removing "2133(b)(1)" and adding, in place thereof, "16133(b)(1)" and the authority citation following paragraph (c) is amended by removing "2133(b)" and adding, in place thereof, "16133(b)".

**§ 21.7576 [Amended]**

35. In § 21.7576, the authority citations following paragraphs (c)(3)(iv)

and (d)(4) are amended by removing "2133(c)" and adding, in place thereof, "16133(c)" and the authority citation following paragraph (e)(2) is amended by removing "2131(c)(3)(A)" and adding, in place thereof, "16131(c)(3)(A)".

**§ 21.7639 [Amended]**

36. In § 21.7639, the authority citation following paragraph (b)(2) is amended by removing "2130(b)" and adding, in place thereof, "16136(b)".

**§ 21.7644 [Amended]**

37. In § 21.7644, the authority citation following paragraph (b)(2) is amended by removing "2135" and adding, in place thereof, "16135".

[FR Doc. 96-11419 Filed 5-7-96; 8:45 am]

BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[ID5-2-7505; FRL-5500-4]

**Attainment Extensions for PM-10 Nonattainment Areas: Idaho**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** In the August 28, 1995 Federal Register, EPA identified two nonattainment areas in the State of Idaho which failed to attain the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to ten micrometers (PM-10) by the applicable attainment date of December 31, 1994: the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area. In that same Federal Register, EPA proposed to grant a one-year extension to the attainment date for those areas, from December 31, 1994 to December 31, 1995. EPA, by this document, grants the extensions.

**EFFECTIVE DATE:** This final rule is effective June 7, 1996.

**ADDRESSES:** Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and State of Idaho, Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83710.

**FOR FURTHER INFORMATION CONTACT:** Steven K. Body, 206/553-0782, EPA, Office of Air Quality, Seattle, Washington.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**Clean Air Act Requirements**

Areas meeting the requirements of section 107(d)(4)(B) of the Act<sup>1</sup> were designated nonattainment for particulate matter with an aerodynamic diameter of less than or equal to ten micrometers by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. See generally 42 U.S.C. section 7407(d)(4)(B). These areas included all former Group I PM-10 planning areas identified in 52 FR 29383 (August 7, 1987) as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the National Ambient Air Quality Standards for PM-10 prior to January 1, 1989.<sup>2</sup> A Federal Register notice announcing the areas designated nonattainment for PM-10 upon enactment of the 1990 Amendments, known as "initial" PM-10 nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent Federal Register notice correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). See 56 FR 56694 (November 6, 1991) and 40 CFR 81.313 (codified air quality designations and classifications for the State of Idaho). All initial moderate PM-10 nonattainment areas have the same applicable attainment date of December 31, 1994.

States containing initial moderate PM-10 nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for, among other things, implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration of whether attainment of the PM-10 NAAQS by the December 31, 1994 attainment date was practicable. See Section 189(a).

The Act provides the Administrator the discretion of granting a one-year extension to the attainment date for a moderate PM-10 nonattainment area provided certain criteria are met. See Section 188(d). The statute sets forth two criteria a moderate nonattainment area must satisfy in order to obtain an extension: (1) the State has complied with all the requirements and commitments pertaining to the area in

<sup>1</sup>The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act as amended ("Act" or "CAA"), which is codified at 42 U.S.C. § 7401 *et seq.*

<sup>2</sup>Many of these other areas were identified in footnote 4 of the October 31, 1990 Federal Register notice.

the applicable implementation plan; and (2) the area has no more than one exceedance of the 24-hour PM-10 standard in the year preceding the extension year, and the annual mean concentration of PM-10 in the area for the year preceding the extension year is less than or equal to the standard. See Section 188(d). As discussed in the August 28, 1995 Federal Register document (60 FR 44452), in exercising its discretion to grant extensions for PM-10 nonattainment areas, EPA will examine the air quality planning progress made in the moderate area. EPA will be disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate PM-10 nonattainment area planning obligations as evidenced by whether the State has: (1) adopted and substantially implemented control measures that represent RACM/RACT in the moderate nonattainment area; and (2) demonstrated that the area has made emission reductions amounting to reasonable further progress toward attainment of the PM-10 NAAQS as defined in section 171(1) of the Act. See 60 FR 44453.

If the State does not have the requisite number of years of clean air quality data to show attainment and does not apply or qualify for an attainment date extension, the area will be reclassified to serious by operation of law under section 188(b)(2) of the Act. If an extension to the attainment date is granted, at the end of the extension year EPA will again determine whether the area has attained the PM-10 NAAQS. If the requisite three consecutive years of clean air quality data needed to determine attainment are not met for the area, the State may apply for a second one-year extension of the attainment date. In order to qualify for the second one-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. EPA will also consider the State's PM-10 planning progress for the area in the year for which the first extension was granted. If a second extension is granted and the area does not have the requisite three consecutive years of clean air quality data needed to demonstrate attainment at the end of the second extension, no further extensions of the attainment date can be granted and the area will be reclassified serious by operation of law. See section 188(d).

On August 28, 1995, EPA determined, based on air quality data showing violations of the PM-10 NAAQS during the period from 1992 through 1994, that the Power-Bannock Counties PM-10 nonattainment area and Sandpoint PM-10 nonattainment area have each failed

to attain the PM-10 NAAQS by the applicable attainment date of December 31, 1994. See 60 FR 44454. In that action, EPA also proposed to grant the State of Idaho's request for a one-year extension of the PM-10 attainment date for these nonattainment areas based on the supporting information provided by the State.

EPA received two comments on the proposal, both of which supported EPA's proposal to grant the one-year extension, but one of which disagreed with EPA's characterization of two underlying issues. In this notice, EPA is taking final action on its proposal to extend the PM-10 attainment date for the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area from December 31, 1994 to December 31, 1995.

## II. Final Action and Implications

### A. Response to Public Comments

EPA received comments from the State of Idaho, Division of Environmental Quality, North Idaho Regional Office (IDEQ-NIRO) and from FMC Corporation (FMC), which owns and operates a facility in the Power-Bannock Counties PM-10 nonattainment area. IDEQ-NIRO strongly endorsed EPA's proposal to grant a one-year extension to the attainment date for the Sandpoint PM-10 nonattainment area.

FMC supported EPA's proposal to grant a one-year extension of the PM-10 attainment date for the Power-Bannock Counties PM-10 nonattainment area, but felt that EPA could have "more appropriately characterized" two issues discussed in the proposal. First, FMC objected to EPA's failure to acknowledge that FMC has undertaken efforts to voluntarily reduce particulate emissions from certain sources within its facility which FMC believes has in turn contributed to recent indications that the area is approaching attainment of the standard. Second, FMC stated that EPA should discount the importance of the Eastern Michaud Flats superfund monitoring Site #2 (EMF Site #2) monitoring data because FMC asserts that siting considerations and exceptional events substantially diminish the significance and accuracy of its measurements. EPA has serious concerns regarding the sufficiency, and in some cases, the accuracy of the information provided by FMC in support of its concerns. For example, although EPA fully supports the voluntary efforts FMC has undertaken to implement PM-10 reductions at its elemental phosphorus facility, FMC has

not provided documentation to support the claimed emission reductions or to show that the voluntary improvements meet the RACM/RACT requirement. Moreover, voluntary actions are not sufficient to meet Clean Air Act planning requirements for PM-10 nonattainment areas. See sections 110(a)(2)(A) and 172(c)(6) of the Act. Even if accurate and fully supportable, however, the information provided by FMC in its comments would not change EPA's decision to grant the Power-Bannock Counties PM-10 nonattainment area a one-year extension of the attainment date. Indeed, FMC fully supports the granting of such an extension. The information provided by FMC, if fully accepted by EPA, would only strengthen the basis for EPA's decision.

As EPA stated in the proposal, EPA is currently working on a proposed rule that would implement a control strategy for sources located within the Tribal portion of the nonattainment area. It is through this process that the control measures that have been voluntarily undertaken by FMC can be, if appropriate, made federally enforceable and their adequacy in context of the RACM/RACT requirement can be more appropriately evaluated. Similarly, if EPA proposes to rely on the data from EMF Site #2 to support its proposed control strategy, the public comment period on EPA's proposed strategy would be an appropriate time for FMC to present more information to support its claim that EMF Site #2 does not meet EPA siting criteria and to request that specifically identified events should be deemed exceptional and their effects on the monitoring site discounted.

### B. Final Action

EPA is granting the State of Idaho's request for a one-year extension of the PM-10 attainment date for both the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area. This determination is based upon available air quality data and a review of the State's progress in implementing the planning requirements that apply to moderate PM-10 nonattainment areas. For a thorough discussion of the basis for EPA's determination, please refer to the proposal for this action at 60 FR 44452. This action extends the PM-10 nonattainment date for both the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area from December 31, 1994 to December 31, 1995.

## III. Administrative Requirements

### A. Docket

Copies of the State's request and all other information relied on by EPA in granting one-year extension, including public comments on the proposal received and reviewed by EPA, are maintained in the docket at the EPA Regional Office. The docket is an organized and complete file of information submitted to or otherwise considered by EPA in making this decision. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

### B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866.

### C. Regulatory Flexibility

Extensions under Section 188(d) of the Clean Air Act do not create any new requirements, but merely extend the potential date for the imposition of new requirements. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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 July 8, 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), 42 U.S.C. 7607(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

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

Dated: April 25, 1996.

Chuck Clarke,

*Regional Administrator.*

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: 52 U.S.C. 7401–7671q.

#### **Subpart N—Idaho**

2. Section 52.691 is added to read as follows:

##### **§ 52.691 Extensions.**

The Administrator, by authority delegated under section 188(d) of the Clean Air Act, as amended in 1990, hereby extends for one year (until December 31, 1995) the attainment date for the Power-Bannock Counties PM-10 nonattainment area and the Sandpoint PM-10 nonattainment area.

[FR Doc. 96-11344 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

#### **40 CFR Part 52**

[TX-10-1-7025; FRL-5468-2]

#### **Approval and Promulgation of Air Quality Implementation Plans; Texas; Revision to the State Implementation Plan (SIP) Addressing Visible Emissions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On April 3, 1995 the EPA simultaneously published a direct final

rule and notice of proposed rulemaking in which EPA published its decision to approve a revision to the Texas SIP addressing visible emissions. During the 30-day comment period, the EPA received three comment letters in response to the April 3, 1995, rulemaking. This final rule summarizes comments and EPA's responses, and finalizes the EPA's decision to approve the revisions to the visible emissions regulations for Texas.

**EFFECTIVE DATE:** June 7, 1996.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the addresses listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733.

U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7214.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On April 3, 1995, the EPA published a direct final rulemaking approving a revision to the existing Texas regulation concerning the control of visible emissions (60 FR 16806). At the same time that the EPA published the direct final rule, a separate notice of proposed rulemaking was published in the Federal Register (60 FR 16829). This proposed rulemaking specified that EPA would withdraw the direct final rule if adverse or critical comments were filed on the rulemaking. The EPA received three letters containing adverse comments regarding the direct final rule within 30 days of publication of the proposed rule and withdrew the direct final rule on June 5, 1995 (60 FR 29484).

The specific rationale EPA used to approve the revision to the Texas visible emissions regulations is explained in the direct final rule and will not be restated here. This final rule contained in this Federal Register addresses the comments received during the public comment period and announces EPA's

final action regarding approval of the visible emissions revisions.

#### **Response to Public Comments**

In the April 3, 1995, Federal Register, the EPA requested public comments on the proposed/direct final rules (please reference 60 FR 16806-16808 and 60 FR 16829). The EPA received three adverse comment letters dated May 3, 1995, and thus proceeded to withdraw the direct final rule and adequately address each comment letter. The EPA's response to each comment letter is detailed below.

1. A letter was received from Larry Feldcamp, Baker & Botts, LLP, representing the Texas Industry Project (TIP). The TIP believed that the Texas Regulation I provisions for visible emissions were unwarranted, and that the EPA exceeded its statutory authority under title I of the Clean Air Act as amended in 1990 (CAA) in proposing to approve those provisions into the Texas SIP. The TIP believes that the visible emissions provisions are not necessary for the attainment or maintenance of any National Ambient Air Quality Standard (NAAQS) in Texas. Further, the TIP is concerned that some visible emissions provisions in Regulation I will cause more burdensome monitoring, recordkeeping, reporting, and compliance certification requirements for subject sources, since title V of the CAA incorporates SIP requirements. Finally, the TIP expressed concern about federal suits being available to enforce the visible emissions provisions, provisions which the TIP believes should not be in the Texas SIP.

EPA's response to letter #1: Section 110(a)(1) of the CAA requires States to provide plans for the implementation and maintenance, and enforcement of primary and secondary criteria pollutant standards, and for these plans to be submitted to EPA as part of the SIP. The visible emissions revisions provide for maintenance of the particulate standard statewide, and thus meet the intent of section 110(a)(1). Since EPA believes that the visible emissions regulations provide for maintenance of the particulate standard and strengthen the SIP as a whole, incorporation of these revisions into the SIP is required under section 110. The EPA must take action on state SIP submittals to either approve or disapprove the submittals. The EPA believes that the revised visible emissions provisions in Texas Regulation I are approvable (note—the existing Texas SIP contains visible emissions provisions in Texas Regulation I). This approval will strengthen the Texas SIP by updating the regulation. The EPA believes that

without visible emissions provisions in the Texas SIP, certain NAAQS (e.g. particulate, sulfur oxides, lead, ozone, and nitrogen dioxide) could be threatened. Clearly, the presence of the visible emissions provisions has resulted in particulate matter controls across the State of Texas. For the important visible emissions provisions to be eliminated from the Texas SIP, the State of Texas would have to submit a modeling demonstration to the EPA showing that the NAAQS could be attained and maintained in the State without the visible emissions provisions in Regulation I. Also, the EPA believes that the opacity provisions in Texas Regulation I provide visibility protection (visibility is an air quality related value). In addition, opacity limitations can be used as an indicator (or in some cases, as a determinant) in judging compliance or noncompliance with particulate matter (PM10) and other pollutant standards in the Texas SIP. Finally, the EPA believes that the visible emissions provisions, along with the Federal title V and the State permitting programs, allow for reasonable flexibility in meeting monitoring, recordkeeping, reporting, and compliance certification requirements so that an undue burden does not fall upon subject sources. It is important to note that the original enhanced monitoring proposal package, which provided for certain monitoring, recordkeeping, reporting, and compliance certification requirements, was withdrawn from the Office of Management and Budget on April 3, 1995, was revised significantly, and is planned to be repropounded in the Spring of 1996. The concerns about potentially burdensome monitoring, recordkeeping, reporting, and compliance certification requirements should be resolved under the new proposal that the EPA, in conjunction with the States, local agencies, and the regulated community, will produce.

It is the intent of section 110 of the CAA for States to develop an effective SIP control strategy to ensure attainment and maintenance of the NAAQS. One principle that must be adhered to is that the measures contained in the SIP be federally enforceable. To be enforceable, a legal means to ensure that sources remain in compliance with any measures or rules contained in the SIP must be provided. Federal and State suits are the legal means by which EPA ensures compliance with SIP requirements.

2. A letter was received from Neil Carman representing the Sierra Club (Lone Star Chapter). The Sierra Club supported the proposed action to make

federally enforceable the visible emissions provisions of Texas Regulation I with one exception. The Sierra Club believed that the Midlothian cement plants burning hazardous waste, or any cement plant in Texas burning hazardous waste, should be subject to a more stringent visible emissions standard than the grandfathered level of 30 percent opacity. The Sierra Club also stated that the grandfathered status for Texas Industries Inc. and North Texas Cement Company in Midlothian should have been terminated when they were allowed to burn hazardous waste.

3. A letter was received from Sue Pope representing Downwinders At Risk (DAR). The DAR also believed that the Midlothian cement plants burning hazardous waste should be subject to a more stringent visible emissions standard than the grandfathered level of 30 percent opacity.

EPA's response to letters #2 and #3: The EPA will approve the current provisions in order to strengthen the Texas SIP. There are currently 4 PM10 monitors operating in the city of Midlothian, Texas. The data collected from these monitors indicate levels far below the annual and 24-hour PM10 NAAQS of 50 micrograms per cubic meter and 150 micrograms per cubic meter, respectively. EPA believes that these more stringent visible emissions regulations will ensure protection of the PM10 NAAQS in Midlothian. It is important to note that EPA continues to participate in meetings with the Sierra Club and DAR concerning Midlothian air quality concerns.

#### Final Rulemaking Action

In this final action EPA is promulgating a revision to Texas Regulation I addressing visible emissions. This revision updates the Texas SIP and strengthens the provisions of Texas Regulation I. This revision was submitted by the Governor to the EPA by letters dated August 21, 1989, January 29, 1991, October 15, 1992 and August 4, 1993.

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

#### Miscellaneous

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the 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 the 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 (1976); 42 U.S.C. section 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, the 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 SIP or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind the State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements, such sources are already subject to these regulations under the State law. Accordingly, no additional costs to the State, local, or tribal governments, or to the private sector, result from this action. The 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 the State, local, or tribal governments in the aggregate or to the private sector.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 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)).

#### Executive Order

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 17, 1996.

Allyn M. Davis,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

#### Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(94) to read as follows:

#### § 52.2270 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(94) Revisions to the Texas SIP addressing visible emissions requirements were submitted by the Governor of Texas by letters dated August 21, 1989, January 29, 1991, October 15, 1992 and August 4, 1993.

(i) Incorporation by reference.

(A) Revisions to Texas Air Control Board (TACB), Regulation I, Section 111.111, "Requirements for Specified Sources;" Subsection 111.111(a) (first paragraph) under "Visible Emissions;" Subsections 111.111(a)(1) (first paragraph), 111.111(a)(1)(A), 111.111(a)(1)(B) and 111.111(a)(1)(E) under "Stationary Vents;" Subsection 111.111(b) (first paragraph) under "Compliance Determination Exclusions;" and Subsections 111.113 (first paragraph), 111.113(1), 111.113(2), and 111.113(3) under "Alternate Opacity Limitations," as adopted by the TACB on June 16, 1989.

(B) TACB Board Order No. 89–03, as adopted by the TACB on June 16, 1989.

(C) Revisions to Texas Air Control Board (TACB), Regulation I, Section 111.111, "Requirements for Specified Sources;" Subsections 111.111(a)(4)(A) and 111.111(a)(4)(B)(i) under "Railroad Locomotives or Ships;" Subsections 111.111(a)(5)(A) and 111.111(a)(5)(B)(i) under "Structures;" and Subsections 111.111(a)(6)(A) and 111.111(a)(6)(B)(i) under "Other Sources," as adopted by the TACB on October 12, 1990.

(D) TACB Board Order No. 90–12, as adopted by the TACB on October 12, 1990.

(E) Revisions to Texas Air Control Board (TACB), Regulation I, Section 111.111, "Requirements for Specified Sources;" Subsections 111.111(a)(1)(C), 111.111(a)(1)(D), 111.111(a)(1)(F) (first paragraph), 111.111(a)(1)(F)(i), 111.111(a)(1)(F)(ii), 111.111(a)(1)(F)(iii), 111.111(a)(1)(F)(iv), and 111.111(a)(1)(G) under "Stationary Vents;" Subsections 111.111(a)(2) (first paragraph), 111.111(a)(2)(A), 111.111(a)(2)(B), and 111.111(a)(2)(C) under "Sources Requiring Continuous Emissions Monitoring;" Subsection 111.111(a)(3) (first paragraph) under "Exemptions from Continuous Emissions Monitoring Requirements;" Subsection 111.111(a)(4), "Gas Flares," title only; Subsection 111.111(a)(5) (first paragraph) under "Motor Vehicles;" Subsections 111.111(a)(6)(A), 111.111(a)(6)(B) (first paragraph), 111.111(a)(6)(B)(i) and 111.111(a)(6)(B)(ii) under "Railroad Locomotives or Ships" (Important note, the language for 111.111(a)(6)(A) and 111.111(a)(6)(B)(i) was formerly adopted as 111.111(a)(4)(A) and 111.111(a)(4)(B)(i) on October 12, 1990); Subsections 111.111(a)(7)(A), 111.111(a)(7)(B) (first paragraph), 111.111(a)(7)(B)(i) and 111.111(a)(7)(B)(ii) under "Structures" (Important note, the language for 111.111(a)(7)(A) and 111.111(a)(7)(B)(i) was formerly adopted as 111.111(a)(5)(A) and 111.111(a)(5)(B)(i) on October 12, 1990); and Subsections 111.111(a)(8)(A), 111.111(a)(8)(B) (first paragraph), 111.111(a)(8)(B)(i) and 111.111(a)(8)(B)(ii) under "Other Sources" (Important note, the language for 111.111(a)(8)(A) and 111.111(a)(8)(B)(i) was formerly adopted as 111.111(a)(6)(A) and 111.111(a)(6)(B)(i) on October 12, 1990), as adopted by the TACB on September 18, 1992.

(F) TACB Board Order No. 92–19, as adopted by the TACB on September 18, 1992.

(G) Revisions to Texas Air Control Board (TACB), Regulation I, Section

111.111, "Requirements for Specified Sources;" Subsections 111.111(a)(4)(A) (first paragraph), 111.111(a)(4)(A)(i), 111.111(a)(4)(A)(ii), and 111.111(a)(4)(B) under "Gas Flares," as adopted by the TACB on June 18, 1993.

(H) TACB Board Order No. 93–06, as adopted by the TACB on June 18, 1993.

(ii) Additional material.

(A) TACB certification letter dated July 27, 1989, and signed by Allen Eli Bell, Executive Director, TACB.

(B) TACB certification letter dated January 9, 1991, and signed by Steve Spaw, Executive Director, TACB.

(C) TACB certification letter dated October 1, 1992, and signed by William Campbell, Executive Director, TACB.

(D) TACB certification letter dated July 13, 1993, and signed by William Campbell, Executive Director, TACB.

[FR Doc. 96–11399 Filed 5–7–96; 8:45 am]

BILLING CODE 6560–50–P

#### 40 CFR Part 60

[FRL–5467–8]

#### Amendment to Standards of Performance for New Stationary Sources; Small Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: Today's action promulgates revisions to the new source performance standards (NSPS) for new, modified, and reconstructed small industrial-commercial-institutional steam generating units (40 CFR part 60, Subpart Dc) that were proposed on November 15, 1995. The revisions exclude certain small steam generating units, when conducting combustion research, from the category of small steam generating units subject to NSPS control requirements for sulfur dioxide (SO<sub>2</sub>) and particulate matter (PM). The NSPS are issued under the authority of section 111 of the Clean Air Act (CAA).

Following promulgation of the NSPS, litigation was filed by Babcock and Wilcox, who repeated a concern they had expressed during the public comment period following proposal of the NSPS. That is, they had requested an exemption from the NSPS for steam generating units of 14.6 MW (50 million Btu/hr) heat input capacity or less used for combustion research based on intermittent and infrequent operation.

Discussions with Babcock and Wilcox made it clear that there is a legitimate concern regarding the ability of experimental, and sometimes

unpredictable, air pollution control technology to consistently meet the NSPS. This, coupled with the fact that these steam generating units provide valuable data on both the combustion process and methods of air pollution control which result in improved fuel efficiency, improved air pollution control efficiency, and less expensive air pollution control, led the EPA to provide the exemption in an effort to encourage combustion research.

**EFFECTIVE DATE:** May 8, 1996.

**ADDRESSES:** *Docket.* Docket No. A-86-02, containing information used in developing the original NSPS and the revisions, and the comments received during the public comment period, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, S.W., Washington, D.C. 20460. The docket is located at the above address in room M-1500, Waterside Mall (ground floor). The materials are available for review in the docket center or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 260-7548 or -7549. The FAX number for the Center is (202) 260-4000. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** For information concerning specific aspects of this action, contact Mr. Rick Copland, (919) 541-5265, or Mr. Fred Porter (919) 541-5251 Combustion Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:** Today's rule resolves litigation in the case of *Babcock and Wilcox Company v. U.S. EPA*, No. 90-1509 (D.C. Cir.) (See 60 FR 57373, November 15, 1995). The rule applies to any small steam generating unit used for combustion research as long as the heat generated during the conduct of such combustion research is not used for any purpose other than preheating the combustion air for the steam generating unit (i.e., the heat generated is released to the atmosphere without being used for space heating, process heating, driving pumps, preheating combustion air for other units, generating electricity, or any other purpose).

Five comment letters were received during the public comment period on the November 15, 1995 proposal. All five commentors supported the proposal. One commentor suggested that the EPA extend today's rule to large

steam generating units regulated under 40 CFR Part 60, Subpart Db and that the EPA allow the heat generated during the research activity to be used productively. One commentor suggested that all natural gas-fired steam generating units be exempt from the provisions of Subpart Dc, including notification requirements. The comments did not reveal any facilities that conduct combustion research with small steam generating units and that also use the heat generated during periods of combustion research for purposes other than preheating the combustion air for the steam generating unit.

The EPA believes that today's rule already represents a significant exercise of regulatory flexibility which does not warrant further expansion at this time. Accordingly, the EPA believes that the prohibition on the use of the heat generated during the conduct of combustion research is appropriate in that it allows for the conduct of such research without compromising the EPA's ability to enforce the NSPS for small steam generating units (See 60 FR at 57374). Indeed, this limitation merely reflects the existing operating practice of the Babcock and Wilcox steam generating unit at issue (described below). The EPA believes that this provision is also appropriate for any other steam generating unit that conducts combustion research.

As discussed in the November 15, 1995 proposal, the EPA agreed to revise the applicability of the SO<sub>2</sub> and PM emission control requirements of 40 CFR Part 60, Subpart Dc because of the limited potential impact of combustion research on the environment: Babcock & Wilcox Company, the petitioner which requested the revision of the applicability of the standards of performance, operates a single small steam generating unit occasionally (less than five percent of the unit's operating time) to evaluate the performance of, and to develop, unproven combustion technologies. Significantly, Babcock and Wilcox Company also does not use the heat that the steam generating unit produces during periods of combustion research for any purpose (such as space heating, process heating, electric generation, etc.) other than preheating the combustion air for the steam generating unit. Accordingly, in order to minimize the potential for inappropriate claims of combustion research (potentially undermining EPA's ability to enforce the standards of performance for small steam generating units), the EPA has conditioned the exclusion of certain limited combustion research activities from the standards of

performance on the requirement that a steam generating unit not use the heat produced during combustion research for purposes other than preheating the combustion air for the steam generating unit.

The comments that recommend expanding today's rule to include large steam generating units regulated under Subpart Db or all natural gas-fired units are not appropriate for consideration within the scope of this limited action. The EPA will consider these comments as well as the comment concerning the definition of combustion research as a part of the ongoing activity to develop and/or revise standards of performance for industrial steam generating units under CAA sections 111 and 112.

#### Economic and Regulatory Impacts

Today's rule will impose no additional costs on the regulated community or the national economy. It would reduce the costs of compliance for some small steam generating units when conducting combustion research by not requiring them to comply with the NSPS for new, modified, and reconstructed small industrial-commercial-institutional steam generating units. Accordingly, the EPA has determined that today's rule: (1) does not constitute a "significant rule" under Executive Order 12286 (the promulgation would not result in any increase in costs or prices and would not disrupt market competition), (2) does not constitute a substantial revision that would require an economic impact assessment pursuant to CAA section 317, (3) does not constitute a Federal mandate under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, for State, local, or tribal governments or the private sector, (4) does not contain regulatory requirements that might significantly or uniquely affect small governments under Title II of UMRA, and (5) would not affect the public reporting burden for the collection of information required, in compliance with the Paperwork Reduction Act of 1980, under the NSPS for small steam generating units.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that these revisions would not have a significant impact on a substantial number of small entities. Not only would today's rule reduce the regulatory burden on the small steam generating units source category, but it has previously been determined that, even without today's promulgated revisions, the standards would not affect a substantial number of small entities (See 55 FR 37682, September 12, 1990).

List of Subjects in 40 CFR Part 60

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

Dated: April 30, 1996.  
 Carol M. Browner,  
 Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

**PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7429, and 7601.

2. Section 60.40c is amended by revising paragraph (a) and adding paragraphs (c) and (d) to read as follows:

**§ 60.40c Applicability and delegation of authority.**

\* \* \* \* \*

(a) Except as provided in paragraph (d) of this section, the affected facility to which this subpart applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million Btu per hour (Btu/hr)) or less, but greater than or equal to 2.9 MW (10 million Btu/hr).

\* \* \* \* \*

(c) Steam generating units which meet the applicability requirements in paragraph (a) of this section are not subject to the sulfur dioxide (SO<sub>2</sub>) or particulate matter (PM) emission limits, performance testing requirements, or monitoring requirements under this subpart (§§ 60.42c, 60.43c, 60.44c, 60.45c, 60.46c, or 60.47c) during periods of combustion research, as defined in § 60.41c.

(d) Any temporary change to an existing steam generating unit for the purpose of conducting combustion research is not considered a modification under § 60.14.

3. Section 60.41c is amended by adding a new definition for "Combustion research" in alphabetical order to read as follows:

**§ 60.41c Definitions.**

\* \* \* \* \*

*Combustion research* means the experimental firing of any fuel or combination of fuels in a steam generating unit for the purpose of conducting research and development

of more efficient combustion or more effective prevention or control of air pollutant emissions from combustion, provided that, during these periods of research and development, the heat generated is not used for any purpose other than preheating combustion air for use by that steam generating unit (i.e., the heat generated is released to the atmosphere without being used for space heating, process heating, driving pumps, preheating combustion air for other units, generating electricity, or any other purpose).

\* \* \* \* \*

[FR Doc. 96-11329 Filed 5-7-96; 8:45 am]  
 BILLING CODE 6560-50-P

**40 CFR Part 80**

[FRL-5501-3]

**Adjustment of Reid Vapor Pressure Lower Limit for Reformulated Gasoline Sold in the State of California**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is amending the lower limit of the valid range for Reid Vapor Pressure (RVP) for reformulated gasoline certified under the simple model and sold in the State of California. The lower limit is being changed from 6.6 pounds per square inch (psi) to 6.4 psi. EPA is taking this action because the Agency believes that it will result in no negative environmental impact and, for reasons discussed below, the Agency believes it is proper in the limited case of California gasoline.

In the proposed rules section of today's Federal Register, EPA is proposing the same action covered by this direct final rule (i.e., to amend the lower limit of the valid range for RVP for reformulated gasoline certified under the simple model and sold in the State of California from 6.6 to 6.4 psi). If adverse comment or a request for a public hearing is received on this direct final rule, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule on the related proposed rule. No additional opportunity for public comment on this change to the lower limit of the simple model's valid range for RVP will be provided.

**DATES:** This action will become effective on July 8, 1996, unless notice is received by June 7, 1996 from someone who wishes to submit adverse comment or requests an opportunity for a public hearing. If such notice is received, EPA will withdraw this direct final rule, and

a timely notice will be published in the Federal Register to indicate the withdrawal.

**ADDRESSES:** All documents relevant to this direct final rulemaking have been placed in public docket number A-96-14. The public docket may be inspected at U.S. Environmental Protection Agency, Air Docket Section, 401 M Street, SW, Room M-1500, Washington, D.C. 20460. Documents may be inspected between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Anne-Marie C. Pastorkovich, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9013.

**SUPPLEMENTARY INFORMATION:**

I. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry ....	Refiners of California gasoline.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine section 80.42 (c)(1), note (1), of today's regulatory action. You should also carefully examine the existing provisions at 40 CFR section 80.81, dealing specifically with California gasoline.

II. Introduction

A. Reformulated Gasoline Standards and California Covered Areas

Section 211(k) of the Clean Air Act (the Act) requires EPA to establish standards for reformulated gasoline to be used in specified ozone nonattainment areas (covered areas), as well as standards for non-reformulated, or conventional, gasoline used in the rest of the country, beginning in January, 1995. The reformulated gasoline covered areas in California are Los Angeles and San Diego, and, beginning June 1, 1996, Sacramento, as a result of its redesignation as a Severe ozone nonattainment area. The Act requires that reformulated gasoline reduce VOC and toxics emissions from motor vehicles, not increase NO<sub>x</sub>

emissions, and meet certain content standards for oxygen, benzene and heavy metals. The Administrator signed the final reformulated gasoline regulations on December 15, 1993 and they were published in the Federal Register on February 14, 1994.<sup>1</sup>

### B. Specific Exemptions Related to California Gasoline

During the federal reformulated gasoline rulemaking, and in response to comments by California refiners, EPA concluded (1) that VOC and toxics emission reductions resulting from the California Phase 2 standards would be equal to or more stringent than the federal reformulated gasoline standards, (2) that the content standards for oxygen and benzene under California Phase 2 would in practice be equivalent to the federal content standards, and (3) that the California Air Resources Board's (CARB's) compliance and enforcement program is designed to be sufficiently rigorous. As a result, 40 CFR § 80.81 of the reformulated gasoline regulations exempts certain refiners of California Phase 2 gasoline from a number of federal reformulated gasoline provisions intended to demonstrate compliance with the federal standards. While the federal reformulated gasoline and conventional gasoline standards continue to apply in California, refiners of gasoline sold in California are exempt in most cases from various enforcement-related provisions. California refiners are *not* exempt from these federal enforcement requirements with regard to gasoline that is delivered for use outside California, because the California Phase 2 standards and the CARB enforcement program do not cover gasoline exported from California.

### C. Reid Vapor Pressure Simple Model Lower Limit

The federal reformulated gasoline program includes limitations on Reid vapor pressure (RVP) of reformulated gasoline certified using the simple model. The maximum RVP simple model standards are given in 40 CFR section 80.41 (a) and (b), relating to per-gallon and averaged standards, respectively. Maximum RVP is controlled because of the increased VOC emissions that result from gasoline with higher RVP levels.

The minimum RVP of reformulated gasoline certified under the simple model is set by the lower end of the valid range as specified in 40 CFR § 80.42(c)(1). The nationwide lower limit for RVP for reformulated gasoline certified under the simple model is 6.6

psi, although under 40 CFR § 80.45(f)(1) this minimum RVP limit changes to 6.4 psi, under the complex model, beginning in 1998.

There are several reasons why the simple and complex models have different lower limits for the RVP range (for the simple model, 6.6 psi, and for the complex model, 6.4 psi). The simple model and complex model are two completely different models, developed at different times from different data sets and relying upon different modeling assumptions and approaches. The complex model, which was developed after the simple model, incorporates many more data points.

The low end of the valid ranges for RVP in the simple model and the complex model (i.e. 6.6 psi and 6.4 psi, respectively) were based upon the distribution of data used in the model's development. Both the simple model and the complex model are linear with respect to RVP for all pollutants.<sup>2</sup> Thus, any relationship of RVP to pollutants can be extended linearly from 6.6 psi to 6.4 psi with confidence. (As is explained elsewhere in this notice, the Agency is proposing to lower the minimum RVP for simple model reformulated gasoline in California from 6.6 to 6.4 psi.)

After promulgation of the final reformulated gasoline and anti-dumping rule, some refiners suggested that EPA reduce the RVP lower limit for the simple model to 6.4 psi nationwide. The reasons for their request were (1) to provide flexibility for refiners, (2) consistency with the complex model, which has a 6.4 psi lower limit for RVP, and (3) to facilitate the certification and use of California Phase 2 gasoline. EPA agreed with these reasons and issued a direct final rule which included this change.<sup>3</sup> EPA later withdrew the change and published notice of the withdrawal in the Federal Register<sup>4</sup> because adverse comment was received from the American Automobile Manufacturers Association (AAMA). AAMA, representing automakers, cited concerns about driveability from lower RVP gasoline if RVP was reduced nationwide.

### III. Revision to the RVP Range Under the Simple Model

The Western States Petroleum Association (WSPA) has requested, on behalf of gasoline refiners in California, that EPA modify the minimum Reid Vapor Pressure (RVP) allowable under the simple model for reformulated

gasoline sold in California. In an August 3, 1995 letter to Ms. Mary Nichols, Assistant Administrator for Air and Radiation, WSPA asserted that it believes that there are certain constraints on refiners that exist as a result of the need to comply with both the federal reformulated gasoline program and the California Phase 2 reformulated gasoline program scheduled to begin on March 1, 1996.<sup>5</sup>

Specifically, the California Phase 2 program sets a maximum summertime volatility standard of 7.0 psi. During the summer, California refiners currently must meet an RVP lower limit of 6.6 psi minimum for areas subject to the federal reformulated gasoline standards (i.e., the lower limit of the federal simple model range) and 7.0 psi maximum (i.e., the California RVP maximum standard). This is a "tighter" operational range than producers of reformulated gasoline outside of California are required to operate within.<sup>6</sup> WSPA has requested that EPA change the lower limit RVP value for reformulated gasoline to 6.4 psi in California to allow necessary operating flexibility and the American Automobile Manufacturers Association (AAMA) has indicated in a letter to EPA<sup>7</sup> that they agree to this change in the case of California gasoline. As discussed above, AAMA had objected to a nationwide change to 6.4 psi lower limit in 1994. More recently, these automakers revised their view with regard to gasoline used in California, and now do not object to changing the RVP minimum value to 6.4 psi in the limited case of California Phase 2 gasoline, as expressed in a letter to EPA dated December 7, 1995.<sup>8</sup> Specifically, automakers do not expect driveability index concerns with California Phase 2 gasoline with RVP values as low as 6.4 psi, as a result of other controls on certain distillation parameters under the California program. These additional distillation parameters are T50 and T90, the temperature at which 50 percent and 90 percent, respectively, of a liquid are

<sup>5</sup> All correspondence related to this rulemaking may be examined at the public docket at the location listed in the "ADDRESSES" section of this notice.

<sup>6</sup> For federal reformulated gasoline program compliance on a per-gallon basis, the simple model maximum standards for RVP are ≤ 7.2 psi in VOC Control Region I and ≤ 8.1 psi for VOC Control Region II. For average compliance under the federal reformulated gasoline program, the simple model per gallon maximum RVP for VOC controlled federal gasoline, by comparison, is ≤ 7.4 psi for VOC Control Region I and ≤ 8.3 psi for VOC Control Region II and, on average, ≤ 7.1 psi and ≤ 8.0 psi, for VOC Control Regions I and II, respectively. See 40 CFR section 80.41 (a) and (b) and the discussion under II(c) of this notice, above.

<sup>7</sup> See note 5, above.

<sup>8</sup> See note 5, above.

<sup>1</sup> 59 FR 7812 (February 16, 1994).

<sup>2</sup> See 59 FR 36944 (July 20, 1994).

<sup>3</sup> See note 2.

<sup>4</sup> 60 FR 6030 (February 1, 1995).

evaporated. EPA believes that changing the federal summertime minimum RVP standard to 6.4 psi in California will permit necessary flexibility for producers, is supportable as a reasonable extension of the model based on consistency with the complex model, will result in no environmental harm, and will not adversely affect automotive driveability.

**IV. Environmental Impact**

This rule is expected to have no negative environmental impact. Applicable controls on maximum volatility during the VOC control period are not affected by this rule. If anything, this revision will make it more feasible to produce lower limit RVP gasoline, which produces fewer motor vehicle VOC emissions.

**V. Economic Impact**

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires that Federal Agencies examine the impacts of their regulations on small entities. The act requires an Agency to prepare a regulatory flexibility analysis in conjunction with notice and comment rulemaking, unless the Agency head certifies that the rule will not have a significant impact on a substantial number of small entities. 5 U.S.C. 605(b). The Administrator certifies that this rule will not have a significant impact on a substantial number of small entities. This rule is not expected to result in any additional compliance cost to regulated parties and may be expected to reduce compliance cost.

**VI. Effective Date**

This action will become effective July 8, 1996. If notice of adverse comment is received, EPA will withdraw this final rule, and a timely notice will be published in the Federal Register. See "DATES" section, above.

**VII. Executive Order 12866**

Under Executive Order 12866,<sup>9</sup> the Agency must determine whether a regulation is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to 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 of 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 this Executive Order.<sup>10</sup>

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

**VIII. Unfunded Mandates**

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), P.L. 104-4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which 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, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that the final rule promulgated today does not include a federal mandate as defined in UMRA. The rule does not include a Federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of \$100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

**List of Subjects in 40 CFR Part 80**

Environmental protection, Air pollution control, Gasoline, Reformulated gasoline, Motor vehicle pollution.

Dated: May 1, 1996.

Carol M. Browner,

Administrator.

40 CFR part 80 is amended as follows:

**PART 80—REGULATION OF FUELS AND FUEL ADDITIVES**

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.42 is amended by revising the table in paragraph (c)(1) to read as follows:

**§ 80.42 Simple emissions model.**

\* \* \* \* \*  
 (c) \* \* \* \* \*  
 (1) \* \* \* \* \*

Fuel parameter	Range
Benzene content .....	0.0-4.9 vol %.
RVP .....	6.6-9.0 psi. <sup>1</sup>
Oxygenate content .....	0-4.0 wt %.
Aromatics content .....	0-55 vol %.

<sup>1</sup> For gasoline sold in California, the applicable RVP range shall be 6.4-9.0 psi.

\* \* \* \* \*  
 [FR Doc. 96-11331 Filed 5-7-96; 8:45 am]  
 BILLING CODE 6560-50-P

**40 CFR Parts 89 and 90**

[FRL-5502-5]

**Reduced Certification Reporting Requirements for New Nonroad Engines**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule revises certification requirements for new nonroad spark-ignition engines at or below 19 kilowatts, and new nonroad compression-ignition engines at or above 37 kilowatts, by reducing the reporting burden associated with the application for certification.

**DATES:** This final action will become effective on July 8, 1996 unless notice is received by June 7, 1996 that any person wishes to submit adverse comments. Should EPA receive such notice, EPA will publish a subsequent action in the Federal Register withdrawing all or part of this final action.

**ADDRESSES:** Written comments should be submitted (in duplicate, if possible) to: EPA Air and Radiation Docket, Attention Docket No. A-95-57, room M-1500 (mail code 6102), 401 M St., S.W., Washington, D.C. 20460. Materials relevant to this rulemaking are contained in docket No. A-95-57, and may be viewed from 8:30 a.m. until 5:30 p.m. weekdays. The docket may also be

<sup>9</sup> 58 FR 51736 (October 4, 1993).

<sup>10</sup> *Id.* at section 3(f) (1)-(4).

reached by telephone at (202) 260-7548. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying. Those wishing to notify EPA of their intent to submit adverse comments on this action should contact Laurel Horne, U.S.

Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105.

**FOR FURTHER INFORMATION CONTACT:**  
Laurel Horne, (313) 741-7803.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Obtaining Electronic Copies of Documents**

Electronic copies of the preamble and the regulatory text of this direct final rulemaking are available electronically from the EPA internet site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer and modem per the following information.

Internet:

World Wide Web:

<http://www.epa.gov/OMSWWW>

Gopher:

<gopher://gopher.epa.gov/> Follow menus for: Offices/Air/OMS

FTP:

<ftp://ftp.epa.gov/> Change Directory to pub/gopher/OMS TTN BBS: 919-541-5742

(1200-14400 bps, no parity, 8 data bits, 1 stop bit)

Voice Helpline: 919-541-5384. Off-line: Mondays from 8:00 AM to 12:00 noon EST.

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

```
<T> GATEWAY TO TTN TECHNICAL
      AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking and Reporting
<6> Non-Road
<2> Non-road Engines
```

At this point, the system will list all available files in the chosen category in reverse chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (i.e. ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unzip the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

##### **II. Introduction and Background**

On July 3, 1995, EPA published emission standards for new nonroad spark-ignition engines at or below 19 kilowatts (hereinafter referred to as small SI engines).<sup>1</sup> Emission standards for new nonroad compression-ignition engines at or above 37 kilowatts (hereinafter referred to as large CI engines) were published on June 17, 1994.<sup>2</sup> Under both sets of standards, engine manufacturers must obtain from the Administrator a certificate of conformity covering each engine family introduced into U.S. commerce. To obtain a certificate of conformity, engine manufacturers must submit an application comprised of information, specified by regulation, demonstrating that emission standards will be met.

Today's action lessens the reporting burden associated with certification and allows EPA to exercise some flexibility in implementing the certification process for small SI and large CI engines.

##### **III. Requirements of This Direct Final Rulemaking**

EPA is revising language in §§ 89.115-96, 90.107, and 90.118 to streamline the reporting requirements associated with applications for engine certification. EPA believes that these revisions will in no way impede the ability of the Administrator to determine compliance with the applicable requirements of this regulation, and that the information required under today's rulemaking will be sufficient to establish to the satisfaction of the Administrator that engines conform to applicable requirements and thus may be issued certificates of conformity.

<sup>1</sup> 60 FR 34584, July 3, 1995.

<sup>2</sup> 59 FR 31306, June 17, 1994.

##### **A. Test Engine Operating Cycle, Service Accumulation, and Maintenance**

EPA is revising paragraph (d)(5) of § 90.107, which requires the engine manufacturer to submit a description of the operating cycle and service accumulation period necessary to break-in the test engine(s) and stabilize emission levels, and any maintenance scheduled. EPA is deleting the provision that requires the engine manufacturer to submit a description of the operating cycle used to break-in the test engine(s) and any maintenance scheduled. Similar information is already required to be kept for each certification test engine by § 90.121(a)(3) (i), (ii) and (iii), including a description of the test engine's construction, the method used for engine service accumulation, and all maintenance performed. EPA believes it is sufficient that this information is readily available under § 90.121(a)(3) if needed, and believes that it is not necessary to require it to be submitted with an application for certification. Accordingly, EPA is also revising § 90.118(d) to indicate that the engine manufacturer must provide records about service accumulation to the Administrator only if requested. Note, however, that the § 90.107(d)(5) provision requiring that the engine manufacturer submit the service accumulation period necessary to break-in the test engine(s) and stabilize emission levels is retained.

Similarly, EPA is deleting the provision in § 89.115-96(d)(5) that requires the engine manufacturer to submit a description of the operating cycle used to break-in the test engine(s), as that information is already required to be kept for each certification test engine by § 89.124-96(a)(2) (i), (ii) and (iii). But EPA is retaining the requirement of § 89.115-96(d)(5) that the engine manufacturer submit the period of operation necessary to accumulate service hours on test engines and stabilize emission levels.

##### **B. Maintenance Instructions**

EPA is deleting the provision in § 90.107(d)(7) that requires manufacturers to submit the proposed maintenance instructions furnished to the ultimate purchaser of each new small engine. As there is no promulgated useful life period or in-use standard established in this initial phase of the small SI engine emission reduction program, EPA does not believe it is appropriate to require manufacturers to submit this information.

### C. Abbreviated or Streamlined Certification

EPA is adding new subsections (f) to § 89.115–96, and (g) to § 90.107, that authorize the Administrator to modify the certification application information submission requirements. EPA believes that it is appropriate to require manufacturers to collect and maintain the application information specified in §§ 89.115–96(d) and 90.107(d), but that it should not be necessary for manufacturers to submit this information in all cases unless specifically requested. Authority to modify information submission requirements will allow EPA to exercise some flexibility in designing and implementing the certification process for small SI and large CI engines. When the Agency exercises its authority to modify the information submission requirements, it will provide manufacturers with a guidance document, similar to manufacturer guidance issued under the on-highway program, that explains the modification(s).

During the comment period on the recent small SI engine proposal, EPA received comments from the Engine Manufacturers Association (EMA), Outdoor Power Equipment Institute (OPEI), and the Portable Power Equipment Manufacturers Association (PPEMA)<sup>3</sup> requesting that EPA harmonize its certification application requirements with the California Air Resources Board (CARB) in order to ease the paperwork burden on small SI engine manufacturers. A single identical application acceptable to both EPA and CARB was the preferred approach to EMA and OPEI, while PPEMA favored EPA acceptance of certification by CARB. The language being added to § 90.107(g)(1) (as well as to § 89.115–96(f)(1)) will allow EPA to streamline application requirements for federal jurisdiction and 49 state certification applicants, and, where EPA finds that it is appropriate, to accept the CARB certification application. Although EPA anticipates that in most cases it will find it appropriate to accept the CARB certification application, the Agency reserves the right to deny such acceptance. For example, significant variations in test procedures may be sufficient reason for the Agency not to accept the CARB certification application. In addition, EPA recognizes that CARB may revise its certification application in the future; EPA may not find it appropriate to accept such a

revised CARB certification application. In no case does EPA acceptance of a CARB certification application indicate that EPA necessarily will grant a certificate of conformity.

The new subsections also clarify the recordkeeping requirements of § 89.124–96 and § 90.121 in regard to certification application records that a manufacturer is required to have available but is not required to submit, and the Administrator's right to review such records. Under new §§ 89.115–96(f)(2) and 90.107(g)(2), manufacturers must retain records that comprise the certification application whether or not EPA requires that all such records be submitted to EPA at the time of certification. New §§ 89.115–96(f)(3) and 90.107(g)(3) clarify the Administrator's right to review records at any time and at any place designated by the Administrator.

### IV. Public Participation and Effective Date

EPA is publishing this action as a direct final rule because it views the changes contained herein as noncontroversial and anticipates no adverse or critical comments. This direct final rule alters existing provisions by reducing the certification reporting burden and allowing more flexibility in certification reporting requirements. Engine manufacturers should not take issue since they favor a lessened reporting burden in the certification program. Environmental groups and state and local governments should not take issue since the rule will not affect the emission reductions associated with small SI or large CI engine emission standards, nor will it affect adversely EPA's enforcement authority.

This action will be effective on July 8, 1996 unless EPA is notified by June 7, 1996 that adverse or critical comment will be submitted. EPA requests that, should any adverse or critical comments be submitted, they be submitted according to the specific issues as identified below:

- (a) Test Engine Operating Cycle, Service Accumulation, and Maintenance
- (b) Maintenance Instructions
- (c) Abbreviated or Streamlined Certification

Should EPA receive such notice of intent to submit adverse or critical comment on a specific issue identified above, EPA will publish an action withdrawing the provisions of this final action corresponding to that specific issue, and all adverse comments received will be addressed in a subsequent final rule based on a

proposed rule that is published in the proposed rule section of today's Federal Register.

### IV. Administrative Requirements

#### A. Administrative Designation

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the executive order. The order defines "significant regulatory action" as one that is likely to 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 entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

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

EPA has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and has assigned OMB control number 2060–0338 to the requirements associated with the nonroad small SI engine certification information collection request (ICR), and OMB control number 2060–0287 to the nonroad large CI engine certification ICR.

This direct final rulemaking lessens the information collection request requirements associated with the nonroad small SI engine certification ICR (OMB No. 2060–0338) and the nonroad large CI engine certification ICR (OMB No. 2060–0287). Although the burden hours associated with emissions testing and recordkeeping remain the same, the burden hours associated with certification reporting decrease. For the small SI engine program, the total annual information collection request burden will decrease

<sup>3</sup> See EPA Air Docket No. A-93-25, items IV-D-07, IV-D-20, and IV-D-22A, respectively.

an estimated 45 percent (65,760 hours) to a new revised annual total ICR burden of 78,485 hours. This direct final rule also will reduce the total annual information collection request burden for the large CI engine certification program by an estimated 45 percent (63,361 hours), for a new revised annual total ICR burden of 78,005 hours.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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.

**C. Unfunded Mandates Act**

Section 202 of the Unfunded Mandates Reform Act of 1995 (signed into law on March 22, 1995) requires that EPA prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 of the Unfunded Mandates Reform Act requires EPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

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

selection of this alternative is inconsistent with law.

Because this direct final rule is expected to result in the expenditure by state, local, and tribal governments or the private sector of less than \$100 million in any one year, EPA has not prepared a budgetary impact statement or specifically addressed selection of the least costly, most cost-effective or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, EPA is not required to develop a plan with regard to small governments.

**D. Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601) requires EPA to consider potential impacts of proposed regulations on small business. If a preliminary analysis indicates that a proposed regulation would have a significant adverse economic impact on a substantial number of small business entities, then a regulatory flexibility analysis must be prepared. An action which has a predominately deregulatory or beneficial economic effect on small business does not need a regulatory flexibility analysis.

Since this rule is deregulatory in nature, has no significant adverse effect on small business, and decreases the reporting burden on all regulated entities, EPA has determined that it is not necessary to prepare a regulatory flexibility analysis. However, the Agency has taken the interests of small business entities into account in this action. This direct final rule relieves the regulatory burden on small businesses and minimizes the reporting requirements imposed on regulated entities, including smaller engine manufacturers, by authorizing EPA to modify certification application information submission requirements. The Agency intends to exercise this authority by reducing these requirements, and where appropriate, to accept the CARB certification application, thereby additionally reducing the paperwork burden on small SI engine manufacturers. Thus, EPA certifies that this rulemaking will not have a significant adverse effect on a substantial number of small entities.

List of Subjects in 40 CFR Parts 89 and 90

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting requirements.

Dated: May 2, 1996.  
Carol M. Browner,  
*Administrator.*

For the reasons set out in the preamble, parts 89 and 90 of title 40 of the Code of Federal Regulations are amended as follows:

**PART 89—CONTROL OF EMISSIONS FROM NEW AND IN-USE NONROAD ENGINES**

1. The authority citation for part 89 continues to read as follows:

Authority: Sections 202, 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

**Subpart B—[Amended]**

2. Section 89.115–96 is amended by revising paragraph (d)(5), redesignating the second paragraph (b) which follows paragraph (d)(10) as paragraph (e), and adding paragraph (f) to read as follows:

**§ 89.115–96 Application for certificate.**

\* \* \* \* \*

(d) \* \* \*

(5) The period of operation necessary to accumulate service hours on test engines and stabilize emission levels;

\* \* \* \* \*

(e) \* \* \*

(f)(1) The Administrator may modify the information submission requirements of paragraph (d) of this section, provided that all of the information specified therein is maintained by the engine manufacturer as required by § 89.124–96, and amended, updated, or corrected as necessary.

(2) For the purposes of this paragraph, § 89.124–96(a)(1) includes all information specified in paragraph (d) of this section whether or not such information is actually submitted to the Administrator for any particular model year.

(3) The Administrator may review an engine manufacturer's records at any time. At the Administrator's discretion, this review may take place either at the manufacturer's facility or at another facility designated by the Administrator.

**PART 90—CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES**

3. The authority citation for part 90 continues to read as follows:

Authority: Sections 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a)).

**Subpart B—[Amended]**

4. Section 90.107 is amended by revising paragraphs (d)(5) and (d)(7), and adding paragraph (g) to read as follows:

**§ 90.107 Application for certification.**

\* \* \* \* \*

(d) \* \* \*

(5) The service accumulation period necessary to break in the test engine(s) and stabilize emission levels.

\* \* \* \* \*

(7) The proposed engine information label;

\* \* \* \* \*

(g)(1) The Administrator may modify the information submission requirements of paragraph (d) of this section, provided that all of the information specified therein is maintained by the engine manufacturer as required by § 90.121, and amended, updated, or corrected as necessary.

(2) For the purposes of this paragraph, § 90.121(a)(1) includes all information specified in paragraph (d) of this section whether or not such information is actually submitted to the Administrator for any particular model year.

(3) The Administrator may review an engine manufacturer's records at any time. At the Administrator's discretion, this review may take place either at the manufacturer's facility or at another facility designated by the Administrator.

5. Section 90.118 is amended by revising paragraph (d) to read as follows:

**§ 90.118 Certification procedure—service accumulation.**

\* \* \* \* \*

(d) The manufacturer must maintain, and provide to the Administrator if requested, records stating the rationale for selecting a service accumulation period less than 12 hours and records describing the method used to accumulate hours on the test engine(s).

[FR Doc. 96-11477 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 180**

[PP 4E4418/R2231; FRL-5365-1]

RIN 2070-AB78

**Lactofen; Pesticide Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** This document establishes a tolerance for combined residues of the herbicide lactofen and its metabolites in

or on the raw agricultural commodity snap beans. The Interregional Research Project No. 4 (IR-4) requested the regulation to establish a maximum permissible level for residues of the herbicide pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

**EFFECTIVE DATE:** This regulation becomes effective May 8, 1996.

**ADDRESSES:** Written objections and hearing requests, identified by the docket number, [PP 4E4418/R2231], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 4E4418/R2231]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8783, e-mail: jamerson.hoyt@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of March 8, 1996 (61 FR 9399) (FRL-5353-2), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 4E4418 to EPA on behalf of the Agricultural Experiment Stations of Arkansas, Florida, Georgia, Oregon, Tennessee, and Virginia. This petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.432 by establishing a tolerance for combined residues of lactofen, 1-(carboethoxy)ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, and its associated metabolites containing the diphenyl ether linkage expressed as lactofen in or on the raw agricultural commodity snap beans at 0.05 part per million (ppm). There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

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

requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 4E4418/R2231] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

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

President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub.L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: April 29, 1996.

Stephen L. Johnson,  
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for Part 180 continues to read as follows:  
Authority: 21 U.S.C. 346a and 371.

2. In § 180.432, by revising paragraph (a), to read as follows:

**§ 180.432 Lactofen; tolerances for residues.**

(a) Tolerances are established for the combined residues of lactofen, 1-(carboethoxy)ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, and its associated metabolites containing the diphenyl ether linkage expressed as lactofen in or on the following raw agricultural commodities:

Commodity	Parts per million
Beans, snap .....	0.05
Soybeans .....	0.05

\* \* \* \* \*  
[FR Doc. 96-11343 Filed 5-7-96; 8:45 am]  
BILLING CODE 6560-50-F

**40 CFR Part 180**  
[PP 5E4521/R2230; FRL-5364-9]  
RIN 2070-AB78

**Clomazone; Pesticide Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final Rule.

**SUMMARY:** This document establishes a tolerance for residues of the herbicide clomazone in or on the raw agricultural commodity snap beans. The Interregional Research Project No. 4 (IR-4) requested the regulation to establish a maximum permissible level for residues of the herbicide pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

**EFFECTIVE DATE:** This regulation becomes effective May 8, 1996.

**ADDRESSES:** Written objections and hearing requests, identified by the docket number, [PP 5E4521/R2230], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electron form must be identified by the docket number [PP 5E4521/R2230]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8783, e-mail: jamerson.hoyt@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of March 13, 1996 (61 FR 102970) (FRL-5353-7), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 5E4521 to EPA on behalf of the Agricultural Experiment Stations of Arkansas, Kentucky, North Carolina, Tennessee, Texas, and Virginia. This petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.425 by establishing a tolerance for residues of the herbicide clomazone in or on the raw agricultural commodity snap beans at 0.05 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A

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

A record has been established for this rulemaking under docket number [PP 5E4521/R2230] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of

Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines "a significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub.L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

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

Dated: April 29, 1996.

Stephen L. Johnson,  
*Director, Registration Division, Office of  
Pesticide Programs.*

Therefore, 40 CFR part 180 is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for Part 180 continues to read as follows:  
 Authority: 21 U.S.C. 346a and 371.

2. Section 180.425, is amended by revising the section heading, the introductory paragraph, and in the table by adding alphabetically the entry for "beans, snap", to read as follows:

**§ 180.425 Clomazone; tolerances for residues.**

Tolerances are established for residues of the herbicide clomazone, 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone, in or on the following raw agricultural commodities:

Commodity	Parts per million
Beans, snap .....	0.05
* * *	*

[FR Doc. 96-11339 Filed 5-7-96; 8:45 am]  
 BILLING CODE 6560-50-F

**40 CFR Part 180**

[PP-4E4419/R2236; FRL-5366-8]

RIN 2070-AB78

**Avermectin B<sub>1</sub> and its Delta-8,9-Isomer; Extension of Time-Limited Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This document extends the effective date for the time-limited tolerance established for the combined residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-isomer in or on the raw agricultural commodity dried hops. The Interregional Research Project No. 4 (IR-4) requested the regulation to establish a maximum permissible level for residues of the insecticide pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

**EFFECTIVE DATE:** This regulation becomes effective May 8, 1996.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP-4E4419/R2236], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations

Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP-4E4419/R2236]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202. (703) 308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of March 20, 1996 (61 FR 11357), EPA issued a proposed rule (FRL-5356-2) to amend 40 CFR part 180 by extending the effective date for the established time-limited tolerance for the combined residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-isomer in or on the raw agricultural commodity dried hops at 0.5 parts per million (ppm). EPA proposed that the expiration date for the tolerance be extended from April 30, 1996 to December 31, 1996, to allow EPA additional time to evaluate IR-4's petition for a permanent tolerance for residues of avermectin B<sub>1</sub> and its delta-8,9-isomer in or on the raw agricultural commodity dried hops.

The data considered in support of the established tolerance for dried hops are discussed in the proposed rule, which was published in the Federal Register notice of September 13, 1995 (59 FR 49826). Additional information regarding EPA's proposal to extend the effective date for the time-limited tolerance is discussed in the Federal Register of March 20, 1996 [61 FR 11357]. There were no comments or requests for referral to an advisory committee received in response to the proposed rule to extend the effective date for the time-limited tolerance. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is amended as set forth below.

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

A record has been established for this rulemaking under docket number [PP-4E4419/R2236] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments which does not include any information claimed as CBI, is available for inspection from 8 a.m. to

4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

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

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

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: April 30, 1996.

Stephen L. Johnson,  
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

**PART 180—[AMENDED]**

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

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

2. In § 180.449, by revising paragraph (a) to read as follows:

**§ 180.449 Avermectin B<sub>1</sub> and its delta-8,9 isomer; tolerances for residues.**

(a) Tolerances are established for the combined residues of the insecticide avermectin B<sub>1</sub> [a mixture of avermectins containing greater than or equal to 80% avermectin B<sub>1a</sub> (5-O-demethyl avermectin A<sub>1</sub>) and less than or equal to 20% avermectin B<sub>1b</sub> (5-O-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A<sub>1</sub>)] and its delta-8,9-isomer in or on the following commodities:

Commodity	Parts per million	Expiration date
Cattle, fat .....	0.015	Apr.30, 1996
Cattle, meat .....	0.02	Do
Cattle, mbyop .....	0.02	Do
Citrus whole fruit .....	0.02	Do
Cottonseed .....	0.005	Do
Hops, dried .....	0.5	Dec. 31, 1996
Milk .....	0.005	Apr. 30, 1996

\* \* \* \* \*

[FR Doc. 96-11337 Filed 5-7-96; 8:45 am]  
BILLING CODE 6560-50-F

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

[CC Docket No. 91-281; DA 96-439]

**Calling Number Identification Service—Caller ID**

**AGENCY:** Federal Communications Commission (Commission).

**ACTION:** Final rule; waiver.

**SUMMARY:** The Common Carrier Bureau, acting pursuant to delegated authority, granted Sprint Communications Co. (Sprint) a waiver of the Federal Communications Commission's calling party number (CPN) delivery rules until June 1, 1996. The Commission's CPN delivery rules require that common carriers using Signaling System 7 are required to transmit the CPN associated with an interstate call to interconnecting carriers. Sprint requested the waiver because it needed additional time to correct a technical problem in which the privacy of a calling party might be compromised. The Bureau conditioned this waiver on Sprint providing two progress reports to the Bureau. These reports are to be provided not later than April 15, 1996 and again on May 10, 1996. The intended effect of this action is to avoid compromising the privacy of callers.

**EFFECTIVE DATE:** March 29, 1996.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Nightingale, Network Services Division, Common Carrier Bureau at 202-418-2352.

**SUPPLEMENTARY INFORMATION:** This summary describes the Bureau's Order in the matter of Rules and Policies Regarding Calling Number Identification Service, (CC Docket 91-281, adopted March 27, 1996 and released March 29, 1995). The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M St., NW., Washington DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., NW., Suite 140, Washington, DC 20037, phone 202-857-3800.

**Analysis of the Order**

After reviewing Sprint's petition for stay and waiver of the Commission's rules governing calling party number (CPN) delivery and privacy, the Bureau has concluded to grant Sprint a temporary waiver until June 1, 1996 of Section 64.1601(a) and Section 64.103 of the Commission's rules.

Sprint requested additional time to comply with the Commission's caller ID

rules because it identified two technical problems that might compromise the privacy of calling parties. Sprint indicated that one of the problems could be corrected by the end of April 1996, while the other could be corrected by the end of July 1996.

This request for additional time to comply with the Commission's caller ID rules presented the Bureau with the undesirable choice between (1) granting the requested waiver and temporarily frustrating the Commission's federal objective of widespread CPN availability, or (2) denying the waivers and temporarily frustrating the Commission's federal privacy objectives. The Bureau determined that compromising the privacy of callers would be unacceptable. Therefore, Sprint was granted a waiver until June 1, 1996 of the Commission's rule that requires carriers to pass CPN. The Bureau did not grant additional time to Sprint beyond this date because (1) It found that Sprint had provided inadequate information to allow a determination whether a waiver of the Commission's CPN rules until July 31, 1996 would be in the public interest, and (2) it believed that Sprint may have adequate time to correct both problems by June 1, 1996. Additionally, the Bureau noted that on June 1, 1996 the Commission's stay applicable to interstate calls made to and from California expires and that the Bureau sought to avoid unnecessary customer confusion associated with interstate calls that do not contain caller ID information beyond this date. The Bureau indicated that by granting this waiver until June 1, 1996 and denying Sprint's request for additional time, the major sources of customer confusion related to interstate caller ID will be eliminated as of June 1, 1996.

The Bureau conditioned the waiver on the requirement that Sprint file two reports with the Bureau indicating the progress of steps being taken to ensure compliance. Finally, the Bureau reiterated that it would not tolerate repeated compliance delays and that, if appropriate, it would take enforcement action.

#### Ordering Clauses

It is ordered, pursuant to Section 1.3 of the Commission's rules, 47 CFR 1.3, and authority delegated in Section 0.91 of the Commission's rules, 47 CFR 0.91, and Section 0.291 of the Commission's rules, 47 CFR 0.291, that Sprint's request for a waiver of Section 64.1601(a) and Section 64.1603 of the Commission's rules is granted in part and denied in part. This waiver is effective until June 1, 1996, and is

subject to the conditions specified herein.

It is further ordered that this order is effective upon release.

#### List of Subjects in 47 CFR Part 64

Calling party number identification (caller ID), Communications common carriers, Privacy, Telephone.

Federal Communications Commission.

Geraldine Matise,

*Chief, Network Services Division, Common Carrier Bureau.*

[FR Doc. 96-11383 Filed 5-7-96; 8:45 am]

BILLING CODE 6712-01-P

#### 47 CFR Part 73

[MM Docket No. 90-45; RM-7121]

#### Radio Broadcasting Services; Madera and Clovis, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document reallots Channel 221B1 from Madera to Clovis, California, and modifies the license of KZFO Broadcasting, Inc. for Station KZFO(FM), as requested, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. See 55 FR 7509, published March 2, 1990; see also 56 FR 42966, published August 30, 1991. The allotment of Channel 221B1 to Clovis will provide a first local FM service to the community without depriving Madera of local aural transmission service. Coordinates used for Channel 221B1 at Clovis are 36-55-50 and 119-38-38. With this action, the proceeding is terminated.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 90-45, adopted April 11, 1996, and released April 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, located at 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.

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

#### PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 221B1 at Madera, and adding Clovis, Channel 221B1.

Federal Communications Commission.

Andrew J. Rhodes,

*Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 96-11381 Filed 5-7-96; 8:45 am]

BILLING CODE 6712-01-F

#### DEPARTMENT OF TRANSPORTATION

#### Research and Special Programs Administration

#### 49 CFR Parts 172, 173, 174, and 176

[Docket No. HM-169A; Amdt. Nos. 172-143, 173-244, 174-80, 176-37]

RIN 2137-AB60

#### Hazardous Materials Transportation Regulations; Compatibility with Regulations of the International Atomic Energy Agency

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule; editorial revisions and response to a petition for reconsideration.

**SUMMARY:** On September 28, 1995, RSPA published a final rule which amended the Hazardous Materials Regulations pertaining to the transportation of radioactive materials to harmonize them with those of the International Atomic Energy Agency (IAEA) and, thus, most major nuclear nations of the world. Several substantive changes were made to provide a more uniform degree of safety for various types of shipments. These changes included requiring offerors and carriers to maintain written radiation protection programs, revising the definition of and packaging for low specific activity radioactive materials, and requiring use of the International System of Units for the measurement of activity in a package of radioactive material. This final rule makes editorial and technical corrections to that final rule and responds to a petition for reconsideration.

**DATES:** The effective date of these amendments is June 3, 1996. Immediate compliance with the amendments is authorized.

The effective date for the final rule published under Docket HM-169A on September 28, 1995 (60 FR 50292) remains April 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** A. Wendell Carriker, Office of Hazardous Materials Technology, (202) 366-4545, or John A. Gale, Office of Hazardous Materials Standards, (202) 366-8553, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On September 28, 1995, RSPA published a final rule under Docket HM-169A (60 FR 50292) which amended the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) pertaining to the transportation of radioactive materials to harmonize them with those of the International Atomic Energy Agency's (IAEA's) Safety Series No. 6, "Regulations for the Safe Transport of Radioactive Material Revised 1985 and Supplemented 1988 and 1990" (IAEA SS6-85) and, thus, most major nuclear nations of the world. RSPA has received correspondence identifying errors and a petition for reconsideration in response to the final rule. This document incorporates editorial and technical revisions to the final rule based on the merits of the correspondence and other revisions that RSPA has determined are necessary to correct or clarify the final rule.

**II. Section-by-Section Review**

**Section 172.101.** In the Hazardous Materials Table, RSPA is correcting the shipping name for low specific activity material by adding the suffix "n.o.s.". For the shipping name for surface contaminated objects, RSPA is correcting the packaging references.

**Section 172.203.** In the final rule, RSPA inadvertently removed the provision of § 172.203(d)(1) which requires the addition of the words "radioactive material" to a shipping description that does not contain those words. By revising paragraph (d)(1) RSPA is reinstating that requirement.

**Section 172.310.** Section 172.310 is revised by adding the word "Each" to the beginning of paragraph (b).

**Section 172.403.** Section 172.403 is revised to correct typographical errors in the label table and to clarify that the allowance to identify radionuclides in terms of curies only applies in domestic transportation.

**Section 172.803.** In § 172.803, RSPA is clarifying that a person, determining if he or she is subject to the radiation protection program based on the total transport index (TI) handled, can exclude the TI from fissile packages that is calculated for criticality control purposes. RSPA received a petition for reconsideration on § 172.803, which stated that RSPA should not limit the category of people who are permitted to make the evaluation described in § 172.803(d)(1)(ii) to only certified health physicists or persons who are recommended by the appropriate Nuclear Regulatory Commission (NRC) or state official. RSPA requires that the evaluator be "a person experienced with radiation protection programs and transportation regulations and programs." Under § 172.803(d)(1)(ii), a person's competency to make the determination described in § 172.803(d)(1)(i) may be evidenced by his or her status as a certified health physicist or by a letter of recommendation from a State Radiation Official. There is no requirement for evidence of the evaluator's competency. Therefore, the petition for reconsideration is denied. In addition, in § 172.803(d)(1)(ii), RSPA is removing the reference to the NRC because the NRC recently advised RSPA that it will not provide letters of recommendation.

**Appendix B to Part 172.** Appendix B to Part 172 was added in the final rule to specify the size of the trefoil symbol for package markings, labels and placards. However, several persons advised RSPA that the new trefoil size makes it very difficult to produce the RADIOACTIVE placard and label in the design specified in the HMR. These persons requested that labels and placards that were printed to the old trefoil specifications continue to be allowed for an unlimited amount of time. Upon further review of the amendment that adopted the new trefoil size for placards and labels, RSPA believes that the new size requirements impose unnecessary costs. Therefore, RSPA is revising Appendix B to Part 172 to require that the inner circle of the trefoil symbol on a radioactive label have a radius of at least 4 millimeters and that the outer circle of the trefoil symbol on a radioactive placard have a radius of at least 56.25 millimeters. In addition, RSPA is allowing the continued use of those labels and placards that were printed prior to April 1, 1996, in accordance with the regulations in effect on March 30, 1996.

**Section 173.411.** For consistency with other sections of the HMR, RSPA is removing the phrase "greater than 20% increase" from § 173.411(b)(2)(ii) and

replacing it with the phrase "significant increase". This change will make the requirements for Type 2 and 3 Industrial Packages consistent with the requirements for a Type A package.

**Section 173.417.** In § 173.417, Table 3 is reprinted in the correct format, and paragraph (b)(2) is revised to reflect the appropriate restrictions for the Specification 6M packaging, based upon assigned criticality transport indices (TI). Clarifications are being made to show that paragraph (b)(2)(i) applies to materials with criticality TI's equal to zero and that paragraph (b)(2)(ii) and footnote 7 apply to materials with criticality TI's greater than zero.

**Section 173.422.** Section 173.422 is revised to correctly note that persons who ship limited quantities of Class 7 materials must comply with the training requirements of Part 172, and that limited quantities of a Class 7 material that is a hazardous substance or a hazardous waste must comply with the shipping paper requirements of the HMR. In addition, RSPA is providing an exception from the certification requirements of § 173.422(a) for limited quantities of Class 7 materials that are subject to the shipping paper requirements of the HMR.

**Section 173.425.** Editorial errors in the table of activity limits for limited quantities in Table 7 are corrected and footnote 2, regarding luminous paint, is added back to the table.

**Section 172.426.** Section 172.426 is revised to correct section references.

**Section 173.427.** In § 173.427, paragraph (a)(3) is revised by adding a reference to "§ 173.467" to make it clear that fissile packages must comply with the provisions of § 173.467. In addition, in paragraph (c)(1), RSPA is removing the phrase "in a closed transport vehicle" from the requirements for shipping bulk packages of low specific activity material and surface contaminated objects. In addition, RSPA is adding references to the NRC-approved packagings to make it clear that these are authorized packagings for the shipment of low specific activity material and surface contaminated objects.

**Section 173.428.** Section 173.428 is revised to correct section references and a misspelled word.

**Section 173.435.** Several editorial corrections are made to the Table of A<sub>1</sub> and A<sub>2</sub> values in § 173.435. In addition, the entry "MFP", which stands for mixed fission products, is added back to the table.

**Section 173.443.** Section 173.443 is revised by correcting editorial errors in Table 11.

*Section 173.465.* Section 173.465 is revised to correct a misspelled word and to correct unit conversions.

*Section 174.700.* Section 174.700 is revised to correct a section reference and by correcting the limit in paragraph (b) so that it applies to each rail car and not to the entire train.

*Section 176.700.* Section 176.700 is revised to correct the reference to the required marking requirements for low specific activity radioactive material.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). The original regulatory evaluation was reexamined but was not modified because changes made under this rule do not change the analysis in that evaluation.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Federal hazardous materials transportation law (49 U.S.C. 5101-5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (i) the designation, description, and classification of hazardous materials;
- (ii) the packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (iii) the preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;
- (iv) the written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or
- (v) the design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

This final rule concerns the packaging and classification of radioactive materials. This final rule preempts State, local, or Indian tribe requirements in accordance with the standards set forth above. The Federal statute

provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the Federal Register the effective date of Federal preemption (49 USC 5125(b)(2)). That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements is August 2, 1996. Thus RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Executive Order 12778

Any interested person may petition RSPA's Administrator for reconsideration of this final rule within 30 days of publication of this rule in the Federal Register, in accordance with the procedures set forth at 49 CFR 106.35. Neither the filing of a petition for reconsideration nor any other administrative proceeding is required before the filing of a suit in court for review of this rule.

D. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule applies to shippers and carriers of radioactive materials, some of whom are small entities.

E. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174 and 176 are amended as follows:

**PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS**

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

**§ 172.101 [Amended]**

2. In § 172.101, in the Hazardous Materials Table, the following amendments are made:

a. For the entry "Radioactive material, low specific activity or Radioactive material, LSA, n.o.s.", in column (2), the words ", n.o.s." are added after "activity".

b. For the entry "Radioactive material, surface contaminated object or Radioactive material, SCO", in column (7), the references "421, 424, 426" are removed, in Column (8A), the reference "427" is revised to read "421, 424, 426", in Column (8C), the reference "427" is added.

3. In § 172.203, paragraphs (d)(1) and (d)(2) are revised to read as follows:

**§ 172.203 Additional description requirements.**

\* \* \* \* \*

(d) \* \* \*

(1) The words "RADIOACTIVE MATERIAL" unless these words are contained in the proper shipping name.

(2) The name of each radionuclide in the Class 7 (radioactive) material that is listed in § 173.435 of this subchapter. For mixtures of radionuclides, the radionuclides that must be shown must be determined in accordance with § 173.433(f) of this subchapter. Abbreviations, e.g., "99Mo", are authorized.

\* \* \* \* \*

**§ 172.310 [Amended]**

3a. In § 172.310, in paragraph (b), the wording "Packaging must" is removed and "Each packaging must" is added in its place.

**§ 172.403 [Amended]**

4. In § 172.403, the following amendments are made:  
 a. In paragraph (a), the reference “§§ 173.421 through 173.425” is revised to read “§§ 173.421 through 173.428”.  
 b. In the table in paragraph (c), under the column heading “Maximum radiation level at any point on the external surface”, for the second entry the wording “0.5 mSv/h (50 mrem)” is revised to read “0.5 mSv/h (50 mrem/h)” and, for the third entry the wording “0.05 mSv/h (50 mrem)” is revised to read “0.5 mSv/h (50 mrem/h)”.  
 c. In paragraph (g)(2), in the second sentence, the word “Alternatively,” is removed and “Alternatively, for domestic transport,” is added in its place.

**§ 172.803 [Amended]**

5. In § 172.803, the following amendments are made:  
 a. In the introductory text of paragraph (b) the word “control” is removed and “controlled” is added in its place.  
 b. In paragraph (d)(1)(i), the words “200 TI” are removed and “200 TI, not including TI calculated for criticality control purposes,” is added in its place.  
 c. In paragraph (d)(1)(ii), in the last sentence, the words “any Regional Administrator of the Nuclear Regulatory Commission or from” are removed.

d. In paragraph (e), the paragraph designation (1) is added following the paragraph heading.

6. In Appendix B to Part 172, the introductory text preceding the symbol and the text following the symbol are revised to read as follows:

**Appendix B to Part 172—Trefoil Symbol**

1. Except as provided in paragraph 2 of this appendix, the trefoil symbol required for RADIOACTIVE labels and placards and required to be marked on certain packages of Class 7 materials must conform to the design and size requirements of this appendix.

2. RADIOACTIVE labels and placards that were printed prior to April 1, 1996, in conformance with the requirements of this subchapter in effect on March 30, 1996, may continue to be used.

\* \* \* \* \*

- 1=Radius of Circle—  
 Minimum dimensions  
 4 mm (0.16 inch) for markings and labels  
 12.5 mm (0.5 inch) for placards
- 2=1 1/2 Radii
- 3=5 radii for markings and labels  
 4 1/2 radii for placards.

**PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

7. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

**§ 173.403 [Amended]**

8. In § 173.403, under the definition *Low Specific Activity (LSA) material*, in paragraph (2)(ii) the words “essentially uniformly distributed” are revised to read “distributed throughout”, and, in paragraph (3)(i) the words “essentially uniformly distributed throughout” are revised to read “distributed throughout”.

**§ 173.410 [Amended]**

9. In § 173.410, paragraph (f) is amended by removing the phrase “(see § 178.608 of this subchapter)” and by revising the phrase “(see §§ 173.24 and 173.24a)” to read “(see §§ 173.24, 173.24a, and 173.24b)”.

**§ 173.411 [Amended]**

10. In § 173.411, in paragraph (b)(2)(ii), the words “greater than 20% increase” are revised to read “significant increase”.

11. In § 173.417, in paragraph (a)(7), Table 3 is revised, and paragraph (b)(2) is revised to read as follows:

**§ 173.417 Authorized fissile materials packages.**

- (a) \* \* \*
- (7) \* \* \*

TABLE 3.—ALLOWABLE CONTENT OF URANIUM HEXAFLUORIDE (UF<sub>6</sub>) “HEELS” IN A SPECIFICATION 7A CYLINDER

Maximum cylinder diameter		Cylinder volume		Maximum uranium-235 enrichment (weight percent)	Maximum “Heel” weight per cylinder			
Centimeters	Inches	Liters	Cubic feet		UF6		Uranium-235	
					kg	lb	kg	lb
12.7	5	8.8	0.311	100.0	0.045	0.1	0.031	0.07
20.3	8	39.0	1.359	12.5	0.227	0.5	0.019	0.04
30.5	12	68.0	2.410	5.0	0.454	1.0	0.015	0.03
76.0	30	725.0	25.64	5.0	11.3	25.0	0.383	0.84
122.0	48	3,084.0	1108.9	4.5	22.7	50.0	0.690	1.52
122.0	48	4,041.0	2142.7	4.5	22.7	50.0	0.690	1.52

<sup>1</sup> 10 ton.  
<sup>2</sup> 14 ton.

\* \* \* \* \*

(b) \* \* \*  
 (2) DOT Specification 6M (§ 178.354 of this subchapter), metal packaging. These packages must contain only solid Class 7 (radioactive) materials that will not decompose at temperatures up to 121 °C (250 °F). Radioactive decay heat output may not exceed 10 watts. Class 7 (radioactive) materials in other than special form must be packaged in one or more tightly sealed metal cans or polyethylene bottles within a DOT Specification 2R (§ 178.360 of this subchapter) containment vessel.  
 (i) For fissile material with a criticality TI equal to 0.0, packages are

limited to the following amounts of fissile Class 7 (radioactive) materials: 1.6 kilograms of uranium-235; 0.9 kilograms of plutonium (except that due to the 10-watt thermal decay heat limitation, the limit for plutonium-238 is 0.02 kilograms); and 0.5 kilograms of uranium-233. The maximum ratio of hydrogen to fissile material may not exceed three, including all of the sources of hydrogen within the DOT Specification 2R containment vessel.  
 (ii) Maximum quantities of fissile material and other restrictions for materials with a criticality TI of greater than 0.0 are given in Table 5. The

minimum transport index to be assigned per package and, for fissile material, controlled shipments, the allowable number of similar packages per conveyance and per transport vehicle are shown in Table 5. Where a maximum ratio of hydrogen to fissile material is specified in Table 5, only the hydrogen interspersed with the fissile material must be considered. For a uranium-233 shipment, the maximum inside diameter of the inner containment vessel may not exceed 12.1 centimeters (4.75 inches). Where necessary, a tight-fitting steel insert must be used to reduce a larger diameter

inner containment vessel specified in § 178.354 of this subchapter to the 12.1 centimeter (4.75 inch) limit. Table 5 is as follows:

TABLE 5.—AUTHORIZED CONTENTS FOR SPECIFICATION 6M PACKAGES<sup>1</sup>

Uranium-233 <sup>5</sup>			Uranium-235 <sup>4,7</sup>			Plutonium <sup>2,3,4</sup>			Minimum transport index	Maximum no. pkgs. transported as a fissile material control shipment
Metal or alloy	Compounds		Metal or alloy	Compounds		Metal or alloy	Compounds			
H/X=0 <sup>8</sup>	H/X=0	H/X<=3	H/X=0	H/X=0	H/X<=3	H/X=0	H/X=0	H/X<=3		
0.5	0.5	0.5	1.6	1.6	1.6	<sup>9</sup> 0.9	<sup>9</sup> 0.9	<sup>9</sup> 0.9	0	N/A
3.6	4.4	2.9	7.2	7.6	5.3	3.1	4.1	3.4	0.1	1,250
<sup>6</sup> 4.2	5.2	3.5	8.7	9.6	6.4	3.4	4.5	4.1	0.2	625
<sup>6</sup> 5.2	6.8	4.5	11.2	13.9	8.3	4.2		4.5	0.5	250
			13.5	16.0	10.1	4.5			1.0	125
				26.0	16.1				5.0	25
				32.0	19.5				10.0	12

<sup>1</sup> Quantity in kilograms.

<sup>2</sup> Minimum percentage of plutonium-240 is 5 weight percent.

<sup>3</sup> 4.5 kilogram limitation of plutonium due to watt decay heat limitation.

<sup>4</sup> For a mixture of uranium-235 and plutonium an equal amount of uranium-235 may be substituted for any portion of the plutonium authorized.

<sup>5</sup> Maximum inside diameter of specification 2R containment vessel not to exceed 12.1 centimeters (4.75 inches) (see paragraph (b)(2)(ii) of this section).

<sup>6</sup> Granulated or powdered metal with any particle less than 6.4 millimeters (0.25 inch) in the smallest dimension is not authorized.

<sup>7</sup> Except for material with a criticality TI of 0.0, the maximum permitted uranium-235 enrichment is 93.5 percent.

<sup>8</sup> H/X is the ratio of hydrogen to fissile atoms in the inner containment.

<sup>9</sup> For Pu-238, the limit is 0.02 kg because of the 10 watt thermal decay heat limitation.

\* \* \* \* \*  
 12. In § 173.422, paragraph (b)(3) is added to read as follows:

**§ 173.422 Additional requirements for excepted packages containing Class 7 (radioactive) materials.**

\* \* \* \* \*

(b) \* \* \*

(3) The training requirements of subpart H of part 172 of this subchapter and, for materials that meet the definition of a hazardous substance or a hazardous waste, the shipping paper

requirements of subpart C of Part 172 of this subchapter.

**§ 173.422 [Amended]**

13. In addition, in § 173.422, the following amendments are made:

a. In paragraph (a), in the first sentence, the words “Excepted packages” are revised to read “Except for materials subject to the shipping paper requirements of subpart C of Part 172 of this subchapter, excepted packages”.

b. In paragraph (a)(4), the words “empty packaging” are revised to read “empty package”.

c. In paragraph (b)(1), the word “and” following the semicolon is removed, and in paragraph (b)(2) the period is removed and “; and” is added in its place.

14. In § 173.425, Table 7 is revised to read as follows:

**§ 173.425 Table of activity limits—excepted quantities and articles.**

\* \* \* \* \*

TABLE 7.—ACTIVITY LIMITS FOR LIMITED QUANTITIES, INSTRUMENTS, AND ARTICLES

Nature of contents	Instruments and articles		Materials package limits <sup>1</sup>
	Limits for each instrument or article <sup>1</sup>	Package limits <sup>1</sup>	
Solids:			
Special form .....	10 <sup>-2</sup> A <sub>1</sub>	A <sub>1</sub>	10 <sup>-3</sup> A <sub>1</sub>
Normal form .....	10 <sup>-2</sup> A <sub>2</sub>	A <sub>2</sub>	10 <sup>-3</sup> A <sub>2</sub>
Liquids:			
Tritiated water:			
<0.0037 TBq/liter (0.1 Ci/L) .....			37 TBq (1,000 Ci)
0.0037 TBq to 0.037 TBq/L (0.1 Ci to 1.0 Ci/L) .....			3.7 TBq (100 Ci)
>0.037 TBq/L (1.0 Ci/L) .....			0.037 TBq (1.0 Ci)
Other Liquids .....	10 <sup>-3</sup> A <sub>2</sub>	10 <sup>-1</sup> A <sub>2</sub>	10 <sup>-4</sup> A <sub>2</sub>
Gases:			
Tritium <sup>2</sup> .....	2 x 10 <sup>-2</sup> A <sub>2</sub>	2 x 10 <sup>-1</sup> A <sub>2</sub>	2 x 10 <sup>-2</sup> A <sub>2</sub>
Special form .....	10 <sup>-3</sup> A <sub>1</sub>	10 <sup>-2</sup> A <sub>1</sub>	10 <sup>-3</sup> A <sub>1</sub>
Other form .....	10 <sup>-3</sup> A <sub>2</sub>	10 <sup>-2</sup> A <sub>2</sub>	10 <sup>-3</sup> A <sub>2</sub>

<sup>1</sup> For mixtures of radionuclides see § 173.433(d).

<sup>2</sup> These values also apply to tritium in activated luminous paint and tritium adsorbed on solid carriers.

**§ 173.426 [Amended]**

15. In § 173.426, paragraph (c), the reference “§ 173.421 (b), (c), and (d)” is revised to read “§ 173.421(a) (2), (3) and (4)”.

16. In § 173.427, paragraphs (b)(4) and (b)(5) are added to read as follows:

**§ 173.427 Transport requirements for low specific activity (LSA) Class 7 (radioactive) materials and surface contaminated objects (SCO).**

\* \* \* \* \*

(b) \* \* \*

(4) For domestic transportation only, in a packaging that complies with the provisions of 10 CFR 71.52, and is transported in exclusive use; or

(5) Any Type B, B(U) or B(M) packaging authorized pursuant to § 173.416.

\* \* \* \* \*

**§ 173.427 [Amended]**

17. In addition, in § 173.427, the following amendments are made:

a. In paragraph (a)(3), the reference “§ 173.451” is revised to read “§§ 173.451 and 173.467”.

b. In paragraph (b)(2) the word “or” at the end of the paragraph is removed and in paragraph (b)(3)(ii) the period at the end of the paragraph is removed and a semicolon is added in its place.

c. In paragraph (c)(1), the phrase “, transported in a closed transport vehicle” is removed.

d. In paragraph (f), in Table 8, for the third entry, in column 1, the words “LSA-III” is revised to read “LSA-III”.

**§ 173.428 [Amended]**

18. In § 173.428, in the introductory text, the word “expected” is revised to read “excepted” and, in paragraph (a), the reference “§ 173.421 (b), (c), and (e)” is revised to read “§ 173.421(a) (2), (3), and (5)”.

19. In § 173.435, in the Table of A<sup>1</sup> and A<sup>2</sup> values for radionuclides, the following entries are revised to read as follows:

**§ 173.435 Table of A<sup>1</sup> and A<sup>2</sup> values for radionuclides.**

\* \* \* \* \*

Symbol of radionuclide	Element and atomic number	A <sub>1</sub> (TBq)	A <sub>1</sub> (Ci)	A <sub>2</sub> (TBq)	A <sub>2</sub> (Ci)	Specific activity	
						(TBq/g)	(Ci/g)
Ag-110m	*	0.4	10.8	0.4	10.8	1.8×10 <sup>2</sup>	4.7×10 <sup>3</sup>
Am-242m	*	2	54.1	2×10 <sup>-4</sup>	5.41×10 <sup>-3</sup>	3.6×10 <sup>-1</sup>	1.0×10 <sup>1</sup>
Ar-39	*	20	541	20	541	1.3	3.4×10 <sup>1</sup>
Br-82	*	0.4	10.8	0.4	10.8	4.0×10 <sup>4</sup>	1.1×10 <sup>6</sup>
C-11	Carbon(6)	1	27	0.5	13.5	3.1×10 <sup>7</sup>	8.4×10 <sup>8</sup>
Cm-244	*	4	108	4×10 <sup>-4</sup>	1.08×10 <sup>-2</sup>	3.0	8.1×10 <sup>5</sup>
Es-253	Einsteinium(99) <sup>a</sup>	200	5400	2.1×10 <sup>-2</sup>	5.4×10 <sup>-1</sup>		
Eu-150	*	0.7	18.9	0.7	18.9	6.1×10 <sup>4</sup>	1.6×10 <sup>6</sup>
Eu-155	*	20	541	2	54.1	1.8×10 <sup>1</sup>	4.9×10 <sup>2</sup>
F-18	Fluorine(9)	1	27.0	0.5	13.5	3.5×10 <sup>6</sup>	9.5×10 <sup>7</sup>
Fe-59	*	0.8	21.6	0.8	21.6	1.8×10 <sup>3</sup>	5.0×10 <sup>4</sup>
Fm-257	*	10	270	8×10 <sup>-3</sup>	21.6×10 <sup>-1</sup>		
Gd-148	*	3	81.1	3×10 <sup>-4</sup>	8.11×10 <sup>-3</sup>	1.2	3.2×10 <sup>1</sup>
Pd-107	*	Unlimited	Unlimited	Unlimited	Unlimited	1.9×10 <sup>-5</sup>	5.1×10 <sup>-4</sup>
Pt-197m	*	10	270	0.9	24.3	3.7×10 <sup>5</sup>	1.0×10 <sup>7</sup>
Rn-222	Radon(86)	0.2	5.41	4×10 <sup>-3</sup>	0.108	5.7×10 <sup>3</sup>	1.5×10 <sup>5</sup>
	*						

**§ 173.443 [Amended]**

20. In § 173.443, in paragraph (a)(2), Table 11 is amended for the first entry, in column 2 by removing "0.41" and adding "0.4" and, in column 3 by removing the number "0<sup>-5</sup>" and adding "10<sup>-5</sup>".

**§ 173.465 [Amended]**

21. In § 173.465, paragraph (a), the word "compression" is removed and "stacking" is added in its place and, in paragraph (e)(1), the wording "(1.3 inches)" is removed and "(1.25 inches)" is added in its place.

**PART 174—CARRIAGE BY RAIL**

22. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

**§ 174.700 [Amended]**

23. In § 174.700, in paragraph (b), the word "rail" is removed and "rail car" is added in its place.

**PART 176—CARRIAGE BY VESSEL**

24. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

**§ 176.704 [Amended]**

25. In § 176.704, in paragraph (c), the wording "LSA-I" is removed and "LSA" is added in its place.

Issued in Washington, DC on April 23, 1996, under authority delegated in 49 CFR part 1.

Rose A. McMurray,

*Acting Deputy Administrator.*

[FR Doc. 96-11297 Filed 5-7-96; 8:45 am]

**BILLING CODE 4910-60-P**

# Proposed Rules

Federal Register

Vol. 61, No. 90

Wednesday, May 8, 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

### Agricultural Marketing Service

#### 7 CFR Parts 911 and 944

[Docket No. FV96-911-2PR]

#### Limes Grown in Florida and Imported Limes; Change in Regulatory Period

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposal invites comments on proposed changes to the regulatory period currently prescribed under the lime marketing order and the lime import regulations. The marketing order regulates the handling of limes grown in Florida and is administered locally by the Florida Lime Administrative Committee (committee). This rule would modify language in both the domestic and import regulations to change the regulatory period to January 1 through May 31, from its current continuous, year round, implementation. This proposed rule is in response to changes in the market, rising costs of production and the cost of replanting in the aftermath of Hurricane Andrew. By reducing the regulatory period and its associated costs, this rule should decrease industry expenses. The changes in import requirements are necessary under section 8e of the Agricultural Marketing Agreement Act of 1937.

**DATES:** Comments must be received by June 7, 1996.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, FAX Number (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in

the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Aleck Jonas, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299-4770; or Britthany Beadle, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-3923.

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing Agreement and Marketing Order No. 911 (7 CFR part 911), as amended, regulating the handling of limes, hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including limes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. This proposal 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 section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any

district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule 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. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 10 handlers subject to regulation under the order and about 30 producers of Florida limes. There are approximately 35 importers of limes. Small agricultural service firms, which include lime handlers and importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. A majority of these handlers, producers, and importers may be classified as small entities.

This proposed rule invites comments on a change to the regulatory period currently prescribed under the Florida lime marketing order. This rule would modify language in the order's rules and regulations to change the regulatory period from its current continuous, year round, implementation to January 1 through May 31. This change was recommended by the committee on a vote of 6 supporting and 4 against.

Section 911.48 of the lime marketing order provides authority to issue regulations establishing specific pack,

container, grade and size requirements. These requirements are specified under §§ 911.311, 911.329 and 911.344. Section 911.51 requires inspection and certification that these requirements are met. Currently, there is no regulatory period stated in the order, and the regulations are applied on a continuous year-round basis.

There is general agreement in the industry for the need to reduce costs and increase grower returns under the current market conditions. The committee made this recommendation to decrease industry expenses by reducing the regulatory period and its associated costs. Prior to Hurricane Andrew, there were approximately 6,500 producing acres of limes in the production area. Currently, there are approximately 1,500 acres of producing lime trees in the production area. Growers are expending approximately \$2,500 per acre to plant new groves and replant lost ones. They are also spending approximately \$1,500 per acre per year to maintaining new groves of young trees which will not produce fruit for several years, thus, giving no return for investment. During the 1991–1992 season prior to Hurricane Andrew, assessments were collected on 1,682,677 bushels. In the 1993–1994 and the 1994–1995 seasons after the storm, assessments were collected on 228,455 bushels and 283,977 bushels respectively. Lost income from reduced volume and the costs of replanting and maintaining groves, with no immediate monetary return, has caused the industry to seek cost saving measures.

Historically, the June 1 through December 31 time period is a time when fruit is plentiful, prices are low, and the overall quality of the crop is good for both domestic and imported supplies. The committee maintains that under these abundant and good quality fruit conditions, competition and market demand will keep quality standards high. Conversely, during the time period, January 1 through May 31, past seasons have shown that for both domestic and imported fruit, skins are thicker, the juice content is lower and supplies of fruit are limited. Because the temptation to ship poor quality is greater under these high demand and low supply conditions, the committee believes regulations are necessary to prevent poor quality fruit from entering and damaging the lime market. Therefore, the committee believes that for the period June 1 through December 31, pack, container, grade and size regulations can be ended. Competition under good quality and high supply conditions should protect the consumer from poor quality fruit entering the

market during the proposed deregulated period. The application of regulations from January 1 through May 31, will insure uniform quality throughout the year.

Growers, handlers and importers should benefit from the reduced costs of no regulations, such as no inspection fees during the deregulated period. Committee expenses should also be reduced by requiring fewer meetings and less compliance monitoring. Reporting requirements are not affected by this change and will continue to be collected year-round.

One alternative to the proposed rule was to leave the regulations in place year-round. This alternative was rejected by the committee because the need to take some action was considered necessary under the current market conditions. It was argued that when these regulations were put in place, the quality of both the domestic and imported lime supply varied greatly. Over the years, improved agricultural practices have produced a consistent high quality lime supply. This is particularly true during the June through December time period. The majority of committee members believe that the regulations are unnecessary when there is such a large supply of high quality fruit.

Another alternative raised was to terminate the marketing order. Although seriously considered, committee members rejected the idea under arguments that during the January through May time period when supplies are reduced and juice content of all limes is lower, poor quality fruit could enter the market. Consumer dissatisfaction with poor quality limes could lead to product rejection and substitution with lemons, causing a lost market share. This proposed rule represents a compromise of the two alternatives presented. The committee believes that this change will provide the consumer with quality fruit throughout the year, while reducing industry costs.

Section 8e of the Act provides that when certain domestically produced commodities, including limes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule would change the regulatory period under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade and size requirements for limes imported into the United States are currently in effect under § 944.209 (7 CFR 944.209). This

proposed rule would modify language in the import regulations to change the regulatory period from its current continuous, year round, implementation to January 1 through May 31. This rule would result in relaxed import requirements because the lime import regulations would not be in effect during the months of June through December. This could result in reduced costs to importers.

Mexico is the largest importer of limes into the United States. During the 1994–95 season, Mexico imported 6,075,685 bushels into the United States, while all other import sources shipped a combined total of 201,053 bushels during the same time period. The majority of Mexican imports enter the United States between June 1 and December 31, the proposed deregulated period covered in this rule.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule, as it pertains to limes imported into the United States.

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

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects

##### *7 CFR Part 911*

Limes, Marketing agreements, Reporting and recordkeeping requirements.

##### *7 CFR Part 944*

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 911 and 944 are proposed to be amended as follows:

1. The authority citation for 7 CFR part 911 continues to read as follows:

Authority: 7 U.S.C. 601–674.

#### **PART 911—LIMES GROWN IN FLORIDA**

##### **§ 911.311 [Amended]**

2. In § 911.311, paragraph (a), introductory text, is amended by removing the words “No handler” and adding in its place the words “From January 1 through May 31 of each season, no handler”.

**§ 911.329 [Amended]**

3. In § 911.329, paragraph (a) is amended by removing the words "No handler" and adding in its place the words "From January 1 through May 31 of each season, no handler".

**§ 911.344 [Amended]**

4. In § 911.344, paragraph (a), introductory text, is amended by removing the words "No handler" and adding in its place the words "From January 1 through May 31 of each season, no handler".

**PART 944—FRUITS, IMPORT REGULATIONS**

5. In § 944.209, paragraph (a) is revised to read as follows:

**§ 944.209 Lime Import Regulation 10.**

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States from January 1 through May 31 of any limes is prohibited unless such limes meet the minimum grade and size requirements specified in § 911.344 Florida Lime Regulation 43.

\* \* \* \* \*

Dated: May 2, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 96-11460 Filed 5-7-96; 8:45 am]

BILLING CODE 3410-02-P

**7 CFR Parts 924 and 944**

[Docket No. FV95-924-1PR]

**Fresh Prunes Grown in Washington and Oregon: Proposed Handling Requirement Revision; Fruits; Import Regulations; Proposed Fresh Prune Import Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would change the effective period of the handling regulations in effect for shipments of fresh prunes grown in specified counties of Washington and in Umatilla County, Oregon under Marketing Order No. 924 to coincide with the domestic shipping season. This proposed rule would also establish grade, size, and quality requirements for prune variety plums (fresh prunes) imported into the United States. The proposed import requirements would be issued pursuant to the authority in section 8e of the amended Agricultural Marketing Agreement Act of 1937.

**DATES:** Comments must be received by June 7, 1996.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments should be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456 or by FAX at (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Britthany E. Beadle, Marketing Order Administration Branch, AMS, USDA, PO Box 96456, room 2526-S, Washington, DC 20090-6456; telephone: (202) 720-5127; or Teresa Hutchinson, Northwest Marketing Field Office, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326-2725.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Order No. 924 (7 CFR part 924), as amended, regulating the handling of fresh prunes grown in specified counties of Washington and in Umatilla County, Oregon, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including plums or fresh prunes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. The Secretary has determined that the minimum grade, quality, and size requirements for fresh prunes imported into the United States should be the same as those established for fresh prunes grown in Washington and Umatilla County, Oregon, under Marketing Order No. 924.

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed 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 section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule 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. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 5 handlers subject to regulation under the order and about 350 producers of Washington-Oregon fresh prunes. There are no known importers of fresh prunes. Small agricultural service firms, which include fresh prune handlers and importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. A majority of these handlers and producers may be classified as small entities.

Most of the prune variety plums (fresh prunes) grown in the United States are produced in certain counties in Washington and in Umatilla County, Oregon. Such fresh prunes are regulated under the order which establishes

minimum grade, size, and quality requirements for fresh prunes. There is no other Federal marketing order regulating plums or fresh prunes. The Washington and Oregon fresh prune industry ships throughout the United States. Between 1990 and 1994, shipments of fresh prunes from Washington and Oregon ranged from 8.4 to 22.6 million pounds.

The grade, size, and quality of fresh prunes grown in Washington and Oregon are regulated under the order. These handling requirements do not change substantially from season to season, and they have been issued on a continuing basis subject to amendment, modification, or suspension as may be determined by the Secretary. Currently, the handling regulations under the order are effective throughout the entire year. This proposed rule would change the effective dates of the handling regulations to July 15 through September 30 each year, so that the regulatory period more closely coincides with the marketing season for fresh prunes grown in Washington and Oregon. This proposed period includes additional time after the last day of harvest when some lots of fruit may be kept in cold storage prior to shipment.

Fresh prunes offered for importation into the United States would be regulated based on the requirements under the order and during the same period of time when Washington and Oregon fresh prunes are regulated. However, fresh prunes are not, at this time, being imported into the United States.

This rule proposes that, from July 15 through September 30 each year, fresh prunes imported into the United States be required to meet the same minimum grade, size, and quality requirements as those for fresh prunes under the order.

This proposed rule would add a new § 944.700 under 7 CFR part 944—Fruits; Import Regulations to require that fresh prunes imported into the United States, except for the Brooks and President varieties, meet modified requirements of the U.S. No. 1 grade as set forth in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 through 51.1538), and a minimum size requirement of 1¼ inches in diameter. The modifications to the U.S. No. 1 standard would be as follows: (1) At least two-thirds of the surface must be purplish in color; and (2) there cannot be more than 15 percent total defects in any lot. These defects, by count, cannot exceed the following tolerances: (a) A maximum of 10 percent of the defects may not meet color requirements; (b) a maximum of 10 percent of the defects may not meet the minimum diameter

requirements; and (c) a maximum of 10 percent of the defects may be in the remaining grade requirements (misshapen and dirty fresh prunes). However, not more than 5 percent of the remaining grade requirements may constitute serious damage, including a maximum of 1 percent for decay.

This proposed rule would also establish the period of time for the regulation of imported fresh prunes. From July 15 through September 30 of each year, fresh prunes imported into the United States would be subject to the minimum grade, size and quality requirements effective under the order. This is the same period that such requirements are proposed to be in effect for fresh prunes under the order. Imports arriving before the domestic commodity's shipping season begins or after the domestic commodity's shipping season ends would not be subject to the proposed import requirements.

Importers would be responsible for arranging for the required inspection and certification prior to importation. Importation is defined to mean release from custody of the United States Customs Service. Such inspection services are available on a fee-for-service basis. This action could therefore result in increased costs associated with importing fresh prunes. The additional costs should be offset, however, by the benefits accrued by ensuring that only acceptable quality fruit is present in the U.S. marketplace. Such quality assurance promotes buyer satisfaction and increased sales.

This proposed rule would also authorize limited quantity exemptions from the import requirements specified herein. Individual shipments of Stanley and Merton variety fresh prunes of less than 500 pounds, and individual shipments of other fresh prune varieties of less than 350 pounds, would be excluded from the proposed import requirements. Additionally, fresh prunes imported for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products would be exempt from the proposed import requirements. The marketing order provides similar exemptions.

To ensure that fresh prunes imported exempt from the grade, size and quality requirements are utilized in exempt outlets, this rule proposes that such fresh prunes be subject to the safeguard procedures for imported fruit established in § 944.350 (61 FR 13051, March 26, 1996).

Under these procedures, an importer wishing to import fresh prunes covered herein for exempt uses would complete

in triplicate, prior to importation, an "Importer's Exempt Commodity Form." One copy would be held by the importer or customs broker. The second copy would be sent to the Marketing Order Administration Branch (MOAB) of the Fruit and Vegetable Division, AMS, within 2 days of the entry of the shipment. The third copy would accompany the exempt lot to the receiver.

The form could be obtained from the MOAB by calling (202) 720-6585 or sending a fax to (202) 720-5698. The form would be completed at the time the commodity enters the United States. Information called for on the "Importer's Exempt Commodity Form" would include:

- (1) The commodity and the variety (if known) being imported,
- (2) The date and place of inspection, if used to enter failing product or culls as exempt (including a copy of the inspection certificate),
- (3) Identifying marks or numbers on the containers,
- (4) Identifying numbers on the railroad car, truck or other transportation vehicle transporting product to the receiver,
- (5) The name and address of the importer,
- (6) The place and date of entry,
- (7) The quantity imported (in pounds),
- (8) The name and address of the intended receiver (e.g., processor, charity, or other exempt receiver),
- (9) The intended use of the exempt commodity,
- (10) The U.S. Customs Service entry number and harmonized tariff code number, and
- (11) Such other information as may be necessary to ensure compliance with this regulation.

The third copy of the form would accompany the exempt lot to its intended destination. The exempt receiver would certify that the lot has been received and it will be utilized in an exempt outlet. After the certification is signed by the receiver, the form would be returned to MOAB by the receiver, within 2 days of receipt of the lot.

Lots that are exempt from the grade, size, and quality requirements of the fresh prune import regulation would not be subject to the inspection and certification requirements in such regulation. An imported lot intended for non-exempt uses, or any portion of such a lot, that fails established grade, size, and quality requirements, could be exported, disposed of in an exempt outlet following the procedure described above, or otherwise

destroyed, under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such fruit borne by the importer.

This proposed rule would also amend paragraph (a) of § 944.400 (7 CFR part 944). That paragraph designates the Federal or Federal-State Inspection Service of the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture as the organization to perform inspection and certification of imported fresh fruits specified in section 8e of the Act. That paragraph also specifies procedures to be followed for obtaining the required inspections. This proposed rule would designate the Federal or Federal-State Inspection Service and Agriculture and Agri-Food Canada as the organizations authorized to inspect and certify foreign produced fresh prunes as meeting import requirements issued pursuant to section 8e.

Paragraphs (b), (c), and (d) of § 944.400, specifying additional procedures for obtaining inspection and certification of imported fruits listed in the section, would remain unchanged. These procedures are followed by importers to obtain inspection and certification of those fresh fruits specified in section 8e which are offered for importation into the United States.

The information collection requirements contained in this proposed rule have been previously approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), and have been assigned OMB number 0581-0167.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day period is provided to allow interested persons to comment on this proposal. All written comments received within the comment period will be considered before a final determination is made on this matter.

#### List of Subjects

##### 7 CFR Part 924

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

##### 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR parts 924 and 944 are proposed to be amended as follows:

1. The authority citation for 7 CFR parts 924 and 944 continues to read as follows:

Authority: 7 U.S.C. 601-674.

#### **PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTRIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON**

2. In § 924.319, the introductory text of paragraph (a) is revised to read as follows:

##### **§ 924.319 Prune Regulation 19.**

(a) During the period beginning July 15 and ending September 30, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

\* \* \* \* \*

#### **PART 944—FRUITS; IMPORT REGULATIONS**

3. In § 944.350, the section heading and paragraphs (a)(1) and (a)(2) are revised to read as follows:

**§ 944.350 Safeguard procedures for avocados, grapefruit, kiwifruit, limes, olives, oranges, prune variety plums (fresh prunes), and table grapes, exempt from grade, size, quality, and maturity requirements.**

(a) \* \* \*

(1) Avocados, grapefruit, kiwifruit, limes, olives, oranges, and prune variety plums (fresh prunes) for consumption by charitable institutions or distribution by relief agencies;

(2) Avocados, grapefruit, kiwifruit, limes, oranges, prune variety plums (fresh prunes), and table grapes for processing;

\* \* \* \* \*

4. Section 944.400 is amended by revising the section heading and the introductory text of paragraph (a) to read as follows:

**§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, kiwifruit, limes, oranges, prune variety plums (fresh prunes), and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.**

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, limes, nectarines, oranges, prune variety plums (fresh prunes), and

table grapes that are imported into the United States. Agriculture and Agri-Food Canada is also designated as a governmental inspection service for the purpose of certifying grade, size, quality and maturity of prune variety plums (fresh prunes) only. Inspection by the Federal or Federal-State Inspection Service or the Agriculture and Agri-Food Canada, with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective services, applicable to the particular shipment of the specified fruit, is required on all imports. Inspection and certification by the Federal or Federal-State Inspection Service will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products (7 CFR part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, limes, nectarines, oranges, prune variety plums (fresh prunes), and table grapes should make arrangements for inspection through the applicable one of the following offices, at least the specified number of the days prior to the time when the fruit will be imported:

\* \* \* \* \*

5. A new § 944.700 is added to read as follows:

##### **§ 944.700 Fresh prune import regulation.**

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, the importation into the United States of any fresh prunes, other than the Brooks variety, during the period July 15 through September 30 of each year is prohibited unless such fresh prunes meet the following requirements:

(1) Such fresh prunes grade at least U.S. No. 1, except that at least two-thirds of the surface of the fresh prune is required to be purplish in color, and such fresh prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: Provided, That the following tolerances, by count, of the fresh prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 through 51.1538): A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

(i) 10 percent for fresh prunes which fail to meet the color requirement;

(ii) 10 percent for fresh prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for fresh prunes which fail to meet the remaining requirements of the grade: Provided, That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay.

(2) [Reserved]

(b) The importation of any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of fresh prunes of the Stanley or Merton varieties, or 350 pounds net weight, of fresh prunes of any variety other than the Stanley or Merton varieties, is exempt from the requirements specified in this section.

(c) The grade, size and quality requirements of this section shall not be applicable to fresh prunes imported for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, but such prunes shall be subject to the safeguard provisions in § 944.350.

(d) The term *U.S. No. 1* shall have the same meaning as when used in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 through 51.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (April 28, 1978), and the Oregon State Department of Agriculture Standards for Italian Prunes (October 5, 1977); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit.

(e) The term *Prunes* means all varieties of plums, classified botanically as *Prunus domestica*, except those of the President variety.

(f) The term *importation* means release from custody of the United States Customs Service.

(g) Inspection and certification service is required for imports and will be available in accordance with the regulation designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(h) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of

such fresh prunes borne by the importer.

(i) It is determined that fresh prunes imported into the United States shall meet the same minimum grade, size and quality requirements as those established for fresh prunes under Marketing Order No. 924 (7 CFR part 924).

Dated: May 2, 1996.

Eric M. Forman,

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 96-11459 Filed 5-7-96; 8:45 am]

BILLING CODE 3410-02-P

## 7 CFR Part 1160

[DA-96-07]

### Fluid Milk Promotion Order; Invitation To Submit Comments on Proposed Amendments to the Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This document invites written comments on a proposal to amend the Fluid Milk Promotion Order to modify the term of the chairperson of the National Fluid Milk Processor Promotion Board. The proposal was submitted by the National Fluid Milk Processor Promotion Board which contends the action is necessary to enable it to operate more effectively.

**DATES:** Comments are due no later than May 15, 1996.

**ADDRESSES:** Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Promotion and Research Staff, Room 2734, South Building, P.O. Box 96456, Washington, DC 20090-6456.

**FOR FURTHER INFORMATION CONTACT:** Eugene E. Krueger, Head, Promotion and Research Staff, USDA/AMS/Dairy Division, Room 2734, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-6909.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this rule would not have a significant economic impact on a substantial number of small entities. The proposed amendment would modify the term of the chairperson of the National Fluid Milk Processor Promotion Board and would not have an economic effect on any entity engaged in the dairy industry.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This proposed rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Fluid Milk Promotion Act of 1990, as amended, authorizes the Fluid Milk Promotion Order. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1999K of the Act, any person subject to a Fluid Milk Promotion Order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and request a modification of the order or to be exempted from the order. A person subject to an order is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling of the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), the forms and reporting and recordkeeping requirements that are included in the Fluid Milk Promotion Order have been approved by the Office of Management and Budget (OMB) and were assigned OMB No. 0581-0093, except for Board members' nominee information sheets that were assigned OMB No. 0505-0001.

#### Statement of Consideration

Section 1160.209(a) of the Fluid Milk Promotion Order currently provides that the National Fluid Milk Processor Promotion Board meet at least once a year and elect from among its members a chairperson to serve a term of one year and not more than two consecutive terms. The proposed amendment would modify, from one year to a fiscal period, the term of the chairperson and provide that such chairperson may serve not more than two consecutive fiscal periods.

Currently, a term of office for the chairperson of the National Fluid Milk Processor Promotion Board is based on an annual period, which expires on July 27, 1996, rather than a fiscal period. The

Board contends that the proposed amendment will provide continuity between fiscal periods and the terms of office of the chairperson. The Board indicates that this will allow the Board to operate more effectively.

A 7-day comment period is deemed appropriate to permit implementation of this amendment, if adopted, before the annual meeting of the Board that is tentatively scheduled for the beginning of July 1996.

#### List of Subjects in 7 CFR Part 1160

Milk, Fluid milk products, Promotion.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1160, is amended as follows:

#### **PART 1160—FLUID MILK PROMOTION ORDER**

1. The authority citation for 7 CFR Part 1160 continues to read as follows:  
Authority: 7 U.S.C. 6401–6417.

2. Section 1160.209(a) is revised to read as follows:

#### **§ 1160.209 Duties of the Board.**

The Board shall have the following duties:

(a) To meet not less than annually, and to organize and select from among its members a chairperson, who may serve for a term of a fiscal period pursuant to § 1160.113, and not more than two consecutive terms, and to select such other officers as may be necessary;

\* \* \* \* \*

Dated: May 2, 1996.

Lon Hatamiya,  
*Administrator.*

[FR Doc. 96–11458 Filed 5–7–96; 8:45 am]

BILLING CODE 3410–02–P

---

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 29**

[Docket No. 96–ASW–2; Notice No. SC–96–2–SW]

#### **Special Condition: Sikorsky Model S76C, High Intensity Radiated Fields**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed special condition.

**SUMMARY:** This notice proposes a special condition for the Sikorsky Model S76C helicopter. This helicopter will have a novel or unusual design feature associated with the installation of electronic systems that perform critical

functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of electronic systems that perform critical functions from the effects of external high intensity radiated fields (HIRF). This notice contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the applicable airworthiness standards.

**DATES:** Comments must be received on or before June 7, 1996.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attn: Rules Docket No. 96–ASW–2, Fort Worth, Texas 76193–0007, or delivered in duplicate to the Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Fort Worth, Texas. Comments must be marked Docket No. 96–ASW–2. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 9 a.m. and 3 p.m.

#### **FOR FURTHER INFORMATION CONTACT:**

Mr. Robert McCallister, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0110; telephone (817) 222–5121.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of this proposed special condition by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on this proposal. The special condition proposed in this notice may be changed in light of comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–ASW–2." The postcard will be date and time stamped and returned to the commenter.

#### **Background**

Sikorsky Aircraft Corporation, Stratford, Connecticut, applied for an amendment to the Type Certificate for Model S76C helicopter on August 15, 1990. The amendment will allow installation of Turbomeca Arriel Model 2S1 engines with FADEC control and 30 second/2 minute ratings as alternate engines for the Sikorsky Model S76C helicopter. This is a 12 (14 including crew) passenger, twin engine, 11,700 pound transport category helicopter.

#### **Type Certificate Basis**

The type certification basis is 14 Code of Federal Regulations part 29, February 1, 1965, and Amendments 29–1 through 29–11; in addition, portions of Amendment 29–12, specifically, §§ 29.67, 29.71, 29.75, 29.141, 29.173, 29.175, 29.931, 29.1189(a)(2), 29.1555(c)(2), 29.1557(c); Amendment 29–13, specifically § 29.965; Amendment 29–24, specifically § 29.1325; Amendment 29–30 specifically § 29.811; Amendment 29–34, specifically §§ 29.67(a)(1)(i), 29.923(a), (b) (1) & (3), 29.1143(f), 29.1305(a) (24) & (25), 29.1521 (i) & (j) and 29.1549(e); and Amendment 36–14 of 14 CFR part 36, Appendix H.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these helicopters because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with Federal Aviation Administration § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with Federal Aviation Administration 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

#### **Discussion**

The Sikorsky Model S76C helicopter, at the time of the application for amendment to U.S. Type Certificate

HINE, was identified as incorporating one and possibly more electrical, electronic, or combination of electrical and electronic (electrical/electronic) systems that will perform functions critical to the continued safe flight and landing of the helicopters. A Full Authority Digital Engine Control (FADEC) is an example of an electronic device that performs the critical functions of engine control. The control of the engines is critical to the continued safe flight and landing of the helicopter during visual flight rules (VFR) and instrument flight rules (IFR) operations.

If it is determined that this helicopter currently or at a future date incorporates other electrical/electronic systems performing critical functions, those systems also will be required to comply with the requirements of this special condition.

Recent advances in technology have prompted the design of aircraft that include advanced electrical and electronic systems that perform functions required for continued safe flight and landing. However, these advanced systems respond to the transient effects of induced electrical current and voltage caused by the HIRF incident on the external surface of the helicopters. These induced transient currents and voltages can degrade the performance of the electrical/electronic systems by damaging the components or by upsetting the systems' functions.

Futhermore, the electromagnetic environment has undergone a transformation not envisioned by the current application of § 29.1309(a). Higher energy levels radiate from operational transmitters currently used for radar, radio, and television; the number of transmitters has increased significantly.

Existing aircraft certification requirements are inappropriate in view of these technological advances. In addition, the FAA has received reports of some significant safety incidents and accidents involving military aircraft equipped with advanced electrical/electronic systems when they were exposed to electromagnetic radiation.

The combined effects of technological advances in helicopter design and the changing environment have resulted in an increased level of vulnerability of the electrical and electronic systems required for the continued safe flight and landing of the helicopters. Effective measures to protect these helicopters against the adverse effects of exposure to HIRF will be provided by the design and installation of these systems. The following primary factors contributed to the current conditions: (1) increased use

of sensitive electronics that perform critical functions, (2) reduced electromagnetic shielding afforded helicopter systems by advanced technology airframe materials, (3) adverse service experience of military aircraft using these technologies, and (4) an increase in the number and power of radio frequency emitters and the expected increase in the future.

The FAA recognizes the need for aircraft certification standards to keep pace with technological developments and a changing environment and, in 1986, initiated a high priority program to (1) determine and define electromagnetic energy levels; (2) develop guidance material for design, test, and analysis; and (3) prescribe and promulgate regulatory standards. The FAA participated with industry and airworthiness authorities of other countries to develop internationally recognized standards for certification.

The FAA and airworthiness authorities of other countries have identified a level of HIRF environment that a helicopter could be exposed to during IFR operations. While the HIRF requirements are being finalized, the FAA is adopting a special condition for the certification of aircraft that employ electrical/electronic systems that perform critical functions. The accepted maximum energy levels that civilian helicopter system installations must withstand for safe operation are based on surveys and analysis of existing radio frequency emitters. This special condition will require the helicopters' electrical/electronic systems and associated wiring be protected from these energy levels. These external threat levels are believed to represent the worst-case exposure for a helicopter operating under IFR.

The HIRF environment specified in this proposed special condition is based on many critical assumptions. With the exception of takeoff and landing at an airport, one of these assumptions is the aircraft would be not less than 500 feet above ground level (AGL). Helicopters operating under visual flight rules (VFR) routinely operate at less than 500 feet AGL and perform takeoffs and landings at locations other than controlled airports. Therefore, it would be expected that the HIRF environment experienced by a helicopter operating VFR may exceed the defined environment by 100 percent or more.

This special condition will require the systems that perform critical functions, as installed in the aircraft, to meet certain standards based on either a defined HIRF environment or a fixed value using laboratory tests.

The applicant may demonstrate that the operation and operational capability of the installed electrical/electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the defined HIRF environment. The FAA has determined that the environment defined in Table 1 is acceptable for critical functions in helicopters operating at or above 500 feet AGL. For critical functions of helicopters operating at less than 500 feet AGL, additional factors must be considered.

The applicant may also demonstrate by a laboratory test that the electrical/electronic systems that perform critical functions can withstand a peak electromagnetic field strength in a frequency range of 10 KHz to 18 GHz. If a laboratory test is used to show compliance with the defined HIRF environment, no credit will be given for signal attenuation due to installation. A level of 100 v/m and other considerations, such as an alternate technology backup that is immune to HIRF, are appropriate for critical functions during IFR operations. A level of 200 v/m and further considerations, such as an alternate technology backup that is immune to HIRF, are more appropriate for critical functions during VFR operations.

Applicants must perform a preliminary hazard analysis to identify electrical/electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the helicopters. The systems identified by the hazard analysis as performing critical functions are required to have HIRF protection.

A system may perform both critical and noncritical functions. Primary electronic flight systems and their associated components perform critical functions such as attitude, altitude, and airspeed indications. HIRF requirements would apply only to the systems that perform critical functions.

Compliance with HIRF requirements will be demonstrated by tests, analysis, models, similarity with existing systems, or a combination of these methods. The two basic options of either testing the rotorcraft to the defined environment or laboratory testing may not be combined. The laboratory test allows some frequency areas to be under tested and requires other areas to have some safety margin when compared to the defined environment. The areas required to have some safety margin are those that have been, by past testing, shown to exhibit

greater susceptibility to adverse effects from HIRF; and laboratory tests, in general, do not accurately represent the aircraft installation. Service experience alone will not be acceptable since such experience in normal flight operations may not include an exposure to HIRF. Reliance on a system with similar design features for redundancy, as a means of protection against the effects of external HIRF, is generally insufficient because all elements of a redundant system are likely to be concurrently exposed to the radiated fields.

The modulation that represents the signal most likely to disrupt the operation of the system under test, based on its design characteristics, should be selected. For example, flight control systems may be susceptible to 3 Hz square wave modulation while the video signals for electronic display systems may be susceptible to 400 Hz sinusoidal modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KHz sine wave with 80 percent depth of modulation in the frequency range from 10 KHz to 500 MHz and 1 KHz square wave with greater than 90 percent depth of modulation from MHz to 18 GHz. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Acceptable system performance would be attained by demonstrating that the critical function components of the system under consideration continue to perform their intended function during and after exposure to required electromagnetic fields. Deviations from system specifications may be acceptable but must be independently assessed by the FAA on a case-by-case basis.

TABLE 1.—FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–100 KHz	50	50
100–500	60	60
500–2000	70	70
2–30 MHz	200	200
30–100	30	30
100–200	150	33
200–400	70	70
400–700	4020	935
700–1000	1700	170
1–2 GHz	5000	990
2–4	6680	840
4–6	6850	310
6–8	3600	670
8–12	3500	1270
12–18	3500	360

TABLE 1.—FIELD STRENGTH VOLTS/METER—Continued

Frequency	Peak	Average
18–40	2100	750

As discussed above, these special conditions are applicable initially to the Sikorsky Model S76C helicopter. Should Sikorsky apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain unusual or novel design features on one model of helicopter. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the affected helicopters.

List of Subjects in 14 CFR Parts 21 and 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701, 44702, 44704, 44709, 44711, 44713, 44715, 45303.

The Proposed Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes the following special condition as a part of the type certification basis for the Sikorsky Model S76C helicopter.

*Protection for Electrical and Electronic Systems From High Intensity Radiated Fields*

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopters are exposed to high intensity radiated fields external to the helicopters.

Issued in Fort Worth, Texas, on April 26, 1996.

Larry M. Kelly,

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 96–11496 Filed 5–7–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–241–AD]

RIN 2120–AA64

**Airworthiness Directives; Airbus Model A310 Series Airplanes**

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes. This proposal would require repetitive inspections to detect discrepancies of the slat universal joint and steady bearing assemblies, and replacement of any discrepant assembly with a new, like assembly. The proposal also would require replacement of all slat universal joint and steady bearing assemblies with improved assemblies, which would terminate the repetitive inspections. This proposal is prompted by reports of broken or missing inner races on the slat universal joint and steady bearing assemblies of the slat transmission system. The actions specified by the proposed AD are intended to prevent cracking of the inner race, which could cause it to break off and, consequently, allow the slat universal joint and steady bearing assemblies to become worn; this situation could result in failure of the shaft of the slat transmission system, and subsequent uncommanded movement of the associated slat.

**DATES:** Comments must be received by June 17, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–241–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate,

1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2589; fax (206) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-241-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-241-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A310 series airplanes. The DGAC advises that it has received reports that, during maintenance inspections, the inner races were found to be broken or missing on the slat universal joint and steady bearing assemblies of the slat transmission system. The existing design can cause these inner races to be susceptible to cracking. If the inner race cracks, it could break off, and the slat universal joint and steady bearing assemblies consequently could become worn. This condition, if not corrected,

could result in failure of the shaft of the slat transmission system, and subsequent uncommanded movement of the associated slat.

##### Explanation of Relevant Service Information

Airbus has issued Service Bulletin A310-27-2040, Revision 2, dated January 5, 1995. The service bulletin describes procedures for repetitive visual inspections to detect discrepancies of the slat universal joint and steady bearing assemblies, and replacement of any discrepancy assembly with a new, like assembly.

The DGAC classified this service bulletin as mandatory and issued French airworthiness directive (CN) 95-074-179(B), dated April 26, 1995, in order to assure the continued airworthiness of these airplanes in France.

In addition, Lucas Liebherr has issued Service Bulletin 523-27-M523-1, dated April 25, 1986, which describes procedures for replacement of all slat universal joint and steady bearing assemblies with new improved assemblies. Accomplishment of the replacement will eliminate the need for the repetitive inspections. The replacement will improve the reliability of the universal joint assemblies.

##### FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

##### Explanation of the Proposed Requirements of the Rule

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 repetitive visual inspections to detect discrepancies of the slat universal joint and steady bearing assemblies, and replacement of any discrepancy assembly with a new, like assembly. The proposed AD also would require replacement of all slat universal joint and steady bearing assemblies with new assemblies, which would constitute terminating action for the repetitive

inspection requirements. The actions would be required to be accomplished in accordance with the service bulletins described previously.

##### Differences Between the Proposal and the Related French AD

This proposed rule would differ from the parallel French airworthiness directive (CN) 95-074-179(B), in that it would mandate the accomplishment of the terminating action for the repetitive inspections. The French airworthiness directive provides that action as optional.

Mandating the terminating action is based on the FAA's determination that long term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed requirement to accomplish the terminating action is in consonance with these considerations.

##### Cost Impact

The FAA estimates that 26 Airbus Model A310 series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 5 work hours per airplane to accomplish the proposed inspection, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be \$7,800, or \$300 per airplane, per inspection.

It would take approximately 9 work hours per airplane to accomplish the proposed replacement, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$48,108 per airplane. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be \$1,264,848, or \$48,648 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.

##### Regulatory Impact

The regulations proposed herein would not have substantial direct effects

on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

### **PART 39—AIRWORTHINESS DIRECTIVES**

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

Authority: 49 USC 106(g), 40101, 40113, 44701.

#### **§ 39.13 [Amended]**

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

Airbus Industrie: Docket 95–NM–241–AD

*Applicability:* Model A310 series airplanes, on which Airbus Modification 6022 or 6485 has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or

repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the shaft of the slat transmission system, and subsequent uncommanded movement of the associated slat, accomplish the following:

(a) Prior to the accumulation of 2,000 landings or 500 flight hours after the effective date of this AD, whichever occurs later, perform a visual inspection to detect discrepancies of the slat universal joint and steady bearing assemblies, in accordance with Airbus Service Bulletin A310–27–2040, Revision 2, dated January 5, 1995.

Note 2: Airbus Service Bulletin A310–27–2040 inadvertently references Lucas/Liebherr Service Bulletin 551A–27–6010 as the appropriate source for accomplishing the inspection. Lucas/Liebherr Service Bulletin 551A–27–610 is the appropriate source of information.

(1) If no discrepancy is found, repeat the inspection thereafter at intervals not to exceed 2,000 landings.

(2) If any discrepancy is detected and the groove depth on the shaft is greater than or equal to 1 mm (0.04 in.), prior to further flight, replace the discrepant bearing assembly with a new, like assembly, in accordance with the service bulletin. After replacement, repeat the visual inspection thereafter at intervals not to exceed 2,000 landings.

(3) If any discrepancy is detected and the groove depth on the shaft is less than 1 mm (0.04 in.), prior to 50 landings after accomplishing the initial inspection, replace the discrepant bearing assembly with a new, like assembly, in accordance with the service bulletin. After the replacement, repeat the visual inspection thereafter at intervals not to exceed 2,000 landings.

(b) Within 5 years after the effective date of this AD, replace the slat universal joint and steady bearing assemblies with new assemblies, in accordance with Lucas Liebherr Service Bulletin 523–27–M523–1, dated April 25, 1986. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on May 2, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–11441 Filed 5–7–96; 8:45 am]

**BILLING CODE 4910–13–U**

### **14 CFR Part 39**

**[Docket No. 96–NM–90–AD]**

**RIN 2120–AA64**

### **Airworthiness Directives; Gulfstream Model G–1159 (G–II), G–1159A (G–III), and G–1159B (G–IIB) 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 Gulfstream Model G–1159 (G–II), G–1159A (G–III), and G–1159B (G–IIB) series airplanes. This proposal would require inspections to detect cracking and/or corrosion at various locations of the wings, and modification of cracked and/or corroded parts. This proposal is prompted by a report indicating that cracks, caused by stress corrosion, were found at various locations at buttock line (BL) 0 to BL 19 of the lower wing plank. The actions specified by the proposed AD are intended to prevent such stress corrosion cracking, which could result in structural failure of the wing under certain load conditions.

**DATES:** Comments must be received by June 17, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–90–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 Gulfstream Aerospace Corporation, Technical Operations Department, P.O. Box 2206, M/S D–10, Savannah, Georgia 31402–2206. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia.

**FOR FURTHER INFORMATION CONTACT:** Steve Flanagan, Aerospace Engineer, Airframe and Propulsion Branch, ACE-117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7363; fax (404) 305-7348.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-90-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-90-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The FAA has received a report indicating that cracks were found on certain Gulfstream Model G-1159 (G-II), G-1159A (G-III), and G-1159B (G-IIB) series airplanes in the forward and aft flanges of the fail-safe splice channels at the forward and aft splice locations at buttock line (BL) 0 to BL 19 of the lower wing planks. In the same location, cracks have also been found in the vicinity of the internal stiffener run-outs in the fail-safe tee angles of the wing

plank, and in the connecting angles in the forward wing plank at BL 6. Investigation has revealed that this cracking is caused by stress corrosion. Stress corrosion cracking at BL 0 to BL 19 of the lower wing planks, if not detected and corrected in a timely manner, could result in structural failure of the wing under certain load conditions.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved the following Gulfstream customer bulletins, all of which are dated August 4, 1994:

- Gulfstream II Customer Bulletin No. 412,
- Gulfstream IIB Customer Bulletin No. 413, and
- Gulfstream III Customer Bulletin No. 128.

These customer bulletins describe procedures for radiographic inspections to detect cracking and/or corrosion of the lower wing plank at buttock line (BL) 0 to BL 19 and between the stack-ups at the BL 0 to BL 6 ribs. These customer bulletins also describe procedures for non-destructive test (NDT) inspections to detect cracking and/or corrosion on the connecting angles from BL 6 to BL 19 ribs; the No. 1 and No. 2 fail-safe tees 1 and 2 at the BL 6 to BL 19 ribs; the wing plank splice channels at the BL 6 to BL 19 ribs; and the butterfly splice plates.

The FAA has also reviewed and approved the following Gulfstream service changes, all of which are dated February 15, 1996:

- Gulfstream II Aircraft Service Change No. 490;
- Gulfstream IIB Aircraft Service Change No. 491; and
- Gulfstream III Aircraft Service Change No. 301.

These aircraft service changes describe procedures for modification of cracked and/or corroded parts of the wings. This modification involves removal of all corrosion from the lower wing planks (forward, mid, and aft) and replacement or repair of the fail-safe channels (BL 6-19) of the lower mid plank and tee clips (BL 6) of the lower forward plank.

**Explanation of the Requirements of the Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require radiographic and NDT inspections to detect cracking and/or corrosion at various location of the wings, and modification of cracked and/

or corroded parts of the wings. The actions would be required to be accomplished in accordance with the customer bulletins and aircraft service changes described previously.

Corrosion and cracking at BL 0 to BL 19 in the lower wing planks is normally addressed by requiring repetitive inspections of the planks at 18 month intervals that are based on calculations derived from the service history of the components involved; repetitive inspections of the lower wing planks will maintain the level of risk for undetected stress corrosion cracking at acceptable levels. The maintenance program for Model G-1159 (G-II), G-1159A (G-III), and G-1159B (G-IIB) series airplanes has been recently revised to extend the interval from 18 months to 72 months for the removal of the fasteners at BL 0 to BL 19. The FAA has determined that the one-time inspection of the subject lower wing planks that would be required by this AD, coupled with the repetitive inspections that currently are a part of the maintenance program, is adequate to provide a level of reliability and safety equivalent to that required by the Federal Aviation Regulations (FAR). This combination of inspections will ensure that any corrosion and/or cracking is detected on the lower wing planks and modified before such conditions could affect the operational safety of the airplane.

**Cost Impact**

There are approximately 445 Model G-1159 (G-II), G-1159A (G-III), and G-1159B (G-IIB) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 345 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 100 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$2,070,000, or \$6,000 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this proposed AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that 304 U.S.-registered airplanes have been inspected in accordance with the requirements of this AD. Therefore, the future economic cost impact of this proposed AD on U.S. operators would be only \$246,000.

## Regulatory Impact

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## **PART 39—AIRWORTHINESS DIRECTIVES**

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

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

### **§ 39.13 [Amended]**

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

Gulfstream: Docket 96–NM–90–AD

*Applicability:* All Model G–1159 (G–II), G–1159A (G–III), and G–1159B (G–IIB) 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 (c) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent stress corrosion cracking at BL 0 to 19 of the lower wing planks, which could result in structural failure of the wing under certain load conditions, accomplish the following:

(a) Within 9 months after the effective date of this AD, perform radiographic and non-destructive test (NDT) inspections to detect cracking and/or corrosion at various locations of the wings as specified in the Accomplishment Instructions of Gulfstream GIII Customer Bulletin No. 128, dated August 4, 1994; Gulfstream IIB Customer Bulletin No. 413, dated August 4, 1994; or Gulfstream II Customer Bulletin No. 412, dated August 4, 1994; as applicable.

Note 2: Inspections accomplished prior to the effective date of this AD in accordance with the following applicable Gulfstream documents, are considered acceptable for compliance with paragraph (a) of this AD.

- GII Maintenance Manual Interim Revision 48–3, dated April 27, 1992;
- GII Maintenance Manual Interim Revision 15–3, dated April 27, 1992; or
- GII Maintenance Manual Interim Revision 32–3, dated April 27, 1992

(b) If any crack and/or corrosion is found during any inspection required by paragraph (a) of this AD, prior to further flight, modify the cracked and/or corroded parts of the wings as specified in the Modification Instructions of Gulfstream III Aircraft Service Change No. 301; Gulfstream IIB Aircraft Service Change No. 491; or Gulfstream II Aircraft Service Change No. 490; all dated February 15, 1996; as applicable.

Note 3: Modifications accomplished prior to the effective date of this AD in accordance with the following applicable Gulfstream documents, are considered acceptable for compliance with paragraph (b) of this AD.

- Gulfstream III Aircraft Service Change No. 244 (not dated), as revised by Gulfstream III Aircraft Service Change No. 244 AM 1, dated March 30, 1992;
- Gulfstream IIB Aircraft Service Change No. 447, dated March 16, 1992, as revised by Gulfstream IIB Aircraft Service Change No. 447 AM 1, dated March 30, 1992; or
- Gulfstream II Aircraft Service Change No. 439 (not dated), as revised by Gulfstream II Aircraft Service Change No. 439 AM 1, dated March 30, 1992

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

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

Issued in Renton, Washington, on May 2, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–11442 Filed 5–7–96; 8:45 am]

**BILLING CODE 4910–13–U**

## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 1**

**[EE–106–82]**

**RIN 1545–AE45**

### **Loans to Plan Participants; Hearing**

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of a public hearing on proposed regulations relating to loans made from a qualified employer plan to plan participants or beneficiaries.

**DATES:** The public hearing will be held on Friday, June 28, 1996, beginning at 10 a.m. Requests to speak and outlines or oral comments must be received by Friday, June 7, 1996.

**ADDRESSES:** The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Requests to speak and outlines of oral comments should be mailed to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:R [EE 106–82], room 5226, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Christina Vasquez of Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–6803 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed amendments to the Income Tax Regulations under section 72 of the Internal Revenue Code of 1986. The proposed regulations appeared in the Federal Register for Thursday, December 21, 1995 (60 FR 66233).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the

time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, June 7, 1996, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answer thereto.

Because of controlled access restrictions, attenders cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Cynthia E. Grigsby,

*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 96-11410 Filed 5-7-96; 8:45 am]

BILLING CODE 4830-01-U

## 26 CFR Parts 1, 32 and 35a

[IL-52-86]

RIN 1545-AL99

### Income Taxes; Information and Backup Withholding; Hearing

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of a public hearing on proposed regulations relating, in part, to information reporting and backup withholding under the Interest and Dividend Tax Compliance Act of 1983, as well as, incorporate changes to the applicable tax law made by the Interest and Dividend Tax Compliance Act of 1983, the Tax Reform Act of 1984, and the Tax Reform Act of 1986.

**DATES:** The public hearing will be held on Wednesday, July 24, 1996, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Wednesday, July 3, 1996.

**ADDRESSES:** The public hearing will be held in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC 20044. Requests to speak and outlines of oral comments should be mailed to the Internal Revenue Service, P.O. Box

7604, Ben Franklin Station, Attn: CC:DOM:CORP:R [IL-52-86], Room 5228, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Evangelista Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7190 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed amendments to the Income Tax Regulations under sections 3406, 6041 through 6049, and 6050A of the Internal Revenue Code. The proposed regulations appeared in the Federal Register on Monday, February 29, 1988 (53 FR 5991).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, July 3, 1996, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answer thereto.

Because of controlled access restrictions, attenders cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Cynthia E. Grigsby,

*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 96-11409 Filed 5-7-96; 8:45 am]

BILLING CODE 4830-01-U

## 26 CFR Part 31

[EE-55-95; EE-142-87]

RIN 1545-AT99; 1545-AF97

### FUTA Taxation of Amounts Under Employee Benefits Plans; FICA Taxation of Amounts Under Employee Benefits Plans; Hearing

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of public hearing on proposed regulations.

**SUMMARY:** This document provides notice of a public hearing on proposed Income Tax Regulations relating to when amounts deferred under or paid from certain nonqualified deferred compensation plans are taken into account as "wages" for purposes of the employment taxes imposed by the Federal Unemployment Tax Act and the Federal Insurance Contributions Act.

**DATES:** The public hearing will be held on Monday, June 24, 1996, beginning at 10:00 a.m. Requests to speak and outlines of oral comments must be received by Monday, June 3, 1996.

**ADDRESSES:** The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:DOM:CORP:R [EE-55-95]; [EE-142-87] room 5228, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7190, (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed amendments to the Income Tax Regulations under sections 3306 and 3121 of the Internal Revenue Code of 1986. These proposed regulations appeared in the Federal Register for Thursday, January 25, 1996 (61 FR 2194; 2214).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, June 3, 1996, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines

are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96-11411 Filed 5-7-96; 8:45 am]

BILLING CODE 4830-01-U

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 29 CFR Chapter XIV

#### Older Workers Benefit Protection Act of 1990 (OWBPA)

**AGENCY:** Equal Employment Opportunity Commission (EEOC).

**ACTION:** Fifth Meeting of Negotiated Rulemaking Advisory Committee.

**SUMMARY:** EEOC announces the dates of the fifth meeting of the "Negotiated Rulemaking Advisory Committee for Regulatory Guidance on Unsupervised Waivers of Rights and Claims under the Age Discrimination in Employment Act" (the Committee). A Notice of Intent to form the Committee was published in the Federal Register on August 31, 1995, 60 F.R. 45388, and a Notice of Establishment of the Committee was published in the Federal Register on October 20, 1995, 60 F.R. 54207.

**DATES:** The fifth meeting will be held on June 18-19, 1996, beginning at 10:00 a.m. on June 18. It is anticipated that the meeting will last for two days. The session of June 19, 1996 will commence at 9:00 a.m.

**ADDRESSES:** The meeting will be held at the EEOC Headquarters, 1801 L Street, NW., Washington, DC 20507.

**FOR FURTHER INFORMATION CONTACT:** Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, NW., Washington, DC 20507, (202) 663-4692.

**SUPPLEMENTARY INFORMATION:** All Committee meetings, including the meeting of June 18-19, will be open to the public. Any member of the public may submit written comments for the Committee's consideration, and may be permitted to speak at the meeting if time permits. In addition, all Committee documents and minutes will be available for public inspection in EEOC's Library (6th floor of the EEOC Headquarters).

Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. To schedule an appointment call (202) 663-4630

(voice), (202) 663-4630 (TDD). Copies of this notice are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663-4395 (voice), (202) 663-4399 (TDD).

#### PURPOSE OF MEETING/SUMMARY OF

**AGENDA:** At the meeting, the Committee will continue to discuss the unsupervised waiver legal issues that will be considered by the Committee in drafting a recommended notice of proposed rulemaking for EEOC approval.

Dated: May 1, 1996.

Frances M. Hart,

Executive Officer.

[FR Doc. 96-11486 Filed 5-7-96; 8:45 am]

BILLING CODE 6570-06-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

**30 CFR Parts 901, 902, 904, 906, 913, 914, 915, 916, 917, 918 and 920**

**RIN 1029-AB86**

#### State Program Amendments

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to amend its regulations by revising the information currently reported in the Code of Federal Regulations (CFR) regarding the OSM Director's approval of amendments to State regulatory programs and abandoned mine land reclamation plans (hereafter State program amendments). This information would be condensed to a tabular presentation depicting the dates when State program amendments were originally submitted to OSM and the dates the OSM Director's decision approving all or portions of these amendments were published in the Federal Register. Such a rulemaking would reduce the number of unnecessary pages in the CFR. As always, people interested in getting copies of the full text of the amended State regulatory program or abandoned mine land reclamation plan could contact the State regulatory authority office or the OSM field office with oversight authority for that State.

**DATES:** *Written comments:* We will accept written comments on the

proposed rule until 5:00 p.m. Eastern time on July 8, 1996.

*Public hearings:* We will accept requests for a public hearing until 4:00 p.m. Eastern time on June 7, 1996. People who want to attend but not testify at the hearing, must contact the person listed under **FOR FURTHER INFORMATION CONTACT**, beforehand to verify that we will hold a hearing. Any disabled individuals who need special accommodations to attend a public hearing should also contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** *Written comments:* Please hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Room 120, 1951 Constitution Ave., NW, Washington, DC, or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, SIB 120, 1951 Constitution Ave., NW, Washington, DC 20240.

You may also send comments through the Internet to OSM's Administrative Record. Our Internet address is: OSNRules@OSMRE.GOV. We will file copies of any electronic messages received with our Administrative Record.

*Public hearings:* You must contact the person identified under **FOR FURTHER INFORMATION CONTACT** by the time required under **DATES** to request a public hearing.

**FOR FURTHER INFORMATION CONTACT:** John A. Trelease, Rules and Legislation Staff, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240; Telephone (202) 208-2783.

#### SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

II. Discussion of Proposed Rule

*Why is this rule being written?*

*What would change?*

*How do I get a copy of State program amendments?*

III. Procedural Matters

I. Public Comment Procedures

#### *Written Comments*

If you are submitting written comments on the proposed rule please be specific, limit your comments to issues pertinent to the proposed rule, and explain the reason for your recommendations. If possible, please submit three copies of your comments to our Administrative Record (see **ADDRESSES**). We may not consider your comments for the final rule when received after the close of the comment period (see **DATES**) or delivered to addresses other than those listed in **ADDRESSES**.

### Public Hearings

We will hold public hearings on the proposed rule by request only. If no one has contacted Mr. Trelease requesting a hearing by the date listed in **DATES**, we will not hold a hearing. We will hold a public meeting instead of a hearing if only one person expresses an interest. We will include the results of all meetings and hearings in our Administrative Record.

If we hold a hearing, it will continue until everyone who wants to testify is heard. Please provide us with an advanced copy of your testimony at the address specified for the submission of written comments (see **ADDRESSES**), and a copy to the transcriber when you arrive at the hearing. This will assist us in preparing appropriate questions, and ensure that the transcriber provides us with an accurate record of the testimony.

## II. Discussion of 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 rulemaking would result in a reduction of approximately 50 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 Would Change?

The OSM Director's approval or approval in part of State program amendments is published in the Federal Register and codified in the CFR. The regulatory text documenting such decisions usually contains topical outlines of the amendments and associated program citations, the dates the amendments were submitted to OSM, and the dates the amendments became effective. Under the revised procedures of this rulemaking, the regulatory text would be limited to a tabular presentation of the dates that States submitted amendments, and the dates the amendments were published in the Federal Register after approval, or partial approval, by the OSM Director for 30 CFR parts 901, 902, 904, 906, 913, 914, 915, 916, 917, 918 and 920.

OSM believes that there is no compelling public need to codify all of the information currently found in the

regulatory text of State program amendment approvals. Although the topical outline of an approved amendment may be a convenient reference for members of the public who want to begin their research of particular provisions of that program amendment, OSM believes that the public would still find it necessary to refer back to the final rule's Federal Register notice for a thorough preamble discussion of those provisions. As before, those people who would like copies of the full text of the State program amendment may contact the State regulatory authority office or the OSM field office with oversight authority for that State.

### How do I Get a Copy of State Program Amendments?

Copies of approved State program amendments may be obtained by contacting the State regulatory authority or the local OSM field office with oversight authority for that State. Addresses for these offices are found in parts 900 through 950 of the CFR with their respective State programs.

## III. Procedural Matters

### Federal Paperwork Reduction Act

This rule does not contain collections of information which require 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 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.(2).

### 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 does not modify the implementation of SMCRA, nor does it 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. 1276(a).

Prior to any judicial challenge to the application of the rule, however, administrative procedures 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 purposes 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 in 30 CFR Parts 901, 902, 904, 906, 913, 914, 915, 916, 917, 918, and 920.

Intergovernmental relations, Surface mining, Underground mining.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

Dated: April 20, 1996.

For the reasons set out in the preamble, 30 CFR parts 901, 902, 904, 906, 913, 914, 915, 916, 917, 918, and 920 are amended as follows:

**PART 901—ALABAMA**

1. The authority citation for part 901 continues to read as follows:

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

2. Section 901.15 is revised to read as follows:

**§ 901.15 Approval of Alabama regulatory program amendments.**

(a) The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Nov. 24, 1982 .....	July 27, 1983.
Aug. 29, 1983 .....	Mar. 2, 1984.
Nov. 28, 1983 .....	July 5, 1984.
Jan. 9, 1984 .....	Sept. 27, 1984.
May 22, 1985 .....	July 19, 1985.
April 2, 1985 .....	Dec. 3, 1985.
May 7, 1986 .....	Aug. 14, 1986.
May 20, 1986 .....	Sept. 8, 1986.
June 15, 1987 .....	July 7, 1988.
Nov. 22, 1989 .....	Feb. 5, 1991.
July 16, 1990 .....	Feb. 28, 1991.
July 16, 1990 .....	July 3, 1991.
Nov. 22, 1989; July 16, 1990 and Aug. 1, 1991.	May 11, 1992.
June 23, 1993 .....	Oct. 21, 1993.

(b) The trial period for Alabama's excess spoil disposal plan is extended from January 1, 1991, to January 1, 1993. The trial study is extended with the following conditions:

(1) The Director, at his discretion, may terminate the trial study period at any time during the extended period, if sufficient data becomes available. On termination of the trial study period and OSM's analysis of the data, the Director may then approve or disapprove the excess spoil provisions.

(2) At any time during the trial period the Director may, at his discretion, place a moratorium on new permit

applications which include consideration of excess spoil provisions.

(3) The State is required to continue to report to the OSM Birmingham Field Office annually on August 20, on the status of all permits and permit applications which include consideration under excess spoil provisions.

3. Section 901.25 is revised to read as follows:

**§ 901.25 Approval of Alabama abandoned mine land reclamation plan amendments.**

(a) The Alabama Amendment, submitted to OSM on June 15, 1987, was approved on August 8, 1988. You may receive a copy from:

(1) Alabama Department of Industrial Relations, 649 Monroe Street, Montgomery, Alabama 36130;

(2) Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, 135 Gemini Circle, Birmingham, Alabama 35209; or

(3) Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, Three Parkway Center, Pittsburgh, Pennsylvania 15220.

(b) The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
April 25, 1990 .....	Aug. 31, 1990.
June 26, 1992 .....	Jan. 12, 1993.
Oct. 1, 1993 .....	June 30, 1994.
Dec. 5, 1994 .....	Aug. 15, 1995.

**PART 90—ALASKA**

4. The authority citation for part 902 continues to read as follows:

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

5. Section 902.15 is revised to read as follows:

**§ 902.15 Approval of Alaska regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Nov. 12, 1983 .....	Dec. 23, 1983.
May 28, 1985 and Feb. 24, 1987.	Feb. 22, 1988.
Feb. 2, 1990 .....	Aug. 19, 1992.

6. Section 902.25 is revised to read as follows:

**§ 902.25 Approval of Alaska abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
May 28, 1992 .....	Nov. 16, 1992.

**PART 904—ARKANSAS**

7. The authority citation for part 904 continues to read as follows:

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

8. Section 904.15 is revised to read as follows:

**§ 904.15 Approval of Arkansas regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Dec. 7, 1983 .....	March 16, 1984.
May 21, 1985 .....	Aug. 15, 1985.
Dec. 17, 1984 .....	Dec. 2, 1985.
March 10, 1986 .....	March 28, 1988.
Nov. 4, 1987 .....	June 1, 1988.
Dec. 22, 1988 .....	Nov. 14, 1989.
Dec. 18, 1989 .....	Nov. 23, 1990.
Sept. 20, 1990 .....	June 14, 1991.
Sept. 27, 1990 .....	July 18, 1991.
Oct. 11, 1991 .....	April 23, 1992.
April 11, 1991 and Sept. 25, 1991.	Aug. 19, 1992.
March 31, 1993 .....	Nov. 17, 1994.
Aug. 26, 1994 .....	June 30, 1995.

9. Section 904.25 is revised to read as follows:

**§ 904.25 Approval of Arkansas abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
March 31, 1993 .....	July 19, 1993.
Oct. 6, 1993 .....	Jan. 5, 1994.

**PART 906—COLORADO**

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

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

11. Section 906.15 is revised to read as follows:

**§ 906.15 Approval of Colorado regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Jan. 11, 1982 and Feb. 25, 1982.	Dec. 16, 1982.
Jan. 11, 1982 and Feb. 25, 1982; May 26, 1983 and Aug. 2, 1983.	May 1, 1984.
Aug. 28, 1985 .....	Nov. 15, 1985.
Aug. 28, 1984 and March 12, 1985.	Feb. 5, 1986.
Jan. 23, 1986 .....	May 30, 1986.
Jan. 27, 1986 and May 13, 1986.	July 1, 1986.
Aug. 18, 1986 .....	Feb. 5, 1987.
Nov. 25, 1986 .....	May 7, 1987.
May 26, 1987 .....	March 31, 1989.
Oct. 14, 1988 .....	June 6, 1989.
Aug. 23, 1988 .....	Dec. 11, 1989.
July 18, 1989 .....	Jan. 14, 1991.
April 11, 1991 .....	July 22, 1991.
March 19, 1993 .....	Jan. 19, 1994.
June 30, 1993 .....	June 1, 1994.
April 18, 1994 .....	Dec. 6, 1994.
March 18, 1994 .....	May 15, 1995.
July 12, 1995 .....	Dec. 14, 1995.

12 Section 906.25 is revised to read as follows:

**§ 906.25 Approval of Colorado abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
April 29, 1995 .....	Oct. 25, 1995.

**PART 913—ILLINOIS**

13. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1301 *et seq.*

14. Section 913.15 is revised to read as follows:

**§ 913.15 Approval of Illinois regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
March 3, 1980 .....	Nov. 23, 1982.
Nov. 30, 1982 .....	May 25, 1983.
July 27, 1983 .....	Oct. 13, 1983.
Aug. 11, 1983 .....	Nov. 10, 1983.
March 16, 1984 .....	Sept. 28, 1984.
Sept. 27, 1984 .....	Jan. 11, 1985.
Dec. 23, 1983 .....	Oct. 30, 1985.
May 30, 1985 and June 2, 1986.	Dec. 10, 1986.
March 28, 1986 .....	Oct. 25, 1988 and Jan. 4, 1989.
July 17, 1989 .....	Aug. 29, 1990.
July 26, 1990 .....	May 6, 1991.
March 5, 1991 .....	Aug. 2, 1991.
Feb. 1, 1991 .....	Dec. 13, 1991.
June 22, 1992 .....	Sept. 3, 1993.
Aug. 17, 1993 .....	Feb. 2, 1994.
Sept. 9, 1994 .....	Nov. 21, 1994.
March 3, 1995 .....	July 11, 1995.

15. Section 913.25 is revised to read as follows:

**§ 913.25 Approval of Illinois abandoned mine land reclamation plan amendments.**

(a) You may receive copies of the Illinois Abandoned Mine Land Reclamation Plan and amendments from the:

(1) Illinois Department of Natural Resources, Office of Mines and Minerals, Division of Abandoned Mine Lands Reclamation, 524 South Second Street, Springfield, Illinois 62701-1787; or

(2) Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, room 301, 575 North Pennsylvania Street, Indianapolis, Indiana 46204.

(b) The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Jan. 19, 1984 .....	June 11, 1984.
Sept. 6, 1989 .....	Feb. 14, 1990.
June 29, 1990 .....	Nov. 2, 1990.
Aug. 13, 1992 .....	Jan. 14, 1993.
July 2, 1993 .....	Sept. 21, 1993.
April 10, 1995 .....	July 11, 1995.

**PART 914—INDIANA**

16. The authority citation for part 914 continues to read as follows:

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

17. Section 914.15 is revised to read as follows:

**§ 914.15 Approval of Indiana regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Sept. 1, 1982 .....	Dec. 17, 1982.
Dec. 9, 1982 .....	March 4, 1983.
April 19 and 28, 1983 .....	Aug. 19, 1983.
March 5, 1984 .....	July 10, 1984.
March 19, 1984 .....	Oct. 19, 1984.
Feb. 7, 1985 .....	May 13, 1985.
Dec. 7, 1984 .....	May 15, 1985.
May 29, 1984 .....	May 16, 1985.
Feb. 18, 1985 .....	June 5, 1985.
Dec. 10 and 16, 1985 .....	March 14, 1986.
Sept. 4, 1985 .....	March 17, 1986.
Jan. 31, 1986 .....	May 13, 1986.
May 29, 1986 .....	Aug. 14, 1986.
Sept. 24, 1986 .....	Jan. 21, 1987.
June 11, 1986 and Nov. 7, 1986.	April 1, 1987.
June 11, 1986 and May 4, 1987.	Feb. 16, 1988.
April 10, 1987 .....	March 22, 1988.
Aug. 13, 1987 .....	Nov. 10, 1988.
Aug. 13, 1987 and June 12, 1989.	Oct. 12, 1989.
Sept. 28, 1988 .....	Nov. 1, 1989.
March 18, 1988 .....	Dec. 15, 1989.
Nov. 8, 1989 .....	April 5, 1990.
March 18, 1988 .....	April 23, 1990.
Dec. 5, 1989 and May 16, 1990.	Aug. 10, 1990.
Dec. 4, 1989 and Aug. 9, 1990.	Sept. 24, 1990.
Aug. 15, 1989 and Dec. 5, 1989.	Jan. 18, 1991.
Oct. 24, 1990 .....	March 15, 1991.
Dec. 11, 1990 .....	March 21, 1991.
Sept. 29, 1988 and Feb. 15, 1991.	Aug. 2, 1991.
June 4, 1991 .....	Nov. 27, 1991 and Dec. 13, 1991.
July 11, 1991 .....	Dec. 13, 1991.
March 18, 1988 .....	April 20, 1992.
Dec. 6, 1991 .....	May 11, 1992.
May 22 and 23, 1991 .....	May 29, 1992.
June 4, 1991 .....	June 23, 1992.
May 23, 1991 .....	Sept. 14, 1992.
May 7, 1992 .....	Dec. 17, 1992.
March 18, 1988, Feb. 15, 1991 and July 10, 1991.	Dec. 30, 1992.
July 16, 1992 .....	Jan. 14, 1993.
Dec. 2, 1992 .....	May 17, 1993.
Nov. 13, 1992 .....	June 24, 1993.
Jan. 4, 1993 .....	Aug. 2, 1993.
March 26, 1992 .....	Aug. 16, 1993.
Aug. 8, 1992 .....	Sept. 3, 1993.

Original amendment submission date	Date of final publication
April 19, 1993 .....	Sept. 21, 1993.
Feb. 24, 1993 .....	Nov. 18, 1993.
July 2, 1993 .....	June 16, 1994.
April 2, 1993 .....	July 15, 1994.
Oct. 1, 1993 .....	July 27, 1994.
June 15, 1994 .....	Oct. 20, 1994.
Aug. 11, 1994 .....	Dec. 13, 1994.
Sept. 26, 1994 .....	Feb. 2, 1995.
Dec. 7, 1994 .....	March 10, 1995.
March 21, 1994 .....	April 4, 1995.
Jan. 31, 1995 .....	April 7, 1995.
March 18, 1994 and Aug. 25, 1994.	April 20, 1995.
May 3, 1995 .....	Sept. 14, 1995 and Oct. 25, 1995.
May 11, 1995 .....	Oct. 16, 1995.
Dec. 30, 1993 .....	Nov. 9, 1995.

18. Section 914.25 is revised to read as follows:

**§ 914.25 Approval of Indiana abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Jan. 22, 1988 .....	Dec. 29, 1988, May 11, 1992 and Oct. 6, 1992.
Nov. 17, 1992 .....	Oct. 26, 1994.

**PART 915—IOWA**

19. The authority citation for part 915 continues to read as follows:

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

20. Section 915.15 is revised to read as follows:

**§ 915.15 Approval of Iowa regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Sept. 28, 1982 .....	Jan. 4, 1983.
May 9, 1984 .....	Dec. 7, 1984.
Jan. 31, 1985 and February 5, 1985.	May 24, 1985.
July 25 and 26, 1985 .....	May 9, 1986.
June 16, 1986 .....	Oct. 7, 1986.
Aug. 12, 1986 .....	Dec. 11, 1986.
April 28, 1987 .....	Oct. 7, 1987.
June 9, 1988 .....	Dec. 9, 1988.
Dec. 26, 1990 .....	Nov. 6, 1991.

Original amendment submission date	Date of final publication
Nov. 23, 1992 .....	Feb. 8, 1994.
April 13, 1994 .....	April 6, 1995.

**PART 916—KANSAS**

21. The authority citation for part 916 continues to read as follows:

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

22. Section 916.15 is revised to read as follows:

**§ 916.15 Approval of Kansas regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
May 20, 1981 .....	April 14, 1982.
Nov. 16, 1982 .....	March 1, 1983.
March 16, 1984 .....	June 8, 1984.
Dec. 21, 1984 .....	April 11, 1985.
April 4, 1985 .....	Nov. 15, 1985.
April 23, 1986 .....	May 26, 1987.
Aug. 5, 1987 .....	Dec. 31, 1987.
April 29, 1988 .....	Oct. 5, 1988.
Jan. 26, 1988 .....	Oct. 7, 1988.
June 8, 1990 and Sept. 14 and 17, 1990.	Feb. 19, 1991.
June 29, 1989; Oct. 24 and 30, 1989 and Nov. 9 and 17, 1989.	Sept. 13, 1991.
June 29, 1989; July 10, 1989; June 29, 1990 and Oct. 9, 1990.	April 13, 1992.
June 3, 1991 .....	Aug. 19, 1992.
July 10, 1992 and Dec. 23, 1992.	June 14, 1993 and Aug. 30, 1993.
Sept. 14, 1993; Jan. 26, 1994 and March 10, 1994.	June 3, 1994.
July 10, 1989 .....	Sept. 9, 1994.
Aug. 9, 1995 .....	Nov. 27, 1995.

23. Section 916.25 is revised to read as follows:

**§ 916.25 Approval of Kansas abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
April 29, 1988 .....	Oct. 5, 1988.
Sept. 30, 1988 and Dec. 6, 1988.	Jan. 10, 1989.
June 29, 1989 and Sept. 11, 1989.	Nov. 30, 1989.

Original amendment submission date	Date of final publication
Oct. 25, 1991 .....	April 13, 1992.

**PART 917—KENTUCKY**

24. The authority citation for part 917 continues to read as follows:

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

25. Section 917.15 is revised to read as follows:

**§ 917.15 Approval of Kentucky regulatory program amendments.**

(a) The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
May 28, 1982 .....	Jan. 4, 1983.
May 28, 1982 .....	May 13, 1983.
Jan. 11, 1983 .....	May 20, 1983.
Feb. 1, 1983 .....	Oct. 12, 1983.
Oct. 31, 1983 .....	Nov. 25, 1983.
Jan. 10, 1984 .....	April 13, 1984.
May 1, 1984 .....	Aug. 22, 1984.
Oct. 31, 1983 .....	Sept. 25, 1984.
Oct. 31, 1983 .....	Oct. 3, 1984.
Oct. 12, 1984 .....	March 4, 1985.
Aug. 3, 1984 .....	May 30, 1985.
Aug. 29, 1985 .....	Nov. 20, 1985.
Dec. 4, 1984 .....	Dec. 10, 1985.
June 6, 1984 and Dec. 17, 1985.	Jan. 24, 1986.
Aug. 13, 1985 .....	March 3, 1986.
Sept. 16, 1985 and Dec. 10, 1985.	March 17, 1986.
Dec. 10, 1985 .....	April 4, 1986.
Dec. 3, 1985 .....	April 9, 1986.
Aug. 3, 1984 .....	May 27, 1986.
April 29, 1986 .....	July 15, 1986.
Aug. 30, 1985, Sept. 16, 1985, and Feb. 7, 1986.	Aug. 27, 1986.
Sept. 5, 1986 .....	March 9, 1987.
Feb. 27, 1987 .....	Dec. 31, 1987.
June 17, 1987 .....	March 10, 1988.
May 28, 1987 .....	Oct. 7, 1988.
April 29, 1988 .....	Oct. 6, 1988.
July 5, 1989 .....	Dec. 15, 1989.
April 29, 1986 .....	April 9, 1990.
April 21, 1988 .....	Aug. 10, 1990.
Aug. 15, 1989 .....	Nov. 1, 1990.
July 15, 1988 .....	Dec. 31, 1990.
May 8, 1990 .....	Feb. 6, 1991.
Jan. 9, 1991 .....	April 16, 1991.
Jan. 24, 1991 .....	Sept. 23, 1991.
June 28, 1991 .....	April 15, 1992.
Sept. 18, 1989 .....	Aug. 18, 1992.
June 28, 1991 .....	Oct. 1, 1992.
March 13, 1992 .....	Dec. 9, 1992.
July 30, 1992 .....	Dec. 17, 1992.
June 28, 1991 .....	Jan. 12, 1993.
June 28, 1991 .....	June 8, 1993.
July 30, 1992 .....	March 26, 1993.
July 28, 1992 .....	Aug. 6, 1993.
July 21, 1992 .....	Oct. 1, 1993.
June 28, 1991 .....	May 26, 1994.
May 21, 1993 .....	Feb. 24, 1994.

Original amendment submission date	Date of final publication
April 26, 1994 .....	Sept. 1, 1994.
April 18, 1994 .....	Sept. 16, 1994.
Oct. 3, 1994 .....	Feb. 15, 1995.
April 29, 1994 .....	June 27, 1995.

(b) The Director is deferring his decision on the enforcement provisions of section 720 of the Act from its effective date (October 24, 1992), to the effective date of KRS 350.421 (1) and (2) (July 15, 1994).

26. Section 917.21 is revised to read as follows:

**§ 917.21 Approval of Kentucky abandoned mine land reclamation plan amendments.**

(a) The Kentucky Amendment, submitted to OSM on December 8, 1982, is approved. You may receive a copy from:

- (1) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601; or
- (2) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503-2922.

(b) The Kentucky Abandoned Mine Reclamation Amendment, submitted to OSM on March 25, 1985, is approved. Copies may be obtained at the addresses listed in paragraph (a).

(c) The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
June 24, 1992 .....	Dec. 17, 1992.
May 5, 1994 .....	July 29, 1994.

**PART 918—LOUISIANA**

27. The authority citation for part 918 continues to read as follows:

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

28. Section 918.15 is revised to read as follows:

**§ 918.15 Approval of Louisiana regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Jan. 19, 1990 .....	May 8, 1991.

Original amendment submission date	Date of final publication
Aug. 14, 1990 .....	May 21, 1991.
Nov. 12, 1991 .....	Oct. 28, 1992.
May 3, 1994 .....	Sept. 20, 1994.
Nov. 2, 1994 .....	Jan. 24, 1995.

**PART 920—MARYLAND**

29. The authority citation for part 920 continues to read as follows:

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

30. Section 920.15 is revised to read as follows:

**§ 920.15 Approval of Maryland regulatory program amendments.**

The following is a list of the dates amendments were submitted to OSM and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Oct. 28, 1982 .....	Feb. 8, 1984.
May 28, 1984 and Oct. 5, 1984.	Jan. 22, 1985.
Jan. 30, 1985 .....	Sept. 10, 1985.
Jan. 13, 1984; June 8, 1984; Aug. 7, 1984; Oct. 10, 1984 and Nov. 9, 1984.	Nov. 18, 1985.
Jan. 14, 1986 and May 15, 1986.	Dec. 12, 1986.
March 18, 1986 and April 23, 1986.	Jan. 30, 1987.
July 8, 1987 and June 10, 1988.	June 5, 1990.
March 30, 1989 .....	Jan. 11, 1991.
June 15, 1989 .....	March 21, 1991.
Sept. 28, 1990 and Nov. 21, 1990.	April 26, 1991.
March 27, 1989 .....	May 22, 1991.
March 23, 1990 .....	June 21, 1991.
Oct. 31, 1989 .....	Aug. 9, 1991.
Dec. 6, 1990 .....	Dec. 2, 1991.
June 10, 1988; June 14, 1989 and June 15, 1989.	Dec. 5, 1991.
May 7, 1991 and May 16, 1991.	Jan. 10, 1992.
Jan. 23, 1992 .....	Sept. 24, 1992.
June 11, 1992 .....	Nov. 16, 1992.
July 14, 1992 .....	Dec. 17, 1992.
June 23, 1992 .....	Dec. 30, 1992.
Oct. 21, 1992 .....	May 17, 1993.
Feb. 23, 1993 .....	June 17, 1993.
Feb. 7, 1992 .....	June 22, 1993.
Feb. 5, 1993 .....	July 6, 1993.
Feb. 25, 1994 .....	June 30, 1994.
May 16, 1994 and May 31, 1994.	Nov. 14, 1994.
June 16, 1995 .....	Nov. 9, 1995.

31. Section 920.25 is revised to read as follows:

**§ 920.25 Approval of Maryland abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM

and the dates when the Director's decision approving all, or portions of these amendments, were published in the Federal Register:

Original amendment submission date	Date of final publication
Sept. 4, 1992 .....	March 22, 1993.
Aug. 19, 1993 .....	Dec. 9, 1994.

[FR Doc. 96-11306 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-05-M

**30 CFR Part 950**

[WY-026]

**Wyoming Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to statutes pertaining to in situ mining. The amendment is intended to revise the Wyoming program to be consistent with SMCRA.

**DATES:** Written comments must be received by 4:00 p.m., m.d.t. June 7, 1996. If requested, a public hearing on the proposed amendment will be held on June 3, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on May 23, 1996.

**ADDRESSES:** Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the Wyoming program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Room 2128, 100 East "B" Street, Casper, Wyoming 82601-1918

Dennis Hemmer, Director, Department of Environmental Quality, Herschler Building—4th Floor West, 125 West

25th Street, Cheyenne, Wyoming  
82002, Telephone: (307) 777-7938

**FOR FURTHER INFORMATION CONTACT:**

Guy Padgett, Telephone: (307) 261-5824, Internet address:  
GPADGETT@OSMRE.GOV.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Wyoming Program**

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program can be found in the November 26, 1980, Federal Register (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15, 950.16, and 950.20.

**II. Proposed Amendment**

By letter dated April 18, 1996 (administrative record No. WY-32-02), Wyoming submitted a proposed amendment to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming submitted the proposed amendment in response to a January 27, 1995, letter (administrative record No. WY-32-01) that OSM sent to Wyoming in accordance with 30 CFR 732.17(c). The provisions of the Wyoming Environmental Quality Act that Wyoming proposes to revise are: Wyoming Statute (W.S.) 35-11-426, in situ mineral mining permits and testing licenses, and W.S. 35-11-431, research and development licenses, renewals, and applications.

Specifically, Wyoming proposes to revise W.S. 35-11-426 to read as follows (italicized words denote proposed additions and words enclosed in brackets denote proposed deletions):

35-11-426. In situ mineral mining permits and testing licenses.

(a) Any person desiring to engage in situ mineral mining or research and development testing is governed by this act. [Any general provisions of the act which are more stringent than the particular requirements contained in W.S. 35-11-427 through 35-11-436 shall control for purposes of the regulation of coal in situ processing activity.]

(b) *All provisions of this act applicable to a surface coal mining operation, as defined in W.S. 35-11-103(e)(xx), shall apply to coal in situ operations, regardless of whether such operations are connected with existing surface or underground coal mines, including research and development testing licenses, in addition to the requirements of W.S. 35-11-427 through 35-11-436.*

Wyoming proposes to revise W.S. 35-11-426 to read as follows:

35-11-431. Research and development license; renewal; application.

(a) A special license to conduct research and development testing may be issued by the administrator for a one (1) year period without a permit and may be renewed annually. An application for a research and development testing license shall be accompanied by a fee of twenty-five dollars (\$25.00) and shall include:

\* \* \* \* \*

(vi) [Proof of notice and mailing to all persons within one half (1/2) mile of the license area having a valid legal estate of record] *All requirements of W.S. 35-11-406 (j) and (k); and*

**III. Public Comment Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

**1. Written Comments**

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

**2. Public Hearing**

Persons wishing to testify at the public hearing should contact the persons listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on May 23, 1996. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish

to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

**3. Public Meeting**

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the administrative record.

**IV. Procedural Determinations**

**1. Executive Order 12866**

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

**2. Executive Order 12778**

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

**3. National Environmental Policy Act**

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)).

#### 4. Paperwork Reduction Act

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

#### 5. Regulatory Flexibility Act

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

#### List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 25, 1996.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 96-11292 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-05-M

#### National Park Service

##### 36 CFR Part 7

RIN 1024-AC23

#### Voyageurs National Park, Aircraft Operations—Designation of Areas

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** The proposed rule would amend the special regulations for Voyageurs National Park by replacing the interim rule (60 FR 39257) that was published on August 2, 1995, designating certain areas open to aircraft use within the park. This rulemaking is necessary to comply with NPS general regulations that require special regulatory designation for areas in parks open to the operation or use by aircraft. The intended effect of this rule is to increase safety, protect resources and provide appropriate enjoyment to all park users.

The 1980 Master Plan for the park states that float planes and ski planes will be allowed upon all lakes deemed safe by the Minnesota Department of Transportation. It also stated this allowance would be subject to the findings of a wilderness study. The 1992 wilderness study. The 1992 wilderness study recommended that planes be allowed on the four major lakes (Rainy, Kabetogama, Namakan and Sand Point), as well as the following interior lakes: Locator, War Club, Quill, Loiten, Shoepack, Little Trout and Mukooda. Each year the park receives an increasing number of inquiries for permission to land float planes in the park.

Public aircraft use on park waters occurred prior to the designation of the park in 1971. This use is primarily related to fishing, camping, transportation to resorts and summer dwellings and is typical for the area. Float plane use is mainly associated with the four major lakes with use of the interior lakes constituting less than one percent of the park's use. Aircraft are currently prohibited from using about 22 small interior lakes that have been determined to be too small to use safely by the Minnesota Department of Transportation. Three other lakes that have been used periodically and are accessible by hiking trails will not be opened to float plane use by this regulation. The closing of these three interior lakes will allow the park to manage the interior lakes on an equitable basis since other motorized uses are prohibited.

**DATES:** Written Comments will be accepted through September 5, 1996.

**ADDRESSES:** Comments should be addressed to: Superintendent, Proposed Regulation Comment, Voyageurs National Park, 3131 Highway 53, International Falls, MN 56649-8904.

**FOR FURTHER INFORMATION CONTACT:** Chief Ranger, Voyageurs National Park, 3131 Highway 53, International Falls, MN 56649-8904. Telephone (218) 283-9821.

#### SUPPLEMENTARY INFORMATION:

Extended Comment Period: Voyageurs National Park—Aircraft Operations, Designation of Areas

This document announces a 120-day reopening of the comment period for the proposed rule—Voyageurs National Park—Aircraft Operations, Designation of Areas—that was published in the Federal Register on January 31, 1996 (61 FR 3360). The initial comment period expired on April 1, 1996. Comments received during the initial comment period requested additional

time to review the proposed regulation. Accordingly, the comment period for the proposed rule is hereby extended an additional 120 days.

Dated: April 25, 1996.

George T. Frampton, Jr.,  
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96-11397 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-70-M

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 61

[FRL-5468-4]

RIN 2060-AF04

#### National Emission Standards for Hazardous Air Pollutants; National Emission Standard for Radon Emissions From Phosphogypsum Stacks

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; Notice of Reconsideration.

**SUMMARY:** On March 24, 1994, EPA announced its decision concerning a petition by The Fertilizer Institute (TFI) seeking reconsideration of a June 3, 1992 final rule revising the National Emission Standard for Radon Emissions from Phosphogypsum Stacks, 40 CFR Part 61, Subpart R. EPA partially granted and partially denied the TFI petition for reconsideration. Pursuant to that decision, EPA is convening a rulemaking to reconsider 40 CFR 61.205, the provision of the final rule which governs distribution and use of phosphogypsum for research and development, and the methodology utilized under 40 CFR 61.207 to establish the average radium-226 concentration for phosphogypsum removed from a phosphogypsum stack. This document identifies proposed changes to be considered as part of this reconsideration and specific underlying issues on which EPA seeks further comment.

**DATES:** Comments concerning this proposed rule must be received by EPA on or before July 8, 1996. EPA will hold a public hearing concerning this proposed rule in Washington, D.C. if a request for a hearing is received by EPA by June 7, 1996. In the event a hearing is requested, EPA will publish a separate notice specifying the date and location of the hearing.

**ADDRESSES:** Comments should be submitted (in duplicate if possible) to: Air and Radiation Docket and

Information Center, 6102, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attn: Air Docket No. A-94-57. Requests for a public hearing should be made in writing to the Director, Radiation Protection Division, 6602J, Office of Radiation and Indoor Air, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Requests may also be faxed to EPA at (202) 233-9629.

**FOR FURTHER INFORMATION CONTACT:** Jacolyn Dziuban, Center for Federal Guidance and Air Standards (6602J), Office of Radiation and Indoor Air, Environmental Protection Agency, Washington, DC 20460 (202) 233-9474.

**SUPPLEMENTARY INFORMATION:**

Docket

Docket No. A-79-11 contains the public record supporting the final rule revising 40 CFR Part 61, Subpart R, which EPA issued in 1992 (57 FR 23305, June 3, 1992). It also contains the August 3, 1992 TFI petition which led to the initiation of this rulemaking, and the EPA response partially granting and partially denying the TFI petition (59 FR 14040, March 24, 1994). Docket No. A-94-57 contains certain documents upon which this proposal is based. These dockets are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday, in room M1500 of Waterside Mall, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

I. Background

A. Description of Phosphogypsum

Phosphogypsum is a waste byproduct which results from the wet process of producing phosphoric acid from phosphate rock. Phosphogypsum stacks are piles of waste or mines utilized to store and dispose of phosphogypsum. Because phosphate ore contains a relatively high concentration of uranium and radium, phosphogypsum piles also contain high levels of these elements. The vast majority of piles are located in Florida, although other states also involved in phosphate rock production include Idaho, North Carolina, Tennessee, Utah, Alabama and Wyoming.

B. Regulatory History

1. The December 15, 1989 Standard

On December 15, 1989, EPA published a National Emission Standard for Hazardous Air Pollutants (NESHAP) applicable to radon emissions from phosphogypsum stacks, 40 CFR Part 61,

Subpart R (54 FR 51654, December 15, 1989) (Subpart R). As part of that standard, EPA adopted a work practice requirement that all phosphogypsum be disposed of in stacks, thereby permitting control and measurement of gaseous radon-222 which is emitted when the radium present in the phosphogypsum decays.

Subsequent to the issuance of Subpart R, EPA received petitions for reconsideration from The Fertilizer Institute (TFI), Consolidated Minerals, Inc., and U.S. Gypsum Company. These petitioners objected to the requirement that all phosphogypsum be disposed and managed in stacks, because it precluded various alternative uses of phosphogypsum, including use of phosphogypsum in agriculture, construction, and research and development. Because EPA had not fully considered the implications of its work practice standard for alternative uses, EPA agreed to convene a reconsideration proceeding in which the risks associated with alternative uses and the procedures under which alternative uses might be permitted could be evaluated (54 FR 9612, March 7, 1989).

Rather than setting forth one specific proposal for revision of Subpart R, EPA requested comment on a variety of substantive issues, including specific types of proposed alternative uses of phosphogypsum and the health risks associated with these alternative uses. EPA also requested comment on four general options for regulation of alternative uses: (1) no change in the work practice requirement, (2) changing the definition of phosphogypsum to exclude from the work practice requirement material with radium-226 concentrations up to 10 picocuries/gram (pCi/g), (3) permitting use of phosphogypsum in research and development on processes to remove radium from the phosphogypsum, and (4) permitting alternative use of phosphogypsum only after specific permission from EPA.

2. The June 3, 1992 Revision of Subpart R

After analyzing the risks associated with the various alternative uses of phosphogypsum which were proposed and evaluating the comments which were received, EPA issued a final rule revising Subpart R (57 FR 23305, June 3, 1992). The approach which EPA ultimately adopted was a hybrid of the options it had previously identified. For phosphogypsum use in agriculture, EPA decided that it would be impractical to require case-by-case approval. Based on its analysis of potential risks associated

with long-term use of phosphogypsum in agriculture, EPA set a maximum upper limit of 10 pCi/g for radium-226 in phosphogypsum distributed for use in agriculture. Rather than excluding material at or below 10 pCi/g from the standard, EPA established sampling, measurement, and certification procedures permitting such material to be removed from stacks and sold for agricultural use. Based on an analysis of potential risks associated with the research and development use, EPA decided to permit the use of up to 700 pounds of phosphogypsum for a particular research and development activity. EPA also decided to adopt procedures permitting approval of other uses of phosphogypsum on a case-by-case basis.

After EPA issued its final rule concluding the reconsideration proceeding and revising Subpart R, The Fertilizer Institute (TFI) sought judicial review of the 1992 revisions of Subpart R in *The Fertilizer Institute v. Environmental Protection Agency*, No. 92-1320 (D.C. Cir.). TFI also filed a petition dated August 3, 1992 seeking further reconsideration of the revisions of the rule pursuant to Clean Air Act Section 307(d)(7)(B). TFI, EPA, and *ManaSota-88*, another petitioner who sought review of the 1992 rule in *ManaSota-88 v. Browner*, No. 92-1330 (D.C. Cir.), later reached an agreement to jointly move the D.C. Circuit Court of Appeals to stay judicial review of the 1992 rule, and the Court granted the motion. As part of that agreement, EPA agreed to make a final decision whether to grant or to deny the TFI petition for reconsideration. After a careful review of all of the objections set forth in the petition for reconsideration, EPA decided to partially deny and to partially grant the petition (59 FR 14040, March 24, 1994).

II. Standard for Reconsideration

Under Clean Air Act Section 307(d)(7)(B), the EPA Administrator is required to convene a reconsideration proceeding if: (1) the person raising an objection to a rule can demonstrate to the Administrator that it was impracticable to raise such objection within the time permitted for public comment or the grounds for the objection arose after the period for public comment, and (2) if the Administrator determines that the objection is of central relevance to the outcome of the rule. Therefore, reconsideration is not required if the objections by a petitioner were raised or could reasonably have been raised during the pendency of the rulemaking. Moreover, even in the circumstance

where a particular objection could not have been raised earlier, reconsideration is not required if EPA determines that such objections would not have altered the outcome of the rule had they been raised earlier.

In the notice announcing the Agency's decision to partially deny and partially grant TFI's Petition for Reconsideration (59 FR 14040, March 24, 1994), EPA concluded that most of the objections raised by TFI did not warrant convening a reconsideration proceeding, but that some of the objections by TFI did warrant reconsideration of certain provisions of the 1992 rule. EPA found that many of the technical and policy objections by TFI to the EPA analysis of the potential risks of phosphogypsum use were not of central relevance to the outcome of the 1992 rule, and that some of the other policy objections could have been raised during the public comment period. Therefore, EPA denied the petition for those objections.

EPA also determined, as explained in the March 24, 1994 notice, that it was not practicable for TFI to raise some of its objections during the previous reconsideration proceeding, and that these objections might have affected the content of the 1992 rule had they been raised during the comment period. EPA therefore concluded that these specific objections were of central relevance to the outcome of the 1992 rule for the specific provisions of the rule which they concern, and stated that the Agency would convene a rulemaking to reconsider these provisions of the rule.

### III. Issues To Be Reconsidered

#### A. The 700 Pound Limitation

In the EPA analysis of potential risks associated with the research and development use of phosphogypsum upon which the 1992 revisions of Subpart R were based, EPA assumed that all of the free radon generated by phosphogypsum containing 26 pCi/g radium-226 would be released to one small laboratory room. As part of its analysis of the TFI petition, EPA concluded that most laboratory experiments using phosphogypsum would not result in such a high emanation rate. In addition, EPA discovered during its review of the TFI petition that the EPA analysis upon which the 1992 rule was based erroneously assumed that five 700 pound drums would be stored or utilized in the same area of the laboratory, even though only a single 700 pound drum limit was permitted by the 1992 rule. Based on these two factors, EPA decided that it would be appropriate to reassess the risks

associated with the use of phosphogypsum in laboratory research and development activities and to reconsider the 700 pound limitation in light of that reassessment. The Agency's new risk assessment for laboratory use of phosphogypsum entitled "Addendum—Risk Assessment for Research and Development Uses" of Phosphogypsum has been included in the docket for this proposed rule and may also be obtained from the EPA contact person listed at the beginning of this notice.

The new EPA risk assessment for laboratory use of phosphogypsum concludes that use of 700 pounds of phosphogypsum is expected to cause an increase in lifetime cancer risk for the researchers working with this material of approximately  $1.2 \times 10^{-6}$  for each year of exposure. If it is assumed that a researcher might work with this phosphogypsum in a laboratory for 10 years, this would result in a total increase in lifetime cancer risk for that researcher of approximately  $1 \times 10^{-5}$ . Utilizing the two-step process for determining the emission level which would provide an "ample margin of safety" which was established by the Court in the vinyl chloride decision, *Natural Resources Defense Council v. EPA*, 824 F.2d 1146 (D.C. Cir. 1987), EPA has determined in some prior instances that increases in lifetime cancer risk of approximately  $1 \times 10^{-4}$  are acceptable. However, the second step of the methodology required by the vinyl chloride decision involves considering the economic feasibility of further reductions in exposure and the associated risks. Therefore, to properly apply this methodology in selecting an appropriate limit, EPA must determine whether there are circumstances where it would be helpful to researchers to utilize quantities of phosphogypsum greater than 700 pounds in a laboratory setting. EPA is specifically requesting comments on whether any individual believes it would be useful to use more than the current limit of 700 pounds of phosphogypsum in any single laboratory research and development project and if so, what practical advantages a higher limit would provide.

In its petition, TFI also argued that it was not clear from the text of the 1992 rule whether more than one research and development activity utilizing 700 pounds of phosphogypsum would be permitted at a single facility, as well as whether or not a single research activity would be limited to a total of 700 pounds or only to 700 pounds at any given time for a given activity. EPA responded that multiple research and

development activities each utilizing 700 pounds of phosphogypsum would be permitted at a single facility, and that the 700 pound limit applies only to the amount of phosphogypsum on hand at any given time. However, the request for clarification by TFI also underscores another limitation in the risk assessment supporting the 1992 rule. The EPA risk analysis failed to consider that a given laboratory worker might be exposed to radiation as a result of more than one research and development activity utilizing phosphogypsum. Therefore, EPA is requesting comment on whether there should be any limit on multiple research and development activities at a single facility or by a particular investigator.

Since multiple research and development activities involving use of phosphogypsum may be undertaken in the same laboratory or at the same facility, EPA believes that it may be difficult for researchers, as well as enforcement personnel, to clearly distinguish between the phosphogypsum intended for use in different research and development activities. In view of this difficulty, it may be simpler and less cumbersome to establish a single quantitative limit for the total amount of phosphogypsum which may be utilized for all research and development activities at a single facility. If quantities of phosphogypsum in excess of the present limit of 700 pounds would be useful for a particular research activity, a single larger limit for all activities could afford greater flexibility, while still limiting the overall radon exposure and cancer risk. The Agency's new risk assessment for laboratory use of phosphogypsum suggests that an overall limit per facility of 7000 pounds of phosphogypsum would assure that no individual has an increased cancer risk over a ten year period in excess of  $1 \times 10^{-4}$ . Therefore, EPA is requesting comment on whether it would be preferable to establish a single aggregate limit on laboratory use of phosphogypsum for research and development purposes at each facility, rather than a separate limit for each individual experiment.

#### B. Use Outside of a Laboratory Setting

In its petition for reconsideration, TFI argued that the limitation of 700 pounds of phosphogypsum for each specific research and development activity effectively bans research activities in the field. EPA responded that 40 CFR Section 61.205 was designed to permit research and development activities involving phosphogypsum to proceed in the laboratory, not to authorize large scale field research. The risk assessment

underlying the research and development provision in the 1992 rule considered the potential hazard of radon exposure for laboratory workers, but it did not and could not consider those other risks to humans or the environment which might result from research activities utilizing phosphogypsum in the field. It was always the Agency's expectation that proposals to conduct field studies utilizing phosphogypsum would be submitted for EPA approval pursuant to 40 CFR Section 61.206, and EPA has in fact approved field research under this provision since promulgation of the 1992 rule. Accordingly, EPA is also proposing to clarify the language of 40 CFR Section 61.205 to limit that provision to research and development activities undertaken in a controlled laboratory setting.

#### *C. Sampling and Certification Requirements for Laboratory Use*

In its petition, TFI objected to the requirement that owners or operators conduct sampling or measurement of radium-226 and include such information in certification documents accompanying the phosphogypsum distributed for use in research and development. TFI noted correctly that there is no quantitative limit on the amount of radium-226 which phosphogypsum distributed for the research and development use may contain. Because there is no upper limit on the amount of radium permitted in phosphogypsum distributed for research and development use, EPA has assumed in its analysis of potential risks associated with such use that the phosphogypsum would contain high levels of radium. EPA believes that in most instances analysis of the radium-226 content in phosphogypsum distributed for use by laboratories in research and development projects will be necessary as part of the research activity. However, EPA has concluded that requiring certification documents accompanying phosphogypsum distributed for use in research and development to include quantitative analyses of radium content is not necessary to monitor compliance. Thus EPA is proposing to eliminate the requirement that owners or operators of phosphogypsum stacks analyze the radium-226 content of phosphogypsum distributed for research and development and the requirement that certification documents accompanying phosphogypsum distributed for research and development include information on radium-226 content. EPA requests comment on this proposal.

#### *D. Sampling Statistics*

In its petition, TFI objected that the formula set forth in 40 CFR Section 61.207(d), which is used to establish the number of samples necessary to determine a representative average radium-226 concentration, is ambiguous, because it does not specify the amount of allowable error. EPA agreed with this objection and stated it would reconsider this issue.

EPA has carefully evaluated the methods which can be utilized to demonstrate that the radium-226 concentration is less than 10 pCi/g in phosphogypsum removed from a stack for agricultural purposes, under the provisions of 40 CFR Section 61.204, and to measure the radium-226 concentration in phosphogypsum to be used for other purposes, under the provisions of 40 CFR Section 61.206. EPA has concluded that the equations used for determining the radium-226 concentration in the phosphogypsum should be clarified, and that the methods for determining the sample size and testing needed to demonstrate that the concentration is less than 10 pCi/g should be revised. The revised techniques do not utilize the error term required by the present version of 40 CFR Section 61.207.

The proposed revisions of these methods are set forth in a document entitled "Statistical Procedures for Certifying Phosphogypsum for Entry into Commerce, as Required by Section 61.207 of 40 CFR Part 61, Subpart R." A copy of this document has been included in the docket for this rulemaking and is also available from the EPA contact person listed at the beginning of this notice. EPA requests comments concerning the proposed revisions of the statistical methods described in this document.

#### *IV. Miscellaneous*

##### *A. Paperwork Reduction Act*

Eliminating the requirement that owners or operators of phosphogypsum stacks analyze the radium-226 content of phosphogypsum distributed for research and development and the associated certification documents will eliminate the current burden, of 100 hours per year per stack.

##### *B. Executive Order 12866*

Under Executive Order 12866, (58 FR 57735, October 4, 1993), the Agency must determine whether this regulation, if promulgated, is "significant" and therefore subject to review by the Office of Management and Budget under the requirements of the Executive Order. The Order defines "significant

regulatory action" as one 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 Executive Order.

This action will not result in an annual effect on the economy of \$100 million or another adverse economic impact; it does not create a serious inconsistency or interfere with another agency's action; it does not materially alter the budgetary impacts of entitlements, grants, user fees, etc.; and it does not raise novel legal or policy issues. Thus, EPA has determined that this proposal to reconsider Subpart R is not a "significant regulatory action" under the terms of Executive Order 12866.

##### *C. Regulatory Flexibility Analysis*

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an "initial regulatory flexibility analysis" which describes the effect of the proposed rule on small business entities. However, Section 604(b) of the Act provides that an analysis not be required when the head of an Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

EPA has determined that there will be no significant impact on any of the institutions and businesses affected by the revisions proposed in this notice. Accordingly, I certify that the revisions proposed in this notice, if adopted, will not have a significant economic impact on a substantial number of small entities.

##### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written

statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Under section 203 of the UMRA, before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop a small government agency plan.

The intended purpose of this proposed rule is to relax existing regulatory requirements, rather than to impose any new enforceable duties on State, local, or tribal governments or the private sector. In any event, EPA has determined that none of the options discussed in this proposal would, if adopted, include any Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA has also determined that none of the options discussed in this proposal might, if adopted, significantly or uniquely affect small governments.

Dated: April 26, 1996.

Carol M. Browner,

*Administrator.*

[FR Doc. 96-11165 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 80

[FRL-5501-2]

##### Adjustment of Reid Vapor Pressure Lower Limit for Reformulated Gasoline Sold in the State of California

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing to amend the lower limit of the valid range for Reid Vapor Pressure (RVP) for reformulated gasoline certified under the simple model and sold in the State of California. The lower limit is proposed to be changed from 6.6 pounds per square inch (psi) to 6.4 psi. In the final rules section of this Federal Register, EPA is promulgating this amendment as a direct final rule without prior proposal, because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the proposed change is set forth in the direct final rule. If no adverse comments are received in response to the 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 action. Any parties interested in commenting on this notice should do so at this time.

**DATES:** Comments on this proposed rule must be received by June 7, 1996.

**ADDRESSES:** Written comments on this proposed action should be addressed to Public Docket No. A-96-14, Waterside Mall (Room M-1500), Environmental Protection Agency, Air Docket Section, 401 M Street, SW., Washington, DC 20460. Documents related to this rule have been placed in the public docket and may be inspected between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material. Those wishing to notify EPA of their intent to submit adverse comment or request an opportunity for a public hearing on this action should contact Anne-Marie C. Pastorkovich, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9013.

**FOR FURTHER INFORMATION CONTACT:** Anne-Marie C. Pastorkovich, Attorney/Advisor, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9013.

#### SUPPLEMENTARY INFORMATION:

##### Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry ....	Refiners of California gasoline.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine § 80.42 (c)(1), note (1), of today's regulatory action. You should also carefully examine the existing provisions at 40 CFR 80.81, dealing specifically with California gasoline.

For additional information, see the direct final rule published in the rules section of this Federal Register.

Dated: May 1, 1996.

Carol M. Browner,

*Administrator.*

[FR Doc. 96-11330 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Parts 89 and 90

[FRL-5502-6]

##### Reduced Certification Reporting Requirements for New Nonroad Engines

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Today's action proposes to revise certification requirements for new nonroad spark-ignition engines at or below 19 kilowatts (60 FR 34582), and new nonroad compression-ignition engines at or above 37 kilowatts (59 FR 31306), by reducing the reporting burden associated with the application for certification.

In the final rule section of today's Federal Register, EPA is issuing these revisions as a direct final rule without prior proposal because EPA views the action as noncontroversial and anticipates no adverse comments. A detailed rationale for the revisions 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 public comment on any of the specific issues identified in the direct final rule, EPA will publish one action withdrawing the provisions of the final action corresponding to that specific issue, and all adverse 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 action. Any parties interested on commenting on this action should do so at this time.

**DATES:** Comments must be received on or before June 7, 1996.

**ADDRESSES:** Written comments should be submitted (in duplicate, if possible) to: EPA Air and Radiation Docket, Attention Docket No. A-95-57, room M-1500 (mail code 6102), 401 M St., S.W., Washington, D.C. 20460. The docket may be inspected at this location from 8:30 a.m. until 5:30 p.m. weekdays. The docket may also be reached by telephone at (202) 260-7548. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

**FOR FURTHER INFORMATION CONTACT:** Laurel Horne, (313) 741-7803.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule published in the rules section of today's Federal Register.

List of Subjects in 40 CFR Parts 89 and 90

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting requirements.

Dated: May 2, 1996.

Carol M. Browner,

*Administrator.*

[FR Doc. 96-11476 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Parts 180, 185 and 186

[OPP-300423; FRL-5364-8]

RIN 2070-AC18

#### **Avermectin B<sub>1</sub> and its Delta-8,9-Isomer; Proposed Renewal of Time-Limited Tolerances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to renew time-limited tolerances for the residues of the insecticide avermectin B<sub>1</sub> and its delta-8,9-Isomer in or on certain raw agricultural commodities. This rule which would renew the effective date for the time-limited tolerances of this insecticide in or on these commodities was requested by Merck & Co., Inc., Merck Sharp and Dohme Research Laboratories.

**DATES:** Comments identified by the docket number, [OPP-300423], must be received on or before June 7, 1996.

**ADDRESSES:** By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Public Docket, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the

public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-300423]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: George T. LaRocca, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM #2, 1900 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305-5419; e-mail: larocca.george@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** The Agency issued a conditional registration for avermectin B<sub>1</sub> for use on cotton on May 22, 1989 with an expiration date of March 31, 1992 (see the Federal Register of August 27, 1989 (54 FR 35059)). This conditional registration was subsequently amended on July 25, 1989 to include citrus (see the Federal Register of August 2, 1989 (54 FR 31836)) and on April 1, 1992 the expiration date for conditional registration was extended to April 30, 1995. On May 1, 1995 the expiration date for conditional registration was again extended to November 15, 1996. The registrations were made conditional since certain data were lacking and required by the Agency to allow it to evaluate the effects of avermectin B<sub>1</sub> on fish and aquatic organisms. See the Federal Register of August 23, 1989 (54 FR 35059) and August 3, 1994 (59 FR 39505) for the status of specific data requirements. Because of the lack of these data the tolerances on cotton and citrus were made temporary until the conditions of registration were fulfilled.

The Agency's evaluation of the risk reduction measures to assess aquatic hazard and exposure from use of this

pesticide on cotton and citrus will not be completed in time to establish a permanent tolerance prior to the expiration date (April 30, 1996) for the time-limited tolerances. The Agency therefore proposes that to be consistent with the extensions issued for the conditional registration (November 15, 1996) the time-limited tolerances for cotton and citrus, meat, meat by-products, milk and processed food/feed commodities be renewed until November 15, 1997. The Agency has determined that renewing the tolerances will protect the public health. Therefore tolerances on cotton, citrus and other affected commodities are proposed to be renewed as set forth below.

The data submitted in support of these tolerances and other relevant material have been reviewed. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of these tolerances are discussed in detail in related documents published in the Federal Register of May 31, 1989 (54 FR 23209—cottonseed) and August 2, 1989 (54 FR 31836—citrus).

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

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains the ingredient listed herein, may request within 30 days after the publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA).

Interested persons are invited to submit written comments on the proposed rule. Comments must bear a notation indicating the document control number, [OPP-300423]. All written comments filed in response to this proposed rule will be available in the Public Response and Program Resources Branch at the above address from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [OPP-300423] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to

4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

The Office of Management and Budget has exempted this document from the requirement of review pursuant to Executive Order 12866. In addition, this action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled *Enhancing the Intergovernmental Partnership*, or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects

40 CFR Part 180

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

40 CFR Part 185

Food additives, Pesticides and pest.

40 CFR Part 186

Animal feeds, Pesticides and pest.

Dated: April 26, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

**PART 180—[AMENDED]**

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

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

2. In § 180.449, by revising paragraph (a), to read as follows:

**§ 180.449 Avermectin B<sub>1</sub> and its delta-8,9-isomer; tolerances for residues.**

(a) Tolerances are established for the combined residues of the insecticide avermectin B<sub>1</sub> (a mixture of avermectins containing greater than or equal to 80% avermectin B<sub>1a</sub> (5-0-dimethyl avermectin A<sub>1a</sub>) and less than or equal to 20% avermectin B<sub>1b</sub> (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A<sub>1a</sub>)) and it delta-8,9-isomer in or on the following commodities:

Commodity	Parts per million	Expiration Date
Cattle, fat .....	0.015	November 15, 1997
Cattle, meat .....	0.02	November 15, 1997
Cattle, mybp .....	0.02	November 15, 1997
Citrus, whole fruit .....	0.02	November 15, 1997
Cottonseed .....	0.005	November 15, 1997
Hops, dried .....	0.5	December 31, 1996
Milk .....	0.005	November 15, 1997

\* \* \* \* \*

**PART 185—[AMENDED]**

2. In Part 185:

a. The authority citation for Part 185 continues to read as follows:

Authority: 21 U.S.C. 348

b. Section 185.300 is revised to read as follows:

**§ 185.300 Avermectin B<sub>1</sub> and its delta-8,9-isomer; tolerances for residues.**

Tolerances to expire on November 15, 1997 are established for the combined residues of the insecticide avermectin B<sub>1</sub>

(a mixture of avermectins containing greater than or equal to 80% avermectin B<sub>1a</sub>(5-0-dimethyl avermectin A<sub>1a</sub>) and less than or equal to 20% avermectin B<sub>1b</sub>(5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A<sub>1a</sub>)) and it delta-8,9-isomer in or on the following commodity:

Commodity	Parts per million
Citrus Oil .....	0.10

**PART 186—[AMENDED]**

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 186.300 by revising paragraph (a) to read as follows:

**§ 186.300 Avermectin B<sub>1</sub> and its delta-8,9-isomer; tolerances for residues.**

(a) Tolerances to expire on November 15, 1997 are established for the combined residues of the insecticide avermectin B<sub>1</sub> (a mixture of avermectins containing greater than or equal to 80% avermectin B<sub>1a</sub> (5-0-dimethyl avermectin A<sub>1a</sub>) and less than or equal to 20% avermectin B<sub>1b</sub> (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A<sub>1a</sub>)) and it delta-8,9-isomer in or on the following commodity:

Commodity	Parts per million
Dried Citrus pulp .....	0.10

\* \* \* \* \*

[FR Doc. 96-11342 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-F

**40 CFR Parts 180 and 186**

[PP 9F3739 FAP 1H5604/P654; FRL-5362-6]

RIN 2070-AC18

**Fluorine Compounds; Pesticide Tolerance and Feed Additive Regulation**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish a pesticide tolerance for residues of the insecticidal fluorine compounds cryolite and/or synthetic cryolite (sodium aluminum fluoride) in or on

the raw agricultural commodity potatoes at 2.0 parts per million (ppm) and a feed additive regulation for the animal feed commodity, potato waste resulting from the processing of treated potatoes at 22.0 ppm. The proposed tolerance and regulation to establish maximum permissible levels for residues of the pesticide in or on the commodities were requested in petitions submitted by Attochem North America, Inc.

**DATES:** Comments, identified by the docket control number [PP 9F3739 and FAP 1H5604/P654], must be received on or before June 7, 1996.

**ADDRESSES:** Submit written comments by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Public Docket, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (PP 9F3739 and FAP 1H5604/P654). No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Robert A. Forrest, Product Manager (PM) 14, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location, telephone number, and e-mail address: Rm. 219, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-6600, e-mail: forrest.robert@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the Federal Register of May 5, 1993 (58 FR 26687), which announced the establishment of a 3-year time-limited tolerance for residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) on potatoes and the establishment of a 3-year time-limited feed additive regulation for residues of these compounds in processed potato waste (wet or dry).

These regulations were established for a period extending to May 6, 1996, to cover residues existing from the conditional registration of the insecticidal compounds on potatoes extending to September 30, 1995. The Agency limited the period of time the conditional registration and the regulations were to be in effect because of the lack of a chronic dog feeding study and a two-generation rat reproduction study. These two studies have been received and have been found to be acceptable.

Pesticide petition 9F3739 requests that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR 180 by establishing a tolerance for residues of the insecticidal fluorine compounds in or on the raw agricultural commodity potatoes at 2.0 ppm with no time limitations. Food additive petition 1H5604 requests that the Administrator, pursuant to section 409(b) of the FFDCA (21 U.S.C. 348), amend 40 CFR part 186 by establishing a feed additive regulation for residues of the insecticidal compounds in or on the processed animal feed commodity processed potato waste (wet or dry) at 22.0 ppm with no time limitations.

To meet the current definition, the commodity, "processed potato waste (wet or dry)" is corrected to read as follows: potatoes, waste from processing.

#### I. Background Information

Fluoride has been identified as the residue of toxicological concern in cryolite and synthetic cryolite and the available data show that these compounds which are approximately 52.8% fluoride, act as free fluoride. Fluoride is ubiquitous and may be present at low levels in air, soils and in foodstuffs that have not been treated with cryolite and/or synthetic cryolite as well as in drinking water. The

atmospheric levels of fluoride and incidental dietary exposures to fluoride as a toothpaste additive or as a dental treatment contribute relatively little to the average level of dietary fluoride exposure and are not further considered in the exposure estimate.

Data submitted in support of the subject petition show background levels of fluoride in untreated potatoes ranged from 0.14 ppm to 0.31 ppm and are consistent with the ranges reported in the open literature. Levels of fluoride found in the treated potatoes ranged from 0.18 ppm to 0.94 ppm. The residue analytical method used for enforcing the subject tolerance and regulation cannot distinguish between the naturally occurring fluoride and the fluoride resulting from use of cryolite and/or synthetic cryolite.

Fluoride levels in public drinking water are regulated under the Safe Drinking Water Act. EPA has established a Maximum Concentration Limit (MCL) at 4.0 mg/L [0.114 mg/kg/day] to protect against crippling skeletal fluorosis (51 FR 11396, April 2, 1986). The MCL established on April 2, 1986, finalizes interim regulations set in November 14, 1985 (50 FR 47142), and proposed in the Federal Register of May 14, 1985 (50 FR 20164). In addition, these FR notices established a Secondary Maximum Contaminant Level (SMCL) at 2.0 mg/L [0.057 mg/kg/day] for cosmetic effects (objectionable dental fluorosis) which are not considered to be adverse health effects by the Surgeon General.

The EPA Office of Drinking Water issued a Drinking Water Criteria Document on Fluoride (October 21, 1985) which presents summaries of experimental and clinical data on the health effects of fluoride in animals and humans. In general, the health effects of fluoride include dental fluorosis and skeletal fluorosis.

At the request of the EPA, the U.S. Surgeon General examined the nondental health aspects associated with fluoride in drinking water. The Surgeon General concluded that he did not consider changes in bone density to be an adverse health effect and that adverse effects (arthralgias) are not likely to occur at human dose levels below 20 mg F/day (10 mg F/L for an adult consuming 2 L water/day [0.29 mg/kg/day]). The ad hoc committee concluded that four times the optimal fluoride concentration (approximately 4 mg F/L [0.114 mg/kg/day]) in drinking water should provide an adequate margin of safety for preventing adverse health effects which were not documented to occur in the U.S. population below 8 mg F/L [0.23 mg/kg/day]. (Water Criteria Document p. IX-21).

## II. Toxicological Data

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance and regulation include:

1. A 2-year rat bioassay conducted by the National Toxicology Program (NTP) using sodium fluoride as the test material at dose levels of 0, 25, 100, and 175 ppm, in water, representing 0, 1.3, 5.2 and 8.6 mg/kg/day in males and 0, 1.3, 5.5 and 9.5 mg/kg/day in females.

Osteosarcoma of the bone was only observed in one male in the 100 ppm group and in three males in the 175 ppm group. NTP considers this to be equivocal evidence of carcinogenicity in male F344/N rats. The NOEL is less than 25 ppm (1.3 mg/kg/day). The LOEL is 25 ppm (1.3 mg/kg/day) based on mottling of teeth, dentine incisor dysplasia, increased serum, urine and bone fluoride levels in males and females and incisor odontoblast and incisor ameloblast degeneration in males. There was "equivocal evidence" of carcinogenic activity in male rats and "no evidence" of carcinogenic activity in female rats.

The NTP study utilizing sodium fluoride as the test material in lieu of cryolite or synthetic cryolite satisfies the guideline study requirement for both the rodent chronic feeding study and the rat carcinogenicity study. Fluoride has been identified as the residue of toxicological concern in cryolite and synthetic cryolite and the available data show that these compounds act as free fluoride.

2. A 2-year mouse bioassay conducted by the NTP utilizing sodium fluoride as the test material at dose levels of 0, 25, 100, and 175 ppm, in water, representing 0, 2.4, 9.6 and 16.7 mg/kg/day in males and 0, 2.8, 11.3 and 18.8 mg/kg/day in females.

The NOEL is less than 25 ppm (2.4 mg/kg/day). The LOEL is 25 ppm (2.4 mg/kg/day) based on attrition of the teeth in males, discoloration and mottling of the teeth in males and females and increased bone fluoride in both sexes. There was "no evidence" of carcinogenic activity in male and female mice.

This study utilizing sodium fluoride in lieu of cryolite or synthetic cryolite as the test material satisfies the guideline study requirement for a mouse carcinogenicity study for the reason described above under item one.

3. A 1-year chronic dog feeding study conducted with cryolite at dose levels of 0, 3,000, 10,000 and 30,000 ppm, representing 0, 95, 366 and 1,137 mg/kg/day in males and 0, 105, 387 and

1139 mg/kg/day in females (in terms of fluoride the doses are 0, 51, 198, and 614 mg F/kg/day for males and 0, 57, 209 and 615 mg F/kg/day for females).

The NOEL (in terms of cryolite) is less than 3,000 ppm (95 mg/kg/day in males and 105 mg/kg/day in females). The LOEL is 3,000 ppm (95 mg/kg/day) based on increases in emesis, nucleated cells in males, renal lesions and a decrease in urine specific gravity in females.

4. A two-generation reproduction study conducted with cryolite in the diet of rats at dose levels of 0, 200, 600, and 1,800 ppm (representing 0, 14, 42, and 128 mg/kg/day for males and 0, 16, 49, and 149 mg/kg/day for females, respectively, during premating).

The systemic toxicity NOEL was not determined. The LOEL for systemic toxicity was 200 ppm (15 mg/kg/day) based on dental fluorosis. The NOEL and LOEL for reproductive toxicity were 600 and 1,800 ppm, respectively (46 and 138 mg/kg/day) based on decreased pup body weights.

5. A developmental toxicity study conducted with cryolite in rats at dose levels of 0, 750, 1,500, and 3,000 mg/kg/day (gavage). The NOEL for both developmental and maternal toxicity is 3,000 mg/kg/day. At this dose level, the only observation was whitening of the teeth of dams.

6. A developmental toxicity study conducted in female mice with cryolite at dose levels of 0, 30, 100 and 300 mg/kg/day (gavage).

The NOEL for maternal toxicity is 30 mg/kg/day and the LOEL is 100 mg/kg/day based on the occurrence of dark red contents of the stomach.

Fetuses at 300 mg/kg/day exhibited bent ribs and bent limb bones. The NOEL for developmental toxicity is 100 mg/kg/day. The LOEL is 300 mg/kg/day based on an increase in bent ribs and bent limbs.

7. A range-finding developmental toxicity study conducted in female rabbits with cryolite at dose levels of 0, 10, 30, 100, 300 and 1,000 mg/kg/day (gavage).

The NOEL for maternal toxicity is 10 mg/kg/day and the LOEL is 30 mg/kg/day based on an increased incidence of soft stool and dark colored feces and decreased defecation and urination. The NOEL for developmental toxicity is 30 mg/kg/day. The LOEL could not be assessed due to excessive toxicity at dose levels of  $\geq 30$  mg/kg/day.

This study suggested that severe maternal toxicity occurred at lower doses than external developmental toxicity. However, following an extensive literature evaluation, the National Research Council (National

Academy of Sciences Subcommittee of Health Effects of Ingested Fluoride) (NAS) determined that,

There have been reports of adverse effects on reproductive outcomes associated with high levels of fluoride intake in many animal species. In most of the studies, however, the fluoride concentrations associated with adverse effects were far higher than those encountered in drinking water. . . .

Based on these findings, the subcommittee concludes that the fluoride concentrations associated with adverse reproductive effects in animals are far higher than those to which human populations are exposed. Consequently, ingestion of fluoride at current concentrations should have no adverse effects on human reproduction.

Therefore, an additional developmental study in rabbits is not required.

8. A 28-day range-finding feeding study conducted with cryolite in rats at dose levels of 0, 250, 500, 1,000, 2,000, 4,000, 10,000, 25,000 and 50,000 ppm in the diet (representing approximately 0, 25, 50, 100, 200, 400, 1,000, 2,500 and 5,000 mg/kg/day) with the only compound related effect being a change in coloration and physical property of the teeth.

The NOEL was not determined. The LOEL is 250 ppm (25 mg/kg/day) based on dental fluorosis.

9. A 90-day rat feeding study conducted with cryolite at dose levels of 0, 50, 5,000, and 50,000 ppm (corresponding to 0, 3.8, 399.2 and 4,172.3 mg/kg/day in males and 0, 4.5, 455.9 and 4,758.1 mg/kg/day in females).

The NOEL is 50 ppm (3.8 mg/kg/day) for effects other than fluoride accumulation. The LOEL is 5,000 ppm (399.2 mg/kg/day) based on lesions observed in the stomach. Fluoride accumulated at all dose levels.

10. A 90-day dog feeding study conducted with cryolite at dose levels of 0, 500, 10,000, and 50,000 ppm (corresponding to 0, 17, 368 and 1,692 mg/kg/day).

The NOEL is 10,000 ppm (368 mg/kg/day). The LOEL is 50,000 ppm (1,692 mg/kg/day) for effects other than fluoride accumulation. Fluoride accumulation occurred at all dose levels.

11. Genotoxicity studies including an Ames test (negative) at dose levels of 167, 500, 1,670, 5,000, 7,500 and 10,000 ug/plate; an *in vitro* assay in human lymphocytes (negative) at 100, 500, and 1,000 ug/ml; and an unscheduled DNA synthesis study in rat hepatocytes (negative) at dose levels up to and including 50 ug/ml.

12. Open literature studies showing that human and animal metabolism of

cryolite and/or synthetic cryolite manifests itself as normal free fluoride metabolism. That is, dissociation occurs, producing free fluoride ions which are assimilated into bone.

The available toxicity data are considered adequate to support the proposed regulations to establish maximum permissible levels for residues of the insecticidal fluorine compounds in or on potatoes and in processed potato waste.

The available information does not support the regulation of the cryolite insecticides as carcinogens.

Fluoride has been the subject of a comprehensive review by the National Research Council (National Academy of Sciences Subcommittee of Health Effects of Ingested Fluoride) who concluded that "... the available laboratory data are insufficient to demonstrate a carcinogenic effect of fluoride in animals." and that "... the weight of evidence from more than 50 epidemiological studies does not support the hypothesis of an association between fluoride exposure and increased cancer risk in humans." EPA is in agreement with the conclusions reached by the National Academy of Science (NAS).

Rather than the establishment of the traditional Reference Dose (RfD), a weight-of-the-evidence risk assessment was determined by the Agency to be a more appropriate approach for the assessment of the dietary exposure to fluoride residues as a result of agricultural uses of cryolite for the following reasons:

- National and international regulatory organizations (U.S. EPA Office of Water, U.S. DHHS, the Canadian Government, and the World Health Organization) have assessed potential health risks from exposure to fluoride. The endpoints and estimated effect levels documented by these organizations are similar.

- The U.S. Surgeon General (Koop, 1984 and Elders, 1994) has recommended a guideline level of exposure that should provide an adequate "margin of safety" based on a large amount of human data, including epidemiology studies.

- Animal data considered in evaluating the proposed regulations are consistent with human data with respect to dose-related skeletal effects.

The weight-of-the-evidence dietary risk assessment was conducted utilizing the following factors. All calculations are based on 2 L/day water consumption and 70 kg adult.

- There exists no directly applicable scientific documentation of adverse medical effects at levels of fluoride

below 8 mg/L [0.23 mg/kg/day]. (U.S. EPA. 1985. National Primary Drinking Water Regulations; Fluoride. Proposed Rulemaking. (50 FR 20166, May 14, 1985).

- Less than 0.4% of the U.S. population (on public water supplies) is exposed to greater than 2 mg/L fluoride [0.057 mg/kg/day] in the public water supply. (U.S. EPA. 1985. Drinking Water Criteria Document on Fluoride. U.S. EPA Office of Drinking Water, Washington, D.C. TR-832-5. pg. IV-3, Table IV-1.)

- Dietary exposure estimates using reassessed tolerances including the subject proposed tolerance and regulation for potatoes and percent of crops treated are approximately 0.029 mg/kg/day for the U.S. population and 0.038 mg/kg/day for the highest exposed subgroup (females 20 years old and over).

Therefore, it can be concluded that levels of fluoride in/on food from the agricultural use of cryolite plus fluoride levels in U.S. drinking water supplies results in a daily dietary intake of fluoride of approximately 0.095 mg/kg/day. This is less than the Maximum Concentration Limit (MCL) of 4.0 mg/L [0.114 mg/kg/day], a level which provides no known or anticipated adverse health effect as determined by the Surgeon General.

The estimated dietary exposure resulting from the subject proposed tolerance on potatoes is approximately 0.00016 mg/kg/day.

The metabolism of the subject insecticides in plants and animals is adequately understood. Plant residues are inorganic surface residues of cryolite which are measured as total fluoride. Cryolite metabolism in animals manifests itself as free fluorine metabolism and the residue of concern in animals is total fluoride.

An adequate analytical method (fluoride specific electrode) is available for enforcement purposes for the RAC potatoes and the animal feed, potato waste. Because the subject compounds are inorganic compounds, the requirement for data using the multiresidue protocols in PAM Vol. I is not applicable.

Because of the long lead time from establishing this tolerance and regulation to publication of the enforcement methodology in the *Pesticide Analytical Manual, Vol. II*, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental

Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number; Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., VA 22202, (703)-305-5232.

There is no reasonable expectation of finite residues of cryolite or synthetic cryolite occurring in the meat, milk, poultry, and eggs of animals fed potato waste resulting from the processing of treated potatoes and 40 CFR 180.6(a)(3) applies. Thus, secondary tolerances are not necessary at this time in meat, milk, poultry, and eggs.

There are presently no actions pending against the continued registration of these insecticidal compounds.

The pesticide is considered useful for the purpose for which the tolerance is sought and capable of achieving its physical or technical effect.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health, and the establishment of a feed additive regulation by amending 40 CFR part 186 would be safe. Therefore, it is proposed that they be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal as it relates to the section 408 tolerance be referred to an Advisory Committee in accordance with section 408(e) of the FFDCFA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, PP 9F3739 and FAP 1H5604/P. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch at the above address from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this proposal under docket number (PP 9F3739 and FAP 1H5604/P654) (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:  
 opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this proposal, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

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

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

In addition, this action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093,

October 28, 1993), entitled *Enhancing the Intergovernmental Partnership*, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Parts 180 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Animal feed, Food additive, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 30, 1996.  
 Stephen L. Johnson,  
 Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 be amended as follows:

**PART 180—[AMENDED]**

1. In part 180:  
 a. The authority citation for part 180 continues to read as follows:

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

b. In § 180.145, by adding a commodity to paragraph (a) in the table therein and deleting paragraph (c) to read as follows:

**§ 180.145 Fluoride compounds; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
* * *	* *
Potatoes	2.0
* * *	* *
* * *	* *

**PART 186—[AMENDED]**

2. In part 186:  
 a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 186.3375 is revised to read as follows:

**§ 186.3375 Fluorine compounds.**

A tolerance is established for residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in the following ready-to-eat animal feed resulting from application of the compounds to growing crops:

Commodity	Parts per million
Potatoes, waste from processing	22.0

[FR Doc. 96-11341 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-F

**40 CFR Part 300**

[FRL-5500-3]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete the Carter Lee Lumber Company Superfund Site National From Priorities List; Request for Comments.

**SUMMARY:** The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the Carter Lee Lumber Company Superfund Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Indiana, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

**DATES:** Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before June 7, 1996.

**ADDRESSES:** Comments may be mailed to Helen Smith (SR-6J) Environmental Protection Assistant, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604.

Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Hawthorn Community Center, 2440 West Ohio Street, Indianapolis IN and the offices of the Indiana Department of Environmental management, 100 N. Senate Avenue, N1255, Indianapolis, IN. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (SMR-7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-5821.

**FOR FURTHER INFORMATION CONTACT:** Deborah Orr (SR-6J) Remedial Project Manager at (312) 886-7576, Helen Smith (SR-6J) Environmental Protection Assistant, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-6229 or David Novak (P-19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-9840.

**SUPPLEMENTARY INFORMATION:**

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

**I. Introduction**

The U.S. Environmental Protection Agency (EPA) Region V announces its intent to delete the Carter Lee Lumber Company Superfund Site (Site) from the National Priorities List (NPL), which constitutes Appendix B of the (NCP), and requests comments on the proposed deletion. The U.S. EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that U.S. EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

**II. NPL Deletion Criteria**

The NCP establishes the criteria the Agency uses to delete Sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

**III. Deletion Procedures**

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This Federal Register notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the Federal Register.

**IV. Basis for Intended Site Deletion**

*Decision Summary*

**I. Site Description**

The Site is located west of downtown Indianapolis at 1621 West Washington Street. Eagle Creek is approximately one-half mile southwest and the White River is about one mile east of the site. The Site is located 7 miles upgradient of one of the groundwater pumps used to supplement the drinking water supply for the City of Indianapolis. It is located in a commercial and industrial center primarily composed of heavy industry with the exception of some scattered areas of older single-family residential dwellings. The Site is currently used for storage for a commercial lumber yard and is, therefore, fenced and access is restricted. The Carter Lee Lumber (CLL) Company has been at its present location for over 120 years. The Site occupies only part of the CLL property, a four acre trapezoid in the southeast corner, that was acquired by CLL in 1979 for expansion of lumber storage capabilities.

Lumber and associated materials are stored in three sheds on the Site. The Site is paved with asphalt except for the southeast corner, which is covered with about six inches compacted gravel and soil. The Site is relatively flat. It is bordered on the east and south by Conrail railroad tracks, on the west by Reichwein Avenue and the north by CLL property. The bordering tracks are elevated as much as 6 to 8 feet above the Site. The southeast corner of the property is the lowest elevation point on the Site.

Over 36,000 people live within 2-miles of CLL. The closest residence is across Reichwein Avenue. Demographics from the 1990 census data, show that the area adjacent to the Site has a more culturally diverse population than the general population of Marion County. Thirty-two percent of the residents within a two mile radius of the Site are non-white while twenty-two percent of the residents of Marion County identified themselves as non-white. Census data shows that the average household within a two mile radius of the Site has an income thirty-three percent lower than the average income of a typical Marion County resident.

**II. Site History and Enforcement Activities**

Prior to 1979, the Site was owned by Penn Central Corporation and, in the period from 1960-1973, leased to several commercial waste hauling

companies that used the Site for industrial waste product disposal. The Site was leased first for the disposal of calcium ferrosulfate (about 30% solid). There is no evidence that this material was hazardous. It was then leased to a series of partnerships that, from court records, state the nature of the business was to purchase lime slurry, a waste product from Union Carbide Corporation, Linde Division, and to sell it to Ford Motor Company, in Indianapolis, Delco Electronics in Kokomo and Jones Laughlin Steel. Neutralized metal plating sludge and neutralized calcium ferrosulfate were reported sprayed on the Site from 1971–1972.

There are unsubstantiated allegations of tank car dumping and disposal of oily filter cakes from Conrail Lines. In addition, from 1940–1985, CLL operated a small quantity, batch-load wood preserving operation immediately off-site, north of the northeast corner of the Site. This operation reportedly used consumer-grade pentachlorophenol.

CCL purchased the Site in 1979. While the property was being developed for lumber storage, red soil was discovered. When the red soil interfered with proper soil compaction, it was moved. The red soil was stored near a trench area dug to hold construction debris. Asphalt was laid on portions of the Site and the storage yard was fenced as part of this work. The soil was later spread over an area covering about 220 by 250 feet in the southeast corner of the Site, where it is currently located.

The Site was investigated by the Environment and Ecology Field Investigation Team (FIT) in 1985 as a result of a CLL Company employee reports of spotting small animals with sores and patchy fur and complaints by employees of skin lesions and weight loss. Neither reports were confirmed by local health officials. Following the FIT investigation which included soil sampling, the Site was scored for NPL listing due to the potential for groundwater contamination and a concern for potential dermal contact should the soils be disturbed.

Research to identify parties responsible for conditions at the Site was completed in June 1988. Potentially responsible owners, operators and generators were identified. Based on information gathered during this search and responses from information requests, special notice letters were sent out during January 1992.

### III. Highlights of Community Participation

U.S. EPA hosted a “kick off” public meeting on September 3, 1992 at the

Presbyterian Church located across the street from the Site. The purpose of the meeting was to inform the local residents of the Superfund process and the work to be conducted under the Remedial Investigation (RI). Thirty-nine people attended the meeting. Two RI update newsletters were issued to individuals on the Site specific mailing list in June 1993 and July 1995.

Information repositories for the Site have been established at Hawthorn Community Center, 2440 West Ohio Street, Indianapolis IN and the offices of the Indiana Department of Environmental Management, 100 N. Senate Avenue, N1255, Indianapolis, IN. The Administrative Record for the Site has been made available to the public at the U.S. EPA Docket Room in Region V and at the Hawthorn Community Center.

The RI was released to the public in May 1995. The proposed plan was mailed July 28, 1995. A public meeting to discuss the remedial investigation and the proposed plan was held on August 10, 1995. Advertisements were placed in the Indiana Star/News and the West-Side Enterprise to announce the public meetings and comment period. Ten people attended the proposed plan meeting. The proposed plan was available for public comments from August 1, 1995 through August 30, 1995.

The public participation requirements of CERCLA Sections 113(k)(2)(I–v) and 117 of CERCLA have been met in the remedy selection process. This decision document presents the selected remedial action for the CLL Company Superfund Site, chosen in accordance with CERCLA, as amended by SARA and, to the extent practicable, the NCP. The decision for this Site is based on the administrative record.

### IV. Scope and Role of Operable Units

U.S. EPA has determined that no further action is required at this Site. Because hazardous substances at concentrations above unacceptable risk levels will not remain at the Site, a five-year review will not be necessary.

### V. Site Characteristics

During the RI, sampling and analysis of groundwater and subsurface and surface soil occurred which allows a determination of Site conditions to be made. The investigation took place in two phases beginning in November 1992 and ending about one year later in September 1993.

During Phase I in November 1992, all surface and subsurface on-site soil samples were collected, five monitoring wells were installed and sampled and

15 of the 17 off-site soil samples were collected.

Phase II, which occurred in June, August and September of 1993, consisted of two rounds of groundwater samples, 3 rounds of water level measurements and the collection of 2 additional off-site soil samples. A groundwater user survey was implemented during this time period as well. An ecological investigation of the Site was also conducted as part of Phase 2.

Using the U.S. EPA risk assessment guidance and procedures, many contaminants found at the Site, including Semi-volatile Organic Compounds (SVOCs), Volatile Organic Compounds (VOCs), metals and cyanide were eliminated from further consideration primarily because on-site concentrations did not differ significantly from background, or off-site contaminant concentrations.

The ecological investigation consisted of review of current literature to determine whether the area contained protected plants or animals or whether sensitive habitats existed in the area. A Site visit also took place.

Based on the evaluation of Site conditions, U.S. EPA determined that there is no threat to human health and the environment through exposure by ingestion or direct contact with the pesticides/herbicides and PCBs found in the soils and groundwater on and near the Site. The effects of background contamination was not evaluated as part of this study. The following is a result of the findings.

1. **Physiography.** The Site is located within the commercial and industrial center of the City of Indianapolis, central Marion County. The area is relatively flat and ranges in topographic relief from about 745 feet above mean sea level measured 2.75 miles west of the Site to about 705 feet at the White River, which is 1 mile east. The Site is paved with asphalt except for the southeast corner, which is covered with compacted gravel. Drainage swells, formed by rail road track berms 6 to 8 feet high, run parallel to the eastern and southern Site boundaries and collect surface run-off from the Site. The southeast corner is the lowest elevation point on the Site at an elevation of 691 feet above mean sea level.

2. **Geology.** An extensive sand and gravel outwash deposit exists under the Site. The outwash is composed of coarse-grained material deposited by glacial meltwater streams during the Wisconsin glaciation. Discontinuous silt and clay deposits are numerous. The outwash extends along the White River, Eagle Creek and Fall Creek and it is

about 6.5 miles wide from east to west. At the outer edges of the outwash, the deposits integrate with deposits of till. Sand and gravel deposits are discontinuous in the till plain. The thickness of the unconsolidated deposits in Marion County ranges from less than 15 feet to more than 300 feet. Within the vicinity of the Site, the bedrock beneath the outwash deposits consists of Silurian and Devonian age limestones and dolomites. Depth to bedrock is about 120 feet. West of the Site, Mississippian age shale separates the outwash deposits from the limestones and dolomites. The bedrock surface slopes gently to the west.

The Site geology is characterized by a series of fill layers starting at about 12 inches below the ground surface. This fill material varies across the Site but generally consists of sandy gravel and clayey silty sand with miscellaneous debris including bricks, concrete and wood. Some areas of the Site are filled with black dense sand similar to a foundry sand mixed with what appeared to be fly ash.

3. Hydrology. There are two groundwater systems beneath the Site. The outwash deposits along the White River comprise the upper, unconfined aquifer. The thickness of the aquifer ranges from 30 to more than 80 feet. The limestone and dolomite formations comprise the uppermost bedrock aquifer. The average horizontal hydraulic conductivity is about 300 feet/day for the outwash aquifer and about 10 feet/day for the bedrock aquifer. The hydraulic conductivity in the bedrock aquifer can be considerably greater in areas where solution channeling has occurred.

Wells in the outwash aquifer have produced as much as 3,000 gallons per minute (gpm). Bedrock wells may yield 75 to 250 gpm. The bedrock is most productive in the upper 100 feet where it was once exposed to weathering elements and where the greatest amount of solution development has occurred.

At the Site the unconfined, shallow water table was encountered at about 20 to 25 feet below ground surface. Typically, groundwater flows toward the southeast. Through the well users survey, a cone of depression was identified southeast of the Site. Most of the wells within 1 mile of the Site are used exclusively for manufacturing processes. Marion County depends on surface water for 92% of its drinking water supply, the remainder comes from groundwater. The use of groundwater to supplement drinking water is expected to increase to 19% by the year 2000.

Groundwater elevations in Marion County range from about 830 feet in the

northwestern portion of the county to less than 680 feet near the White River in the central portion of the county. Regional groundwater flow in the western half of Marion County is to the east-southeast toward Eagle Creek and the White River. In eastern Marion County, groundwater flow is to the west-southwest toward Fall Creek and the White River.

4. Contamination. a. Soils. SVOCs and heavy metals were detected in on-site soil at depths ranging from 4 to 8 feet below the ground surface. Several pesticides were also detected in on-site soil. The findings were similar to those resulting from FIT sampling. The concentration of SVOCs and metals in on-site soils were within the ranges previously found by the FIT and the distribution of SVOCs on-site was consistent with the presence of red soil and with the black cinder fill material.

b. Groundwater. Sampling of the groundwater identified low concentrations of some SVOCs including phenol, phenanthrene, di-n-butylphthalate, pyrene, and bis(2-ethyl-hexyl)phthalate. These were found sporadically in groundwater samples. Low concentrations of arsenic and cyanide were detected in several Site ground-water monitoring wells during one sampling event. Low concentrations of beryllium were also detected in two sampling events.

5. Ecological. The investigation determined that the area south of the Site by virtue of plant community composition and evidence of hydrology typical of wetlands, appeared to consist of palustrine emergent or scrub/shrub communities. Through research and observations during the Site visit, it was determined that this area is not a sensitive or high-value ecological habitat. Wildlife and plant communities are limited because of the urban nature of the area. During the Site visit gross evidence of adverse impacts on the plant and animal communities from the Site were not apparent.

#### VI. Summary of Site Risks

Given that most of the contaminated soil on-site is either covered by asphalt or six inches of compacted gravel and soil, no worker or nearby residents are currently exposed to contaminants through inhalation of dust emissions.

Volatilization of some contaminants to the air can pose a risk if present at the soil surface. Because contaminants on-site are covered as described above, volatilization is not considered a transport mechanism at this Site.

The analytical results for SVOCs and metals for on-site and off-site samples were evaluated using a statistical

comparative analysis. It was verified statistically, that there is no significant difference between the SVOCs and the heavy metal concentrations found in on-site soils compared with those found in off-site soils. The Site is located in an area with many industries which may have contributed to the metals and PAHs found. These facts lead to the conclusion that the source of PAH and metals contamination are not solely attributable to the site. Based on this, PAHs and metals were not carried forward in the Site related risk evaluation. The berms surrounding the Site on the east and southern boundary are an effective barrier to overland flow of contaminants into surface water via Site run off. For this reason, the risk for the surface water pathway was determined to be negligible.

During the analysis, infiltration of rainwater to groundwater was considered as a potential transport mechanism that could leach contaminants from deeper soils into the groundwater. The remedial investigation identified some Site characteristics that makes this unlikely. The soils are covered with compacted gravel and this decreases the amount of rain through infiltration. The soils underlying contaminants consist of clayey sands. Since contaminants tend to sorb more tightly to clay, contaminants are less likely to be released. In addition, a fate and transport analysis of the effects of the PAHs, arsenic and beryllium determined that groundwater does not appear to be threatened by Site contaminants. Based on these findings, it was determined that this pathway did not present an unacceptable risk.

The contaminants of concern evaluated quantitatively for the Site include heptachlor and arachlor-1254 in on-site soils and alpha BHC and 4,4'-DDT, both in groundwater.

The risk assessment determined that the Site contaminants do not pose a significant risk to those who may come in contact with them. Risk was evaluated for on-site worker exposure and residential exposure as well. The risk to a hypothetical future worker exposed to on-site soil and groundwater was calculated. The calculated numbers are well below U.S. EPA's acceptable risk range. A reasonable future land use anticipates the land will continue to be used as commercial/industrial property. Notwithstanding this assumption, the same calculation is performed for the hypothetical on-site resident. The estimate of cumulative excess cancer risk is at the low end of U.S. EPA's acceptable risk range for exposure to

soils. For groundwater, the number is below the lower end of U.S. EPA's acceptable risk range.

Given the above, the no action alternative was chosen since it has been demonstrated that the contamination found could not be attributed solely to CLL and the level of contamination attributable to the Site results in negligible risk. U.S. EPA issued its finding in the document *Remedial Investigation Report* dated May 1995. U.S. EPA executed a Record of Decision requiring no action on September 29, 1995. The State concurred with this ROD on October 13, 1995.

U.S. EPA, with concurrence from the State of Indiana, has determined that all appropriate Fund-financed responses under CERCLA at the Carter Lee Lumber Company Superfund Site have been completed, and no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore, U.S. EPA proposes to delete the site from the NPL.

Dated: April 25, 1996.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region V.  
[FR Doc. 96-11311 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 96-96; RM-8791]

### Radio Broadcasting Services; Castana, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by Gene Zortman proposing the allotment of Channel 298A to Castana, Iowa, as the community's first local aural transmission service. Channel 298A can be allotted to Castana in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 298A at Castana are 42-04-24 and 95-54-36.

**DATES:** Comments must be filed on or before June 20, 1996, and reply comments on or before July 5, 1996.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the

FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gene Zortman, Chairman, Onawa Radio Committee, 1112 Emerald Street, Onawa, Iowa 51040 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-96, adopted April 10, 1996, and released April 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 contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 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.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96-11382 Filed 5-7-96; 8:45 am]

BILLING CODE 6712-01-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 628

[Docket No. 960315079-6079-01; I.D. 031296D]

RIN 0648-A116

### Bluefish Fishery; Proposed Removal of Regulations; Comment Period Extension

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** NMFS announces that it is extending the public comment period for the proposed rule to withdraw approval of the Fishery Management Plan (FMP) for the Bluefish Fishery and remove implementing regulations. The end of the public comment period for the proposed withdrawal of the FMP for the Bluefish Fishery is extended from May 13, 1996, to June 7, 1996.

**DATES:** Written comments must be received on or before June 7, 1996.

**ADDRESSES:** Comments on the proposed rule should be sent to Dr. Andrew A. Rosenberg, Regional Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-3799.

Copies of the environmental assessment and regulatory impact review are also available from the same address.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, 508-281-9104.

#### SUPPLEMENTARY INFORMATION:

As a result of comments and a request received from the Atlantic States Marine Fisheries Commission (ASMFC) in a letter dated April 10, 1996, NMFS is extending the comment period for the proposed rule that announced an initial determination by NMFS to withdraw approval of the FMP for the Bluefish Fishery (March 28, 1996, 61 FR 13810). The ASMFC advised NMFS that it needs additional time to consider the proposal to withdraw the FMP for the Bluefish Fishery and that it can make recommendations and provide meaningful comment only after its Bluefish Management Board has met during the ASMFC's Spring 1996 meeting of May 28-31, 1996. Therefore, NMFS is extending the public comment period for the proposed rule to June 7, 1996.

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

Dated: May 2, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96-11412 Filed 5-7-96; 8:45 am]

BILLING CODE 3510-22-F

# Notices

Federal Register

Vol. 61, No. 90

Wednesday, May 8, 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

### Foreign Agricultural Service

#### Forum for the World Food Summit

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given that the U.S. Public Forum for the World Food Summit will be held June 3, 1996. The purpose of the forum is to solicit comments on and advice from interested parties, for the preparation of the U.S. Country Paper for the World Food Summit, and the Draft Policy Statement and Plan of Action to be adopted at the Summit.

**DATES:** The forum will be held Monday, June 3, 1996 from 8:30 to 5:00, in the Jefferson Auditorium at the U.S. Department of Agriculture in Washington, D.C.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public and members of the public may provide comments in writing to the Office of the National Secretary, Foreign Agricultural Service, Room 3008 South Building, U.S. Department of Agriculture, 14th and Independence Ave. SW, Washington, D.C. 20250. The draft country paper will be available in mid-May on the U.S. Government World Food Summit Home Page ([www.fas/food-summit/summit.html](http://www.fas/food-summit/summit.html)), by calling (202) 690-0776, by writing to the above address, or by faxing (202) 720-6103. The draft Policy Statement and Plan of Action is also available on the USG World Food Summit Home Page or by calling the FAO North American Liaison Office, (202) 653-2400. People interested in registering to speak at the June 3 meeting may do so by calling (202) 690-0776 or faxing their request to (202) 720-6103, including a phone number where you can be reached.

Signed in Washington, D.C. April 29, 1996.

August Schumacher, Jr.,

*Administrator, Foreign Agricultural Service.*

[FR Doc. 96-11406 Filed 5-7-96; 8:45 am]

**BILLING CODE 3410-10-M**

### Forest Service

#### Western Washington Cascades Province Interagency Executive Committee (PIEC) Advisory Committee; Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Western Washington Cascades PIEC Advisory Committee will meet on May 28, 1996 at the Mount Baker-Snoqualmie National Forest Headquarters, 21905 64th Avenue West, in Mountlake Terrace, Washington. The meeting will begin at 9 a.m. and continue until about 4 p.m. Agenda items to be covered include: (1) Continuation of discussion of the possibilities, pros, cons, and probable ramifications (including legal and administrative requirements) of changing the original designations, under the Northwest Forest Plan, of the Skagit and Green River basins from "non-key" to "key" watersheds; (2) Access and Travel Management subcommittee report and discussion; (3) update on status of release of 318 timber sales under Section 2001 of Public Law 104-19 (Rescission Bill); (4) information briefing on Washington Department of Fish and Wildlife's Salmon Habitat Enhancement and Restoration (SHEAR) program; (5) other topics as appropriate; and, (6) open public forum. All Western Washington Cascades Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

#### FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Chris Hansen-Murray, Province Liaison, USDA, Mt. Baker-Snoqualmie National Forest, 21905 64th Avenue West, Mountlake Terrace, Washington 98043, 206-744-3276.

Dated: May 2, 1996.

Daniel T. Harkenrider,

*Acting Forest Supervisor.*

[FR Doc. 96-11445 Filed 5-7-96; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### President's Export Council Subcommittee on Export Administration; Notice of Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Export Administration (PECSEA) will be held June 3, 1996, 1:30 p.m., at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4830, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

#### Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Administration export control initiatives.
4. Task Force reports.

#### Closed Session

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

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 27, 1995, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information, contact Ms. Lee Ann Carpenter on (202) 482-2583.

Dated: May 2, 1996.

Sue Eckert,

*Assistant Secretary for Export Administration.*

[FR Doc. 96-11492 Filed 5-7-96; 8:45 am]

**BILLING CODE 3510-DT-M**

**Foreign-Trade Zones Board**

[Order No. 813]

**Expansion of Foreign-Trade Zone 141 Monroe County, New York**

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the County of Monroe, New York, grantee of Foreign-Trade Zone 141, for authority to expand its general-purpose zone in Monroe County, New York, was filed by the Board on July 5, 1995 (FTZ Docket 36-95, 60 FR 36258, 7/14/95); and,

Whereas, notice inviting public comment was given in the Federal Register and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 141 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 23rd day of April 1996.

Susan G. Esserman,  
*Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 96-11393 Filed 5-7-96; 8:45 am]

BILLING CODE 3510-DS-P

[Order No. 810]

**Grant of Authority; Establishment of a Foreign-Trade Zone, Puyallup Tribal FTZ Corporation; Tacoma, Washington**

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1938, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Port of Tacoma, grantee of FTZ 86, Tacoma, Washington, has made application to the Board (FTZ Docket 9-94, filed 3/11/94, amended 3/17/95, 60 FR 18580, 4/12/95), requesting the partition of FTZ 86 and the transfer of zone sponsorship of a portion (125 acres) of the zone to the Puyallup Tribal FTZ Corporation;

Whereas, the Puyallup Tribal FTZ Corporation, a non-profit tribal corporation, acquired title to the 125-acre site under the 1991 Washington Land Claims Settlement Agreement, and has concurrently requested authority to become the new grantee of the transferred area;

Whereas, notice inviting public comment has been given in the Federal Register and the Board has found that the requirements of the act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby transfers sponsorship of the above-described 125-acre portion of the existing zone and grants to the Puyallup Tribal FTZ Corporation the privilege of establishing a foreign-trade zone on such site under its sponsorship, designated on the records of the Board as Foreign-Trade Zone No. 212, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 25th day of April 1996.

Foreign-Trade Zones Board.

Michael Kantor,  
*Secretary of Commerce, Chairman and Executive Officer.*

Attest:

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 96-11387 Filed 5-7-96; 8:45 am]

BILLING CODE 3510-DS-M

**International Trade Administration**

**Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review**

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

**ACTION:** Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Department of Commerce (the Department) Regulations (19 CFR 353.22/355.22 (1993)), That the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

**Opportunity to Request a Review**

Not later than the last day of May 31, 1996, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May for the following periods:

	Period
Antidumping Proceedings:	
Argentina: Rectangular Carbon Steel Tubing, A-357-802 .....	5/1/95-4/30/96
Brazil:	
Certain Malleable Cast Iron Pipe Fittings, A-351-505 .....	5/1/95-4/30/96
Iron Construction Castings, A-351-503 .....	5/1/95-4/30/96
Orange Juice, A-351-605 .....	5/1/95-4/30/96
France	
Ball Bearings, A-427-801 .....	5/1/95-4/30/96
Cylindrical Roller Bearings, A-427-801 .....	5/1/95-4/30/96
Spherical Plain Bearings, A-427-801 .....	5/1/95-4/30/96
Germany:	
Ball Bearings, A-428-801 .....	5/1/95-4/30/96
Cylindrical Roller Bearings, A-428-801 .....	5/1/95-4/30/96
Spherical Plain Bearings, A-428-801 .....	5/1/95-4/30/96
India: Pipes and Tubes, A-533-502 .....	5/1/95-4/30/96
Italy:	
Ball Bearings, A-475-801 .....	5/1/95-4/30/96

	Period
Cylindrical Roller Bearings, A-475-801 .....	5/1/95-4/30/96
Japan:	
Ball Bearings, A-588-804 .....	5/1/95-4/30/96
Cement, A-588-815 .....	5/1/95-4/30/96
Cylindrical Roller Bearings, A-588-804 .....	5/1/95-4/30/96
Impression Fabric, A-588-066 .....	5/1/95-4/30/96
Spherical Plain Bearings, A-588-804 .....	5/1/95-4/30/96
Romania: Ball Bearings, A-485-801 .....	5/1/95-4/30/96
Russia: Pure Magnesium, A-821-805 .....	11/7/94-4/30/96
Singapore: Ball Bearings, A-559-801 .....	5/1/95-4/30/96
South Korea:	
Malleable Cast Iron Pipe Fittings, Other than Grooved, A-580-507 .....	5/1/95-4/30/96
DRAMs, A-580-812 .....	5/1/95-4/30/96
Sweden:	
Ball Bearings, A-401-801 .....	5/1/95-4/30/96
Cylindrical Roller Bearings, A-401-801 .....	5/1/95-4/30/96
Taiwan:	
Certain Welded Carbon Steel Pipe and Tubes, A-583-008 .....	5/1/95-4/30/96
Malleable Cast Iron Pipe Fittings, Other Than Grooved, A-583-507 .....	5/1/95-4/30/96
Thailand: Ball Bearings, A-549-801 .....	5/1/95-4/30/96
The People's Republic of China:	
Construction Castings, A-570-502 .....	5/1/95-4/30/96
Pure Magnesium, A-570-832 .....	11/7/94-4/30/96
The Ukraine: Pure Magnesium, A-823-806 .....	11/7/94-4/30/96
The United Kingdom:	
Ball Bearings, A-412-801 .....	5/1/95-4/30/96
Cylindrical Roller Bearings, A-412-801 .....	5/1/95-4/30/96
Turkey: Pipes and Tubes, A-489-501 .....	5/1/95-4/30/96
Countervailing Duties Proceedings:	
Brazil: Certain Heavy Iron Construction Castings, C-351-504 .....	1/1/95-12/31/95
Singapore:	
Ball Bearings, C-559-802 .....	1/1/95-12/31/95
Cylindrical Roller Bearings, C-559-802 .....	1/1/95-12/31/95
Needle Roller Bearings, C-559-802 .....	1/1/95-12/31/95
Spherical Plane Bearings, C-559-802 .....	1/1/95-12/31/95
Spherical Roller Bearings, C-559-802 .....	1/1/95-12/31/95
Sweden: Viscose Rayon Staple Fiber, C-401-056 .....	1/1/95-12/31/95
Thailand: Ball Bearings and Parts Thereof, C-549-802 .....	1/1/95-12/31/95
Venezuela: Ferrosilicon, C-307-808 .....	1/1/95-12/31/95

In accordance with sections 353.22(a) and 355.22(a) of the regulations, an interested party as defined by section 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 19 CFR 355.22(a) of the Department's Interim Regulations (60 FR 25137 (May 11, 1995)), an interested party must specify the individual producers or exporters covered by the order for which they are requesting a review. Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from

other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Pamela Woods, in room 3065 of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.31(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by the last day of May 31,

1996. If the Department does not receive, by the last day of May 31, 1996, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: May 1, 1996.

Joseph A. Spetrini,

*Deputy Assistant Secretary for Compliance.*  
[FR Doc. 96-11391 Filed 5-7-96; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-820]

**Ferrosilicon From Brazil; Preliminary Results of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to requests from one manufacturer/exporter, Companhia de Ferro Ligas da Bahia (Ferbasa), and from AIMCOR, Elkem Metals Company and SKW Metals & Alloys, Inc. (petitioners), the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on ferrosilicon from Brazil. This notice of preliminary results covers one manufacturer/exporter, Ferbasa, for the period August 16, 1993 through February 28, 1995. The review indicates that there were no dumping margins during this period.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in the final results of our administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Laurel LaCivita, or Thomas F. Futtner, 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) 482-5253

**SUPPLEMENTARY INFORMATION:**

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay 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, (60 FR 25130).

**Background**

The Department published an antidumping duty order on ferrosilicon from Brazil on March 14, 1994 (59 FR 11769). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order for the 1993 through 1995 period on March 7, 1995 (60 FR 12540). On March 21, 1995, we received a request for review from Companhia de Ferro Ligas da Bahia (Ferbasa) covering the period August 16, 1993 through February 28, 1995. On March 31, 1995, petitioners requested a review for Companhia Brasileira Carbureto de Calcio (CBCC), Companhia Ferroligas Minas Gerás (Minasligas), Italmagnesio S.A. Industria e Comercio (Italmagnesio) and Ferbasa for the same period. Petitioners withdrew their request for review for Italmagnesio on April 11, 1995. We initiated an administrative review on CBCC and Ferbasa on April 14, 1995 (60 FR 19017) and on Minasligas on May 15, 1995 (60 FR 25886). Petitioners subsequently withdrew their request for review of Minasligas and CBCC on July 15, 1995 and the Department published in the Federal Register a Termination in Part of Antidumping Duty Administrative Review for those companies (60 FR 52366). Consequently, this review covers only one manufacturer/exporter, Ferbasa.

The Department extended the time limits for the deadlines for the preliminary and final results of review because of the additional time required for the development of a new questionnaire in accordance with the adoption of the URAA. See *Antidumping Duty Administrative Reviews; Time Limits*, 60 FR 56141 (November 7, 1995). Deadlines were further extended as a result of the 28-day shutdown of the federal government.

The Department is now conducting this administrative review in accordance with section 751(a) of the Act.

On October 5, 1995, petitioners requested that the Department conduct an investigation to determine if Ferbasa made sales at prices below its cost of production (COP) during the 1993-1995 review period. On February 9, 1996, based on petitioners' allegation and the totality of evidence on the record, the Department determined that there were reasonable grounds to believe or suspect that Ferbasa made sales at prices below its COP, in accordance with section 773 (b)(2)(A)(i) of the Act, and initiated a

COP investigation for Ferbasa, pursuant to section 773(b)(1) of the Act. See the Department's memorandum to the file, *Ferrosilicon from Brazil—Home Market Sales Below Cost Allegation for Companhia de Ferro Ligas da Bahia*, February 9, 1996.

**Scope of the Order**

The merchandise subject to this review is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

Ferrosilicon is a ferroalloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon. Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this review.

Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon, and 28 to 32 percent calcium. Ferrocalcium silicon is a ferroalloy containing, by weight, not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferroalloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Ferrosilicon in the form of slag is included within the scope of this review

if it meets, in general, the chemical content definition stated above and is capable of being used as ferrosilicon. Parties that believe their importations of slag do not meet these definitions should contact the Department and request a scope determination.

#### Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, at 829-831, see H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831(1994), to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sale. The SAA makes clear that there cannot be two different levels of trade where the selling functions are the same. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different level of trade.

Ferbasa made only one U.S. sale during the period of review, which was to an unaffiliated reseller in the U.S. market. It made sales to unaffiliated resellers and to steel producers in the home market. The selling functions for the U.S. sale and for all home market sales are identical. The selling functions include invoicing, order acknowledgment, order processing, quality control, marketing, and price negotiation. Therefore, we conclude that home market and U.S. sales were all made at the same level of trade.

#### United States Price (USP)

In calculating USP for Ferbasa, we used export price, as defined in section 772(a) of the Act, because the merchandise was sold to unaffiliated U.S. purchasers prior to the date of importation and because no other circumstances indicated that constructed export price (CEP) was appropriate. Ferbasa reported that export price was based on the unpacked, FOB price to unaffiliated purchasers in the United States. We made deductions for brokerage and handling charges, and inland freight from the plant to the port, in accordance with section 772(c)(2)(A) of the Act, because these expenses were incident to bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States.

Ferbasa reported inventory carrying costs and indirect selling expenses which were attributed to sales in the U.S. market. We did not make adjustments for these expenses since

these are indirect selling expenses which do not fall within the adjustments applicable to export price under section 772(c) of the Act.

No other adjustments to USP were claimed or allowed.

#### Normal Value (NV)

##### A. Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Ferbasa's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because Ferbasa's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV for Ferbasa.

##### B. Cost of Production Analysis

As stated above in the *Background* section, the Department initiated a "cost of production" investigation for Ferbasa. The term "cost of production" is defined in section 773(b) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

##### a. Calculation of COP

We calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A), and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment to the United States, in accordance with section 773(b)(3) of the Act. In making our calculations, we relied on the home market sales and COP information for the six-month period surrounding Ferbasa's sale to the United States.

##### b. Test of Home Market Prices

In accordance with section 773(b)(1) of the Act, in order to determine whether to disregard home market sales made at prices below the COP, we examined whether such sales were made in substantial quantities within an extended period of time, and whether such sales were made at prices which permit the recovery of all costs within a reasonable period of time.

We used the respondent's weighted-average COP for the six-month period for which home market sales were reported. We compared the weighted-average COP figures to home market sales of the foreign like product as

required under section 773(b) of the Act. We compared the COP to the home market prices, less any applicable price adjustments for quantity changes.

##### c. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the six-month period were at prices less than the COP, we disregarded the below-cost sales because we determined that the below-cost sales were made within an extended period of time in "substantial quantities" in accordance with section 773(b)(2)(B) and (C) of the Act, and because we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

##### C. Model Match

We have determined that all the products covered by this review constitute a single category of like merchandise. All sales in the home market are considered to be identical to the sales in the United States. Therefore, we made no adjustments for similar characteristics and uses pursuant to section 771(10) of the Act.

##### D. Price-to-Price Comparisons

We based NV on the price at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and at the same level of trade as the export price, as defined by section 773(a)(1)(B)(i) of the Act. We reduced NV for home market credit in accordance with section 773(a)(6)(C)(iii), due to differences in circumstances of sale. We also reduced NV by packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i). In addition, we increased NV for U.S. packing costs, in accordance with section 773(a)(6)(A). We made further adjustments to account for commissions, bank fees and U.S. credit in accordance with section 773(a)(6)(C)(iii) of the Act.

No other adjustments to NV were claimed or allowed.

##### Currency Conversion

The Department's preferred source for daily exchange rates is the Federal

Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for Brazilian currency. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Business Information Service, as published in the Wall Street Journal.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, ignoring any "fluctuations." We determine that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent or more. The benchmark rate is defined as the rolling average of the rates for the past 40 business days. When we determined that a fluctuation existed, we substituted the benchmark rate for the daily rate. For a complete discussion of the Department's exchange rate methodology, See, "Change in Policy Regarding Currency Conversions" (61 FR 9434, March 8, 1996).

#### Preliminary Results

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period August 16, 1993 through February 28, 1995:

Manufacturer/producer/exporter	Margin (percent)
Companhia de Ferro Ligas da Bahia .....	0.00

Parties to this proceeding may request disclosure within five days of the publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will publish a notice of the final results of the administrative review, which will include the results of its analysis of issues raised in any such written comments or at the hearing, within 180 days from the issuance of these preliminary results.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries.

Individual differences between USP and NV may vary from the percentages stated above. The Department will issue appraisal instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping dumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of ferrosilicon from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Ferbasa will be the rate established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in the original LTFV investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in these reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews, the cash deposit rate will be 35.95 percent, the "all others" rate established in the antidumping duty order (59 FR 11769, March 14, 1994).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26(b) 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)).

Dated: April 29, 1996.  
Susan G. Esserman,  
*Assistant Secretary for Import Administration.*  
[FR Doc. 96-11491 Filed 5-7-96; 8:45 am]  
BILLING CODE 3510-DS-M

#### [A-821-803]

#### Titanium Sponge From the Russian Federation; 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 limit of the preliminary results of the third administrative review of the antidumping duty order on titanium sponge from the Russian Federation. The review covers one manufacturer/exporter and two resellers of the subject merchandise, covering the period August 1, 1994 through July 31, 1995.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Amy S. Wei or Zev Primor, 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) 482-5253.

**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 limit for completion of the preliminary results until September 3, 1996. See Memo to Susan G. Esserman from Joseph A. Spetrini regarding Extension of Time Limit for the Preliminary Results of Administrative Review, April 25, 1996. We will issue our final results for this review by January 2, 1997.

This extension is 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: May 1, 1996.  
Joseph A. Spetrini,  
*Deputy Assistant Secretary for Compliance.*  
[FR Doc. 96-11390 Filed 5-7-96; 8:45 am]  
BILLING CODE 3510-DS-P

[C-559-802]

**Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore; Final Results of Changed Circumstances Countervailing Duty Reviews and Revocation of Countervailing Duty Orders.**

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

**ACTION:** Notice of final results of changed circumstances countervailing duty reviews and revocation of countervailing duty orders.

**SUMMARY:** On April 27, 1995, the Department of Commerce (the Department) published the preliminary results of its changed circumstances reviews and intent to revoke the countervailing duty (CVD) orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from Singapore. We have now completed these reviews and have determined to revoke the CVD orders. The revocation applies to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995. Therefore, we will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Singapore entered on or after January 1, 1995.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 3, 1995, the Torrington Company (Torrington), the petitioner in the original CVD investigations (54 FR 19125), submitted a letter to the Department stating that it has no further interest in the CVD orders on AFBs from Singapore for entries after December 31, 1994. Accordingly, Torrington requested revocation of the orders based on changed circumstances in accordance with 19 C.F.R. 355.25(d)(1994).

On April 27, 1995, the Department published in the Federal Register (60 FR 20671) the preliminary results of its changed circumstances reviews and intent to revoke the CVD orders on AFBs from Singapore. (See 19 C.F.R.

355.22(h)(4)). These changed circumstances reviews cover all producers and/or exporters of the subject merchandise and all shipments of this merchandise to the United States entered, or withdrawn from warehouse, for consumption on or after January 1, 1995.

We invited interested parties to comment on the preliminary results and intent to revoke the orders. On May 30, 1995, NTN-Bower, Inc. and American NTN Bearing Manufacturing Corp. (NTN), NSK Corp. (NSK), and SKF USA, Inc. (SKF) submitted written objections to our intended revocations. On June 6, 1995, the Minebea Companies, exporters of the subject merchandise from Singapore, and Torrington submitted rebuttal comments.

On June 30, 1995, FAG Bearings Corp./Barden Corp. (FAG & Barden) and NSK filed requests for an injury investigation with the International Trade Commission (ITC) pursuant to section 753(a) of the Act for all five classes of bearings covered by the countervailing duty orders on AFBs from Singapore. American Koyo Bearing Manufacturing Corp. (Koyo) filed an injury request with the ITC under section 753(a) with respect to ball bearings from Singapore. Koyo, FAG & Barden, and NSK also filed requests for simultaneous expedited section 751(c) sunset reviews of the antidumping duty orders on AFBs and tapered roller bearings (TRBs) covering several countries (including, but not limited to, Singapore) pursuant to section 753(e). NTN and SKF filed their requests for expedited sunset reviews of all these orders in conjunction with their section 753(a) requests for an injury investigation regarding the CVD order on ball bearings from Thailand. 54 FR 19130 (May 3, 1989).

On October 26, 1995, the Department held a public hearing on the preliminary results of these reviews and the concurrent changed circumstances review of the CVD order on ball bearings from Thailand. (See Transcript of Hearing on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce (*Hearing Transcript*)).

The Department has now completed these changed circumstances reviews in accordance with section 751(b) and 782(h) of the Tariff Act of 1930, as amended (the Act).

**Applicable Statute and Regulations**

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 (URAA) effective

January 1, 1995. The Department is conducting these changed circumstances reviews in accordance with section 751(b) and has determined to revoke the CVD orders on AFBs from Singapore based on sections 751(d) and 782(h) of the Act. See also 19 C.F.R. § 355.25(d)(1)(i).

**Scope of the Reviews**

Imports covered by these reviews are antifriction bearings (other than tapered roller bearings) and parts thereof. The subject merchandise covers five separate classes or kinds of merchandise and is described in detail in Appendix A to this notice. The *Harmonized Tariff Schedule* (HTS) item numbers listed in Appendix A are provided for convenience and Customs purposes only. The written description remains dispositive.

**Analysis of Comments**

*Comment 1:* SKF, NTN, and NSK (collectively the "Objecting Parties"), argue that the statute and the Department's regulations define a domestic interested party to include "a manufacturer, producer, or wholesaler in the United States of a domestic like product." 19 U.S.C. § 1677(9)(C). The Department's regulations permit revocation of a countervailing duty order based upon lack of industry support only where domestic interested parties demonstrate no further interest in the order. Since SKF, NTN, and NSK maintain that they are domestic producers of a like product and oppose revocation, they state that the CVD orders on AFBs from Singapore may not be revoked.

The Government of Singapore and four exporters of AFBs from Singapore (NMB Singapore Ltd., Pelmec Industries Ltd., Minebea Trading, and Minebea Company Ltd.) (collectively the "Exporters"), counter that the Department should revoke the CVD orders despite the objections raised by the Objecting Parties. The Exporters believe that the Department should decide this issue based on the standards used to determine whether standing exists to initiate a CVD investigation. They claim that this standard is supported by the Court of Appeals for the Federal Circuit's (CAFC's) ruling in *Oregon Steel Mills, Inc. v. United States*, 862 F.2d 1541 (Fed. Cir. 1988). In that case, according to the Exporters, the CAFC affirmed the Department's determination to revoke an antidumping duty (AD) order, despite objections from a domestic interested party, on the grounds that "just as industry support underlies the merits of an order, lack of industry support provides a ground for

revocation." They believe that the Objecting Parties would not have standing to object to the initiation of a CVD investigation. According to the Exporters, the Department may initiate an investigation only if the petition is supported, *inter alia*, by "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." 19 U.S.C. § 1673a(c)(4)(A). Thus, if companies representing more than 50 percent of the domestic production support revocation of the order, Commerce should revoke the order. Of the four domestic companies that have expressed an opinion in this proceeding, the Exporters believe that Torrington accounts for more than 50 percent of production and, therefore, the order should be revoked.

*Department's Position:* We disagree with the Objecting Parties. Under 19 C.F.R. § 355.25(d)(1)(i) the Department may revoke a CVD order if the Secretary concludes that the order is no longer of interest to interested parties or that other changed circumstances exist which are sufficient to warrant revocation. Included in the definition of "interested party" under section 355.2(i)(3) is "[a] producer in the United States of the like product." Since the objecting companies meet the definition of an "interested party," we must address the question of whether the Department may revoke the CVD orders on AFBs from Singapore despite the objections of these companies.

The preamble to section 355.25(d) of the Department's regulations states that the opposition of one or more domestic parties to revocation should be evaluated in the context of the continuing requirement that the order have the support of the industry. 53 FR 52333, December 27, 1988. In *Oregon Steel Mills* the CAFC compared the level of industry support needed to justify revocation to the level of industry support needed to justify an investigation. 862 F.2d at 1545. In determining whether a particular party has standing to object to the filing of a petition, it is settled law that the agency may exclude producers who are related to foreign producers or U.S. importers of the subject merchandise. 19 U.S.C. §§ 1673a(c)(4)(B) & 1677(4)(B). The preamble to section 355.2(h) of the Department's regulations, regarding the proper definition of "industry," states that the reason for excluding related parties from the industry for standing purposes is to limit standing to those domestic firms that have a "stake in the outcome." 53 FR 52307. While section 355.25(d) does not contain similar

language, the logic of the preamble applies equally to a no-interest revocation situation. Thus, if the objections of the parties to the revocations derive not from their interest as domestic producers, but from their relationship to producers of AFBs in other countries, then they are not considered domestic producers for purposes of the no-interest revocation issue. Applying the reasoning of another industry-support case, whether the objections should be recorded depends upon whether the objecting parties have a common "stake" with the petitioner in the continuation of the orders. *Citrosuco Paulista, S.A. v. United States*, 704 F. Supp. 1075, 1085 (CIT 1988).

For the following reasons, the Department has ample reason to question the alignment of the objectors' interests with the interests of the petitioner and, thus, whether the objectors have a common "stake" with the petitioner in the maintenance of the orders. First, the CVD investigations of AFBs from Singapore were conducted simultaneously with AD investigations concerning AFBs from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom. Over the course of the original investigations of all nine countries, the companies currently objecting to revocation were actively opposed to the imposition of duties sought by the petitioner. They also urged the ITC to determine that Torrington and other members of the domestic industry were neither materially injured nor threatened with material injury by reason of the subject imports.

Moreover, once the CVD orders were imposed on AFBs from Singapore, the Objecting Parties did not participate in any of the subsequent administrative reviews. None of the Objecting Parties demonstrated any interest in the CVD orders after their imposition until the Department published its intent to revoke these orders. Also, at the October 26, 1995 public hearing, parties stated that the purpose behind their opposition to the revocation of the CVD orders on AFBs from Singapore is the access it provides them to expedited section 751(c) sunset reviews under section 753(e) of the Act of the AD orders on AFBs and TRBs from twelve countries including the ones where their related companies (including parent companies) are located. (*See Hearing Transcript*, at 40, 95). Upon gaining access to this mechanism for expediting these sunset reviews, the Objecting Parties intend to argue that there is no injury to the U.S. industry if these AD and CVD orders on AFBs and TRBs are

revoked. (*See Hearing Transcript*, at 52-3, 94).

In these changed circumstances reviews, Torrington has admitted that its request for revoking the CVD orders on AFBs from Singapore is designed to prevent the sunset reviews on the AD orders covering AFBs and TRBs from being expedited. *Hearing Transcript*, at 32. In this sense, Torrington is acting consistently in the role of "petitioner"—that is, it is willing to sacrifice the limited relief afforded by the CVD orders on AFBs from Singapore in order to safeguard, at least for the time being, the broader relief afforded the domestic industry by the AD orders on AFBs and TRBs from Singapore as well as from the other countries. Conversely, the Objecting Parties have made it clear that their interest in these orders is neither aligned with that of the petitioner nor made in their capacity as domestic producers. Thus, the Objecting Parties cannot be said to have a common "stake" with the petitioner in the continuation of the orders. As such, we do not consider the Objecting Parties to be domestic producers for purposes of section 782(h)(2) of the Act or 19 C.F.R. § 355.25(d)(1)(i).

As a result, the Department finds the objections to revocation without merit. Accordingly, we find that Torrington's expression of no interest in the continuation of the orders meets the criteria for revocation presented in section 782(h)(2) (19 U.S.C. § 1677m(h)) and 19 C.F.R. § 355.25(d)(1)(i). (For a further explanation of the Department's analysis, see April 15, 1996 memorandum to Susan G. Esserman regarding AFBs from Singapore and Thailand, which is on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce.)

*Comment 2:* Torrington points out that of the ninety-five U.S. producers of AFBs, only three have expressed opposition to revocation of the CVD orders with respect to Singapore. Torrington argues that against this indication of a lack of interest in the orders by the overwhelming majority of the industry, the opposition of three companies is insignificant. Torrington also states that the Department's regulations support this interpretation because "[t]he opposition of one or more domestic parties, including the petitioner, would be evaluated within the context of the continuing requirement that the order have the support of the industry." 53 FR 52306, 52332 (1988).

Torrington continues that the genesis of the regulation is found in the proceedings involving *Carbon Steel Plate from Korea*, 51 FR 13039 (1986).

There, the Department revoked (and was upheld by the CAFC) the AD order notwithstanding the opposition of a single producer out of seven U.S. producers. See *Oregon Steel Mills Inc. v. United States*, 862 F.2d 1541 (Fed Cir. 1988). As applied here, argues Torrington, the regulation provides for revocation of the order since, not one of seven, but three out of ninety-five companies have expressed opposition to revocation of the orders. In the circumstances of the case, the industry as a whole supports the revocation of the order.

*Department's Position:* The number of objecting parties in relation to the universe of domestic producers which comprise the domestic AFBs industry is not the relevant question in this proceeding. As discussed in our response to Comment 1, the relevant issue is whether those producers (whose interests are aligned with the petitioner and, thus, who have a "stake" in the relief provided by the order) accounting for substantially all of the production of the domestic like product want the order revoked. As a result of our analysis, we have determined that the Objecting Parties (i) opposed the original petition, (ii) did not participate in any administrative reviews of the CVD orders on Singapore, and (iii) now seek to retain the CVD orders on AFBs from Singapore only as a vehicle to obtain expedited section 751(c) sunset reviews at which time they will argue for revocation of most, if not all, of the AD and CVD orders on AFBs and TRBs from twelve countries, including ones where their related (e.g., parent) companies are located. Thus, we conclude that the Objecting Parties cannot be said to have a common "stake" with the petitioner in the relief provided by the orders.

*Comment 3:* Torrington contends that the URAA provides that the Department may disregard the objections of domestic producers that are importers of the subject merchandise or that are related to foreign producers subject to an order. Given SKF's affiliate in Singapore, SKF is potentially an importer of the subject merchandise. Although "support" for an AD order would not be disregarded under § 1673a(c)(4)(B)(i), Torrington argues that Commerce "may" disregard SKF's position to the extent that it is potentially an importer of subject merchandise from Singapore under § 1673a(c)(4)(B)(ii).

*Department's Position:* At a July 26, 1995 meeting with Department officials, SKF stated that it is related to a producer of AFBs in Singapore. Under long-standing administrative practice,

which has been codified in the U.S. antidumping statute for many years at section 771(4)(B) of the Act, the Department has the discretion to exclude a domestic producer of a like product from the industry if that producer is related to a foreign producer or exporter of the subject merchandise. However, in this case, as we explain in response to Comment 1, we are rejecting SKF's opposition to revocation of the instant orders because it does not derive from SKF's interests as a domestic producer. Rather, it reflects SKF's interests as a foreign producer and/or exporter who seeks, in the context of expedited section 751(c) sunset reviews under section 753(e) of the Act, the revocation of AD and CVD orders covering related foreign companies. Thus, under these circumstances, it is appropriate for the Department to exclude SKF from the industry and to disregard its opposition to revocation of the CVD orders on AFBs from Singapore.

*Comment 4:* Torrington argues that the Department's independent authority to revoke the order on the basis of "other changed circumstances" (i.e., 19 C.F.R. § 355.25(d)(1)(ii)) is appropriately invoked where, as here, the three companies now opposing revocation were opposed to any AD or CVD orders from the outset and are themselves subsidiaries of foreign producers subject to concurrent AD orders. According to Torrington, the existence of multiple AD and CVD orders covering several countries and the peculiar circumstances in which SKF, NTN and NSK have opposed revocation of the CVD orders on Singapore call into question whether the opposition to revocation is *bona fide*.

*Department's Position:* We are revoking the CVD orders on AFBs from Singapore because they are no longer of interest to the domestic industry. Accordingly, we do not need to address whether "other changed circumstances" exist which would justify revocation.

#### Final Results of Changed Circumstances Reviews and Revocation of Countervailing Duty Orders

The Department has determined to revoke the CVD orders on AFBs from Singapore. Although we received objections to our preliminary determination to revoke the orders, the Objecting Parties have made it clear that their interest in the orders is neither aligned with that of petitioner nor made in their capacity as domestic producers. Rather, the Objecting Parties seek to retain these CVD orders only as a vehicle to argue for revocation of all outstanding CVD and AD orders on

AFBs and TRBs through expedited sunset reviews (see § 753(e) of the Act). Since the Objecting Parties are not considered domestic producers for purposes of this no-interest revocation, Torrington's expression of no interest in the continuation of the orders meets the criteria for revocation presented in section 782(h)(2) of the Act and section 355.25(d)(1)(i) of the Department's regulations. (For a further explanation of the Department's analysis, see the Memorandum for Susan G. Esserman regarding AFBs from Singapore and Thailand, dated April 15, 1996, which is on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce). This revocation applies to all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995.

The Department will instruct the U.S. Customs Service to terminate the suspension of liquidation as of the date of publication of this notice and to liquidate all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995, without regard to countervailing duties. We will also instruct the U.S. Customs Service to refund with interest any estimated countervailing duties collected with respect to those entries.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These changed circumstances reviews and notice are in accordance with sections 751(b), 751(d) (1) and (3), and 782(h) of the Act (19 U.S.C. §§ 1675(b), 1675(d) (1) & (3), and 1675m(h) (1995)) and 19 C.F.R. §§ 355.22(h) and 355.25(d)(1994).

Dated: April 29, 1996.  
Susan G. Esserman,  
Assistant Secretary for Import  
Administration.

#### Appendix A

##### Scope of the Reviews

The products covered by these reviews, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Such merchandise is classifiable under the following *Harmonized Tariff Schedule* (HTS) item numbers: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.55, 8708.99.58, 8708.99.61, 8708.99.64, 8708.99.67, 8708.99.70, 8708.99.73, and 8708.99.80.

(2) Spherical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ spherical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.30.00, 8482.80.00, 8482.91.00, 8482.99.50, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.70, 8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

(3) Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.70, 8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

(4) Needle Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ needle rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.40.00, 8482.80.00, 8482.91.00, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.70, 8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

(5) Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof: These products include all spherical plain bearings which do not employ rolling elements and include spherical plain rod ends. Such merchandise is classifiable under the following HTS item numbers: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8485.90.00, 8708.99.52, 8708.99.70,

8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

These reviews cover all of the subject bearings and parts thereof outlined above with certain limitations. With regard to finished parts (inner race, outer race, cage, rollers, balls, seals, shields, etc.), all such parts are included in the scope of this review. For unfinished parts (inner race, outer race, rollers, balls, etc.), such parts are included if (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by this review are those where the part will be subject to heat treatment after importation.

FR Doc. 11389 Filed 5-7-96; 8:45 am]

BILLING CODE 3510-DS-P

#### [C-549-802]

### **Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order**

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

**ACTION:** Notice of final results of changed circumstances countervailing duty review and revocation of countervailing duty order.

**SUMMARY:** On June 1, 1995, the Department of Commerce (the Department) published the preliminary results of its changed circumstances review and intent to revoke the countervailing duty (CVD) order on ball bearings from Thailand. We have now completed this review and have determined to revoke the CVD order. The revocation applies to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995. Therefore, we will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Thailand entered on or after January 1, 1995.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

**SUPPLEMENTARY INFORMATION:**

### Background

On February 3, 1995, the Torrington Company (Torrington), the petitioner in the original countervailing duty investigation (54 FR 19130), submitted a letter to the Department stating that it has no further interest in the CVD order on ball bearings from Thailand for entries after December 31, 1994. Accordingly, Torrington requested revocation of the order based on changed circumstances in accordance with 19 C.F.R. § 355.25(d) (1994).

On June 1, 1995, the Department published in the Federal Register (60 FR 28576) the initiation and preliminary results of its changed circumstances review and intent to revoke the CVD order on ball bearings from Thailand. (See 19 C.F.R. § 355.22(h)(4)). This changed circumstances review covers all producers and/or exporters of the subject merchandise and all shipments of this merchandise to the United States entered, or withdrawn from warehouse, for consumption on or after January 1, 1995.

We invited interested parties to comment on the preliminary results and intent to revoke the order. The following parties submitted written objections to our intended revocation: American NTN Bearing Manufacturing Corp. and NTN-Bower (NTN) (June 15, 1995); SKF USA, Inc. (SKF) (June 26, 1995); NSK Corp. (NSK) (June 28, 1995); Barden Corp./FAG Bearings Corp. (FAG & Barden) (June 30, 1995); and Koyo Bearing Manufacturing Corp. (Koyo) (June 30, 1995) (collectively the "Objecting Parties"). On July 3, 1995, Torrington submitted a case brief. On July 10, 1995, both Torrington and each of the Objecting Parties submitted rebuttal briefs.

On June 30, 1995, all five of the above-mentioned Objecting Parties filed requests for an injury investigation with the International Trade Commission (ITC) pursuant to section 753(a) of the Tariff Act of 1930, as amended (the "Act"), with respect to ball bearings from Thailand. These parties also filed requests for simultaneous expedited section 751(c) sunset reviews of the antidumping duty (AD) orders on antifriction bearings (AFBs) and tapered roller bearings (TRBs) covering several countries (including, but not limited to, Thailand) pursuant to section 753(e) of the Act.

On October 26, 1995, the Department held a public hearing on the preliminary results of this review and the concurrent changed circumstances reviews of the CVD orders on AFBs from Singapore. (See Transcript of Hearing on file in the public file of the Central Records Unit,

Room B-099 of the Department of Commerce (*Hearing Transcript*).

The Department has now completed this changed circumstances review in accordance with section 751(b) and 782(h) of the Act. *See also* 19 C.F.R. § 355.25(d)(1)(i).

#### Applicable Statute and Regulations

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 (URAA) effective January 1, 1995. The Department is conducting this changed circumstances review in accordance with section 751(b) and has determined to revoke the countervailing duty order on ball bearings from Thailand based on sections 751(d) and 782(h) of the Act. *See also* 19 C.F.R. § 355.25(d)(1)(i).

#### Scope of the Review

Imports covered by this review are ball bearings and parts thereof from Thailand. Such merchandise is described in detail in Appendix A to this notice. The *Harmonized Tariff Schedule* (HTS) item numbers listed in Appendix A are provided for convenience and Customs purposes only. The written description remains dispositive.

#### Analysis of Comments

*Comment 1:* Torrington states that the opposition to revocation of the CVD order by five out of ninety-five U.S. producers is insufficient under relevant administrative precedent. In *Oregon Steel Mills Inc. v. United States*, an order was revoked notwithstanding the opposition of a single producer (out of seven) who had requested and participated in an administrative review. 862 F.2d 1541, 1545 (Fed. Cir. 1988). In this case, not one of seven, but five out of ninety-five companies have expressed opposition to revocation of the order covering Thailand. In the circumstances of this case, Torrington concludes that the industry as a whole supports the revocation of the order.

The Objecting Parties argue that petitioner's reliance on *Oregon Steel Mills* in support of the proposition that the Department may revoke an order for lack of interest despite opposition by a domestic party is inappropriate. In that case, only one domestic party objected to revocation, while the rest of the industry actively advocated revocation for lack of interest. While Torrington emphasizes that merely five of an estimated ninety-five domestic producers have objected to the revocation with respect to the Thailand CVD order, Torrington is the only

domestic party to express a lack of interest in these cases. Pursuant to section 782(h) of the Act, the Department may only revoke a CVD order for lack of interest if "producers accounting for substantially all of the production of that domestic like product, have expressed a lack of interest in the order." 19 U.S.C. § 1677m(h). The Objecting Parties argue that the Department cannot conclude that the domestic industry is no longer interested in the CVD order if parties which account for a significant portion of domestic production continue to favor maintenance of the order. In this case, they believe that the domestic interested parties actively opposing revocation account for roughly 50 percent of domestic production of the like product. Therefore, due to this opposition by a significant portion of the domestic industry, the Objecting Parties assert that the Department should not revoke this order for lack of interest.

*Department's Position:* We disagree with the Objecting Parties. Under 19 C.F.R. § 355.25(d)(1)(i) the Department may revoke a CVD order if the Secretary concludes that the order is no longer of interest to interested parties or that other changed circumstances exist which are sufficient to warrant revocation. Included in the definition of "interested party" under section 355.2(i)(3) is "[a] producer in the United States of the like product." Since the objecting companies meet the definition of an "interested party," we must address the question of whether the Department may revoke the CVD order on ball bearings from Thailand despite the objections of these companies.

The preamble to section 355.25(d) of the Department's regulations states that the opposition of one or more domestic parties to revocation should be evaluated in the context of the continuing requirement that the order have the support of the industry. 53 FR 52333, December 27, 1988. In *Oregon Steel Mills* the Court of Appeals for the Federal Circuit compared the level of industry support needed to justify revocation to the level of industry support needed to justify an investigation. 862 F.2d at 1545. In determining whether a particular party has standing to object to the filing of a petition, it is settled law that the agency may exclude producers who are related to foreign producers or U.S. importers of the subject merchandise. 19 U.S.C. §§ 1673a(c)(4)(B) & 1677(4)(B). The preamble to section 355.2(h) of the Department's regulations, regarding the proper definition of "industry," states that the reason for excluding related

parties from the industry for standing purposes is to limit standing to those domestic firms that have a "stake in the outcome." 53 FR 52307. While section 355.25(d) does not contain similar language, the logic of the preamble applies equally to a no-interest revocation situation. Thus, if the objections of the parties to the revocations derive not from their interest as domestic producers, but from their relationship to producers of AFBs in other countries, then they are not considered domestic producers for purposes of the no-interest revocation issue. Applying the reasoning of another industry-support case, whether the objections should be recorded depends upon whether the objecting parties have a common "stake" with the petitioner in the continuation of the order. *Citrosuco Paulista, S.A. v. United States*, 704 F. Supp. 1075, 1085 (CIT 1988).

For the following reasons, the Department has ample reason to question the alignment of the objectors' interests with the interests of the petitioner and, thus, whether the objectors have a common "stake" with the petitioner in the maintenance of the order. First, the CVD investigation of ball bearings from Thailand was conducted simultaneously with AD investigations concerning AFBs from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom. Over the course of the original investigations of all nine countries, the companies currently objecting to revocation were actively opposed to the imposition of duties sought by the petitioner. They also urged the ITC to determine that Torrington and other members of the domestic industry were neither materially injured nor threatened with material injury by reason of the subject imports.

Moreover, once the CVD order was imposed on ball bearings from Thailand, the objecting parties did not participate in any of the subsequent administrative reviews. None of the objecting parties demonstrated any interest in the CVD order after its imposition until the Department published its intent to revoke this order. Also, at the October 26, 1995 public hearing, parties stated that the purpose behind their opposition to the revocation of the CVD order on ball bearings from Thailand is the access it provides them to expedited section 751(c) sunset reviews under section 753(e) of the Act of the AD and CVD orders on AFBs and TRBs from twelve countries including the ones where their related companies (including parent companies) are located. (*See Hearing Transcript*, at 40, 95). Upon gaining

access to this mechanism for expediting these sunset reviews, the Objecting Parties intend to argue for the revocation of the AD and CVD orders on AFBs and TRBs. (See *Hearing Transcript*, at 52–3, 94).

The Objecting Parties have made it clear that their interest in this order is neither aligned with that of the petitioner nor made in their capacity as domestic producers. Thus, the Objecting Parties cannot be said to have a common “stake” with the petitioner in the relief provided by the order. As such, we do not consider the Objecting Parties to be domestic producers for purposes of section 782(h)(2) of the Act or section 355.25(d)(1)(i) of our regulations. As a result, the Department finds the objections to revocation without merit. Accordingly, we find that Torrington’s expression of no further interest in the continuation of the order meets the criteria for revocation presented in section 782(h)(2) of the Act and section 355.25(d)(1)(i) of our regulations. (For a further explanation of the Department’s analysis, see April 15, 1996 memorandum to Susan G. Esserman regarding AFBs from Singapore and Thailand, which is on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce.)

*Comment 2:* Torrington points out that over the course of the original AFBs investigations of nine countries, including the CVD investigation that involved Thailand, various of the objecting companies opposed the imposition of antidumping duties and argued that the domestic industry was not injured by imported bearings. In the years since the original investigations, none of the Objecting Parties filed an entry of appearance or participated in the administrative reviews with respect to the CVD order on ball bearings from Thailand. Thus, according to Torrington, it is clear that the current opposition to revocation is a pretext for expediting the sunset reviews of the seventeen AD and CVD orders pursuant to section 753(e) of the Act. Torrington claims that the Objecting Parties’ interests, as established over seven years devoted to opposition to the orders that cover their parent companies, are in the termination of these AD and CVD orders. As revealed by their requests for expedited sunset reviews, none of the companies opposing revocation are acting in their capacity as U.S. manufacturers or on behalf of their U.S. workers. As such, Torrington asserts that these companies lack standing to object to revocation of the CVD order covering Thailand.

Objecting Parties respond that their non-participation in the Thailand CVD

proceedings over the past several years is no different from the non-participation of other U.S. producers in numerous other reviews. Neither the statute nor the regulations require so much as a request for review, much less active participation, on the part of the petitioner or any other domestic producer. All that is required, allege the Objecting Parties, is that an interested party express an interest in the continuation of the order, which they have done, so as to prevent its revocation. The Objecting Parties urge that Torrington’s argument suggesting some extra-statutory, extra-regulatory standards be rejected.

In rebutting Torrington’s argument that the Objecting Parties have objected to revocation only as a pretext to expedite sunset reviews of other AD and CVD orders, the Objecting Parties invite the Department to look at Torrington’s actions and motives. Given Torrington’s long-standing interest in the CVD order covering Thailand, the only logical explanation for Torrington’s action is that its request for revocation was filed in order to preclude SKF and the others from requesting injury determinations under section 753(a) and expedited sunset reviews under section 753(e) of the Act. Obviously, without an order in place, a section 753(a) investigation is moot and, accordingly, expedited sunset reviews cannot be requested. Thus, according to these parties, Torrington has only sought to revoke the CVD order on Thailand so as to eliminate the possibility of expedited sunset reviews.

*Department’s Position:* The fact that none of the Objecting Parties have participated in any of the previous administrative reviews of this order does not, in and of itself, preclude them from objecting to the revocation of this order. However, as discussed in our response to Comment 1, whether the objections should be recorded depends upon whether the Objecting Parties have a common “stake” with the petitioner in the relief provided by the order. See *Citrosuco Paulista*, 704 F. Supp. at 1085. There is no indication that the interests, or stake, of the Objecting Parties have changed since the investigations in this case and the antidumping duty cases concerning bearings from nine countries, during which the parties actively opposed the imposition of countervailing duties and antidumping duties sought by the petitioner, and argued that the domestic industry was not injured by imports of bearings. On the contrary, in this proceeding one of the Objecting Parties has stated, “[o]ur interest is clearly to have an expedited [sunset] investigation, and in that investigation we will likely be arguing

that those orders should be revoked because of the factual situation.” (See *Hearing Transcript*, at 52). “The intent of the Objecting Parties with respect to obtaining expedited section 751(c) sunset reviews for the orders affecting twelve countries including the ones in which their parent companies are located contradicts the argument made by these parties that they are acting in their capacity as domestic producers. In determining whether a particular party has standing to object to the filing of a petition, it is settled law that the agency may exclude producers who are related to producers or importers of the subject merchandise. 19 U.S.C.

§§ 1673a(c)(4)(B) & 1677(4)(B). The preamble to section 355.2(h) of the Department’s regulations, regarding the proper definition of “industry,” states that the reason for excluding related parties from the industry for standing purposes is to limit standing to those domestic firms that have a “stake in the outcome.” 53 FR 52307. The logic of the preamble applies equally to a no-interest revocation situation. Thus, if the objections of the parties to the revocations derive not from their interest as domestic producers, but from their relationship to producers of AFBs in other countries, then they cannot lawfully be considered domestic producers for purposes of the no-interest revocation issue.

Torrington admits that its request for revoking the CVD order on ball bearings from Thailand is designed to prevent the sunset reviews on the AD and CVD orders covering AFBs and TRBs from all countries from being expedited. *Hearing Transcript*, at 32. In this sense, Torrington is acting consistently in the role of “petitioner”—that is, it is willing to sacrifice the limited relief afforded by the CVD order on ball bearings from Thailand in order to safeguard, at least for the time being, the broader relief afforded the domestic industry by the AD and CVD orders on AFBs and TRBs from Thailand as well as from the other countries. Conversely, the Objecting Parties have made it clear that their interest in this order is neither aligned with that of the petitioner nor made in their capacity as domestic producers. Thus, the Objecting Parties cannot be said to have a common “stake” with the petitioner in the relief provided by this order.

*Comment 3:* Torrington claims that the objecting companies are not acting in the capacity of “a manufacturer, producer, or wholesaler in the United States of a domestic like product.” 19 U.S.C. § 1677(9)(C). Rather, in the unique circumstances of this case, each is acting on behalf of, and for the benefit

of, a foreign producer or exporter of AFBs and/or TRBs. CVD orders are intended to benefit U.S. manufacturers and their workers whose true interests are in obtaining relief from unfairly traded imports. Likewise, Torrington argues that only U.S. producers and manufacturers have standing to oppose revocation of a CVD order. The objecting companies are acting under the direct or indirect control of their foreign-parent companies in a manner "differently than a nonrelated producer." 19 U.S.C. § 1677(4)(B)(ii)(IV). Hence, the entities should be collapsed for the purpose of determining whether they are foreign producers under § 1677(9)(A) or U.S. producers under § 1677(9)(C). According to Torrington, the Department has routinely collapsed these very companies and their foreign parents into single entities over the past years for purposes of calculating exporter's sales price. It follows, therefore, that as a "single entity," the objecting companies cannot both be foreign manufacturers for purposes of 19 U.S.C. § 1677(9)(A) and also U.S. manufacturers for purposes of 19 U.S.C. § 1677(9)(C). Petitioner concludes that their fundamental interests, whether as a U.S. or foreign producer, should control their status.

The Objecting Parties claim that under the Department's regulations, a domestic producer's position as an importer or as related to a foreign producer of the subject merchandise is irrelevant to the question of revocation. A request for revocation, and opposition thereto, may be made by any domestic interested party specified in the Department's regulations. These parties assert that the language of the Department's regulations and the statute's definition of domestic interested party are clear: the companies fall squarely within the regulations and statute as a domestic "interested party" entitled to oppose revocation. Further, they argue that Torrington's references to the statute are misplaced because they incorrectly claim that these companies have no standing as a domestic manufacturer and, therefore, cannot oppose revocation of the Thailand order. The cited statutory and regulatory provisions which define "interested party" make no reference to whether a U.S. producer is or is not related to a foreign producer. Rather, all that is required is production in the United States.

They also argue that the fact that the Department may collapse related parties for purposes of other sections of the statute (e.g., calculation of exporter's sales price) is not relevant to the issue of the definition of "interested party."

The Objecting Parties argue that if mere relationship to a foreign producer were sufficient to disqualify a domestic producer from being an "interested party" under 19 C.F.R. § 355.2(i)(3), then Torrington itself would also be disqualified. In the sixth review of the AD order on AFBs from Germany, counsel for Torrington entered an appearance on behalf of Torrington and Torrington Nadellager GmbH, the latter being a German bearing company acquired by Torrington. As such, the Objecting Parties assert that mere relationship to a foreign entity cannot disqualify a U.S. producer.

*Department's Position:* As discussed in our response to Comment 1, above, the relevant issue is whether those producers (whose interests are aligned with the petitioner and, thus, who have a "stake" in the relief provided by the order) accounting for substantially all of the production of the domestic like product want the order revoked. As a result of our analysis, we have determined that the Objecting Parties (i) opposed the original petition, (ii) did not participate in any administrative reviews of the CVD order on Thailand, and (iii) now seek to retain the CVD order on ball bearings from Thailand only as a vehicle to obtain expedited section 751(c) sunset reviews at which time they will argue for the revocation of most, if not all, of the AD and CVD orders on AFBs and TRBs covering their related foreign companies. Thus, we conclude that the Objecting Parties cannot be said to have a common "stake" with the petitioner in the relief provided by the order.

Torrington does not deny that it is related to a foreign exporter of AFBs. However, Torrington was the petitioner in the original investigation and has acted consistent with the interests of a domestic producer of AFBs throughout the administrative reviews of this order. Both the statute and its legislative history make clear that domestic producers who are related to foreign exporters of subject merchandise may be included in the industry if their actions reflect their interests as domestic producers, not foreign producers or exporters. For example, section 771(4)(B) of the Act provides that in determining industry support for an AD petition, Commerce shall:

disregard the position of domestic producers who oppose the petition, if such producers are related to foreign producers \* \* \*, unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order.

19 U.S.C. § 1673a(c)(4)(B) (1995) (emphasis added). See also *Final*

*Determination of Sales at Less Than Fair Value: Certain Portable Electric Typewriters (PETs) from Singapore*, 58 FR 43334 (August 16, 1993) (Brother, a foreign-owned U.S. manufacturer of PETs, brought an antidumping case covering imports of PETs by Smith Corona, which after many years as a U.S. manufacturer of PETs, started importing PETs from Singapore).

As explained in our response to Comment 1, this same line of reasoning can be applied to this case of no-interest revocation. Torrington's expression of no further interest in the CVD order on ball bearings from Thailand is consistent with Torrington's previous role as petitioner. The actions of the Objecting Parties, on the other hand, derive from their relationships to producers of AFBs and TRBs in other countries covered by AD and CVD orders. Thus, they cannot be considered members of the domestic industry for purposes of this no-interest revocation.

*Comment 4:* Torrington argues that the Department's independent authority to revoke the order on the basis of "other changed circumstances" is appropriately invoked where, as here, the companies now opposing revocation were opposed to any AD or CVD orders from the outset and are themselves subsidiaries of foreign producers subject to concurrent AD duty orders. According to Torrington, in view of the past opposition of these companies to the AD duty orders, the objecting parties are clearly intending to expedite the sunset review proceedings for the benefit of foreign manufacturers and producers and against the interests of the domestic industry. Therefore, the Department should disregard such opposition and revoke the CVD order on Thailand.

*Department's Position:* We are revoking the CVD order on ball bearings from Thailand because it is no longer of interest to the domestic industry. Accordingly, we do not need to address whether "other changed circumstances" exist which would justify revocation.

#### Final Results of Changed Circumstances Review and Revocation of Countervailing Duty Order

The Department has determined to revoke the CVD order on ball bearings from Thailand. Although we received objections to our preliminary determination to revoke the order, the Objecting Parties have made it clear that their interest in the order is neither aligned with that of petitioner nor made in their capacity as domestic producers. Rather, the Objecting Parties seek to retain this CVD order only as a vehicle to argue for revocation of all outstanding

CVD and AD orders on AFBs and TRBs through expedited sunset reviews. (See section 753(e) of the Act). Since the Objecting Parties are not considered domestic producers for purposes of this no-interest revocation, Torrington's expression of no interest in the continuation of the order meets the criteria for revocation presented in section 782(h)(2) of the Act and section 355.25(d)(1)(i) of the Department's regulations. (For a further explanation of the Department's analysis, see the Memorandum for Susan G. Esserman regarding AFBs from Singapore and Thailand, dated April 15, 1996, which is on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce). This revocation applies to all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995.

The Department will instruct the U.S. Customs Service to terminate the suspension of liquidation as of the date of publication of this notice and to liquidate all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995, without regard to countervailing duties. We will also instruct the U.S. Customs Service to refund with interest any estimated countervailing duties collected with respect to those entries.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This changed circumstances review and notice are in accordance with sections 751(b), 751(d) (1) and (3), and 782(h) of the Act (19 U.S.C. §§ 1675(b), 1675(d) (1) & (3), and 1675m(h) (1995)) and 19 C.F.R. §§ 355.22(h) and 355.25(d)(1994).

Dated: April 29, 1996.

Susan G. Esserman,  
Assistant Secretary for Import  
Administration.

#### Appendix A

##### Scope of the Review

The products covered by this review, ball bearings, mounted or unmounted, and parts thereof, constitute the following as outlined below.

##### *Ball Bearings, Mounted or Unmounted, and Parts Thereof*

These products include all antifriction bearings which employ balls as the rolling element. Imports of these products are classifiable under the following categories: antifriction balls; ball bearings with integral shafts; ball bearings (including radial ball bearings) and parts thereof; ball bearings type pillow blocks and parts thereof; ball bearing type flange, take-up, cartridge, and hanger units, and parts thereof; and other bearings (except tapered roller bearings) and parts thereof. Wheel hub units which employ balls as the rolling unit are subject to this review. Finished but unground or semi-ground balls are not included in the scope of this review. Imports of these products are currently classifiable under the following *Harmonized Tariff Schedule* (HTS) item numbers: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.55, 8708.99.58, 8708.99.61, 8708.99.64, 8708.99.67, 8708.99.70, 8708.99.73, and 8708.99.80

This review covers all of the subject bearings and parts thereof outlined above with certain limitations. With regard to finished parts (inner race, outer race, cage, rollers, balls, seals, shields, etc.), all such parts are included in the scope of this review. For unfinished parts (inner race, outer race, rollers, balls, etc.), such parts are included if (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by this review are those where the part will be subject to heat treatment after importation.

[FR Doc. 96-11388 Filed 5-7-96; 8:45 am]

BILLING CODE 3510-DS-P

#### [C-557-806]

##### **Extruded Rubber Thread From Malaysia; Extension of Time Limit for Countervailing Duty Administrative Review**

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

**ACTION:** Notice of extension of time limit for countervailing duty administrative review.

**SUMMARY:** The Department of Commerce (the Department) is extending the time limit for preliminary and final results of the 1994 administrative review of the countervailing duty order on extruded rubber thread from Malaysia. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, "the Act").

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Judy Kornfeld or Lorenza Olivas, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C., 20230; telephone: (202) 482-2786.

**POSTPONEMENT:** Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. See Memorandum to the File dated April 27, 1996. The Department finds that it is not practicable to complete the 1994 administrative review of extruded rubber thread from Malaysia within this time limit.

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the time for completion of the preliminary results of this review from a 245-day period to no later than a 365-day period.

Dated: April 30, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96-11392 Filed 5-7-96; 8:45 am]

BILLING CODE 3510-DS-P

#### **National Oceanic and Atmospheric Administration**

[Docket No. 950222054-6119-02; I.D. 042296D]

RIN 0648-ZA15

##### **Financial Assistance for Chesapeake Bay Stock Assessments to Encourage Research Projects for Improvement in the Stock Conditions of the Chesapeake Bay Fisheries**

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

**ACTION:** Notice of availability of funds.

**SUMMARY:** Approximately \$540,000 in Fiscal Year (FY) 1996 funds is available through the NOAA/NMFS Chesapeake Bay Office to assist interested state fishery agencies, academic institutions, and other nonprofit organizations relating to cooperative research units in carrying out research projects to provide information for Chesapeake Bay Stock Assessments through cooperative agreements. About \$70,000 of the base amount is available to initiate new projects in FY 1996, as described in this announcement, while the balance will be used to fund continuation projects begun in previous years. NMFS issues this notice describing the conditions

under which eligible applications will be accepted and how NMFS will determine which applications will be selected for funding. Funding will be contingent upon availability of funds.

**DATES:** Applications for funding under this program will be accepted until June 24, 1996 6 p.m. eastern standard time. Applications received after that time will not be considered for funding. No applications will be accepted by facsimile machine submission.

Successful applicants generally will be selected approximately 90 days from the date of publication in the Federal Register of this notice. The earliest date for awards will be approximately 180 days after the date of publication in the Federal Register of this notice.

**ADDRESSES:** Send applications to: M. Elizabeth Gillelan, Division Chief, NOAA Chesapeake Bay Office, NMFS, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403.

**FOR FURTHER INFORMATION CONTACT:** M. Elizabeth Gillelan, 410/267-5660.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

**A. Authority.** The Fish and Wildlife Act of 1956, as amended, at 16 U.S.C. 753 (a), authorizes the Secretary of Commerce (Secretary), for the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources, to continue to enter into cooperative agreements with colleges and universities, with game and fish departments of the several states, and with nonprofit organizations relating to cooperative research units.

**B. Catalog of Federal Domestic assistance.** The research to be funded is in support of the Chesapeake Bay Studies (CFDA 11.457), under the Chesapeake Bay Stock Assessment Committee (CBSAC).

**C. Program description.** The CBSAC was established in 1985 to plan and review Bay-wide resource assessments, coordinate relevant actions of state and Federal agencies, report on fisheries status and trends, and determine, fund and review research projects. The program implements a Bay-wide plan for the assessment of commercially, recreationally, and selected ecologically important species in the Chesapeake Bay. In 1988, CBSAC developed a Bay-wide Stock Assessment Plan, in response to provisions in the Chesapeake Bay Agreement of 1987. The plan identified that key obstacles to assessing Bay stocks were the lack of consistent, Bay-wide, fishery-dependent and fishery-independent data. Research projects funded since 1988 have focused

on developing and improving fishery-independent surveys and catch statistics for key Bay species, such as striped bass, oysters, blue crabs, and alosids. Stock assessment research is essential, given the recent declines in harvest and apparent stock condition for many of the important species of the Chesapeake Bay.

**II. Areas of Special Emphasis**

**A.** Proposals should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multidisciplinary. Coordinated efforts involving multiple eligible applicants or persons are encouraged. Eligible women and minority-owned and operated nonprofit organizations are encouraged to apply.

Consideration for funding will be given to applications that address the following stock assessment research and management priority for the Chesapeake Bay:

*Design and development of a method to age blue crabs in Chesapeake Bay.*

This will be a pilot project to examine the feasibility of using the metabolic products called lipofuscins as a basis to establish the chronological age of blue crab. In the pilot year of this study it is envisioned that the following will be accomplished:

- I. conduct a comprehensive background literature review on this area of study and its applications;
- II. establish protocols for extraction and measurement of lipofuscins;
- III. apply these techniques in an experiment that demonstrates the relationship between lipofuscin content and chronological age.

The chemical characteristics of lipofuscins and their accumulation rates are a function of tissue type and metabolic rate; therefore, the experimental group will be reared under a range of temperature, salinity, and dietary conditions that encompass those encountered by blue crabs in Chesapeake Bay.

Should the experiment prove unsuccessful in demonstrating the utility of the method in blue crab age determination, the final report will include a complete description of the above three items. Also, the results will include an explanation of why the technique is assumed to have failed. Otherwise, given the demonstrated utility of this technique, the project report will provide the following specific deliverables, for each sex, where appropriate:

- 1) overall long-term study design goals, objectives, and anticipated project costs.

- 2) laboratory rearing methods and procedures.

- 3) tissue extraction protocol.

- 4) Definition of the measurement technique for quantifying lipofuscin content.

- 5) field sampling protocol for the collection of larval blue crab used in rearing experiments and adult animals throughout the size range.

- 6) analytical methods for defining the relationship between lipofuscin content and age for the range of rearing conditions.

- 7) sensitivity analysis of the aging methods in terms of its detection limit.

- 8) description of methods for modelling blue crab growth which incorporate the principal determinants of lipofuscin production; (i.e., temperature, salinity, dietary factors and time).

- 9) definition of the functional form(s) of the growth model(s) which will be used to estimate chronological age given size, sex and date of capture.

**B.** Applications addressing the priorities should build upon, or take into account, any related past or current work.

**III. How to Apply**

**A. Eligible Applicants.** Applications for cooperative agreements under the Chesapeake Bay Studies Program may be submitted, in accordance with the procedures set forth in this notice, by any state game and fish department, college or university, or other nonprofit organizations relating to cooperative research units. Other Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

DOC/NOAA/NMFS employees, including full-time, part-time, and intermittent personnel (or their spouses or blood relatives who are members of their immediate households) are not eligible to submit an application under this solicitation or aid in the preparation of an application, except to provide information on program goals, funding priorities, application procedures, and completion of application forms. Since this is a competitive program, assistance will not be provided in conceptualizing, developing, or structuring proposals.

Eligible applicants outside the Chesapeake Bay region may submit proposals, as long as their objectives support the technical and management priorities of the Chesapeake Bay, as defined in section II.A. above. All solicited proposals received by the closing date will be considered by NMFS.

**B. Duration and terms of funding.** Under this solicitation, NMFS will fund Chesapeake Bay Stock Assessment

Research Projects for 1 year cooperative agreements. The cooperative agreement has been determined as the appropriate funding instrument because of the substantial involvement of NMFS in:

1. Developing program research priorities.
2. Evaluating the performance of the program for effectiveness in meeting regional goals for Chesapeake Bay stock assessments.
3. Monitoring the progress of each funded project.
4. Holding periodic workshops with investigators.
5. Working with recipients in preparation of annual reports summarizing current accomplishments of the Chesapeake Bay Stock Assessment Committee.

Project dates should be scheduled to begin no later than 1 October 1996. Cooperative agreements are approved on an annual basis but may be considered eligible for continuation beyond the first project and budget period subject to the approved scope of work, satisfactory progress, and availability of funds, and at the total discretion of NMFS. However, there are no assurances for such continuation. Publication of this notice does not obligate NOAA to award any specific cooperative agreement or to obligate any part of the entire amount of funds available.

**C. Cost Sharing.** Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost sharing is not required under the Chesapeake Bay Stock Assessment Research Program. However, cost sharing is encouraged to enhance the value of a project, and in case of a tie in considering proposals for funding, cost sharing may affect the final decision. The appropriateness of all cost sharing will be determined on the basis of guidance provided in applicable Federal cost principles. If an applicant chooses to share costs, and if that application is selected for funding, the applicant will be bound by the percentage of cost sharing reflected in the award documents.

The non-Federal share may include funds received from private sources or from state or local governments or the value of in-kind contributions. Federal funds may not be used to meet the non-Federal share of matching funds, except as provided by Federal statute. In-kind contributions are noncash contributions provided by the applicant or non-Federal third parties. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to the project, and permission to

use real or personal property owned by others (for which consideration is not required) in carrying out the project. To support the budget, the applicant must describe briefly the basis for estimating the value of the non-Federal funds derived from in-kind contributions.

The total cost of a project begins on the effective date of a cooperative agreement between the applicant and the Grants Officer and ends on the date specified in the award. Accordingly, the time expended and costs incurred in either the development of a project or the financial assistance application, or in any subsequent discussions or negotiations prior to the award, are neither reimbursable nor recognizable as part of the recipient's cost share.

**D. Format.**

1. Applications for project funding must be complete. Applicants must identify the specific research priority. For applications containing more than one project, each project component must be identified individually using the format specified in this section. If an application is not in response to the priority, it should be so stated. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application.

Applications are not to be bound in any manner and should be one-sided. All incomplete applications will be returned to the applicant. Applicants must submit one signed original and two copies of the complete application. Required forms are provided in a NOAA Application Kit which applicants may obtain from the NOAA Grants Management Division or the NOAA Chesapeake Bay Office (see **ADDRESSES**).

2. Applications must be submitted in the following format:

a. **Cover sheet:** An applicant must use OMB Standard Form 424 (revised 4-92) as the cover sheet for each project.

b. **Project description:** Each project must be completely and accurately described. Each project description may be up to 15 pages in length. If an application is awarded, NMFS will make all portions of the project description available to the public for review; therefore, NMFS cannot guarantee the confidentiality of any information submitted as part of any project, nor will NMFS accept for consideration any project requesting confidentiality of any part of the project.

Each project must be described as follows:

(1) **Identification of problem(s):** Describe the specific problem to be addressed (see section II above).

(2) **Project objectives:** This is one of the most important parts of the Project

Proposal. Use the following guidelines for stating the objective of the project.

(a) Keep it simple and easily understandable.

(b) Be as specific and quantitative as possible.

(c) Specify the "what and when;" avoid the "how and why."

(d) Keep it attainable within the time, money, and human resources available.

(e) Use action verbs that are accomplishment oriented.

(3) **Need for Government financial assistance:** Demonstrate the need for assistance. Any appropriate database to substantiate or reinforce the need for the project should be included. Explain why other funding sources cannot fund all the proposed work. List all other sources of funding that are or have been sought for the project.

(4) **Benefits or results expected:** Identify and document the results or benefits to be derived from the proposed activities.

(5) **Project statement of work:** The Statement of Work is the scientific or technical action plan of activities that are to be accomplished during each budget period of the project. This description must include the specific methodologies, by project job activity, proposed for accomplishing the proposal's objective(s). If the work described in this section does not contain sufficient detail to allow for proper technical evaluation, NMFS will not consider the application for funding and will return it to the applicant.

Investigators submitting proposals in response to this announcement are strongly encouraged to develop inter-institutional, inter-disciplinary research teams in the form of single, integrated proposals or as individual proposals that are clearly linked together. Such collaborative efforts will be factored into the final funding decision.

Each Statement of Work must include the following information:

(a) The applicant's name.

(b) The inclusive dates of the budget period covered under the Statement of Work.

(c) The title of the proposal.

(d) The scientific or technical objectives and procedures that are to be accomplished during the budget period. Devise a detailed set of objectives and procedures to answer who, what, how, when, and where. The procedures must be of sufficient detail to enable competent workers to be able to follow them and to complete scheduled activities.

(e) Location of the work.

(f) A list of all project personnel and their responsibilities.

(g) A milestone table that summarizes the procedures (from item

III.D.2.b.(5)(d) that are to be attained in each month covered by the Statement of Work.

(6) *Participation by persons or groups other than the applicant:* Describe the level of participation required in the project(s) by NOAA or other government and non-government entities. Specific NOAA employees should not be named in the initial proposal.

(7) *Federal, state and local government activities:* List any programs (Federal, state, or local government or activities, including Sea Grant, state Coastal Zone Management Programs, NOAA Oyster Disease Research Program, the state/Federal Chesapeake Bay Program, etc.) this project would affect and describe the relationship between the project and those plans or activities.

(8) *Project management:* Describe how the project will be organized and managed. Include resumes of principal investigators. List all persons directly employed by the applicant who will be involved with the project. If a consultant and/or subcontractor is selected prior to application submission, include the name and qualifications of the consultant and/or subcontractor and the process used for selection.

(9) *Monitoring of project performance:* Identify who will participate in monitoring the project.

(10) *Project impacts:* Describe how these products or services will be made available to the fisheries and management communities.

(11) *Evaluation of project:* The applicant is required to provide an evaluation of project accomplishments at the end of each budget period and in the final report. The application must describe the methodology or procedures to be followed to determine technical feasibility, or to quantify the results of the project in promoting increased production, product quality and safety, management effectiveness, or other measurable factors.

(12) *Total project costs:* Total project cost is the amount of funds required to accomplish what is proposed in the Statement of Work, and includes contributions and donations. All costs must be shown in a detailed budget. A standard budget form (SF-424A) is available from the offices listed (see ADDRESSES). NMFS will not consider fees or profits as allowable costs for grantees. Additional cost detail may be required prior to a final analysis of overall cost allowability, allocability, and reasonableness. The date, period covered, and findings for the most recent financial audit performed, as well as the name of the audit firm, the

contact person, and phone number and address, must be also provided.

c. *Supporting documentation:* Provide any required documents and any additional information necessary or useful to the description of the project. The amount of information will depend on the type of project proposed, but should be no more than 20 pages. The applicant should present any information that would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in lower ranking of the project. Information presented in this section should be clearly referenced in the project description.

#### IV. Evaluation Criteria and Selection Procedures

A. *Initial evaluation of applications.* Applications will be reviewed by NOAA to assure that they meet all requirements of this announcement, including eligibility and relevance to the Chesapeake Bay Stock Assessment Research Program.

B. *Consultation with experts in the field of stock assessment research.* For applications meeting the requirements of this solicitation, NMFS will conduct a technical evaluation of each project prior to any other review. This review normally will involve experts from non-NOAA as well as NOAA organizations. All comments submitted to NMFS will be taken into consideration in the technical evaluation of projects. Technical evaluators will submit independent reviews to NMFS. Reviewers will be asked to comment on the following evaluation criteria:

1. Problem description and conceptual approach for resolution, especially the applicant's comprehension of the problem(s), familiarity with related work that is completed or ongoing, and the overall concept proposed to resolve the problem(s) (30 points).

2. Soundness of project design/technical approach, especially whether the applicant provided sufficient information to technically evaluate the project and, if so, the strengths and weaknesses of the technical design proposed for problem resolution (35 points).

3. Project management and experience and qualifications of personnel, including organization and management of the project, and the personnel

experience and qualifications (15 points).

4. Justification and allocation of the budget in terms of the work to be performed (20 points).

C. *Review Panel.* NMFS will convene a review panel consisting of at least three regionally recognized experts in the scientific and management aspects of stock assessment research who will conduct reviews as follows:

1. Evaluate technical reviews.

2. Provide independent review based on the same criteria as the technical review.

3. Discuss all review comments as a panel.

4. Provide individual panelist scores and suggestions for modifications (i.e., budget, personnel, technical approach, etc.).

D. *Funding decision.* 1. Applications will be ranked by NMFS into two groups—Recommended and Not Recommended. As previously stated in section III C., collaborative proposals and applications which propose a cost share are strongly encouraged, and therefore will be given added weight in the selection process. Numeric ranking will be the major consideration for deciding which of the "recommended" proposals will be selected for funding.

2. After projects have been ranked for funding, the Chief of the NOAA/NMFS Chesapeake Bay Office, in consultation with the Assistant Administrator for Fisheries, NOAA, will determine the project to be recommended for funding based upon the technical evaluations, panel review, and the evaluation factors and, determine the amount of funds available for the program. The exact amount of funds awarded to the project will be determined in preaward negotiations between the applicant, the Grants Office, and the NOAA/NMFS Chesapeake Bay Office staff.

#### V. Administrative Requirements

A. *Obligations of the applicant.* 1. *Deliverables*—In addition to quarterly status and budget reports, and at the time of submission of the final report of results of funded projects, recipients must submit a four- to five-page summary of project work and results that will be compiled in a report of Chesapeake Bay Stock Assessment Research Program results.

2. *Periodic workshops*—Investigators will be expected to attend one or two workshops with other Stock Assessment Research Program researchers to encourage interdisciplinary dialogue and forge synthesis of results.

3. *Primary applicant certifications*—All primary applicants must submit a completed Form CD-511,

“Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,” and the following explanations are hereby provided:

a. *Nonprocurement debarment and suspension*—Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, “Nonprocurement Debarment and Suspension,” and the related section of the certification form prescribed above applies.

b. *Drug-free workplace*—Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, “Governmentwide Requirements for Drug-Free Workplace (Grants),” and the related section of the certification form prescribed above applies.

c. *Anti-lobbying*—Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, “Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.”

d. *Anti-lobbying disclosure*—Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL, “Disclosure of Lobbying Activities,” as required under 15 CFR part 28, appendix B.

4. *Lower tier certifications*—Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, “Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying” and disclosure form SF-LLL, “Disclosure of Lobbying Activities.” Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

B. *Other requirements*. 1. *Federal policies and procedures*—Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

2. *Indirect cost rates*—The total dollar amount of the indirect costs proposed in an application under this program must not exceed the current indirect cost rate negotiated and approved by a cognizant Federal agency. NOAA’s acceptance of negotiated rates is subject to total indirect costs not to exceed 100% of total direct costs. This language is pursuant to the NOAA Grants and

Cooperative Agreements Policy Manual, Chapter 3(B)(2).

3. *Past performance*—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. In addition, any recipient and/or researcher who is past due for submitting acceptable progress reports on any previous project funded under this program may be ineligible to be considered for new awards until the delinquent reports are received, reviewed and deemed acceptable by NMFS.

4. *Financial management certifications/preaward accounting survey*—Successful applicants, at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable OMB Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a preaward accounting survey by the DOC prior to execution of the award.

5. *Delinquent Federal debts*—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

a. The delinquent account is paid in full;

b. A negotiated repayment schedule is established and at least one payment is received; or

c. Other arrangements satisfactory to DOC are made.

6. *Name checks*—Potential recipients may be required to submit an “Identification-Application for Funding Assistance” (Form CD-346), which is used to ascertain background information on key individuals associated with the potential recipient. All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant’s management honesty or financial integrity. Applicants will also be subject to credit check reviews.

7. *False statements*—A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

8. *Preaward activities*—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may

have been received, there is no obligation on the part of DOC to cover preaward costs.

9. *Purchase of American-made equipment and products*—Applicants are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program.

10. *Other*—If an application is selected for funding, DOC has no obligation to provide any additional funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Cooperative agreements awarded pursuant to pertinent statutes shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

#### Classification

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

Applications under this program are subject to Executive Order 12372, “Intergovernmental Review of Federal Programs.”

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This notice contains collections of information subject to the Paperwork Reduction Act, which have been approved by OMB under OMB control numbers 0348-0043, 0348-0044, and 0605-0001.

Dated: May 1, 1996.

Gary Matlock,

*Program Management Officer, National Marine Fisheries Service*

[FR Doc. 96-11401 Filed 5-7-96; 8:45 am]

[I.D. 042496A]

**South Atlantic Fishery Management Council; Agenda Addition**

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

**ACTION:** Addition to meeting agenda.

**SUMMARY:** The agenda for the joint meetings of the South Atlantic Fishery Management Council's (Council) Snapper Grouper Committee, Controlled Access Committee, and Snapper Grouper Advisory Panel, which are scheduled for May 20-21, 1996, in Charleston, SC, was published on May 2, 1996. See SUPPLEMENTARY INFORMATION for an addition to the meeting agenda.

**ADDRESSES:** Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407. Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

**FOR FURTHER INFORMATION CONTACT:** Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; E-mail: Susan—Buchanan@safmc.nmfs.gov.

**SUPPLEMENTARY INFORMATION:** The initial agenda published on May 2, 1996 (61 FR 19610). The following addition is to be included in the agenda: May 20, 1996, from 7 p.m. until 10 p.m. The Snapper Grouper and Controlled Access Committee will meet jointly with the Snapper Grouper Advisory Panel to discuss gag grouper management on May 20, 1996, from 7 p.m. to 10 p.m. Special Accommodations This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see ADDRESSES) by May 14, 1996.

Dated: [FR Doc. 96-11465 Filed 5-7-96; 8:45 am] BILLING CODE 3510-22-P

[I.D. 040896A]

**Marine Mammals; Permit No. 868 (P539)**

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

**ACTION:** Scientific research permit modification no. 2.

**SUMMARY:** Notice is hereby given that a request for modification of scientific research permit no. 868 submitted by Dr. Norihisa Baba, National Research Institute of Far Seas Fisheries, Ministry of Agriculture, Forestry and Fisheries, 5-7-1 Orido, Shimizu, Shizuoka 424, Japan, has been granted.

**ADDRESSES:** The modification and related documents are available for review upon written request or by appointment in the following offices: Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289); and Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668 (907/586-7221).

**SUPPLEMENTARY INFORMATION:** On March 19, 1996, notice was published in the Federal Register (61 FR 11194) that a modification of permit no. 868, issued July 19, 1993 (58 FR 39525), had been requested by the above-named individual. The requested modification has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of Section 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and fur seal regulations at 50 CFR part 215.

Permit no. 868 has been modified to extend the effective date through September 30, 1999.

Dated: April 29, 1996.  
Ann Terbush,  
Chief, Permits & Documentation Division,  
National Marine Fisheries Service.  
[FR Doc. 96-11413 Filed 5-7-96; 8:45 am]  
BILLING CODE 3510-22-F

**COMMODITY FUTURES TRADING COMMISSION**

**Public Information Collection Requirement Submitted to Office of Management and Budget for Review**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of information collection.

**SUMMARY:** The Commodity Futures Trading Commission has submitted information collection 3038-0007, Regulation of Domestic Exchange-Traded Options to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. The information collection pursuant to this rule is in the public interest and is necessary for market surveillance.

**ADDRESSES:** Persons wishing to comment on this information collection should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, D.C. 20502, (202) 395-7340. Copies of the submission are available from Joe F. Mink, Agency Clearance Officer, (202) 418-5170.

*Title:* Regulation of Domestic Exchange-Traded Options.

*Control Number:* 3038-0007.

*Action:* Extension.

*Respondents:* Business (excluding small business).

*Estimated Annual Burden:* 41,387 total hours.

Respondents	Regulation (17 CFR)	Estimated number of respondents	Annual responses	Est. avg. hours per response
Businesses .....	Parts 33 and 16 .....	190,420	230,782	50.57

Issued in Washington, D.C. on May 1, 1996.  
Jean A. Webb,  
Secretary to the Commission.  
[FR Doc. 96-11421 Filed 5-7-96; 8:45 am]  
BILLING CODE 6351-01-M

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**Availability of Funds for New Learn and Serve America: K-12 School-Based Programs for Indian Tribes and Territories**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of Availability of Funds.

**SUMMARY:** The Corporation for National Service (the Corporation) announces the availability of approximately \$1.5 million to support grants for new Learn and Serve America: K-12 School-Based programs for Indian Tribes and U.S. Territories.

**DATES:** All applications must be received by 3:30 P.M., Eastern Daylight Time on June 11, 1996, to be eligible.

**ADDRESSES:** Application materials may be requested from Ms. Southall, by telephone, (202) 606-5000, ext. 136, or in writing from Ms. Southall at the address provided below, or by facsimile, (202) 565-2781. Application materials must be submitted in writing to the Corporation for National Service, Attention: Tijuana Southall, by mail to 1201 New York Avenue, NW, Eighth Floor, Washington, D.C. 20525. Applications may not be submitted by facsimile. This notice may be requested in an alternative format for the visually impaired.

**FOR FURTHER INFORMATION CONTACT:** Tijuana Southall at (202) 606-5000, ext. 136.

**SUPPLEMENTARY INFORMATION:** The Learn and Serve America: K-12 program was created to help fund school-based and community-based service learning programs. The Learn and Serve America: K-12 program aims to increase the opportunities of school-age youth and allow them to develop their own capabilities through service learning. In fiscal year 1996, a total of \$32,250,000 will be available through different grant cycles to support new and continuing Learn and Serve America: K-12 programs. Grantees that currently receive funding through the Learn and Serve America: K-12 program, including State Education Agencies (SEAs), Local Education Agencies (LEAs), State Commissions, Grantmaking Entities, and Indian Tribes and U.S. Territories, are eligible to apply for renewal.

This notice announces the availability of funds for new grants (as opposed to requests for renewal of existing grants) for Indian Tribes and U.S. Territories for School-Based programs. Approximately \$1.5 million is available on a competitive basis to support new grants for Indian Tribes and U.S. Territories. These grants may be used for capacity-building activities, and for implementing, operating, or expanding service-learning programs or adult volunteer programs. Applicants should use the 1996 Indian Tribes and U.S. Territories: School-Based Programs Application.

Authority: 42 U.S.C. 12501 et seq.

Dated: May 3, 1996

Terry Russell,

*General Counsel, Corporation for National and Community Service.*

[FR Doc. 96-11489 Filed 5-7-96; 8:45 am]

BILLING CODE 6050-28-P

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### Notice of Intent To Prepare Environmental Assessment for the Realignment, McChord AFB, WA

The United States Air Force (USAF) will prepare an Environmental Assessment (EA) with the potential for an Environmental Impact Statement to assess the potential environmental impacts of the basing 48 C-17 aircraft to McChord AFB, south of Tacoma, Washington. The beddown of the C-17 aircraft at McChord is necessary to best support the Nation's military strategy, and airlift needs. The proposed action would fulfill wartime requirements and peacetime training needs while providing a replacement for the retiring C-141 aircraft.

The proposed realignment would locate C-17 aircraft, associated personnel, units, and equipment to McChord and entails approximately \$120M in construction on the base. Under the No Action alternative, no aircraft would be based at McChord since the C-141 aircraft are being retired as part of a separate action.

The Air Force will conduct a public meeting to ensure that the analysis addresses the appropriate scope of issues and depth of analysis for the proposed action. Public comments will be considered in the preparation of the EA. Notice of the date, time, and location of the meeting will be made available to public officials, the community, and the news media at a later date. Written comments on the scope of alternatives and impacts will also be accepted and considered.

To ensure that the Air Force will have sufficient time to consider all appropriate comments, please forward comments to the address listed below by June 7, 1996. The Air Force will accept appropriate input any time throughout this process. If the Air Force were to decide to propose an EIS, this process may be substituted for the scoping process that would normally precede an EIS.

Please direct any written comments of requests for further information concerning this action to: Mr. Michael Grenko, 62 SPTG/CEV, 555 A. Street, McChord AFB, WA 98438-1325, (206) 984-3913.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 96-11470 Filed 5-7-96; 8:45 am]

BILLING CODE 3910-01-W

#### Notice of Intent To Prepare an Environmental Impact Statement for Expansion of German Air Force Aircraft Operations, Holloman AFB, NM

The United States Air Force will prepare an Environmental Impact Statement (EIS) to analyze the potential environmental impacts of operating additional German Air Force (GAF) Tornado aircraft at Holloman AFB. The proposed action would relocate 30 Tornado aircraft, equipment, and approximately 500 support personnel to Holloman. The proposed action would also include the construction of a new tactical target range within the existing impact area of the McCreagor Army Range, New Mexico, construction of additional support facilities at Holloman AFB, increased use of Military Training Routes (MTRs) and Military Operations Areas (MOAs). The United States Army and the Bureau of Land Management will be cooperating agencies in this EIS.

No live ordnance would be used on the proposed new range. The proposed range would provide an air-to-ground weapons delivery site for air crews training in low level navigation, terrain following radar operations, and low level combat tactics. Aircraft would access the proposed range using existing MTRs. Alternatives under consideration include (1) Beddown of Tornado aircraft at Holloman but no air-to-ground range and (2) The No Action alternative.

The Air Force will conduct a series of scoping meetings to solicit public input concerning the proposed action and alternatives. Notice of the date, time and location of the meeting will be made available to public officials, the community, and the news media at a later date. For those unable to attend any of the scheduled scoping meetings, written comments will be accepted by the Air Force at the address below through July 1, 1996. The Air Force will accept appropriate comments at any time during the environmental analysis process.

Please direct any written comments or requests for further information to: Ms. Sheryl Parker, HQ ACC/CEVA, Langley AFB, VA 23665-2769, (804) 764-3328.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 96-11469 Filed 5-7-96; 8:45 am]

BILLING CODE 3910-01-W

## Department of the Army

### Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

*Name of Committee:* Army Science Board (ASB).

*Date of Meeting:* 8 and 9 May 1996.

*Time of Meeting:* 0900-1500 (both days).

*Place:* Huntsville, AL.

*Agenda:* The Army Science Board's (ASB) 1996 Summer Study on "Army Simulation Implementation and Use" will meet for briefings and discussions regarding the development and application of computer based models and simulations, physics based models and recent technological advances afforded by simulation techniques. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically paragraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings.

For further information, please contact Michelle Diaz at (703) 695-0781.

Michelle P. Diaz,

*Acting Administrative Officer, Army Science Board.*

[FR Doc. 96-11386 Filed 5-7-96; 8:45 am]

BILLING CODE 3710-08-M

## Corps of Engineers

### Jacksonville District, Jacksonville, Florida; Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Maintenance Dredging of the Miami River, Dade County, Florida

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of Intent.

**SUMMARY:** The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a Draft Environmental Impact Statement for the Maintenance Dredging of the Miami River, Dade County, Florida. The study is a cooperative effort between the U.S. Army Corps of Engineers and the Dade County Department of Environmental Resource Management (DERM).

**FOR FURTHER INFORMATION CONTACT:** Questions about the proposed action and DEIS can be answered by: Mr. Rea N. Boothby, 904-232-3453, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232-0019.

**SUPPLEMENTARY INFORMATION:** Dredging to create a Federal Navigation channel in the Miami River was completed in 1933. The Federal project extends from the mouth of the river at its confluence with Biscayne Bay approximately 5.5 miles west to a salinity structure near NW 36th Street. Congressional resolutions were passed in 1972 for sediment removal from the Miami River. The Water Resources Development Act of 1974 authorized removal of sediments from Miami River. The Water Resources Development Act of 1986 authorized removal of contaminated sediments from Miami River and the Seybold Canal in the interest of improved water quality. The 1991 Energy and Water Development Appropriations Act provided funds to initiate pre-construction engineering and design for sediment removal from Miami River and the Seybold Canal.

A revised 1990 Feasibility Report on the dredging of the Miami River and Seybold Canal concluded that there was no justification for sediment removal based on environmental purposes, but that there may be justification for maintenance dredging of Miami River in the interest of navigation. It should be noted that the Seybold Canal portion of the project is not justified economically and has been dropped from further consideration.

Several alternatives are being studied and will be addressed in the DEIS. These include the use of various mechanical and/or hydraulic dredges; methods of transporting, unloading and transferring dredged material; use of interim disposal sites and the final disposal site(s).

The preferred alternative at this point is the use of some type of mechanical dredge to remove sediment and debris. Dredged material would then be loaded into geotextile fabric containers (GFC's) and transported in split-hull barges to the Miami Ocean Dredged Material Disposal Site (ODMDS) for disposal. Material placed in the GFC's would be positioned for disposal in the ODMDS and capped with material from on-going and future operation and maintenance activities.

**SCOPING:** A scoping workshop was held in Miami on September 5, 1991. Agencies, organizations, and individuals were sent a notice of alternatives proposed and issues raised at that scoping meeting and invited to respond. A formal scoping meeting is not planned at this time. However, a scoping letter containing a description of the most recent alternatives will be sent to Federal, State, and local agencies

and interested organizations and individuals.

**PUBLIC INVOLVEMENT:** We invite the participation of affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties. A Preliminary Draft EIS has been prepared. A copy of this document is being placed in the Main Library located at 101 West Flagler Street, Miami, Florida. The library hours are: 9 a.m. to 6 p.m., Monday through Saturday; 9 a.m. to 9 p.m. Thursday and 1 p.m. to 5 p.m. on Sunday. The Draft EIS will follow the preliminary DEIS and will incorporate the results of scoping and public involvement.

**COORDINATION:** The proposed action will be coordinated with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service under Section 7 of the Endangered Species Act, with the FWS under the Fish and Wildlife Coordination Act, and with the State Historic Preservation Officer.

**OTHER ENVIRONMENTAL REVIEW AND CONSULTATION:** The proposed action may involve the following: (1) evaluation for disposal of dredged material into Ocean Waters under Section 103 of the Marine Protection, Research, and Sanctuaries Act; (2) evaluation pursuant to Section 404(b) of the Clean Water Act; (3) certification of water quality by the State pursuant to Section 401 of the Clean Water Act; (4) determination of Coastal Zone consistency pursuant to the Coastal Zone Management Act; and (5) other state and local requirements.

**DEIS PREPARATION:** It is estimated that the DEIS will be available to the public in the summer of 1996.

A.J. Salem,

*Chief, Planning Division.*

[FR Doc. 96-11385 Filed 5-7-96; 8:45 am]

BILLING CODE 3710-AJ-M

## Department of the Navy

### Notice of Availability of the Final Environmental Impact Statement for the Disposal of Decommissioned, Defueled Cruiser, Ohio Class, and Los Angeles Class Naval Reactor Plants

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq] and in accordance with the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508), the Department of the Navy, with the Department of Energy as a cooperating agency, has prepared and filed with the U.S. Environmental Protection Agency the

Final Environmental Impact Statement for disposal of reactor plants from U.S. Navy nuclear-powered cruisers, OHIO Class submarines and LOS ANGELES Class submarines. The Department of Energy has participated as a cooperating agency and has adopted the Environmental Impact Statement to fulfill its environmental review obligations under NEPA.

Requests for copies of the document and requests for further information should be directed to Mr. John Gordon (Code 1160), Puget Sound Naval Shipyard, 1400 Farragut Avenue, Bremerton, Washington 98314-5001, telephone (360)476-7111.

**SUPPLEMENTARY INFORMATION:** The Final Environmental Impact Statement analyzes the alternative ways for disposing of decommissioned, defueled, reactor compartments from U.S. Navy nuclear-powered cruisers (BAINBRIDGE, TRUXTUN, LONG BEACH, CALIFORNIA Class and VIRGINIA Class) and submarines (LOS ANGELES Class and OHIO Class). A disposal method for the defueled reactor compartments is needed when the cost of continued operation is not justified by the ship's military capability or when the ships are no longer needed. After a determination is made that a nuclear-powered ship is no longer needed, the ship can be: (1) placed in protective storage for an extended period followed by permanent disposal or recycling; or (2) prepared for permanent disposal or recycling.

The alternatives examined in detail in the Final Environmental Impact Statement are the preferred alternative—land burial of the entire reactor compartment at the Department of Energy Low-Level Waste Burial Grounds at Hanford, Washington; the no action alternative—protective waterborne storage for an indefinite period; disposal and reuse of subdivided portions of the reactor compartments; and indefinite storage above ground at Hanford.

Several other alternatives are also examined in limited detail. These alternatives include sea disposal; land disposal of entire reactor compartments at other sites and permanent above ground disposal of entire reactor compartments at Hanford.

Navy reactor plants constructed prior to the USS LOS ANGELES (SSN 688) (referred to as pre-LOS ANGELES Class submarines) share many common design characteristics with reactor plants from cruisers, OHIO Class submarines and LOS ANGELES Class submarines. Pre-LOS ANGELES Class submarines are currently being disposed

of at the Department of Energy Hanford Site in Eastern Washington by Puget Sound Naval Shipyard in Bremerton Washington, consistent with the Secretary of the Navy's 1984 Record of Decision on disposal of decommissioned, defueled Naval submarine reactor plants. Because of the negligible environmental impact, land burial of the reactor compartment at the Hanford Site is the preferred alternative for disposal of reactor compartments from cruisers, OHIO Class submarines and LOS ANGELES Class submarines.

No new legislation would be required to implement any of these alternatives. In all of the alternatives considered in the Draft Environmental Impact Statement there would be no spent nuclear fuel left in the reactor compartments. All the radioactive nuclear fuel would be removed before disposal. Management of the spent nuclear fuel is addressed in a separate Department of Energy Environmental Impact Statement, though there would be some other radioactive materials left within the reactor compartments. Therefore, the Draft Environmental Impact Statement evaluates disposal of the reactor compartments after all the spent nuclear fuel has been removed. Types of U.S. Navy nuclear-powered ships that are expected to be decommissioned more than 20 years in the future (e.g., aircraft carriers and SEAWOLF Class submarines) are not included in this Final Environmental Impact Statement.

The Navy held public hearings on the Draft Environmental Impact Statement in Bremerton, Richland, and Seattle, Washington; and Portland, Oregon. Comments from 20 individuals and agencies were received either in oral or written statements at the hearings or in comment letters. These comments and the Navy responses are included in an appendix to the Final Environmental Impact Statement.

The Final Environmental Impact Statement has been distributed to various federal, state, and local government agencies, tribes, elected officials, and special interest groups. Requests for copies of the Final Environmental Impact Statement should be directed to the address listed above. In addition, copies of the Final Environmental Impact Statement are also available for public inspection in the following libraries: Kitsap County Public Library, Main Branch, 1301 Sylvan Way, Bremerton, Washington, phone (360)377-7601; Public Reading Room for U.S. Department of Energy, Richland Operations Office, Washington State University, Tri-Cities, 100 Sprout

Road, Room 130 West, Richland, Washington, phone (509)376-8583; Suzallo Library, University of Washington, Seattle, Washington, phone (206)543-9158; Multnomah County Library, 801 Southwest 10th Avenue (Due to renovation work, temporarily relocated to 1407 SW 4th Avenue), Portland, Oregon, phone (503)248-5234.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Gordon as noted above.

Dated April 24, 1996.

M.A. Waters,  
LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96-11193 Filed 5-7-96; 8:45 am]

BILLING CODE 3810-FF-P

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ES96-23-000]

#### Boston Edison Company; Notice of Application

May 2, 1996.

Take notice that on April 26, 1996, Boston Edison Company filed an application, under § 204 of the Federal Power Act, seeking authorization to issue short-term debt, from time to time, in an aggregate principal amount not to exceed \$350 million, outstanding at any one time, on or before December 31, 1998, with final maturities no later than December 31, 1999.

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 385.214). All such motions or protests should be filed on or before May 28, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96-11427 Filed 5-7-96; 8:45 am]

BILLING CODE 6717-01-M

---

**[Docket No. CP87-39-004]****Granite State Gas Transmission, Inc.;  
Notice of Amendment**

May 2, 1996.

Take notice that on April 29, 1996, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581, filed an application with the Commission, pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, requesting an extension of its limited-term certificate to operate an interstate pipeline facility leased from Portland Pipe Line Corporation (Portland) from March 31, 1997 to April 30, 1998, with pregranted abandonment as of the latter date, consistent with a recently negotiated agreement between Granite State and Portland to extend the lease of the pipeline facility, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

According to Granite State, it has leased from Portland an 18-inch pipeline extending approximately 166 miles from a connection with its pipeline near Portland, Maine, to the U.S.-Canadian border in the Township of North Troy, Vermont, opposite Highwater, Quebec. The pipeline was originally built and operated as a crude oil pipeline; Granite State converted the pipeline for natural gas service in 1987 and currently operates the pipeline pursuant to an amended lease with Portland and a limited-term certificate issued by the Commission expiring March 31, 1997 (69 FERC ¶ 61,186). Granite State further says that it has negotiated an agreement with Portland to extend the lease for 13 months, from March 31, 1997 to April 30, 1998. According to Granite State, no new facilities are required in connection with the extension of the limited-term certificate, and no new services utilizing the leased pipeline are proposed.

Granite State further requests that, in extending the limited-term certificate, the Commission confirm the ruling it has previously made that the leasing arrangement will not subject Portland to jurisdiction under the Natural Gas Act and that the revenues received by Portland under the lease will not be considered in determining its rates for oil transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the

requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken on the request for a permanent certificate but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the 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 the application if no motion to intervene is filed within the time requested 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 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 Granite State to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 96-11425 Filed 5-7-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. CP96-358-000]****MidAmerican Energy Company v.  
Natural Gas Pipeline Company of  
America; Notice of Complaint**

May 2, 1996.

Take notice that on April 26, 1996, MidAmerican Energy Company (MidAmerican), P.O. Box 778, Sioux City, Iowa 51102, filed with the Commission in Docket CP96-358-000 a complaint against Natural Gas Pipeline Company of America (Natural), 701 East Lombard Street, Lombard, Illinois 60148-5072. MidAmerican states that its complaint is based on Natural's violation of Section 4 of the Natural Gas Act (NGA) and the Commission's orders thereunder in refusing to return approximately \$5,000,000 worth of base (cushion) gas previously supplied by MidAmerican to support Rate Schedule LS-3 firm storage service (LS-3), all as

more fully set forth in the complaint which is on file with the Commission and open to public inspection.

MidAmerican states that Natural terminated such LS-3 service for its own use in order to replace it with new open access storage service, Delivered Storage Service (DSS), which MidAmerican converted to and under which Natural is obligated to provide all cushion gas volumes. MidAmerican asserts that Natural is required to return MidAmerican's LS-3 cushion gas volumes, and that its failure to do so violates the NGA, Natural's tariff sheets governing the transition from LS-3 to DSS service, and the certificate order authorizing LS-3 to DSS service, and the certificate order authorizing LS-3 service. MidAmerican asserts that Natural is claiming that it is entitled to retain a "non-recoverable" amount equal to approximately 75% of that cushion gas total, and MidAmerican maintains that it is entitled to the return of the entire amount of that cushion gas. MidAmerican alleges that Natural is thereby misappropriating the cushion gas supplied by MidAmerican for Natural's own use to support its new DSS service using the same storage field which supported LS-3 service, and is creating a discriminatory and anti-competitive economic barrier to its open-access storage service because MidAmerican in effect bears an entry fee of \$5,000,000 which other DSS customers do not bear.

MidAmerican requests that the Commission issue an order directing that Natural immediately return all cushion gas previously provided by MidAmerican to Natural pursuant to Natural's LS-3 storage service, and that if the Commission does not issue such an order, that the Commission issue an order requiring Natural to show cause why it is not in violation of the Natural Gas Act, Commission orders, and the express terms of its tariff for its failure to return such cushion gas to MidAmerican.

Any person desiring to be heard or to make a protest with reference to MidAmerican's complaint should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions, together with the answer of Respondents to the complaint and motions, should be filed on or before May 23, 1996. Any person desiring to become a party must file a motion to intervene. Copies of this filing

are on file with the Commission and available for public inspection.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 96-11424 Filed 5-7-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. ES96-25-000]**

**Semass Partnership; Notice of Application**

May 2, 1996.

Take notice that on April 30, 1996, Semass Partnership (Semass) filed an application, under § 204 of the Federal Power Act, seeking authorization to reallocate partnership interests among the existing partners of Semass in connection with the proposed sale by certain partners of Semass of eighty percent (80%) of the partnership interests in Semass.

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, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 28, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the 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.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 96-11426 Filed 5-7-96; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 2000-010]**

**Power Authority of the State of New York; Notice of Memorandum of Understanding, Formation of Cooperative Consultation Process Team, and Initiation of Scoping Process Associated With Relicensing the St. Lawrence-FDR Power Project**

May 2, 1996.

Memorandum of Understanding (MOU)

On February 15, 1996, the New York Power Authority (NYPA), New York State Department of Environmental Conservation (NYSDEC), and the Federal Energy Regulatory Commission (FERC), entered into an MOU. Under the MOU, the NYSDEC and the FERC will cooperate and use the services of a

Third Party Contractor to prepare a single Environmental Impact Statement (EIS) to more efficiently meet the requirements for water quality certification and relicensing of the 912-megawatt St. Lawrence-FDR Power Project. The hydroelectric project was originally licensed in 1953 and the license will expire in 2003. NYPA has elected to use a Third Party Contractor under the provisions of the Energy Policy Act of 1992.

The project, which includes the Long Sault Dam and the portions of the Iroquois Dam and the Robert Moses-Robert H. Saunders Power Dam within the U.S., located on the St. Lawrence River near Massena, New York. While the project is licensed by the FERC, its operation as well as Ontario's Hydro's portion of the international project, is governed by the International Joint Commission (IJC) and the International St. Lawrence River Board of Control (ISLRBC), who direct NYPA and Ontario Hydro to release flows to maintain water levels in Lake Ontario and downstream flows in accordance with criteria set forth. The IJC was established by the 1909 Boundary Water Treaty between the U.S. and Canada.

**Cooperative Consultation Process (CCP) Team**

NYPA has contacted and invited members of numerous federal, state, and local governmental organizations, non-governmental organizations, the St. Regis Mohawk Tribe, and the general public the U.S. The FERC has also invited federal and provincial agencies in Canada, as well as the IJC and ISLRBC to participate and discuss the cooperative process for relicensing the project. As a result of a series of three meetings conducted in February, March and April 1996, the participants (see list below) along with NYSDEC and FERC have agreed to form a Cooperative Consultation Process (CCP) Team. The CCP Team will assist in identifying areas of interests, issues, required studies and also prepare for NYSDEC and FERC a Scoping Document (See Scoping Process).

The CCP Team is still in the process of identifying potential members and active participants. As of April 16, 1996, the following 39 organizations attended meetings of the CCP Team and have indicated an interest in participating in the Team and relicensing process. Those persons interested in joining the CCP Team or learning more about the CCP Team and process, as well as the relicensing process should call any one of the following three individuals:

Mr. Thomas R. Tatham, New York Power Authority, 212-468-6747, 212-468-6272 (fax)  
 Mr. Keith Silliman, New York Dept. of Environmental Conservation, 518-457-0986, 518-457-3978 (fax)  
 Mr. Thomas Russo, Federal Energy Regulatory Commission, 202-219-2792, 202-219-0125 (fax)

The following organizations have sent representatives to the CCP Team meetings: the St. Regis Mohawk Tribe, Environment Canada, St. Lawrence Seaway Development Corp., Ontario Hydro, Alcoa, NY State Assembly, St. Lawrence Development Commission, Massena Electric, St. Lawrence County, Town of Louisville, Development Authority of N. County, Empire State Dept. of Economic Development, GM Power Train, I.B.E.W. Local 2032, Vincent Kirsch, LCE Environ. Mgmt. Council, League of Women Voters, Massena Industrial Dev. Corp., Village of Massena, Village Potsdam, Mass. Municipal Wholesale Electric Co., Municipal Electricity Assoc. of NY, New York Power Authority, New York Rivers United, Audubon Society of NY State, NYS Dept. of Parks Rec. & Historic Preservation, NYS Dept. of Environmental Conservation, NYS Dept. of State (Coastal Resources), St. Lawrence Aquarium & Ecological Center, Public Power Assoc. of NJ, Reynolds Metals, Robert Moses State Park, St. Lawrence County Chamber of Commerce, St. Lawrence Gas, United Auto Workers/GM Power Train, US Fish and Wildlife Service, Waddington Town Planning Board, IBEW 450 ABGWIU, and WYBG Radio.

**Scoping Process**

The Scoping Process will satisfy the requirements of the National Environmental Policy Act. The objective of the Scoping Process is to assist the FERC and NYSDEC in identifying resource issues and reasonable alternatives that should be addressed in the EIS analysis and the level to which they should be addressed. The Scoping Process will also identify the geographic and temporal range of the EIS analysis, those resources requiring a cumulative impact analysis and the level of analysis as well. The CCP Team will prepare a Draft Scoping Document I (SDI) for FERC's and NYSDEC's use.

The Scoping Process will entail a series of public workshops/meetings within the CCP Team over the next seven months. During this time period, the CCP Team will use NYPA's Initial Consultation Document distributed on April 16, 1996 to initiate scoping the issues. Members of the Team and the general public will be given the

opportunity to identify their: (1) expectations on relicensing, (2) environmental and development issues, (3) reasonable alternatives to NYPA's relicensing proposal, and (4) a list of necessary studies. Most of the work regarding necessary studies will be done

through resource subcommittees of the CCP Team beginning in September 1996. At this time, there are four resource subcommittees: Ecological Resources, Land & Recreation, Socio-Economics, and Engineering & Operations.

The following is a list of the presently scheduled major meetings/workshops of the Scoping Process along with tentative dates of the CCP Team's activities. All meetings are in Massena, NY, unless noted. Major meetings are in bold face.

1. CCP Team members develop and send to NYPA initial Expectations for the Project Relicensing as well as known and potential resource management goals including relative significance of resources, if possible. May 16, 1996.
2. CCP Team members develop individual lists describing potential resource issues and send to NYPA ..... May 16, 1996.
3. Initial Consultation Package workshop, site inspection, and break out session for the general public ..... May 21-22, 1996.
4. NYPA compiles a combined preliminary list of resource issues from all team members and distributes to CCP Team.
5. CCP Team meets to discuss Initial Expectations for the Project Relicensing and the preliminary combined list describing resource issues. The CCP Team jointly edits the list to eliminate duplication, misunderstandings, etc. Initiate discussion on level of information needed, if possible. June 5-6, 1996.
6. NYPA distributes revised combined list of issues to the CCP Team. For each resource issue, NYPA prepares draft of information needed to determine the magnitude of the issue and the potential effects of the project on the resource. NYPA distributes this draft to the CCP Team.
7. CCP Team Meeting to edit information needed and potential effects of project operation. The CCP Team will initiate discussions regarding general level of effort for resource analysis. The combined list describing resource issues will be edited as appropriate. July 15-16, 1996.
8. NYPA will distribute the initial complete draft of Issue Identification Section of SDI to the CCP Team based on input received from July 15-16, 1996 meeting. This distribution will include minority reports and a concise statement of issues in dispute as appropriate. July 31, 1996.
9. The CCP Team will meet to finalize the Draft Issue Identification Section of SDI (including minority reports and statements of disputes), and to make initial assignment of issues to subcommittees. CCP Team members volunteer for subcommittees.
10. The CCP Team will submit statements of disputes to FERC/NYS DEC, if necessary ..... August 21, 1996.
11. The CCP Team presents FERC/DEC with the Draft SD I ..... August 30, 1996.
12. Subcommittees have initial meetings ..... Sept. 10-11, 1996.
13. FERC/DEC issue SDI and resolution of disputes, as appropriate ..... Sept. 30, 1996.

Linwood A. Watson, Jr.,  
*Acting Secretary.*  
[FR Doc. 96-11423 Filed 5-7-96; 8:45 am]  
BILLING CODE 6717-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5501-8]

**Agency Information Collection Activities: Proposed Collection; Comment Request; Information Collection Request for the National Pollutant Discharge Elimination System (NPDES)/Compliance Assessment Information**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Correction.

**SUMMARY:** This notice contains corrections to the title of the Information Collection Request (ICR) and to figures contained in the burden statement of the the ICR published on April 9, 1996. The title of the ICR should be corrected to read "Information Collection Request for the National Pollutant Discharge Elimination System (NPDES)/ Compliance Assessment/Certification Information." This is due to the integration of the 1993 ICR entitled "Information Collection Request For the

National Pollutant Discharge Elimination System (NPDES)/ Compliance Assessment Information" (OMB Control No. 2040-0110) and the 1993 ICR entitled "Information Collection Request for Exemption from Monitoring and Notification of Process Changes in Effluent Guidelines (OMB Control No. 2040-0033). The OMB Control No. for the integrated renewal is OMB Control No. 2040-0110.

The first paragraph in the Burden Statement on page 15802 should be corrected to read: "The information collection for compliance assessment and certification activities will involve an estimated 23,673 respondents and 205,896 record keepers. The annual costs to respondents and record keepers is estimated to be \$22,607,191. The total annual cost to respondents, recordkeepers, and government (excluding Federal government) is estimated to be \$23,363,792. There will be approximately 27,398 annual responses submitted by the 23,673 respondents resulting in 1.16 responses per respondent. The time required for a response ranges from 15 minutes to 41 hours, with an average response time of 2.40 hours per response. The average annual record keeping burden per recordkeeper is estimated to be 3.17 hours. The compliance assessment and certification activities will entail an annual burden of 652,873 hours for

record keeping and 65,712 hours for reporting for a total of 718,585 burden hours. These activities will also entail 26,280 burden hours for State governments as users of data." For the convenience of the reader, it should be noted that the date for submission of comments remains the same.

**FOR FURTHER INFORMATION CONTACT:** Shirley Dorrington at 202-260-6961.

Dated: April 29, 1996.  
Michael B. Cook,  
*Director, Office of Wastewater Management.*  
[FR Doc. 96-11480 Filed 5-7-96; 8:45 am]  
BILLING CODE 6560-50-P

[OPP-00436; FRL-5369-8]

**Endocrine Disruption by Chemicals: Next Steps in Chemical Screening and Testing; Open Meeting**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Notice of open meeting.

**SUMMARY:** Recent research indicates that environmental endocrine disruptors need more attention by chemical and pesticide regulators. The EPA will hold a meeting on May 15 and May 16, 1996 in the Washington, DC metropolitan area to discuss how EPA can work cooperatively with industry, the environmental community, academia and others to develop a screening and

testing strategy to identify chemicals that may pose significant risks through endocrine disruption. This notice announces the location and times for the meeting and sets forth tentative agenda topics. EPA has invited 20 representatives of industry, the environmental community, academia, and government to this meeting. The meeting is open to the public, but space for observers is limited. The meeting is structured to allow the invited participants to discuss items on a predetermined agenda. However, at the end of the first day, there will be thirty minutes of open discussion.

**DATES:** The meeting will be held from 2 p.m. to 6 p.m. on May 15, 1996, and 8:30 a.m. to 12:00 p.m. on May 16, 1996.

**ADDRESSES:** The meeting will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia 22202. A meeting room will be announced in the hotel.

**FOR FURTHER INFORMATION CONTACT:** Observers can register by calling Donald Walker, TASCORP Corporation, at (301) 907-3844, ext. 251. To obtain general information about the meeting, contact Sheryl K. Reilly, Office of Pesticide Programs, Environmental Protection Agency, by phone (703) 308-4774. Persons who cannot attend the meeting, but wish to comment, should send comments to Sheryl K. Reilly, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office Location: Rm. 1119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; e-mail: reilly.sheryl@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** As an indication of the public's concern about endocrine disruptors, the Senate recently passed a bill by a vote of 99 to 1 that would amend the Safe Drinking Water Act to require EPA to initiate a screening and testing program for environmental estrogens within two years of its effective date, with discretionary authority to expand this effort to other kinds of endocrine disruptors. Although EPA has recently proposed new test guidelines for reproductive and developmental toxicity, subjecting all 600 pesticides and 80,000 existing chemicals would be an enormous challenge. How to develop a screening and testing program for environmental estrogens and other hormone-like substances is the focus of

this meeting. EPA expects that approximately twenty invited representatives from various organizations will participate in the two-day program. Ongoing activities to address endocrine disruption at the EPA will be reviewed, and key issues, identified by the invited participants, will be discussed. EPA's objective in convening this meeting is to obtain the input of key stakeholders on the prospect of forming a multi-stakeholder scientific/technical taskforce to develop a chemical screening and testing strategy.

The tentative agenda of the meeting includes the following:

1. Overview of EPA's Office of Research and Development (ORD) activities related to endocrine disruptors and discussion of the draft ORD research strategy.
2. Identification and discussion of key issues.
  - a. How should we begin the development of a screening and testing strategy?
  - b. What would be the objectives of the screening and testing strategy?
  - c. Should we focus initially on the reproductive hormone system?
  - d. What role should structure-activity/SAR-like screens play?
3. Discussion of the taskforce concept.

#### List of Subjects

Environmental protection.

Dated: May 3, 1996.

Lynn R. Goldman,  
Assistant Administrator, Office of Prevention,  
Pesticides, and Toxic Substances.

[FR Doc. 96-11616 Filed 5-7-96; 8:45 am]

**BILLING CODE 6560-50-F**

#### [OPP-30406; FRL-5357-1]

#### Certain Companies; Applications to Register Pesticide Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATES:** Written comments must be submitted by June 7, 1996.

**ADDRESSES:** By mail, submit written comments identified by the document control number [OPP-30406] and the file symbol to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppdocket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-30406]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (7505C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product Manager	Office location/telephone number	Address
PM 23 Joanne I. Miller,	Rm. 237, CM #2 (703-305-6224); e-mail: ler.joanne@epamail.epa.gov.	Environmental Protection Agency 1921 Jefferson Davis Hwy Arlington, VA 22202

Product Manager	Office location/telephone number	Address
PM 25 Robert Taylor,	Rm. 241, CM #2 (703-305-6800); e-mail: lor.robert@epamail.epa.gov.	-Do-

**SUPPLEMENTARY INFORMATION:** EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

**Products Containing Active Ingredients Not Included In Any Previously Registered Products**

1. File Symbol: 100-IRL. Applicant: Ciba-Geigy Crop Protection Ciba-Geigy Corporation P.O. Box 18300, Greensboro, NC 27419. Product name: CGA-77102 Technical. Herbicide. Active ingredient: Acetamide, 2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)-, (S)- at 96 percent. Proposed classification/Use: None. For formulation into herbicides for weed control in certain crops. (PM 23)

2. File Symbol: 100-INL. Applicant: Ciba-Geigy Crop Protection. Product name: CGA-248757 Technical. Herbicide. Active ingredient: Acetic acid, [[2-chloro-4-fluoro-5-(tetrahydro-3-oxo-1H,3H-[1,3,4]thiadiazolo[3,4-alpha]pyridazin-1-ylidene)amino]phenyl]thio]-methyl ester at 98 percent. Proposed classification/Use: None. For formulation use only into registered end-use herbicides. (PM 23)

3. File Symbol: 241-GIN. Applicant: American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543. Product name: AC 299,263 DG. Herbicide. Active ingredient: (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid at 70 percent. Proposed classification/Use: None. For use only in soybeans. (PM 25)

4. File Symbol: 241-GTI. Applicant: American Cyanamid Co. Product name: AC 299,263 Technical. Herbicide. Active ingredient: (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid at 97.4 percent. Proposed classification/Use: None. For formulating purposes only. (PM 25)

5. File Symbol: 241-GTO. Applicant: American Cyanamid Co. Product name: AC 299,263. Herbicide. Active ingredient: Ammonium salt of (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-

(methoxymethyl)-3-pyridinecarboxylic acid at 12.1 percent. Proposed classification/Use: None. For use only in soybeans. (PM 25)

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP-30406] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov  
Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding

legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703-305-5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

**List of Subjects**

Environmental protection, Pesticides and pests, Product registration.

Dated: April 15, 1996.

Stephen L. Johnson,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 96-11333 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-F

**[OPP-181010; FRL 5366-6]**

**Carbofuran; Receipt of Application for Emergency Exemption, Solicitation of Public Comment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received specific exemption requests from the California Environmental Protection Agency, Department of Pesticide Regulation, and from the Mississippi Department of Agriculture (hereafter referred to as the "Applicants") to use the pesticide flowable Carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No. 279-2876) to treat up to 300,000 acres of cotton in California, and up to 1 million acres of cotton in Mississippi, to control cotton aphids. The Applicants propose the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar the risk assessed by EPA under the Special Review of granular carbofuran. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

**DATES:** Comments must be received on or before May 23, 1996.

**ADDRESSES:** Three copies of written comments, bearing the identification notation "OPP-181010," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of

Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-181010]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. **FOR FURTHER INFORMATION CONTACT:** By mail: David Deegan, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8327; e-mail: deegan.dave@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of carbofuran on cotton to control aphids.

Information in accordance with 40 CFR part 166 was submitted as part of

this request. As part of these requests, the Applicants assert that the states of California and Mississippi are likely to experience non-routine infestations of aphids during the 1996 cotton growing season. The applicants further claim that, without specific exemptions of FIFRA for the use of flowable carbofuran on cotton to control cotton aphids, cotton growers in much of these states will suffer significant economic losses. The applicants also detail use programs designed to minimize risks to pesticide handlers and applicators, non-target organisms (both Federally-listed endangered species, and non-listed species), and to reduce the possibility of drift and runoff.

The applicants propose to make no more than two applications at the rate of 0.25 lb. active ingredient [(a.i.)] (8 fluid oz.) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 1996 growing season (California proposes a use season of July 20, 1996 until October 15, 1996; Mississippi proposes a use season from the date of EPA issuance until September 15, 1996) would be 0.5 lb. a.i. (16 fluid oz.) per acre. The applicants propose that the maximum acreage which could be treated under the requested exemptions would be 300,000 acres (California) and 1 million acres (Mississippi). If all acres were treated at the maximum proposed rates, then 150,000 lbs. a.i. would be used in California, and 500,000 lbs. a.i. would be used in Mississippi.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a chemical (i.e., an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar the risk assessed by EPA under the previous Special Review. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP-181010] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division

(7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the California EPA, Department of Pesticide Regulation, and the Mississippi Department of Agriculture.

#### List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: April 26, 1996.

Peter Caulkins,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 9611332 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-F

[PP 5G4466/T687; FRL 5366-5]

#### Glufosinate-Ammonium; Establishment of Temporary Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has established temporary tolerances for residues of the combined herbicide glufosinate-ammonium and its metabolites in or on certain raw agricultural commodities. These temporary tolerances were requested by AgrEvo USA Company.

**DATES:** These temporary tolerances expire March 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joanne Miller, Product Manager

(PM) 23, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7830; e-mail: miller.joanne@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** AgrEvo USA Co., Little Falls Center One, 2711 Centerville Rd., Wilmington, DE 19808, has requested in pesticide petition (PP) 5G4466, the establishment of temporary tolerances for residues of the combined herbicide glufosinate-ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt; and its metabolites 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid expressed as glufosinate free acid equivalents in or on the raw agricultural commodities field corn grain at 0.2 part per million (ppm); field corn forage at 4.0 ppm; field corn fodder and soybeans at 2.0 ppm; soybean forage at 4.0 ppm; soybean hay at 2.0 ppm; soybean aspirated grain fractions at 25.0 ppm; soybean hulls at 5.0 ppm; eggs at 0.05 ppm; poultry meat and fat at 0.05 ppm; and poultry meat byproducts at 0.10 ppm. These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 45639-EUP-56, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the herbicide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. AgrEvo USA Co., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 15, 1997. Residues not in excess of these amounts remaining in or on the raw

agricultural commodities after this expiration date will not be considered actionable if the herbicide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this herbicide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12866.

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

Authority: 21 U.S.C. 346a(j).

#### List of Subjects

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

Dated: April 29, 1996.

Stephen L. Johnson,  
Director, Registration Division, Office of  
Pesticide Programs.

[FR Doc. 96-11340 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-F

[FRL-5502-7]

#### Proposed De Minimis Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act; In the Matter of Albion-Sheridan Landfill Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Request for public comment.

**SUMMARY:** Notice of *De Minimis* Settlement: in accordance with Section 122(I)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), notice is hereby given of a *de minimis* settlement concerning past and estimated future response actions at the Albion-Sheridan Landfill Site in Albion, Michigan. The Attorney General

has provided the required prior written approval for this Settlement, as set forth under Section 122(g)(4) of CERCLA.

**DATES:** Comments must be provided on or before June 7, 1996.

**ADDRESSES:** Comments should be addressed to the Docket Clerk, Mail Code MFA-10J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and should refer to: In the Matter of Albion-Sheridan Landfill Site, Docket No. V-W-96-340.

**FOR FURTHER INFORMATION CONTACT:** Kurt N. Lindland, Mail Code CS-29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**SUPPLEMENTARY INFORMATION:** The following parties executed binding certifications of their consent to participate in the settlement: Albion College, Bilicke Oldsmobile Sales, Inc., and Frahm Chevrolet, Buick, Pontiac Co.

These parties will pay approximately \$30,000 in settlement payments for response costs related to the Albion-Sheridan Landfill Site, if the United States Environmental Protection Agency determines that it will not withdraw or withhold its consent to the proposed settlement after consideration of comments submitted pursuant to this notice.

U.S. EPA may enter into this settlement under the authority of Section 122(g) of CERCLA. Section 122(g) authorizes *de minimis* settlements with potentially responsible parties ("PRPs") that contributed hazardous substances to a site where those contributions were small and where the toxicity of the substances contributed is not significantly different from the other substances brought to the site. Pursuant to this authority, the agreement proposes to settle with parties who are responsible for less than .1% of the total volume of hazardous substances sent to the site. Settling *de minimis* PRPs will be required to pay their fair share of the past and estimated future response costs at the Site. The settlement payment amount includes a premium of 100% against estimated future response costs to account for potential cost overruns, the potential for failure of the remedies selected to clean up the site, and other risks.

A copy of the proposed administrative order on consent and additional background information relating to the settlement, including a list of parties to the settlement, are available for review and may be obtained in person or by mail from Kurt N. Lindland, Mail Code CS-29A, U.S. Environmental Protection

Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The U.S. Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this notice.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*

William E. Muno,  
Director, Superfund Division.  
[FR Doc. 96-11487 Filed 5-7-96; 8:45 am]  
BILLING CODE 6560-50-M

**[FRL-5501-9]**

**National Pin Service Site: Notice of Proposed Settlement**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended 42 U.S.C. 9601 *et seq.*, the Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the National Pin Service Site, Saratoga, Wilson County, North Carolina, with the Defense Reutilization and Market Service (DRMS), Defense Logistic Agency (DLA), U.S. Department of Defense (DoD). EPA will consider public comments on the proposed settlements for thirty (30) days. EPA may withdraw from or modify the proposed settlements should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the settlements are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Waste Management Division, Waste Programs Branch, Cost Recovery Section, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404-347-5059, vmx. 6169. Written comments must be submitted to Mr. Ray Strickland at the

above address within thirty (30) days from the date of publication.

Dated: April 12, 1996.  
James S. Kutzman,  
Acting Director, Waste Management Division.  
[FR Doc. 96-11483 Filed 5-7-96; 8:45 am]  
BILLING CODE 6560-50-M

**[FRL-5500-1]**

**Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty to Superior Spring Company and Opportunity To Comment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed administrative penalty assessment and opportunity to comment.

**SUMMARY:** EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. Section 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. Section 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Superior Spring Company, formerly located at 2447 Merced Avenue, South El Monte, California 91733, but now located at 1260 South Talt Avenue, Anaheim, California 92806; EPA Docket No. CWA-IX-FY96-02; filed on April 22, 1996, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1389; proposed penalty of \$60,000 for failure to submit self-monitoring reports during the final three and half years of operation in South El Monte and for past violations of local sewer discharge limits.

**FOR FURTHER INFORMATION CONTACT:** Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: April 22, 1996.  
Karen Schwinn,  
Acting Director, Water Management Division.  
[FR Doc. 96-11488 Filed 5-7-96; 8:45 am]  
BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION**

**Renewal Application Designated for Hearing**

1. The Assistant Chief, Audio Services Division, has before him the following application for renewal of broadcast license:

Licensee	City/state	File No.	MM docket No.
Southwestern Broadcasting Corporation .....	Brownfield, Texas .....	BRH-900315UC	96-104

(Seeking renewal of the license for KLZK(FM)).

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether Southwestern Broadcasting Corporation has the capability and intent to expeditiously resume the broadcast operations of KLZK(FM), consistent with the Commission's Rules.

(b) To determine whether Southwestern Broadcasting Corporation has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the

subject renewal of license application would service the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the dockets section of the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202-857-3800).

Federal Communications Commission.

Stuart B. Bedell,

*Assistant Chief, Audio Services Division,  
Mass Media Bureau.*

[FR Doc. 96-11440 Filed 5-7-96; 8:45 am]

BILLING CODE 6712-01-M

## 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.

CJC International Services, Inc., 8745 N.W. 100th Street, Medley, FL 33178, Officers: Juan Carlos Lebrija, President, Celia Munoz, Vice President

World Exchange, Inc., 6011 Avion Drive, Suite 201, Los Angeles, CA 90045, Officers: Frank Gomez, President, Teresa Reesing, Vice President

Dated: May 2, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96-11455 Filed 5-7-96; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part

225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 31, 1996.

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

1. *United Community Bankshares, Inc.*, Franklin, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Franklin, Franklin, Virginia, and The Bank of Sussex and Surry, Wakefield, Virginia.

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

1. *First La Grange Bancshares, Inc.*, La Grange, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of LGF Bancshares, Inc., Dover, Delaware, and thereby indirectly acquire The First National Bank of La Grange, La Grange, Texas.

In connection with this application, LGF Bancshares, Inc., Dover, Delaware, has applied to become a bank holding company by acquiring 100 percent of the voting share of The First National Bank of La Grange, La Grange, Texas.

Board of Governors of the Federal Reserve System, May 2, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-11415 Filed 5-7-96; 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 companies listed in this notice have 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.

Each 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 applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 22, 1996.

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

1. *Allied Irish Banks, p.l.c.*, Dublin, Ireland, and First Maryland Bancorp, Baltimore, Maryland; to acquire Zirkin-Cutler Investments, Inc., Washington, D.C., and thereby engage in serving as investment adviser to investment companies registered under the Investment Company Act of 1940, including sponsoring, organizing, and managing closed-end investment companies; providing portfolio investment advice to any other person; and, furnishing general economic information and advice, general economic statistical forecasting services and industry studies, pursuant to §§ 225.25(b)(4)(ii), (iii), and (iv) of the Board's Regulation Y.

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

1. *Barnett Banks, Inc.*, Jacksonville, Florida; to engage *de novo* through its subsidiary, Barnett Community Development Corporation, Jacksonville, Florida, in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

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

1. *Outsource Capital Group, Inc.*, Lubbock, Texas, and *Outsource Delaware Capital Group, Inc.*, Dover, Delaware (both in formation); to acquire Rall Mortgage Corporation, Lubbock, Texas, and thereby engage in mortgage lending, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 2, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-11414 Filed 5-7-96; 8:45 am]

BILLING CODE 6210-01-F

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 11:00 a.m., Monday, May 13, 1996.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 3, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-11559 Filed 5-3-96; 4:56 am]

BILLING CODE 6210-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

[Announcement 608]

#### Human Health Studies; Applied Research and Development

##### Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1996 funds for a grant program designed to answer public health questions arising from situations commonly encountered at hazardous waste sites. The objective of this program is to fill gaps in knowledge, including data needs and health conditions, by conducting applied research and development studies related to human exposure to hazardous substances and to the ATSDR's health assessments, consultations, and health studies on hazardous substances prioritized by ATSDR. These Priority Health Conditions are identified under the Purpose section of this notice. Priority data needs are identified by ATSDR in its toxicological profiles.

ATSDR is committed to achieving the health promotion and disease prevention objectives of "Healthy

People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of "Healthy People 2000," see the Section Where to Obtain Additional Information.)

##### Authority

This program is authorized in sections 104(i)(1)(E), (6), (7), (9), and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i)(1)(E), (6), (7), (9), and (15)].

##### Smoke-Free Workplace

ATSDR strongly encourages all grant and cooperative agreement recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

##### Eligible Applicants

Eligible applicants are the official public health agencies of States or their bona fide agents or instrumentalities. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments. State organizations, including State universities, State colleges, and State research institutions, must establish that they meet their respective State's legislature definition of a State entity or political subdivision to be considered an eligible applicant.

##### Availability of Funds

The Government's obligation under this grant project is contingent upon the availability of appropriated funds from which payment for grant purposes can be made. No legal liability on the part of the government for any obligation may arise until funds are made available to the grantee through the formal award of a grant/cooperative agreement.

It is expected that \$500,000 will be available in FY 1996 to fund approximately 2 awards. Awards are funded for a 12-month budget period within a project period of up to 3 years. Continuation awards within the project period will be made on the basis of

satisfactory progress and the availability of funds.

#### Purpose

The purpose of this announcement is to solicit scientific proposals designed to answer public health questions arising from situations commonly encountered at hazardous waste sites. The objective of this research program is to fill gaps in knowledge regarding human health effects of hazardous substances identified during the conduct of ATSDR's health assessments, consultations, toxicological profiles, and health studies, including but not limited to those health conditions prioritized by ATSDR. The ATSDR Priority Health Conditions are (in alphabetical order):

1. birth defects and reproductive disorders,
2. cancers (selected anatomic sites),
3. immune function disorders,
4. kidney dysfunction,
5. liver dysfunction,
6. lung and respiratory diseases and
7. neurotoxic disorders.

Substance-specific research needs are identified in ATSDR toxicological profiles.

#### Program Requirements

Grants funded under this program will focus on one or more of the following:

1. Human Populations,
2. Use of innovative methodologies to fill data gaps identified through ATSDR's public health assessments and consultations at hazardous waste sites,
3. Ecologic studies using data from multiple sites to assess the health status of several communities, or
4. Analytical studies, including meta-analysis of existing sets of human data.

Research activities may include, but not be limited to the following:

1. Epidemiological studies,
2. Health outcomes studies,
3. Further analysis of existing human data sets,
4. Identification, validation, and development of biomarkers of exposure, susceptibility, and effect,
5. Further evaluating the link or lack of linkage between specific chemicals and specific health effects,
6. Developing innovative methodologies to fill data gaps on the health effects associated with exposure to chemicals frequently found at hazardous waste sites,
7. Relationship of environmental fate and transport of chemicals to human health effects,
8. Developing innovative health education methodologies to prevent exposure and/or adverse human health effects,

9. Psychological effects associated with exposure to hazardous substances,

10. Health effects associated with incineration, and

11. Improving human risk assessment.

This program is designed for grant applications only. In a grant, the recipient is required to conduct the proposed study without substantial programmatic involvement from the funding agency.

#### Evaluation Criteria

The review for scientific and technical merit by an objective review group will be based on the following criteria:

##### A. Scientific and Technical Review Criteria of New Applications

##### 1. Appropriateness and Knowledge of Study Design—25%

The extent to which the applicant's proposal addresses the:

- a. Scientific merit of the proposed project, including the novelty, originality and feasibility of the approach and the adequacy of the design,
- b. Technical merit of the proposed project, including the degree to which the project can be expected to yield or demonstrate results that will be useful and desirable in furthering the program objective as described in the Purpose section of this announcement, and
- c. Proposed project schedule, including clearly established and obtainable project objectives for which progress toward attainment can and will be measured.

##### 2. Proposed Study—25%

The adequacy of the proposal relevant to the:

- a. Study purpose, objectives, and rationale,
- b. Quality of program objectives in terms of specificity, measurability, and feasibility,
- c. Specificity and feasibility of the applicant's timetable for implementing program activities and timely completion of the study, and
- d. Likelihood of the applicant agency completing proposed program activities and attaining proposed objectives based on the thoroughness and clarity of the overall program.

In addition, the degree to which the applicant has met the CDC/ATSDR policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

- a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The appropriateness of the proposed justification when representation is limited or absent.

c. Whether the design of the study is adequate to measure differences when warranted.

d. Whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

##### 3. Relationship to Initiative—15%

The extent to which the application addresses the areas of investigation outlined by ATSDR.

##### 4. Quality of Data Collection—15%

The extent to which the:

- a. Study ascertains the information necessary to meet the objectives, including (but not limited to) information on pathways of exposure, confounding factors, and biomedical testing,
- b. Quality control and quality assurance of questionnaire data are provided, including (but not limited to) interviewer training and consistency checks of data,
- c. Laboratory tests (if applicable) are sensitive and specific for the analyte or disease outcome of interest, and
- d. Quality control, quality assurance, precision and accuracy of information for the proposed tests are provided and acceptable.

##### 5. Applicant Capability and Coordination Efforts—10%

The extent to which the proposal has described the:

- a. Capability of the applicant's administrative structure to foster successful scientific and administrative management of a study,
- b. Capability of the applicant to demonstrate an appropriate plan for interaction with the community, and
- c. Suitability of facilities and equipment available or to be purchased for the project.

##### 6. Program Personnel—10%

The extent to which the proposed program staff is qualified and appropriate, and the time allocated for them to accomplish program activities is adequate.

##### 7. Program Budget—(Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of cooperative agreement/grant funds.

##### B. Review of Continuation Applications

Continuation awards within the project period will be made on the basis of the following criteria:

1. Satisfactory progress has been made in meeting project objectives.

2. Objectives for the new budget period are realistic, specific, and measurable.

3. Proposed changes in described long-term objectives, methods of operation, need for grant support, and/or evaluation procedures will lead to achievement of project objectives.

4. The budget request is clearly justified and consistent with the intended use of grant/cooperative agreement funds.

#### Funding Priorities

Priority will be given for studies which address one or more of the following areas of investigation:

A. Evaluate the occurrence of adverse health effects in a population. This will include the evaluation of the incidence or prevalence of a disease, disease symptoms, self-reported health concerns, or biological markers of disease, susceptibility, or exposure.

B. Identify risk factors for adverse health effects in populations. This will include hypothesis generating cohort or case-control studies on potentially impacted populations to identify linkages between exposure and adverse health effects and those risk factors which may be impacted by prevention actions.

C. Develop methods to diagnose adverse health effects in populations. This includes medical research to evaluate currently available biological tests (biomarkers) and disease occurrence in potentially impacted populations.

D. Develop health education methods applicable to the hazardous substances and their exposure pathways most commonly found at hazardous waste sites. These may include demonstration projects to investigate the effectiveness of these methods.

Interested persons are invited to comment on the proposed funding priority. All comments received on or before June 7, 1996, will be considered before the final funding priority is established. If the funding priority should change as a result of any comments received, a revised announcement will be published in the Federal Register prior to the final selection of awards.

Written comments should be addressed to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, GA 30305.

#### Executive Order 12372

Applications are subject to the Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should forward them to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, GA 30305, no later than 60 days after the application deadline date. (By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.)

Indian tribes are strongly encouraged to request tribal government review of the proposed application.

If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E13, Atlanta, GA 30305. This should be done no later than 60 days after the application deadline date. The granting agency does not guarantee to "accommodate or explain" for tribal process recommendations it receives after that date.

#### Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

#### Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161, Health Programs for Toxic Substances and Disease Registry.

#### Other Requirements

##### A. Protection of Human Subjects

This program requires research on human subjects, therefore, all applicants must comply with 45 CFR Part 46 regarding the protection of human subjects. Assurances must be provided that the project or activity will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and forms provided in the application kit.

##### B. Women, Racial, and Ethnic Minorities

It is the policy of CDC and ATSDR to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. In conducting review for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and scoring.

This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subject. Further guidance to this policy is contained in the Federal Register, Vol. 60, No. 179, pages 47947-47951, Friday, September 15, 1995.

A copy of the CDC/ATSDR policy is included in the application kit.

##### C. Disclosure

Recipient is required to provide proof by way of citation to State code or regulation or other State pronouncement given the authority of law, that medical information obtained pursuant to the agreement, pertaining to an individual, and therefore considered confidential, will be protected from disclosure when the consent of the individual to release identifying information is not obtained.

##### D. Cost Recovery

CERCLA, as amended by SARA, provides for the recovery of costs incurred for health assessments and

health effects studies at each Superfund site from potentially responsible parties. The recipient would agree to maintain an accounting system that will keep an accurate, complete, and current accounting of all financial transactions on a site-specific basis, i.e., individual time, travel, and associated cost including indirect cost, as appropriate for the site. The recipient will retain the documents and records to support these financial transactions, for possible use in a cost recovery case, for a minimum of 10 years after submission of a final Financial Status Report (FSR), unless there is a litigation, claim, negotiation, audit, or other action involving the specific site, then the records will be maintained until resolution of all issues on the specific site.

#### E. Third Party Agreements

Project activities which are approved for contracting pursuant to the prior approval provisions shall be formalized in a written agreement that clearly establishes the relationship between the grantee and the third party.

The written agreement shall at a minimum:

1. State or incorporate by reference all applicable requirements imposed on the contractors under the grant by the terms of the grant, including requirements concerning peer review and technical review, release of data, ownership of data, and the arrangement for copyright when publications, data or other copyrightable works are developed in the course of work under an ATSDR grant supported project or activity.

2. State that any copyrighted or copyrightable works shall be subject to a royalty-free, nonexclusive, and irrevocable license to the Government to reproduce, publish, or otherwise use them, and to authorize others to do so for Federal Government purposes.

3. State that whenever any work subject to this copyright policy may be developed by a contractor under a grant, the written agreement (contract) must require the contractor to comply with these requirements and can in no way diminish the Government's right in that work.

4. State the activities to be performed, the time schedule for those activities, the policies and procedures for carrying out the agreement, and the maximum amount of money for which the grantee may become liable to the third party.

The written agreement required shall not relieve the grantee of any part of its responsibility or accountability to ATSDR under the grant. The agreement shall, therefore, retain sufficient rights and control to the grantee to enable it to fulfill this responsibility and accountability.

#### Application and Submission Deadline

##### A. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to the Grants Management Branch, CDC (see address below) and should be postmarked no later than June 8, 1996. The letter should include the following:

1. Announcement Number,
2. Title of the proposed area or areas of research,
3. Name of the principal investigator/s and
4. Identification of any other participating institutions.

The letter of intent does not influence review or funding decisions, but it will enable ATSDR to more efficiently plan the objective review.

The original and two copies of the application PHS Form 5161-1 (OMB Number 0937-0189) must be submitted to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mail Stop E-13, Atlanta, GA 30305, on or before July 8, 1996 (By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.)

##### 1. Deadline

Applications shall be considered as meeting the deadline if they are either:

- (a) Received on or before the deadline date, or
- (b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

##### 2. Late Applications

Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

#### Where To Obtain Additional Information

To receive additional information call (404) 332-4561. You will be asked to leave your name, address and phone number and will need to refer to Announcement 608. You will receive a

complete program description, information on application procedures and application forms. The announcement is also available through the CDC home page on the Internet. The address for the CDC home page is <http://www.cdc.gov>.

If you have questions after reviewing the contents of all the documents, business management assistance may be obtained from Maggie Slay, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, GA 30305, telephone (404) 842-6797, or INTERNET address, [mcs9@opspgo1.em.cdc.gov](mailto:mcs9@opspgo1.em.cdc.gov).

Programmatic assistance may be obtained from Dr. Jeffrey A. Lybarger, Director, Division of Health Studies, telephone, (404) 639-6200, or INTERNET address, [jal2@atsdhs2.em.cdc.gov](mailto:jal2@atsdhs2.em.cdc.gov), or Dr. John Andrews, Associate Administrator for Science, telephone (404) 639-0708, or INTERNET address, [jsa1@atsoaa1.em.cdc.gov](mailto:jsa1@atsoaa1.em.cdc.gov), Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E-31, Atlanta, GA 30333.

Please refer to announcement number 608 when requesting information and submitting an application.

There may be delays in mail delivery as well as difficulty in reaching the CDC Atlanta offices during the 1996 Summer Olympics (July 19 - August 4). Therefore, in order to receive more timely response to questions please use INTERNET/E-Mail, follow all instructions in this announcement, and leave messages on the contact person's voice mail.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017-001-00474-0) or "Healthy People 2000" (Summary Report, Stock No. 017-001-00473-1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone, (202) 512-1800.

Dated: May 1, 1996.

Claire V. Broome,

*Deputy Administrator, Agency for Toxic Substances and Disease Registry.*

[FR Doc. 96-11444 Filed 5-7-96; 8:45 am]

BILLING CODE 4163-70-P

**Centers for Disease Control and Prevention**

[30DAY-09]

**Agency Forms Undergoing Paperwork Reduction Act Review**

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639-7090.

The following request have been submitted for review since the last publication date on March 21, 1996.

**Proposed Project**

1. Phase 2, 1996 National Health Interview Survey, Basic Module (0920-0214). The annual National Health Interview Survey (NHIS) is a basic source of general statistics on the health

of the U.S. population. Due to the integration of health surveys in the Department of Health and Human Services, the NHIS also has become the sampling frame and first stage of data collection for other major surveys, including the Medical Expenditure Panel Survey, the National Survey of Family Growth, and the National Health and Nutrition Examination Survey. By linking to the NHIS, the analysis potential of these surveys increases. The NHIS has long been used by government, university, and private researchers to evaluate both general health and specific issues, such as cancer, AIDS, and childhood immunizations. Journalists use its data to inform the general public. It will continue to be a leading source of data for the Congressionally-mandated "Health US" and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion

and Disease Prevention Objectives, "Healthy People 2,000."

Because of survey integration and changes in the health and health care of the U.S. population, demands on the NHIS have changed and increased, leading to a major redesign. Improved information technology is planned, especially computer assisted personal interviewing (CAPI.) This clearance is for a one-time data collection, to introduce, test, and evaluate the redesigned NHIS data system. This data collection, planned for July-December 1996, is also expected to produce data of sufficient quality to allow publication of national estimates and release of public use micro data files. The resulting new NHIS data system is expected to be in the field for at least 10 years, beginning in January, 1997. Separate clearance will be requested for the post-1996 period.

Respondents	Number of respondents	Number of respondents/re-spondents	Avg. burden/responses (in hours)	Total burden (in hrs.)
Family .....	10,500	1	0.5	5,250
Sample Adult .....	10,500	1	0.5	5,250
Sample child .....	4,500	1	0.25	1,125
<b>Total .....</b>				<b>11,625</b>

The total annual burden is 11,625. Send comments to Desk officer, CDC; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

2. Ethnographic Study of Tuberculosis Outreach Worker Activities - New - This data collection will generate descriptive data from those directly involved and responsible for providing outreach to identified TB patients to gain an understanding of outreach activities, how they occur, and their level of effectiveness. Three interview guides have been developed for use with TB outreach workers, their supervisor and a small number of outreach patients. This effort will result in a more comprehensive picture of effective and efficient TB outreach activities. The major product of this effort will be a descriptive analytical report detailing the "lessons learned".

Respondents	Number of respondents	Number of responses/respondents	Avg. Burden (in hrs.)
Outreach Workers .....	36	1	0.75
Outreach Workers' Supervisor .....	36	1	0.75
TB Patients .....	72	1	0.33

The total annual burden is 78.00. Send comments to Desk officer, CDC; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Dated: May 1, 1996.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-11446 Filed 5-7-96; 8:45 am]

BILLING CODE 4163-18-P

**[Announcement Number 612]**

RIN: 0905-ZA97

**Academic Medical Center/Community Health Network Childhood Immunization Demonstration Projects; Notice of Availability of Funds for Fiscal Year 1996****Introduction**

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1996 funds for cooperative agreement demonstration projects to improve the delivery of immunizations to preschool children in urban and rural areas. The purposes of this program are to (1) increase immunization coverage among children receiving care in academic medical centers— networks of primary care providers and/or in community health networks, (2) improve immunization delivery by other providers working in specified Target Communities, and (3) develop innovative methods that increase immunization coverage among difficult-to-reach children without separating immunizations from primary care.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

**Authority**

This program is authorized under sections 317 (42 U.S.C. 247b) and 311 (42 U.S.C. 243) of the Public Health Service Act as amended, and the National Childhood Vaccine Injury Act (42 U.S.C. 300aa-1, et seq.).

**Smoke-Free Workplace**

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, child care, health care, and early childhood development services are provided to children.

**Definitions**

**Academic Medical Center (AMC)**—A medical school, hospital, or center that is a participating institution in an accredited residency program in pediatrics or family medicine, and that may be part of a managed care

organization serving Medicaid-eligible children.

**Community Health Network (CHN)**—A network of health care providers which provides primary health care services to needy children with low immunization coverage levels, but which does not necessarily include an AMC, as defined above.

**Health Professional Shortage Area (HPSA)**—HPSAs are urban and rural geographic areas, population groups, and facilities experiencing a shortage of health professionals. The current designated HPSAs of concern to this project are those relating to primary medical care and are identified by the Health Resources and Services Administration, Department of Health and Human Services in the Federal Register of October 2, 1995 (60 FR 51518).

**Immunization Action Plan (IAP)**—An initiative first funded in 1992 for communities to develop and implement a broad-based plan to achieve national immunization coverage goals by involving all interested groups concerned with children's health.

**Urban Area**—For the purposes of this program, one of the 29 cities originally funded, either directly or indirectly, by CDC as an IAP area. Their IAP designation was based on a combination of factors (i.e., magnitude of population, proportion of racial/ethnic minorities, and internal areas or "pockets" of chronic low immunization coverage) which most clearly corresponds to the intent of this demonstration program. In alphabetical order, these cities are Atlanta, Georgia; Baltimore, Maryland; Birmingham, Alabama; Boston, Massachusetts; Chicago, Illinois; Cleveland, Ohio; Columbus, Ohio; Dallas, Texas; Detroit, Michigan; El Paso, Texas; Houston, Texas; Indianapolis, Indiana; Jacksonville, Florida; Los Angeles, California; Memphis, Tennessee; Miami, Florida; Nashville, Tennessee; Milwaukee, Wisconsin; Newark, New Jersey; New Orleans, Louisiana; New York, New York; Philadelphia, Pennsylvania; Phoenix, Arizona; San Antonio, Texas; San Diego, California; San Jose, California; San Juan, Puerto Rico; Seattle, Washington; and Washington D.C.

**Rural Area**—For the purposes of this program, a HPSA nonmetropolitan area, as specified by HRSA in the Federal Register of October 2, 1995. HRSA notes that all HPSA nonmetropolitan areas are beyond the boundary of a Metropolitan Statistical Area as established by the Office of Management and Budget (OMB Bulletin 95-04 dated June 30, 1995).

**Target Community**—A geographic area (for urban areas having at least 100,000 population) which the applicant defines by census tracts, and which includes a designated HPSA and any contiguous census tract areas to that HPSA in which, as the applicant must establish, a majority of residing children <2 years old are from Medicaid-eligible families.

**Project Collaborator**—A primary health care provider with clinic facilities serving Target Community children which joins with the applying AMC/CHN at the outset to carry out each task of this demonstration project.

**AMC/CHN Primary Care Clinic**—A facility managed by, or affiliated with, an AMC/CHN, or which is a Project Collaborator's clinic facility, and which provides comprehensive primary care (immunizations, other preventive care, and acute care) to children in a Target Community.

**AMC Network of Children's Primary Care Providers**—A collection of geographically disbursed AMC Primary Care Clinics in which all serving health care providers work under the facility's standards of care (and which does not include private physicians with admitting privileges).

**Clinic Assessment Software Application (CASA)**—A software tool from the National Immunization Program, CDC, for conducting immunization clinic audits. It encompasses a standardized sampling methodology for obtaining medical charts for abstractions. Immunization and utilization "events" are recorded in CASA, and CASA calculates various measures of immunization status and practice.

**Racial and Ethnic Minority Populations**—Groups recognized as racial and ethnic minority populations are: African-Americans, Alaska Natives, American Indians, Asian Americans, Pacific Islanders, and Latinos/Hispanics.

**Eligible Applicants**

Eligible applicants are Academic Medical Centers/Community Health Networks which:

A. Provide immunization services for children in the context of comprehensive primary care.

B. Have significant experience in delivering health care services to underserved children in urban populations, or rural populations.

C. Are able to effect primary care policy in each of their own AMC/CHN Primary Care Clinics, plus those of their project collaborators, within each designated Target Community.

To be considered eligible applicants, AMCs must have an AMC network of children's primary care providers, as defined in this program announcement. To be considered eligible applicants, Community Health Networks also must provide evidence of linkage to an AMC, as defined in this program announcement, at least to the extent that an AMC agrees to accept responsibility for the clinic-based process and outcome evaluation of the CHN's proposed demonstration program.

Urban area applicants must designate one or more Target Communities wherein collectively lives a minimum current annual birth cohort (all children born in the same calendar year) of 8,000; and from which the applicant currently serves a minimum of 4,000 from that birth cohort in its network of AMC/CHN Primary Care Clinics. (NOTE: The headquarters of the AMC/CHN, its Project Collaborators, or the project's designated AMC/CHN Primary Care Clinics, need not be physically located within the Target Community(ies), but the AMC/CHN Primary Care Clinics, collectively, must be serving the specified minimum birth cohort from the Target Community.)

Separate applications from an eligible applicant may be accepted for review if aspects of one application do not depend on CDC supporting any other application. Dependent applications will be returned to the applicant without further consideration because CDC intends to make only one award to any eligible applicant.

#### Availability of Funds

Approximately \$5,400,000 is available in FY 1996 to fund approximately four cooperative agreements, three in urban areas and one in a rural area. Only one urban area award will be made in a State, but this will not affect the award of the single rural area cooperative agreement. It is expected that the average award will be \$1,350,000 per year (including direct and indirect costs), ranging from \$1,000,000 to \$1,500,000, with awards being made on or before September 30, 1996. The awards will be made for 12-month budget periods within a project period of up to 5 years. Funding estimates may vary and are subject to change based on the availability of funds.

Cooperative agreement applications which exceed the \$1,500,000 (including direct and indirect costs) per year will be returned to the applicant as non-responsive.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

At the request of the applicant, Federal personnel with skills in immunization program operations may be assigned to a project in lieu of a portion of the financial assistance provided for the initial budget period(s) of this project.

#### Use of Funds

##### *Allowable Uses*

Funds should be targeted for implementation, management, and evaluation of the project. Funds can support personnel and the purchase of modest amounts of hardware and software to (1) create and operate systems that track and improve the immunization status of children, (2) link with the USDA Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and (3) conduct clinic assessments of immunization coverage levels with feedback to the providers. Funds may be used to support direct medical care, e.g., new or expanded primary care services designed to increase immunization coverage levels, but it is expected that this will be limited to the final task of the project. Applicants may enter into contractual arrangements for goods or services, or to support collaborative activities, but must retain direct control of all tasks of the project.

##### *Prohibited Uses*

Cooperative agreement funds through this project cannot be used for (1) construction, (2) renovation, (3) the purchase or lease of passenger vehicles or vans, or (4) hiring or contracting personnel to conduct interventions such as special remote vaccination clinics or other vaccination-only activities that promote vaccination outside the context of delivering primary medical care, or (5) supplanting any current applicant expenditures.

#### Purpose

The purpose of these projects is for AMCs/CHNs to demonstrate increases in immunization coverage levels (above the baseline percent) of at least 25 percentage points in the AMC's/CHN's network of Primary Care Clinics, at least 20 percentage points among other Target Community health care providers, and at least 15 percentage points in the overall population of each Target Community (attainment of the latter to be determined by an independent evaluator under contract to CDC), over a 5-year period through the use of conventional and innovative practices. (A paper summarizing methods for improving immunization practices in primary care settings is provided with

each application kit.) The projects have three specific tasks:

Task I—the AMC/CHN is to increase immunization coverage among children already receiving care in the AMC's/CHN's network of Primary Care Clinics. Concurrently, the AMC/CHN is asked to perform a community needs assessment to adjust approaches to achieving Task I and to prepare for carrying out Tasks II and III.

Task II—The AMC/CHN is to translate its experience with the successful methods used to carry out Task I to other providers of children's primary care within the Target Community(ies), resulting in measurable changes in immunization practices and measurable improvements in the immunization coverage among the children served by the other providers.

Task III—The AMC/CHN is to use innovative or experimental methodologies to improve immunization coverage levels in the Target Community(ies). Task I focuses on children who receive care in the AMC/CHN Primary Care Clinics. Task II focuses on children who receive care from other Target Community health care providers. Task III requires that the successful parts of Tasks I and II, along with any other population-based strategies used, have an overall impact on immunization coverage for the Target Community(ies).

Most AMCs/CHNs will initiate these three tasks in sequence, but some AMCs/CHNs may be sufficiently advanced to initiate Tasks I and II simultaneously. By midway into the project period, most AMCs/CHNs probably will be conducting these three tasks concurrently.

#### Program Requirements

The following are application requirements:

A. Is your organization an Academic Medical Center or a Community Health Network, as each is defined in this program announcement (if so, please specify which)?

B. Does your AMC/CHN provide comprehensive primary care and immunization services?

C. Does your AMC/CHN have experience in delivering services to underserved child populations in the setting (urban area or rural area) for which you intend to apply?

D. Have your AMC/CHN and each of your Project Collaborators been providing primary medical care to infants and children for at least the past 12 months?

E. Does your AMC/CHN have the ability to effect primary care policy in each of the AMC/CHN Primary care

clinics in the Target Communities you would propose for this project?

F. If you are an AMC, does your institution have a network of primary care providers for children, as defined in this program announcement?

G. If you are a CHN, do you have linkages with an AMC, as defined in this program announcement, at least to the extent that an AMC has agreed to accept responsibility for the clinic-based process and outcome evaluation of the CHN's proposed demonstration program?

H.1. If you are applying for an urban area award, do you have at least one AMC/CHN Primary Care Clinic serving at least one urban Target Community with  $\geq 100,000$  population, as those terms are defined in this program announcement?

H.2. If you are applying for an urban area award, do you have a collective current annual birth cohort of at least 8,000 residing in your proposed Target Community(ies)?

H.3. If you are applying for an urban area award, do your AMC/CHN Primary Care Clinics serving the population from your proposed Target Community(ies) collectively serve a current annual birth cohort of at least 4,000?

H.4. If you are applying for a rural area award, do you have at least one AMC/CHN Primary Care Clinic in at least one rural Target Community, as those terms are defined in this program announcement?

I. Do each of the Target Communities you would select for this project have at least one additional primary care provider, other than an AMC/CHN Primary Care Clinic participating in this project, serving children from the Target Community population?

J. Is there a commitment at the *highest levels of your AMC/CHN* that the project manager, within reasonable limits, will be given sufficient direct authority and institutional backing to make those decisions necessary to ensure success of the project, even if those decisions may affect other domains, such as clinic/provider policies and practices?

K. Do each of your AMC/CHN Primary Care Clinics in the Target Community(ies) have an existing and proven patient information system (automated or manual) capable of recording demographic information about your enrolled population, and utilization information about patient encounters and immunizations administered?

L. Are you able to identify a populations, preferably within your MSA (if applying for an urban area award) or your State (if applying for a rural area award), to serve as a control

for CDC's population-based evaluation of your project? (i.e., a population from an area which includes a HPSA and which has a racial/ethnic composition and Medicaid proportion which approximates ( $\pm 15$  percent for each population group and for the Medicaid proportion) their distribution when the selected Target Communities are taken as a collective).

Provide a succinct but informative response to each application requirement. Respond with "N/A" whenever a requirement does not relate to your type of eligible applicant organization (AMC or CHN) or the type of award (urban area or rural area) for which you are applying. Your response must not exceed 4 pages or have independent attachments, although you are encouraged to reference appropriate text in, or attachments to, the application. Your response must appear as the first 1–4 pages of the text of your application and be titled, "Program Requirements." An affirmative response to each applicable question (A–L) is required to qualify for further review. All responses should provide adequate explanation and clarification of any exceptions.

#### Cooperative Activities

In conducting activities of this program, the recipient shall be responsible for the activities under A., below and CDC shall be responsible for conducting activities under B., below.

#### A. Recipient Activities

##### 1. Task I activities include:

a. A Target Community needs assessment—To ensure effective program planning, a recipient is expected to conduct a community needs assessment in collaboration with the organizations/agencies serving the Target Community populations. The intent is for recipients to obtain information about these populations and to involve their representatives actively in the development of the program plan. Recipients are expected to: (1) use a participatory process that includes relevant community organizations, State and local health departments, and other local agencies; (2) identify and assess the unmet immunization and primary care needs of the targeted population(s); and, (3) document the available resources for supporting an effort to raise immunization coverage levels in the Target Community. Based on the results of the needs assessment, and in coordination with CDC, a recipient is expected to develop a program and community-specific plan for Task II and

Task III. The needs assessment should determine, describe, and document:

(1) Access to, and availability of, immunization and primary care services for the population(s) of the Target Community(ies), barriers to obtaining services, and specific unmet primary care needs; and;

(2) Technical assistance needs of providers and organizations serving, or proposing to serve, Target Community populations.

The needs assessment should include the procedures used to identify and assess immunization and primary care needs, the actual unmet immunization and primary care needs, and any recent, current, or proposed actions to be taken within the Target Community(ies) to address them. This documentation also should include lessons learned through the needs assessment process and the technical assistance services planned (for Task II and Task III), so this information can be shared with other organizations, agencies, and recipients.

b. Application of interventions in the AMC's/CHN's network of primary care providers in the Target Community(ies)—In each AMC/CHN Primary Care Clinic that operates in each Target Community selected for this demonstration project, a recipient is expected to apply practices that have been shown to improve and sustain immunization coverage. A recipient is expected to document the efforts made, including successes and failures and outcomes resulting from these activities. At a minimum, these practices must be consistent with the Standards for Pediatric Immunization Practices, with particular emphasis on the following interventions:

(1) Reminder/recall systems—Each AMC/CHN Primary Care Clinic or network of Primary Care Clinics should establish a reminder/recall system conditioned on the immunization status of the enrolled patients.

(2) Provider immunization record assessment and feedback—The recipient must ensure that a semiannual immunization record assessment is conducted using software approved by CDC (such as CASA) for each provider within each AMC/CHN Primary Care Clinic. The recipient may perform CASA-type assessments of Task I, either through its own resources or by engaging other expertise, such as the State or local health department. (A paper on the supportive potential of public health departments for this project is provided with each application kit.) Depending on the expertise residing at the AMC chosen to take responsibility for the clinic-based process and outcome evaluation of its

program, a CHN may want to insist that the AMC engage the State or local health department, or another expert entity, to assist in conducting its CASA-type clinic assessment. The data obtained through these assessments should be used by the recipient in conjunction with CDC to identify problems in immunization service delivery and to formulate and implement solutions.

(3) Administration of vaccines—Target Community AMC/CHN Primary Care Clinics should ensure that all providers administer all appropriate vaccines at the appropriate time.

(4) Observance of the most current Recommended Immunization Schedule, approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP), or accelerated schedule, as appropriate to an individual child.

(5) Observance of true immunization contraindications—AMC/CHN Primary Care Clinics should practice only true contraindications to vaccination, as stated in the most current ACIP recommendations.

c. Task I clinic-based process evaluation—A recipient is expected to ensure the ongoing process evaluation of various Task I activities to identify delivery problems. At a minimum, the quarterly process indicators for each Target Community AMC/CHN Primary Care Clinic should include:

(1) CASA-type utilization indicators.

(2) Enrollment status for each Target Community AMC/CHN Primary Care Clinic.

(3) Appointment and reminder/recall process data.

d. Task I clinic-based outcome evaluation—On a semiannual basis, a recipient is expected to ensure the gathering, analysis, and reporting of immunization outcome indicators for each Target Community AMC/CHN Primary Care Clinic relating to two age groups of children: 12–15 and 24–27 months of age. A recipient is expected to ensure that a baseline CASA-type assessment is performed for each Target Community AMC/CHN Primary Care Clinic and is repeated at 6-month intervals. Sampling should be consistent with the CASA methodology.

2. Task II activities—The purpose of Task II is to improve the immunization practices of other Target Community primary medical care providers. This includes:

a. Continuing Task I activities in each AMC/CHN Primary Care Clinic;

b. Exporting successful Task I activities to other AMC/CHN Primary

Care Clinic(s) serving the Target Community(ies); and,

c. Exporting successful Task I activities to other primary health care providers serving the Target Community(ies).

d. Clinic-based process and outcome evaluations—As with Task I, the recipient is responsible in performing Task II for ensuring that a CASA-type assessment is periodically performed for each participating primary health care provider in the Target Community(ies). Also, as with Task I, the recipient may discharge this responsibility by using its own resources or by engaging other expertise, such as the State or local health department.

3. Task III activities—The purpose of Task III is to design and test creative approaches to raising the immunization coverage level of remaining Target Community children. Task III includes:

a. Continuing all Task I and Task II activities in the Target Community(ies);

b. Developing creative, practical strategies for bringing all infants into the primary health care delivery system for the earliest recommended well-child-care visit, and retaining them in the system; and developing protocols based on conventional scientific methods for rigorously evaluating the feasibility of these strategies;

c. Developing creative, practical strategies for returning and retaining children who have dropped out of the health delivery system, and develop protocols based on conventional scientific methods for rigorously evaluating the feasibility of these strategies;

d. Collaborating with CDC on the design of all Task III investigations;

e. Implementing investigations to test Task III strategies.

f. Task III Evaluation—Procedures and parameters for the evaluation of Task III activities will be described as part of the individual protocols approved and implemented and on the schedule specified in those protocols.

Although the projects resulting from this announcement are demonstrations rather than research studies, valuable new knowledge will be gained that can help other areas improve the immunization status of children. It is expected that the recipients will publish their methods and results. Data from individual projects belong to the recipients but must be shared with the CDC, and CDC reserves the right to publish scientific papers from data that are aggregated across projects.

Publication of individual project data in the same manuscript with these aggregate data will be a shared responsibility with the standard rules of

authorship applying. Thus, all authors must have participated in the creation, conduct, analysis, and interpretation of results.

#### B. CDC Activities

1. Provide medical, epidemiologic, programmatic, and educational consultation and technical assistance in planning, operating, improving, and evaluating the demonstration project.

2. Provide technical assistance in community coalition development to increase the potential for achieving Task II and Task III.

3. Provide oversight for the rigorous scientific approach to be taken in Task III to increase the use of primary care by underserved families of underimmunized children.

4. Ensure that recipients are provided population-based immunization coverage data for their respective urban area or rural area Target Community(ies) as such data become available from the independent evaluation contractor.

5. Coordinate the dissemination of findings from the demonstration project and collaborate with recipients on specific publications involving data collected.

#### Evaluation Criteria

Upon receipt, applications will be screened by CDC staff for completeness and responsiveness as outlined under the previous heading, "Program Requirements" (A–L). Incomplete applications and applications which are not responsive will be returned to the applicant without further consideration. Applications which are complete and responsive may be subjected to a preliminary evaluation by a peer review group to determine if the application is of sufficient technical and scientific merit to warrant further review (triage); the CDC will withdraw from further consideration applications judged to be noncompetitive and promptly notify the principal investigator/program director and the official signing for the applicant organization.

Applications accepted for full review will be reviewed and evaluated according to the following criteria:

A.1. *For Urban Area Applicants*—The extent to which need for the program is justified by the applicant's documentation of: (1) the magnitude of unmet primary care needs and underimmunization (if available) of urban inner city and other underserved populations in the proposed Target Community(ies); and (2) the existence of the current annual birth cohort residing in the proposed Target Community(ies)—10 Points.

A.2. *For Rural Area Applicants*—The extent to which need for the program is justified by the applicant's documentation of the magnitude of unmet primary care needs and underimmunization (if available) of the underserved populations living in the proposed Target Community(ies)—10 Points.

B. The extent to which the applicant's documentation establishes: (1) experience in delivering children's primary care and immunization services to underserved child populations in the Target Community(ies); (2) knowledge of the population in the Target Community(ies), as reflected by the cultural appropriateness of services that the applicant is providing; and (3) existence of the current annual birth cohort collectively served by AMC/CHN Primary Care Clinics participating as part of the proposed Target Community(ies)—10 Points.

C. The extent to which the proposed program framework is comprehensive, specific, reasonable, and realistic—20 Points.

D. The quality and feasibility of a narrative program proposal that includes: (1) detailed plans for: (a) implementing all Task I and Task II activities and general preparations for Task III; (b) program management; (c) documenting the process, including successes and failures, of implementing the activities of the three tasks; (d) resolving problems that might be encountered in designing and implementing program activities, (e.g., problems in recruiting, hiring, or retaining staff; training of staff; monitoring and ensuring staff performance; and monitoring and ensuring provider performance in Task II and Task III); and (e) completing and submitting progress reports; and (2) the extent to which: (a) the applicant's proposed Target Community(ies) are visually represented on a census tract map; (b) data regarding the applicant's proposed Target Community(ies) and AMC/CHN Primary Care Clinics appear to document the infrastructure needed to successfully conduct and evaluate this demonstration project; (c) the plan to ensure the sustainability of the results of carrying out the project's tasks is realistic; and (d) the plan is feasible in relation to the size of the current annual birth cohort, both residing in the Target Community(ies) and being served by AMC/CHN Primary Care Clinics in the selected Target Community(ies)—20 Points.

E. The extent to which: (1) the evaluation plan, either of an applying AMC or of a CHN through the AMC which will be responsible for the clinic-

based process and outcome evaluation for the CHN's project, will measure the achievement of the applicant's stated goals and objectives, quality assure services, and support the ongoing management of the project; (2) the evaluation capability of an applying AMC, or of a CHN through the AMC which will be responsible for clinic-based process and outcome evaluation of the CHN's proposed demonstration program; and (3) the proposed control population is visually represented on a census tract map and meets the specifications for HPSA inclusion, racial/ethnic group composition, and Medicaid proportion set forth in subsection E. Evaluation Plan of the Application Contents section—20 Points.

F. The extent to which the applicant's description of a patient information system indicates a conclusion that the system is adequate to support an effective program—10 Points.

G. The extent to which the applicant proposes and properly documents potentially effective coordination, collaboration, and working relationships with State/local health departments—5 Points.

H. The extent to which the applicant documents effective prior working relationships with project collaborators, and the extent to which the applicant will coordinate and collaborate with providers (private and public), relevant community organizations, coalitions, and other agencies serving the populations in the Target Community(ies). For applying CHNs, the extent to which there is documentation showing the details of an formal agreement whereby a collaborating AMC agrees to assume responsibility for the clinic-based process and outcome evaluation of the CHN's project activities—5 Points.

#### Funding Priorities

During the selection process of urban area demonstration projects, CDC will make every effort to ensure that funded applications reflect a geographic distribution, as well as racial/ethnic diversity of the target populations; however, consistent with consideration of technical merit, at least one urban area award will be made to an applicant serving a predominantly African-American population, and at least one award will be made to an applicant serving a predominantly Hispanic population. No more than one urban area project will be funded in a State. The award of a rural area project will not be affected by the geographic distribution or ethnic/racial diversity of urban area projects. Therefore, it is

possible that an urban area project and the single rural area project could be awarded in the same State, but not to the same recipient.

Interested persons are invited to comment on the proposed funding priority. All comments received on or before June 7, 1996 will be considered before the final funding priority is established. If the funding priority should change as a result of any comments received, a revised announcement will be published in the Federal Register prior to the final selection of awards. Written comments should be addressed to: Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, Room 321, Atlanta, Georgia 30305.

#### Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If the SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, Georgia 30305, no later than 60 days after the application due date. Please include the Program Announcement Number and Program Title on the letter.

#### Public Health System Reporting Requirement

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based non-governmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The

following information must be provided:

A. A copy of the face page of the application (SF 424).

B. A summary of the project that should be titled "Public Health System Impact Statement" (PHSIS), not to exceed one page, and include the following:

1. A description of the population to be served;

2. A summary of the services to be provided; and

3. A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the State Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.268.

Other Requirements

#### *Human Subjects*

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Application Submission and Deadline

#### *A. Preapplication Letter of Intent*

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to the Grants Management Specialist (whose address is reflected in section B, "Applications"). It should be postmarked no later than one month prior to the planned submission deadline, (e.g., June 12 for a July 12 submission). The letter should identify the announcement number, the name of the applicant AMC or CHN and its Project Collaborators, as defined in this announcement, and the geographic type (urban or rural) of program which the intended application will address. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more

efficiently and thereby potentially benefit all applicants.

#### *B. Application*

The application should be carefully completed, following the directions provided in this program announcement. The original and two copies of the application PHS Form 5161-1 must be submitted to Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, Room 300, Mailstop E-13, Atlanta, Georgia 30305, on or before July 12, 1996.

##### 1. Deadline

Applications will be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the triage process, if it is employed, or the objective review process if it is not. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

##### 2. Late Applications

Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332-4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement #612. You will receive a complete program description. The program announcement is also available on through the CDC homepage on the Internet. The address for the CDC homepage is <http://www.cdc.gov>. CDC will not send program announcements by facsimile or express mail. If you have any questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, Georgia 30305, telephone (404) 842-6796, Internet address: [lgt1@opspgo1.em.cdc.gov](mailto:lgt1@opspgo1.em.cdc.gov).

Programmatic technical assistance may be obtained from Russ Havlak, Immunization Services Division, National Immunization Program, Centers for Disease Control and Prevention (CDC), Building 12, Corporate Square Boulevard, Mailstop E-52, Atlanta, Georgia 30329, telephone (404) 639-8569, Internet address: [grh1@cpstb1.em.cdc.gov](mailto:grh1@cpstb1.em.cdc.gov).

Please refer to Announcement Number 612 when requesting information and submitting an application.

There may be delays in mail delivery as well as difficulty in reaching the CDC Atlanta offices during the 1996 Summer Olympics (July 19-August 4). Therefore, CDC suggests the following to get more timely responses to any questions: using internet/email, following all instructions in this announcement, and leaving messages on the contact person's voice mail.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9325, telephone: 202-512-1800.

Dated: May 2, 1996.

Joseph R. Carter,

*Acting Associate Director for Management and Operations Centers for Disease Control and Prevention (CDC).*

[FR Doc. 96-11443 Filed 5-7-96; 8:45 am]

BILLING CODE 4163-18-P

## **Food and Drug Administration**

### **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:

### **Veterinary Medicine Advisory Committee**

*Date, time, and place.* May 29, 1996, 8:30 a.m., Holiday Inn—Gaithersburg, Goshen Room, Two Montgomery Village Ave., Gaithersburg, MD.

*Type of meeting and contact person.* Open committee discussion, 8:30 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 2:30 p.m.; open public hearing, 2:30 p.m. to 3:30 p.m., unless public participation does not last that long; Joanne M. Kla, Center for Veterinary Medicine (HFV-244), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1765, or FDA Advisory Committee Information Hotline, 1-800-741-8138 (301-443-0572 in the Washington, DC area), Veterinary Medicine Advisory Committee, code 12546. Please call the hotline for information concerning any possible changes.

*General function of the committee.* The committee reviews and evaluates available data concerning safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal disease and increased animal production.

*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 presentation should notify the contact person before May 22, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

*Open committee discussion.* FDA relies on States and the milk industry for much of the routine drug residue monitoring, and in conjunction with the National Conference on Interstate Milk

Shipments (NCIMS), uses its limited resources in the training of a wide range of State and industry personnel, provides testing for the accreditation of State laboratories, and conducts a limited number of assays. The General Accounting Office (GAO) recently recommended that FDA develop a comprehensive strategy to address animal drug residues in milk. The first topic to be addressed by the committee will be a draft document entitled "FDA Strategy To Address Animal Drug Residues In Milk." During the afternoon, the committee will discuss the status of the sometribove Post-Approval Monitoring Program (PAMP). FDA approved sometribove, a recombinant bovine somatotropin (bST) on November 12, 1993 (58 FR 55946), and the product, Posilac®, began commercial distribution on February 4, 1994. Steps have been taken to monitor sometribove in commercial use. The Monsanto Co. is conducting a PAMP that includes the following elements:

- A study of animal health effects including mastitis, animal drug use and resulting loss of milk associated with bST use in a minimum of 24 commercial dairy herds. The in-life portion of this study were recently completed. The committee will hear a brief status report on May 29, 1996, and will consider the report in detail during the fall of 1996 after the quality assurance and statistical treatments of the data are complete.
- A 2-year tracking system of milk production and drug residues in key dairy States that represent over 50 percent of the total U.S. milk production to compare the amount of milk discarded due to drug residues before and after bST approval.
- A 12-month comparison of the proportion of milk discarded due to possible drug residues between bST treated and untreated herds.
- A reporting system to monitor bST use and reports of adverse drug experiences. The committee will also consider the 2-year tracking system to compare mild discarded pre- versus post-bST approval and adverse experience reports filed with FDA during the first 2 years of sometribove commercial use.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions

for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday

through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 29, 1996.

Michael A. Friedman,

*Deputy Commissioner for Operations.*

[FR Doc. 96-11436 Filed 5-7-96; 8:45 am]

BILLING CODE 4160-01-F

## Health Care Financing Administration [HCFA-319]

### Agency Information Collection Activities: Proposed Collection: Comment Request

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

1. *Type of Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* State Medicaid Eligibility Quality Control (MEQC) Sample Selection Lists; *Form No.:* HCFA-319; *Use:* The State MEQC sample selection list is necessary for regional offices to control and track State MEQC reviews. The sample selection lists contain identifying information on Medicaid beneficiaries; *Frequency:* Monthly; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 55; *Total Annual Responses:* 12; *Total Annual Hours:* 5,280.

To request copies of the proposed paperwork collection referenced above,

E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information 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: Linda Mansfield, Room C2-26-17, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: April 29, 1996.

Kathleen B. Larson,

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

[FR Doc. 96-11384 Filed 5-7-96; 8:45 am]

BILLING CODE 4120-03-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT-814546

Applicant: James Spotila, Drexel University, Philadelphia, PA

The applicant requests a permit to import blood and tissue samples from leatherback sea turtle (*Dermochelys coriacea*), green sea turtle (*Chelonia mydas agassizi*) and olive ridley sea turtle (*Lepidochelys olivacea*) from Costa Rica and India for the purpose of scientific research that will benefit the species in the wild. This notice covers activities conducted by the applicant over a five year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the

following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: May 3, 1996.

Caroline Anderson,

*Acting Chief Branch of Permits, Office of Management Authority.*

[FR Doc. 96-11490 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-55-P

## Bureau of Land Management

[WO-300-1310-00]

### Green River Basin Advisory Committee, Colorado and Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Meeting of the Green River Basin Advisory Committee.

**SUMMARY:** This notice sets forth the time schedule and agenda for the third meeting of the Green River Basin Advisory Committee (GRBAC).

**DATES:** Wednesday, May 22, 1996, from 8:00 a.m. until 7:00 p.m., and Thursday, May 23, 1996, from 8:00 a.m., until 4:00 p.m.

**ADDRESSES:** Moffat County Fairgrounds Pavilion, junction of Bellaire and 4th Street, Craig, CO 81625.

**FOR FURTHER INFORMATION CONTACT:**

Terri Trevino, GRBAC Coordinator, Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003, telephone (307) 775-6020; or Frank Salwerowicz, Bureau of Land Management, 2850 Youngfield St., Lakewood, CO 80215, telephone number (303) 239-3745.

**SUPPLEMENTARY INFORMATION:** The topics for the meeting will include:

1. Sub-group reports;
2. Dissemination of GRBAC information requests; and
3. Public comment.

This meeting is open to the public. Persons interested in making oral comments to the GRBAC or filing written statements for the GRBAC's consideration should notify the GRBAC Coordinator at the above address by May 14, 1996. Oral comments will be heard from 5:00 p.m., to 7:00 p.m., on Wednesday, May 22. The GRBAC may establish a time limit for oral statements.

Dated: April 29, 1996.

Mike Dombeck,

*Acting Director, Bureau of Land Management.*

[FR Doc. 96-11433 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-84-M

[CA-028-4310-40-P]

**Summary of temporary road closure****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Summary of Temporary Road Closure.

**SUMMARY:** Notice is hereby given that effective immediately, portions of the Granger Canyon Road across Bureau of Land Management-administered lands in Modoc County, California are closed to all motorized vehicle use until further notice. This closure is necessary to protect public safety because of hazardous conditions caused by erosion of the roadway. Location of the road is T 42N, R 16E, M. D. B. M., in portions of sections 30 and 31, Modoc County, CA. Repair and reopening of the road is contingent upon a long-term road maintenance agreement between the Modoc National Forest and the Bureau of Land Management. The authority for this closure is CFR 8364 (closure and restriction orders). For more information, contact Surprise Resource Area Manager Susan T. Stokke, (916) 279-6101.

Susan T. Stokke,  
Area Manager.

[FR Doc. 96-11434 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-40-P

**National Park Service****Subsistence Resource Commission Meeting****AGENCY:** National Park Service, Interior.**ACTION:** Notice of meeting.

**SUMMARY:** The Superintendent of Gates of the Arctic National Park and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

- (1) Call to order.
- (2) Roll call.
- (3) Approval of summary of meeting minutes for November 7-9, 1995.
- (4) Review agenda.
- (5) Superintendent's introduction of guests and staff and review of SRC function and purpose.
- (6) Superintendent's Management/Research Reports:
  - a. Administration and Management.
  - b. Park Operations.
  - c. Resource Management.
  - d. Subsistence Program.
- (7) Public and agency comments.
- (8) Old business:

- a. Incoming correspondence.
- b. Federal Subsistence Program Update.
- c. Discuss draft Review of Subsistence Law and NPS Regulations Paper.
- d. Update on NPS Firearms/Trapping Regulation clarification.
- e. Review of public and agency comments on Hunting Plan Recommendation #11: *Customary and Traditional use Determinations*.
- f. Status of previously submitted Hunting Plan Recommendations #9 and #10.
- g. Status of Anaktuvuk Pass Land Exchange Legislation.
- (9) New business:
  - a. Federal Regional Council actions that may affect subsistence regulations for the park or preserve.
  - b. Incidental Business Permits and Park Concessions.
- (10) Set time and place of next meeting.
- (11) Adjournment.

**DATES:** The meeting will be held Tuesday-Thursday, May 14-16, 1996. The meeting will be from 7 p.m. to 9:30 p.m. on Tuesday, from 8:30 a.m. to 4:30 p.m. and 7 p.m. to 9 p.m. on Wednesday and from 8:30 a.m. to 11 a.m. on Thursday.

**LOCATION:** The meeting will be held at Commack's Lodge in Shungnak, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Dave Mills, Superintendent, Gates of the Arctic National Park and Preserve, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456-0281.

**SUPPLEMENTARY INFORMATION:** The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Marcia Blaszak,

*Acting Field Director.*

[FR Doc. 96-11304 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-70-M

**Little River Canyon National Preserve, Alabama****AGENCY:** National Park Service, Interior.**ACTION:** Notice—acceptance of concurrent jurisdiction.

**SUMMARY:** Notice is hereby given that the State of Alabama has conveyed to the National Park Service (NPS) concurrent jurisdiction over all the lands and waters within the exterior boundaries of Little River Canyon National Preserve, Alabama.

**EFFECTIVE DATE:** Concurrent jurisdiction, pursuant to the Agreement discussed below, became effective on March 28, 1996, upon the acceptance by the NPS from the Governor of Alabama.

**FOR FURTHER INFORMATION CONTACT:** Superintendent, Little River Canyon National Preserve, Fort Payne, Alabama 35967. Telephone 205-997-9239.

**SUPPLEMENTARY INFORMATION:** On May 26, 1981, the United States, acting in accordance with provisions of 16 U.S.C. § 1a-3 and 40 U.S.C. § 255, and the State of Alabama, acting in accordance with § 42-3-1 Code of Alabama 1975, entered into an Agreement, whereby concurrent jurisdiction was established over lands and waters within certain specified units of the National Park System within the State of Alabama.

Paragraph IV on page 3 of the Agreement provides "That if pursuant to an Act of the United States Congress, additional National Park Service units, not set out herein, are created within the State of Alabama, that this agreement may be modified by amendment to incorporate these subsequently created units into the said Agreement, making the units subject to the terms and conditions contained in the said Agreement".

Based on this Agreement, the United States and the State of Alabama have determined that it is to their mutual benefit to amend the aforementioned Agreement for the purposes of establishing concurrent jurisdiction for Little River Canyon National Preserve. Governor Fob James of the State of Alabama conveyed concurrent jurisdiction over all the lands and waters within the exterior boundaries of Little River Canyon National Preserve through an amendment to the existing Agreement of concurrent jurisdiction over lands and waters within National Park System units in the State of Alabama. On March 28, 1996, Roger G. Kennedy, Director of the National Park Service, Department of the Interior accepted this jurisdiction from the State of Alabama.

Dated: April 16, 1996.

Chris L. Andress,

*Acting Associate Director, Park Operations and Education, National Park Service.*

[FR Doc. 96-11398 Filed 5-7-96; 8:45 am]

BILLING CODE 4310-70-P

**National Park System Units in the State of New Jersey****AGENCY:** National Park Service, Interior.**ACTION:** Notice—Acceptance of concurrent jurisdiction.

**SUMMARY:** Notice is hereby given that the State of New Jersey has ceded to the National Park Service (NPS) concurrent jurisdiction over lands and waters, owned, leased or administratively controlled, and those hereafter acquired,

leased or administratively controlled by the National Park Service, within the boundaries of units of the National Park System within the State of New Jersey.

**EFFECTIVE DATE:** Concurrent jurisdiction, pursuant to the State legislation discussed below, became effective on March 28, 1996, upon the acceptance by the NPS from the Governor of New Jersey.

**FOR FURTHER INFORMATION CONTACT:** Dennis Burnett, Ranger Activities Division, National Park Service, Washington, DC. Telephone 202-208-4874.

**SUPPLEMENTARY INFORMATION:** In August 1995, the State of New Jersey passed legislation (P.L. 1995, Chapter 212) ceding to the NPS concurrent legislative jurisdiction "over lands and waters, owned, leased or administratively controlled, and those hereafter acquired, leased or administratively controlled by the National Park Service, within the boundaries of units of the National Park System within the State of New Jersey." On August 14, 1995, Governor Christine Todd Whitman signed the legislation officially ceding the jurisdiction. On March 8, 1996, in accordance with 40 U.S.C. § 255, Robert G. Kennedy, Director of the National Park Service, Department of the Interior, accepted from the State of New Jersey the cessation of concurrent legislative jurisdiction over the lands identified in the State legislation. Those lands include the following five park units:

1. Delaware Water Gap National Recreation Area
2. The Sandy Hook Unit of Gateway National Recreation Area
3. Morristown National Historic Park
4. Thomas Edison National Historic Site
5. Ellis Island

Dated: April 16, 1996.

Chris L. Andress,

*Acting Associate Director, Park Operations and Education, National Park Service.*

[FR Doc. 96-11396 Filed 5-7-96; 8:45 am]

**BILLING CODE 4310-70-M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-31, 736, 736A, 736B, 736C]

#### Amended Certification Regarding Eligibility to Apply for Workers Adjustment Assistance

Bayer Clothing Group, Inc., Clearfield, Pennsylvania; Bayer Clothing Group, Inc.,

Hyde, Pennsylvania; Bayer Clothing Group, Inc., New Philadelphia, Pennsylvania; Kent Sportswear, Inc., Curwensville, Pennsylvania.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 1, 1996, applicable to all workers of Bayer Clothing Group, Inc., located in Clearfield, Pennsylvania. The notice was published in the Federal Register on March 19, 1996 (61 FR 11224).

At the request of the petitioner, UNITE, the Department reviewed the certification for workers of the subject firm. Union officials report that two of the subject firms' production facilities of the subject firm were excluded from the worker certification, the Hyde Plant and the New Philadelphia Plant. The workers produce men's sportcoats and suit coats. Also excluded was Kent Sportswear, Inc. located in Curwensville, Pennsylvania, a contractor engaged in sew, press and finish operations for the Bayer Clothing Group, Inc.

The intent of the Department's certification is to include all workers of Bayer Clothing Group, Inc., who were adversely affected by increased imports of apparel. Accordingly, the Department is amending the certification to include workers of the subject firm locations in Hyde and New Philadelphia, Pennsylvania, and workers of Kent Sportswear, Inc., located in Curwensville, Pennsylvania.

The amended notice applicable to TA-W-31,736 is hereby issued as follows:

"All workers of Bayer Clothing Group, Inc., located in Clearfield, Pennsylvania (TA-W-31,736); Hyde, Pennsylvania (TA-W-31,736A); and New Philadelphia, Pennsylvania (TA-W-31,736B); and workers of Kent Sportswear, Inc., Curwensville, Pennsylvania (TA-W-31,736C) who became totally or partially separated from employment on or after December 11, 1994, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 29th day of April 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-11508 Filed 5-7-96; 8:45 am]

**BILLING CODE 4510-30-M**

[TA-W-30,850B]

#### Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance; Haggar Clothing Company; Weslaco Manufacturing Company a/k/a/ Bowie Manufacturing Company a/k/a Weslaco Sewing, Weslaco, Texas

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a notice of Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 19, 1996, applicable to all workers of Haggar Clothing Company, Weslaco Manufacturing Company, a/k/a Bowie Manufacturing Company, Weslaco, Texas. The notice will soon be published in the Federal Register.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's pants and coats. The State Agency reports that some of the workers separated from the subject firm had their unemployment insurance (UI) taxes paid to Weslaco Sewing. Accordingly, the Department is again amending the certification to include Weslaco Sewing.

The intent of the Department's certification is to include all workers of the Haggar Clothing Company who were adversely affected by increased imports.

The amended notice applicable to TA-W-30,850 is hereby issued as follows:

All workers of Haggar Clothing Company, Weslaco Manufacturing Company, a/k/a Bowie Manufacturing Company, a/k/a Weslaco Sewing, Weslaco, Texas (TA-W-30,850B) who became totally or partially separated from employment on or after March 16, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of April 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-11502 Filed 5-7-96; 8:45 am]

**BILLING CODE 4510-30-M**

[TA-W-32,079; TA-W-32,079A; TA-W-32,079B]

**Notice of Termination of Investigation; Nesor Alloy Corporation, West Caldwell, New Jersey; Nesor Alloy Corporation, Montville, New Jersey; Nesor Alloy Corporation, Fairfield, New Jersey**

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 12, 1996 in response to a worker petition which was filed on behalf of workers at Nesor Alloy Corporation, West Caldwell, Montville and Fairfield, New Jersey locations.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 27th day of April, 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-11503 Filed 5-7-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-31,485]

**Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance; Quantum Corporation High Capacity Storage Group, Colorado Springs, Colorado; including workers employed through T.S.I. Temporary Agency, Colorado Springs, Colorado**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 22, 1995, applicable to all workers of Quantum Corporation, High Capacity Storage Group located in Colorado Springs, Colorado. The certification covered temporary workers leased to Quantum through various agencies in Colorado Springs. The notice was published in the Federal Register on December 12, 1995 (60 FR 63732).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The Agency reports that workers of T.S.I. Temporary Agency, Colorado Springs, Colorado, were inadvertently excluded from the certification.

The intent of the Department's certification is to include all workers of Quantum who were adversely affected by imports. Accordingly, the Department is amending the

certification to include workers of T.S.I. Temporary Agency.

The amended notice applicable to TA-W-31,485 is hereby issued as follows:

All workers of Quantum Corporation, High Capacity Storage Group, and workers of T.S.I. Temporary Agency, contracted by Quantum Corporation, Colorado Springs, Colorado who became totally or partially separated from employment on or after September 19, 1994, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-11507 Filed 5-7-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-31,743, 743A]

**Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; R.D. Simpson, Incorporated (including D&E Laundry) Cartersville, GA and Zena Enterprises, New York, NY**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 23, 1996, applicable to all workers of R.D. Simpson, Incorporated (including D&E Laundry) Located in Cartersville, Georgia. The notice was published in the Federal Register on February 6, 1996 (FR 4486).

At the request of the State Agency, the Department reviewed the certification for workers at the subject firm. New findings show that worker separations have occurred at Zena Enterprises, an affiliate of the subject firm, located in New York, New York. The company reports that workers at Zena provide services in support of the production of jeans by the subject firm in Cartersville, Georgia.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of jeans. Accordingly, the Department is amending the certification for workers of the subject firm to include all workers of Zena Enterprises in New York, New York.

The amended notice applicable to TA-W-31,743 is hereby issued as follows:

All workers of workers of R.D. Simpson, Incorporated (including D&E Laundry), Cartersville, Georgia (TA-W-31,743), and Zena Enterprises, New York, New York (TA-

W-31,743A) who became totally or partially separated from employment on or after December 4, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of April 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-11500 Filed 5-7-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,262]

**Notice of Termination of Investigation; Zena Enterprises, New York, NY**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 22, 199 in response to a worker petition which was filed April 9, 1996 on behalf of workers at Zena Enterprises, New York, New York (TA-W-32,262).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA-W-31,743A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 23rd day of April 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-11506 Filed 5-7-96; 8:45 am]

BILLING CODE 4510-30-M

**Employment and Training Administration**

**Proposed Collection; Comment Request**

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506 (c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the

Employment and Training Administration is soliciting comments concerning the proposed new collection of Migrant and Seasonal Farmworker (MSFW) customer satisfaction data.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the Office listed in the address section below on or before July 8, 1996.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**ADDRESSES:** Ms. Patricia A. Carroll, Employment and Training Administration, Office of Policy and Research, Room N5637, 200 Constitution Avenue, NW., Washington, DC 20210. Phone: (202) 219-8680 x139 (This is not a toll free number.) Fax: (202) 219-5455.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DOL proposes to conduct a customer survey of customers' opinions about the employment and training services received through Migrant and Seasonal Farm Worker (MSFW) programs—how helpful services were to MSFW customers, both overall and for specific services. This information is critical for improving the quality of services and making them more responsive to the needs of MSFW clients. Furthermore, it is important to determine whether and how different types of customers viewed the helpfulness of services they received and whether the differences in customers' views on the helpfulness of the program are related to their subsequent program outcomes and

employment. While some agencies have instituted some form of customer feedback, no other national effort to measure customer satisfaction in the MSFW program is underway.

**II. Current Actions**

A national survey will be conducted of 2,100 current and past participants in employment and training services. They will be asked about their experiences with the local service providers referred to as "grantees" who were awarded funds through the JTPA Title IV § 402 MSFW program. The questions asked in the survey will allow the examination of the important relationships between services and customer satisfaction. The questionnaire will ask about how satisfied customers were with the services overall and with specific services, including supportive services.

A nationally representative sample of participants will be drawn from a representative sample of 25 grantees. From each selected grantee, a sample of terminees and/or current participants will be selected over a period of several months. In this way, the sample will reflect the seasonal differences in the types of customers served in the program. About one-third of the sample will be individuals still participating in the program, who will be interviewed in person at the grantees' offices. The remaining two-thirds of the sample will be interviewed about 30 days after they leave the program so that they can report about how helpful services were in helping them find or keep a job. These individuals will be interviewed by phone, through a mail survey, or in person if necessary. The results of this survey will be used to suggest ways to improve programs to better meet the needs of the MSFW population.

*Type of Review:* New.

*Agency:* Employment and Training Administration.

*Title:* MSFW Customer Survey.

*Affected Public:* Individuals or households.

*Total Respondents:* 1,680 individuals.

*Frequency:* One time only.

*Total Responses:* 1,680 responses.

*Average Time per Response:* 20 minutes.

*Estimated Total Burden Hours:* 560 hours.

*Total Burden Cost:* To complete this survey respondents are not expected to be required to purchase equipment or services. The answers to the questions in the survey are expected to be data that are already available. Therefore, the cost to the respondents result only from the time spent answering the questions. Estimates of the time to respond are presented above.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 2, 1996.

Gerard F. Fiala,

*Administrator, Office of Policy and Research.*

[FR Doc. 96-11501 Filed 5-7-96; 8:45 am]

**BILLING CODE 4510-30-M**

[NAFTA-00721, 00721A]

**Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance; R.D. Simpson, Incorporated (including D&E Laundry) Cartersville, GA and Enterprises, New York, NY**

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Notice of Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on January 26, 1996, applicable to all workers at R.D. Simpson, Incorporated (including D & E Laundry) located in Cartersville, Georgia. The notice was published in the Federal Register on February 6, 1996 (61 FR 4488).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at Zena Enterprises, an affiliate of the subject firm, located in New York, New York. The company reports that workers at Zena provide services in support of the production of jeans by the subject firm in Cartersville, Georgia.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports from Mexico or Canada. Accordingly, the Department is amending the certification for workers of the subject firm to include all workers of Zena Enterprises in New York, New York.

The amended notice applicable to NAFTA-00721 is hereby issued as follows:

All workers of workers of R.D. Simpson, Incorporated (including D & E Laundry), Cartersville, Georgia (NAFTA-00721), and Zena Enterprises, New York, New York (NAFTA-00721A) who became totally or partially separated from employment on or after December 4, 1994 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-11504 Filed 5-7-96; 8:45 am]

BILLING CODE 4510-30-M

## Employment Standards Administration

### Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comments procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Act," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3014, Washington, D.C. 20210.

#### New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and related Acts" are listed by Volume and State:

None

#### Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

#### Volume I

New Jersey

NJ960002 (May 10, 1996)

NJ960009 (May 10, 1996)

New York

NY960003 (May 10, 1996)

#### Volume II

District of Columbia

DC960001 (May 10, 1996)

DC960003 (May 10, 1996)

Maryland

MD960016 (May 10, 1996)

MD960017 (May 10, 1996)

MD960034 (May 10, 1996)

MD960048 (May 10, 1996)

MD960056 (May 10, 1996)

Pennsylvania

PA960001 (May 10, 1996)

PA960002 (May 10, 1996)

PA960018 (May 10, 1996)

Virginia

VA960020 (May 10, 1996)

VA960022 (May 10, 1996)

VA960048 (May 10, 1996)

VA960052 (May 10, 1996)

VA960104 (May 10, 1996)

VA960105 (May 10, 1996)

VA960108 (May 10, 1996)

#### Volume III

Florida

FL960001 (May 10, 1996)

FL960014 (May 10, 1996)

FL960017 (May 10, 1996)

FL960032 (May 10, 1996)

#### Volume IV

Illinois

IL960001 (May 10, 1996)

IL960003 (May 10, 1996)

IL960004 (May 10, 1996)

IL960009 (May 10, 1996)

IL960015 (May 10, 1996)

IL960017 (May 10, 1996)

IL960018 (May 10, 1996)

IL960023 (May 10, 1996)

Wisconsin

WI960003 (May 10, 1996)

#### Volume V

Iowa

IA960004 (May 10, 1996)

IA960005 (May 10, 1996)

IA960006 (May 10, 1996)

IA960009 (May 10, 1996)

IA960014 (May 10, 1996)

Louisiana

LA960001 (May 10, 1996)

LA960004 (May 10, 1996)

LA960005 (May 10, 1996)

LA960009 (May 10, 1996)

LA960012 (May 10, 1996)

LA960014 (May 10, 1996)

LA960016 (May 10, 1996)

LA960017 (May 10, 1996)

LA960018 (May 10, 1996)

Missouri

MO960001 (May 10, 1996)

MO960002 (May 10, 1996)

MO960003 (May 10, 1996)

MO960004 (May 10, 1996)

MO960005 (May 10, 1996)

MO960006 (May 10, 1996)

MO960007 (May 10, 1996)

MO960008 (May 10, 1996)

MO960010 (May 10, 1996)

MO960011 (May 10, 1996)

MO960013 (May 10, 1996)

MO960014 (May 10, 1996)

MO960015 (May 10, 1996)

MO960016 (May 10, 1996)

MO960019 (May 10, 1996)  
 MO960020 (May 10, 1996)  
 MO960041 (May 10, 1996)  
 MO960042 (May 10, 1996)  
 MO960043 (May 10, 1996)  
 MO960045 (May 10, 1996)  
 MO960047 (May 10, 1996)  
 MO960048 (May 10, 1996)  
 MO960049 (May 10, 1996)  
 MO960050 (May 10, 1996)  
 MO960051 (May 10, 1996)  
 MO960052 (May 10, 1996)  
 MO960053 (May 10, 1996)  
 MO960054 (May 10, 1996)  
 MO960055 (May 10, 1996)  
 MO960056 (May 10, 1996)  
 MO960057 (May 10, 1996)

## Oklahoma

OK960013 (May 10, 1996)  
 OK960014 (May 10, 1996)

## Texas

TX960018 (May 10, 1996)

## Volume VI

## Alaska

AK960001 (May 10, 1996)

## Montana

MT960001 (May 10, 1996)

## Wyoming

WY960002 (May 10, 1996)

General Wage Determination  
Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487-4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State.

Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 3rd day of May 1996.

Philip J. Gloss,  
*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 96-11448 Filed 5-7-96; 8:45 am]

BILLING CODE 4510-27-M

---

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[Notice 96-046]

**NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Structure and Evolution of the Universe Advisory Subcommittee; Meeting**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Structure and Evolution of the Universe Subcommittee.

**DATES:** Monday, June 3, 1996, 8:30 a.m. to 5:00 p.m.; and Tuesday, June 4, 1996, 8:30 a.m. to 4:30 p.m.

**ADDRESSES:** NASA Headquarters, Conference Room MIC 6-A/B West, 300 E Street, SW, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Dr. Alan N. Bunner, Code SA, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-0364.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

- Structure and Evolution of the Universe Strategic Planning
- Status of Ongoing and Planned Missions
- Development of "Roadmap" Plans
- Future Mission Concepts
- Astrophysics Mission Plans in Europe

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 1, 1996.

Leslie M. Nolan,  
*Advisory Committee Management Officer,  
 National Aeronautics and Space Administration.*

[FR Doc. 96-11394 Filed 5-7-96; 8:45 am]

BILLING CODE 7510-01-M

[Notice 96-047]

**NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Advisory Subcommittee; Meeting**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Solar System Exploration Advisory Subcommittee.

**DATES:** Thursday, June 6, 1996, 8:30 a.m. to 5 p.m.; and Friday, June 7, 1996, 8:30 a.m. to 1:00 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, MIC Room 5H46, 300 E Street SW, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Jurgen Rahe, Code SA, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358-2150.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

- Office of Space Science Activities
- Board of Directors Overview
- Research Program Management Overview
- Advanced Technology and Mission Studies Overview
- Mission and Payload Development, Overview
- Roadmap to the Solar System
- Future Activities

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 1, 1996.

Leslie M. Nolan,  
*Advisory Committee Management Officer,  
 National Aeronautics and Space Administration.*

[FR Doc. 96-11395 Filed 5-7-96; 8:45 am]

BILLING CODE 7510-01-M

---

**NATIONAL LABOR RELATIONS BOARD**
**Sunshine Act Meeting**

**AGENCY HOLDING THE MEETING:** National Labor Relations Board.

**TIME AND DATE:** 10:30 a.m. Wednesday, May 1, 1996.

**PLACE:** Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

**STATUS:** Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); and 9(B) (disclosure would significantly frustrate implementation of a proposed Agency \* \* \*).

**MATTERS TO BE CONSIDERED:** Budget.

**CONTACT PERSON FOR MORE INFORMATION:** John J. Toner, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273-1940.

Dated: Washington, D.C., May 2, 1996.

By direction of the Board:

John J. Toner,

*Executive Secretary, National Labor Relations Board.*

[FR Doc. 96-11617 Filed 5-6-96; 2:01 pm]

**BILLING CODE 7545-01-M**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-440]

### **Cleveland Electric Illuminating and Ohio Edison Company, et al.; Notice of Transfer of Ownership of Perry Nuclear Power Plant**

Notice is hereby given that the United States Nuclear Regulatory Commission (Commission) is considering approval under Title 10 of the Code of Federal Regulations (CFR), Section 50.80, of the transfer of 12.58-percent ownership of the facilities for the Perry Nuclear Power Plant, Unit No. 1 (PNPP Unit 1) from the Ohio Edison Company (Ohio Edison) to a wholly owned subsidiary of Ohio Edison, OES Nuclear, Inc. (OES). By "Supplemental Application For License Transfer," submitted under cover of letter dated December 29, 1995, from Shaw, Pittman, Potts and Trowbridge, Ohio Edison informed the Commission that it intends to transfer to OES a 12.58-percent ownership interest in the PNPP Unit 1 "common facilities." This request supplements an earlier request to transfer a 17.42-percent ownership interest in PNPP Unit 1 from Ohio Edison to OES, which the NRC approved by Order dated December 20, 1995. Further, OES has been added to Operating License No. NPF-58 as an owner of PNPP Unit 1, by Amendment No. 81, dated February 27, 1996.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of a license, after notice to interested persons, upon the Commission's determination that the holder of the license following the transfer of control is qualified to be a holder of the license

and the transfer of the control is otherwise consistent with applicable provisions of law, regulations and orders of the Commission. Ohio Edison has requested consent under 10 CFR 50.80 to transfer of the license effectuated by the change in control of such ownership interest in PNPP Unit 1.

For further details with respect to this action, see the December 29, 1995, letter and accompanying submittal, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio.

Dated at Rockville, Maryland this 2nd day of May 1996.

For the Nuclear Regulatory Commission.  
Gail H. Marcus,

*Director, Project Directorate III-3, Division of Reactor Projects-III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 96-11430 Filed 5-07-96; 8:45 am]

**BILLING CODE 7590-01-P**

[Docket Nos. 50-352 and 50-353]

### **Philadelphia Electric Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating Licenses Nos. NPF-39 and NPF-85 issued to Philadelphia Electric Company (the licensee) for operation of the Limerick Generating Station (LGS), Units 1 and 2, located in Montgomery County, Pennsylvania.

The proposed amendment would relocate the Technical Specifications (TSs) Traversing In-Core Probe (TIP) System Limiting Condition For Operation (LCO) 3/4.3.7.7, and its Bases 3/4.3.7.7, to LGS Technical Requirements Manual (TRM) and modify Note (f) of TS Table 4.3.1.1-1, "Reactor Protection System Instrumentation Surveillance Requirements," to remove its reference to the TIP System in accordance with NRC NUREG-1433, "Standard Technical Specifications, General Electric Plants, BWR/4."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will relocate requirements from TS to a licensee controlled document (i.e., TRM) and delete surveillance details pertaining to the TIP system which are already contained in licensee controlled documents. The relocated requirements will be retained in licensee controlled documents which will be maintained under the requirements of TS Administrative Controls Section 6.0 and the provisions of 10 CFR 50.59. Since any changes to licensee controlled documents are required to be evaluated per 10 CFR 50.59, no increase (significant or insignificant) in the probability or consequences of an accident previously evaluated will be allowed.

In addition, these proposed changes will not affect any equipment important to safety, in structure or operation. These changes will not alter operation of process variables, structures, systems, or components as described in the safety analysis report and licensing basis. The changes will not increase the probability or consequences of occurrence of a malfunction of equipment important to safety previously evaluated in the SAR [Safety Analysis Report].

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not alter the plant configuration or change the methods governing normal plant operation. The changes will not impose different operating requirements and adequate control of information will be retained. The changes will not alter assumptions made in the safety analysis report and licensing basis. Since the proposed changes cannot cause an accident, and the plant response to the design basis events is unchanged, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed changes to relocate requirements from TS to a licensee controlled document and modify surveillance details pertaining to the TIP system which are

already contained in other licensee controlled documents have been performed under the guidance of NRC NUREG-1433, and the NRC Final Policy Statement noticed in the Federal Register on July 22, 1993 "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors." PECO Energy has concluded that the TIP LCO and surveillance details do not meet any of the four criteria delineated in the NRC's Policy Statement and therefore, may be removed from TS. The relocated requirements will be retained in licensee controlled documents which will be maintained under the requirements of TS Administrative Controls Section 6.0 and the provisions of 10 CFR 50.59.

The existing requirements for NRC review and approval of revisions (in accordance with 10 CFR 50.90), pertaining to the details and requirements proposed for relocation, do not have a specific margin of safety upon which to evaluate. However, since the proposed changes are consistent with the BWR Improved Standard Technical Specifications (NUREG-1433, approved by the NRC Staff) and the change controls for proposed relocated requirements provide an equivalent level of regulatory authority, revising the TS to reflect the approved level of detail and requirements ensures no reduction in the margin of safety.

These changes will not reduce the margin of safety since they have no impact on any safety analysis assumptions. Since any future changes to the removed TIP System requirements will be evaluated under the requirements of 10 CFR 50.59, no reduction (significant or insignificant) in a margin of safety will be allowed. Therefore, the proposed TS changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public

and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 7, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final

determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to J.W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 25, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the

Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Rockville, Maryland, this 3rd day of May 1996.

For the Nuclear Regulatory Commission.  
Frank Rinaldi,

*Project Manager, Project Directorate I-2,  
Division of Reactor Projects—I/II, Office of  
Nuclear Reactor Regulation.*

[FR Doc. 96-11431 Filed 5-7-96; 8:45 am]

BILLING CODE 7590-01-P

### **Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving no Significant Hazards Considerations**

#### **I. Background**

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 13, 1996, through April 26, 1996. The last biweekly notice was published on April 24, 1996 (61 FR 18162).

Notice of Consideration of Issuance of Amendments To Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this

proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 7, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714

which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner

must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

*Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland*

*Date of amendments request: March 28, 1996.*

*Description of amendments request:* Pursuant to 10 CFR 50.90, the Baltimore Gas and Electric Company (BGE) hereby requests an amendment to Operating License Nos. DPR-53 and DPR-69 to reduce the moderator temperature coefficient (MTC) limit shown on Technical Specification Figure 3.1.1-1. This proposed change is necessary to support changes in the safety analyses made to accommodate a larger number of plugged steam generator (SG) tubes for future operating cycles. The proposed limit will be more restrictive than the existing limit to match the analytical assumptions. In addition, the licensee provided information to clarify the relationship of the MTC to an Anticipated Transient Without Scram event in its licensing basis.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The safety analyses for the current fuel cycles assume 500 tubes per steam generator (SG) are plugged and the maximum beginning-of-cycle moderator temperature coefficient (MTC) is assumed to follow the curve in Technical Specification Figure 3.1.1.-1. For the fuel cycle to be installed in Unit 1 in spring 1996, Baltimore Gas and Electric Company (BGE) assumes in the analyses that more SG tubes are plugged than the current limit, and it is necessary to credit a more restrictive (less positive) limit on the maximum positive MTC to mitigate the

Reactor Coolant System pressure and temperature increase analyzed for these events. Therefore, we are proposing a change to the allowable positive MTC limits shown on Technical Specification Figure 3.1.1-1. The proposed limit will be more restrictive than the existing limit to match the analytical assumptions. Since the safety analyses supporting an increase in the number of plugged SG tubes are applicable to both Units 1 and 2, BGE is requesting this change for both Units.

The proposed change makes the limit on the maximum positive MTC more restrictive. From an operational standpoint, a more restrictive limit on MTC will help mitigate the effect of plant transients on control of plant parameters (e.g., reactor power, pressurizer pressure, pressurizer level, etc.) Therefore, the probability of a previously analyzed accident will not be significantly increased.

The reason for the proposed change is to mitigate the effect (increased reactor coolant temperatures) of increased SG U-tube plugging on the results of the affected safety analyses. Using the more restrictive limit on the maximum positive MTC, the Loss of Load, Loss of Feedwater Flow, Feed Line Break, and Control Element Assembly Withdrawal events were reanalyzed using previously accepted methodologies. The results of these analyses are within the acceptance limits for these events. Therefore, the consequences of a previously analyzed accident will not be significantly increased.

The proposed change is similar to the examples of amendments that are considered not likely to involve significant hazards considerations given in the Statements of Consideration for 10 CFR 50.92 (51 FR 7744). The example of interest is, "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." The proposed change provides a more restrictive limit on the positive MTC given in Technical Specification Figure 3.1.1-1. Based on the above arguments and the similarity to an example in the Federal Register, BGE has determined that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different type of accident from any accident previously evaluated.

The proposed change makes the limit on the maximum positive MTC more restrictive. The proposed change does not involve installation of new or different equipment, modify the interfaces with existing equipment, change the equipment's function, or change the method of operating the equipment. The proposed change does not affect normal plant operations or configurations. The more restrictive MTC limit will help mitigate the effect of plant transients on control of plant parameters.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The proposed change provides for a more restrictive limit for the allowable positive MTC. The more restrictive limit on the maximum positive MTC was evaluated using previously approved methodologies and compared to the existing acceptance criteria. The analyses show that the proposed change preserves the margin of safety by ensuring that the results of the safety analyses for the Loss of Load, Loss of Feedwater Flow, Feed Line Break, and Control Element Assembly Withdrawal events meet established NRC acceptance limits for these events.

In addition, this proposed change is similar to the example of amendments that are considered not likely to involve significant hazards considerations given in the Statements of Consideration for 10 CFR 50.92 (51 FR 7744). The example of interest is, "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." The proposed change provides a more restrictive limit on the positive MTC given in Technical Specification Figure 3.1.1-1. Based on the above arguments and the similarity to an example in the Federal Register, BGE has determined that the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

*Local Public Document Room location:* Calvert County Library, Prince Frederick, Maryland 20678.

*Attorney for licensee:* Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* Susan F. Shankman, Acting.

*Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina*

*Date of amendment request:* February 8, 1996.

*Description of amendment request:* The proposed amendment would remove Technical Specifications (TS) 3.3.4, Turbine Overspeed Protection; TS 3.7.12, Area Temperature Monitoring; and TS 3.11.2.6, Gas Storage Tanks; and their associated bases; and relocate them to licensee-controlled documents, such as the Final Safety Analysis Report. The licensee revised the original amendment request dated October 24, 1994, to provide supplemental information to TS 6.8.4 for administrative control program related to TS 3.11.2.6, by letters dated August 31, 1995 and February 8, 1996.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which was previously presented in the Federal Register (59 FR 60397). The staff reviewed and determined that the proposed license amendment's revisions do not alter the original conclusion that no significant hazards considerations exist pursuant to 10 CFR 50.92.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

*Attorney for licensee:* William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

*NRC Project Director:* Eugene V. Imbro.

*Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois*

*Date of amendment request:* December 21, 1995.

*Description of amendment request:* The proposed amendments would delete the requirement to place the reactor mode switch in the Shutdown position if a stuck open safety/relief valve cannot be closed within two minutes. The operator would still be required to scram the reactor if suppression pool average water temperature reaches 110 degrees Fahrenheit or greater. The licensee also proposed changes to the TS index pages to reflect Bases page changes that were accepted by the NRC staff in a letter dated May 23, 1995. Because the changes to the index pages require a license amendment, they have been included as part of this submittal.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The proposed change does not involve a significant increase in the probability or

consequences of an accident previously evaluated in the UFSAR. A stuck open SRV event is not assumed or used in any transient which neither affects fuel limits nor radiological consequences. The two minute requirement to manually scram after a SRV becomes stuck open is not assumed or used in any transient or accident analysis in the FSAR. Removing the two minute requirement to manually scram after a SRV becomes stuck open does not change the probability of any accident evaluated in the FSAR. Removing the two minute requirement to manually scram after a SRV becomes stuck open also does not change the capability of the suppression pool during this event in case of any accident involving reactor blowdown, because the suppression pool average water temperature limit in Technical Specification 3.6.2.1 is still valid and enforced. The suppression pool average water temperature limit is the only requirement during operational conditions 1 and 2 that assures sufficient heat sink capacity in case of a LOCA in the containment. Therefore, removing the two minute requirement to manually scram after a SRV becomes stuck open would not increase the probability or consequences of any postulated accident analyzed in the FSAR.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated in the UFSAR. This change does not effect any hardware. This is a procedural change to assure that the reactor will not be unnecessarily scrambled by the operator after a SRV is stuck open for two minutes. The reactor will still be scrambled if suppression pool average water temperature increases above 110 degrees F. Since the design basis of the suppression pool is protected by this average water temperature limit, this procedural change of removing the two minute requirement to manually scram after a SRV becomes stuck open introduces no new accident or malfunction.

(3) Involve a significant reduction in the margin of safety because:

The proposed change does not reduce the margin as defined in the bases for any Technical Specification. On the contrary, if the two minute requirement to manually scram after a SRV becomes stuck open is not removed, the operator has to scram the reactor thus challenging the RPS, the reactor vessel, and other associated components, and reducing the related margin to safety. This scram would be unnecessary if the suppression pool average water temperature is below the 110 degree F limit allowed by the design basis of the suppression pool. Reactor safety or suppression pool design basis is not compromised because the suppression pool average water temperature limit alone guarantees that there would not be any reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the requested amendments involve no significant hazards consideration.

*Local Public Document Room location:* Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

*Attorney for licensee:* Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

*NRC Project Director:* Robert A. Capra.

*Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina*

*Date of amendment request:* March 4, 1996.

*Description of amendment request:* The proposed amendments would change the McGuire Units 1 and 2 Updated Final Safety Analysis Report to delete the seismic qualification requirement for the Containment Atmosphere Particulate Radiation Monitors.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards considerations, in that operation of the facility in accordance with the proposed amendment would not:

1. [I]nvolve a significant increase in the probability or consequences of an accident previously evaluated; or

EMF38(L) is not used directly for any phase of power generation or conversion or transmission, normal decay heat removal, fuel handling, or the processing of radioactive fluids. As such, it is not an "accident initiator". No "accident initiator" is affected by the change. Thus, the probability of accidents evaluated in the FSAR is not affected by the change. It is determined that sufficient ability to determine conditions inside containment remain available for any earthquake up to and including the SSE [safe-shutdown earthquake]. Furthermore, should either EMF38(L) or EMF39(L) be found to not be functional following any earthquake, including those smaller than the OBE [Operating Basis Earthquake], the appropriate steps will be taken; i.e., declare the monitor(s) inoperable and apply the action statement for TS [technical specification] 3.4.6.1 which may require that the associated unit(s) be taken to Cold Shutdown (Mode 5) if the minimum required Reactor Coolant Leakage Detection Systems are not operable. Cold Shutdown is a mode for which neither the Emergency Core Cooling System nor the containment safeguards are required. Finally, no equipment provided to mitigate any

accident is adversely affected by the change. For these reasons, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated in the SAR [safety analysis report].

2. [C]reate the possibility of a new or different type of accident from any accident previously evaluated; or

As stated above, no equipment used in direct support of power generation or conversion or transmission, normal decay heat removal, fuel handling, or processing of radioactive fluids is affected with the update. No new failure modes are identified with the change. The upper bound to an undetected leak in the Reactor Coolant System is a Loss of Coolant Accident [LOCA]. As noted above, no equipment provided to mitigate a LOCA is affected by the change. For these reasons, the change will not create a new or different type of accident from any accident previously evaluated.

3. [I]nvolve a significant reduction in a margin of safety.

It has been determined that sufficient means remain at the disposal to the operators to assess conditions within the containment following any earthquake up to and including the SSE. In particular, the ability to determine leakage with the sensitivity comparable to that of EMF38(L) can be established. This meets the intent of the Regulatory Position of RG [Regulatory Guide] 1.45. In addition, should it be determined that either EMF38(L) or EMF39(L) is not functional following any earthquake, the appropriate steps will be taken; i.e., declare the monitor(s) inoperable and apply the action statement for TS 3.4.6.1 which may require that the associated unit(s) be taken to Cold Shutdown (Mode 5) if the minimum required Reactor Coolant Leakage Detection Systems are not operable. This brings the unit(s) to a mode in which TS 3.4.6.1 does not apply. It ensures that at least the minimum required Reactor Coolant System leakage detection systems will be functional before power operations are continued following a postulated earthquake smaller than the OBE. It ensures protection of the reactor coolant pressure boundary, one of the fission product barriers. No other fission product barrier is affected by the change. Therefore, the margin of safety is not reduced.

Therefore, based on the information contained in this submittal, it is determined that no significant hazard is associated with the proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, 422 South

Church Street, Charlotte, North Carolina 28242.

*NRC Project Director:* Herbert N. Berkow.

*Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas*

*Date of amendment request:* April 11, 1996.

*Description of amendment request:* The proposed technical specification amendment modifies the reactor building leak testing requirements per Option B to 10 CFR 50, Appendix J. Option B permits performance based determination of the reactor building leak testing frequency.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes to the Technical Specifications implement Option B of 10 CFR 50 Appendix J at ANO. The proposed changes will result in increased intervals between containment leakage tests determined through a performance based approach. The intervals between such tests are not related to conditions which cause accidents. The proposed changes do not involve a change to the plant design or operation. Therefore, this change does not involve a significant increase in the probability of any accident previously evaluated.

NUREG-1493, "Performance-Based Containment Leak-Test Program," contributed to the technical bases for Option B of 10 CFR 50 Appendix J. NUREG-1493 contains a detailed evaluation of the expected leakage from containment and the associated consequences. The increased risk due to lengthening of the intervals between containment leakage tests was also evaluated and found acceptable. Using a statistical approach, NUREG-1493 determined the increase in the expected dose to the public from extending the testing frequency is extremely small. It also concluded that a small increase is justifiable due to the benefits which accrue from the interval extension. The primary benefit is in the reduction in occupational exposure. The reduction in the occupational exposure is a real reduction, while the small increase to the public is statistically derived using conservative assumptions. Therefore, this change does *not* involve a significant increase in the consequences of any accident previously evaluated.

Therefore, this change does *not* involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed change to the Technical Specifications incorporates the performance based approach authorized by Option B of 10 CFR 50 Appendix J. The interval extensions allowed by this change do not involve a change to the plant design or operation. No safety related equipment or safety functions are altered as a result of this change. The reduced testing frequency does not affect the testing methodology. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents. No new accident modes are created by extending the test intervals. Therefore, this change does *not* create the possibility of a new or different kind of accident from any previously evaluated.

3. Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed change does not change the performance methodology of the containment leakage rate testing program. However, the proposed change does affect the frequency of containment leakage rate testing. With an increased frequency between tests, the proposed change does increase the probability that a increase in leakage could go undetected for a longer period of time. Operational experience has demonstrated the leak tightness of the containment buildings has been significantly below the allowable leakage limit.

The margin to safety that has the potential of being impacted by the proposed change involves the offsite dose consequences of postulated accidents which are directly related to containment leakage rates. The limitation on containment leakage rate is designed to ensure the BWN total leakage volume will not exceed the value assumed in our accident analysis. The margin to [sic] safety for the offsite dose consequences of postulated accidents directly related to containment leakage is maintained by meeting the 1.0 L. acceptance criteria. The proposed change maintains the 1.0 L. acceptance criteria.

Therefore, this change does *not* involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005-3502.

*NRC Project Director:* William D. Beckner.

*Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas*

*Date of amendment request:* April 11, 1996.

*Description of amendment request:* The proposed technical specification (TS) amendment adds low-temperature overpressure protection (LTOP) requirements to the TSs to resolve Generic Issue 94 in accordance with Generic Letter 90-06.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

This proposed change provides additional controls in the ANO-2 Technical Specification [(TS)] for ensuring that LTOP [low-temperature overpressure protection] protection is available when required. The limiting condition involving the simultaneous injection of two HPSI [high pressure safety injection] and three charging pumps to an RCS [reactor coolant system] water solid condition, was used in the calculation of the ANO-2 proposed LTOP setpoints. The methodology utilized in the LTOP setpoint analysis is based on ASME [American Society of Mechanical Engineers] Code Case N-514. The code case establishes a factor of 110 percent of the operating pressure temperature curves instead of 100 percent. The safety factor utilized by the code case provides a more reasonable vessel overpressure allowance for conditions expected under pressure loading from low temperature transients. The SITs [safety injection tanks] are required to be isolated, if not depressurized, prior to entering the LTOP enable temperature and are periodically verified to be isolated when LTOP conditions exist. The LTOP setpoint of the relief valves proposed by this technical specification [TS] change is not considered to be an initiator of any transients, but is used to mitigate an overpressure condition if such a transient were to occur.

Therefore, this change does *not* involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The design basis event for establishing LTOP limits is the simultaneous injection of two HPSI and three charging pumps to an RCS water solid condition. The LTOP vent size of 6.38 square inches and the valve pressure setpoint of less than or equal to 430 psig are currently used for mitigation of low temperature overpressure conditions. The change in the enable setpoint was analyzed by the application of Code Case N-514 and determined to adequately ensure that this temperature [sic] setpoint will mitigate a

LTOP transient. The operator action to enable the LTOP relief valves at 220 degrees ensures that the RCS including the reactor vessel will not undergo system pressures at low temperature conditions beyond their design limits. Therefore, there will not be any impact to systems, structures or components beyond their design requirements.

Therefore, this change does *not* create the possibility of a new or different kind of accident from any previously evaluated.

### 3. Does Not Involve a Significant Reduction in the Margin of Safety.

The addition of a new specification to the ANO-2 Technical Specification [TS] will not significantly reduce the margin of safety. The LTOP safety factors are based on reanalyzed conditions for 21 effective full power years (EFPY) of operation utilizing methodology contained in ASME Code Case N-514. The LTOP evaluation under Code Case N-514 for low temperature transients is considered more appropriate than the ASME Section XI. The code case establishes a factor of 110 percent of the operating pressure temperature curves instead of 100 percent. The safety factor utilized by the code case provides a more reasonable vessel overpressure allowance for conditions expected under pressure loading from low temperature transients. Although the proposed setpoint may involve a slight reduction in a margin of safety, the enable temperature setpoint will provide an equivalent level of safety to the reactor vessel during LTOP transients and will satisfy the purpose of 10 CFR 50.60 for fracture toughness. Therefore, based on the refined methodology used to calculate ANO-2 LTOP setpoints for 21 EFPY the margin of safety will not be significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005-3502.

*NRC Project Director:* William D. Beckner.

*Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi*

*Date of amendment request:* April 18, 1996.

*Description of amendment request:* The licensee has proposed to delete a restriction on the 24-hour emergency diesel generator operation test in Surveillance Requirement 3.8.1.14 (Page 3.8-12) of the Technical Specifications (TSs) for the Grand Gulf Nuclear Station, Unit 1. The deletion would allow the test to also be conducted

during power operation (i.e., during Modes 1 and 2), instead of the current requirement to only conduct the test when the plant is shut down.

The frequency of conducting this test, the conditions of the test, and the criteria to pass the test are not being changed by this amendment request.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for the amendment request, which is presented below:

Entergy Operations, Inc. [EOI] propose[d] to change the current Grand Gulf Nuclear Station [GGNS] Technical Specifications [TSs]. The specific change is to modify note 2 to Surveillance 3.8.1.14. Presently, this note prohibits the performance of the 24 hour diesel maintenance run while the unit is in either Mode 1 or 2. The proposed change would remove this restriction thus allowing the 24 hour run to be performed during any mode of operation (i.e., modes 1, 2, 3, 4 or 5).

The Commission has provided standards for determining whether a no significant hazards considerations exists as stated in 10 CFR 50.92 (c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Entergy Operations, Inc. [EOI] has evaluated the no significant hazards consideration in its request for this license amendment and determined that no significant hazards considerations results from this change. In accordance with 10 CFR 50.91(a), Entergy Operations, Inc. [EOI] is providing the analysis of the proposed amendment against the three standards in 10 CFR 50.92(c). A description of the no significant hazards consideration determination follows:

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The GGNS UFSAR [Updated Final Safety Analysis Report] assumes that the AC electrical power sources are designed to provide sufficient capacity, capability, redundancy and reliability to ensure that the fuel, reactor coolant system and containment design limits are not exceeded during an assumed design basis event. Specifically, the UFSAR assumes that the onsite EDG's [emergency diesel generator's] provide emergency power in the event offsite power is lost to either one or all three ESF [engineered safety feature] buses. In the event of a loss of preferred power, the ESF electrical loads are automatically connected to the EDG's in sufficient time to provide for safe reactor shutdown and to mitigate the

consequences of a design basis accident such as a LOCA.

The proposed change to permit the 24 hour testing of the EDG's during power operation does not increase the chances or consequences of any previously evaluated accident. The capability of the EDG's to supply power in a timely manner will not be compromised by permitting performance of EDG testing during periods of power operation. Design features of the EDG's and electrical systems ensures that if a LOCA [loss of coolant accident] or LOP [loss of offsite power] signal, either individually or concurrently, should occur during testing that the EDG would be returned to its ready-to-load operation (i.e., EDG running at rated speed and voltage separated from the offsite sources) or separately connected to the ESF bus providing ESF loads. As such, an EDG being tested is considered to be Operable and fully capable of meeting its intended design function. Additionally, the testing of an EDG is not a precursor to any previously evaluated accidents.

Therefore, the proposed change allowing testing of EDG's during power operation will not significantly increase the probability or consequences of an accident previously evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As previously discussed [above], the proposed change to permit the performance of EDG testing during power operation will not affect the operation of any system or alter any system's response to previously evaluated design basis events. The EDG's will automatically transfer from the test configuration to the ready-to-load configuration following receipt of a valid signal (i.e., LOCA or LOP). In the ready-to-load configuration, the EDG will be running at rated speed and voltage separated from the offsite source capable of automatically supplying power to the ESF buses in the event that preferred power is actually lost.

Surveillance Requirement 3.8.1.17 demonstrates that the EDG will automatically override the test mode following generation of a LOCA signal. In addition the ability of the EDG's to survive a full load reject is verified by the performance of surveillance requirement 3.8.1.10. These existing surveillance requirements along with system design features ensures that the performance of EDG testing during power operation will not create the possibility of a new or different kind of accident from any previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

The AC electrical power sources are designed to provide sufficient capacity, capability, redundancy, and reliability to ensure the availability of necessary power to ESF systems so that the fuel, reactor coolant system and containment design limits are not exceeded. Specifically, the EDG's must be capable of automatically providing power to ESF loads in sufficient time to provide for safe reactor shutdown and to mitigate the consequences of a design basis accident in the event of a loss of preferred power.

Testing of EDG's during power operation will not affect the availability or operation of any offsite source of power. In addition, the EDG being tested remains capable of meeting its intended design functions. Therefore the proposed change to the Technical Specification Surveillance Requirement 3.8.1.14 will not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room*

*Location:* Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502.

*NRC Project Director:* William D. Beckner.

*GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey*

*Date of amendment request:* April 15, 1996 (TSCR No. 244).

*Description of amendment request:* The proposed amendment would revise Specification 5.3.1.B of the Oyster Creek Technical Specifications. The current specification prohibits handling a load greater in weight than one fuel assembly over irradiated fuel in the spent fuel storage facility. The proposed change will facilitate the off load of spent fuel to the Oyster Creek Independent Spent Fuel Storage Installation (ISFSI). Specifically, the shield plug for the dry shield canister (DSC) and the associated lifting hardware will be moved over irradiated fuel which is contained in the DSC within the transfer cask located in the Cask Drop Protection System (CDPS).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. State the basis for the determination that the proposed activity will or will not increase the probability of occurrence or consequences of an accident.

The design features and capacity of the reactor building crane provide a significant safety factor. In addition, personnel training and other administrative controls further reduce risk. Thus, the dropping of the DSC shield plug onto a loaded DSC and causing damage to the spent fuel assemblies is not a

credible event. Therefore, it does not increase the probability of or consequences of an accident.

2. State the basis for the determination that the activity does or does not create the possibility of an accident or malfunction of a different type than any previously identified in the SAR [safety analysis report].

This activity will not create the possibility of a new or different type of accident than previously evaluated in the SAR because the proposed heavy load handling exception does not create a new credible accident scenario. Dropping the shield plug on a loaded DSC and damaging spent fuel assemblies is not considered a credible event.

3. State the basis for the determination that the margin of safety is not reduced.

This activity will not involve a significant reduction in the margin of safety because the proposed heavy load handling evolution does not create a credible accident scenario.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

*Attorney for licensee:* Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* John F. Stolz.

*Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine*

*Date of amendment request:* April 19, 1996.

*Description of amendment request:* The proposed amendment would revise Technical Specification 5.14 to add the appropriate references identifying the detailed methodology and conditions for analyzing the Small Break Loss-of-Coolant Accident (SBLOCA) to the list of the approved Core Operating Limits Report methods.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *Does the Proposed Amendment involve a significant increase in the probability or consequences of an accident previously evaluated?*

These Proposed Changes are administrative in nature and are consistent with the guidance set forth in the NRC Generic Letter 88-16 identifying the requirements for the inclusion of analytical methodology

references in Technical Specifications as used in determining compliance with the regulatory limits.

The references, as proposed to be included in section 5.14 of the Technical Specifications, have previously been reviewed and approved by the NRC for generic applicability to PWRs [Pressurized Water Reactors]. The reports identified in the Proposed Change have been accepted by the NRC for referencing in plant licensing applications.

Since the references listed in the Proposed Change have previously been found to meet the conditions of 10 CFR 50.46 and 10 CFR Appendix K, and that the plant specific safety analysis acceptance limits have not changed or been modified, the use of these references in the analysis of SBLOCA accident for the Maine Yankee plant is consistent with prior plant specific and industry requirements and practices.

Therefore, we have concluded that the Proposed Change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. *Does the Proposed Amendment create the possibility for a new or different kind of accident?*

The Proposed Changes introduce no new mode of plant operation; do not involve the physical modification of any structure, system, or component; do not affect the function, operation or surveillance for any equipment necessary for safe operation or shutdown of the plant; and, do not involve any changes to setpoints or limits or operating parameters. The Proposed Changes are administrative in nature only.

Therefore, we have concluded that the Proposed Change cannot result in the possibility of a new or different kind of accident from that previously evaluated.

3. *Does the Proposed Amendment involve a significant reduction in a margin of safety?*

The Proposed Changes are administrative in nature, consistent with the guidance of Generic Letter 88-12, and have been reviewed previously by the NRC and found acceptable with regard to the requirements of 10 CFR 50.46 and 10 CFR Appendix K. Additionally, the plant specific safety analysis acceptance criteria has not changed from that used in the latest core reload analysis.

Therefore, we have concluded that the Proposed Change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

*Attorney for licensee:* Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011.

*NRC Deputy Director:* John A. Zwolinski.

*Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York*

*Date of amendment request:* February 7, 1996.

*Description of amendment request:* The amendment would change the operating license, the Technical Specifications, and associated Bases to permit the use of 10 CFR Part 50, Appendix J, Option B, Performance-Based Containment Leakage Rate Testing in accordance with the implementation guidance in NRC's Regulatory Guide 1.163 dated September 1995. The change to the operating license would delete, in paragraph 2.D.ii, reference to certain exemptions to Appendix J previously granted by the NRC, which would no longer be applicable once Option B is implemented.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

NMP2 [Nine Mile Point, Unit 2] is currently implementing Option A of Appendix J of 10 CFR 50 for Type A, B and C testing. The proposed change to the Operating License, the Technical Specifications and the Bases would implement Option B to Appendix J of 10 CFR 50 at NMP2 for Type A, B and C testing. Option B would allow increased testing intervals after satisfying certain performance based criteria. The proposed change also corrects an inconsistency between the restoration statements and the applicability requirements of LCO [Limiting Condition of Operation] 3.6.1.2. In addition, the proposed change affects the testing intervals for the verification of the interlocks on the primary containment air lock and for the measuring of the Hydrogen Recombiner System leakage rate.

Appendix J describes the requirements for leakage testing of the primary containment and its components penetrating the primary containment. The leakage testing interval of the primary containment and its components is not a precursor or initiator to an accident. The primary containment and its penetrations minimizes the leakage of radioactivity into the environment during an accident which pressurizes the primary containment.

The testing intervals of the air lock interlocks and of the Hydrogen Recombiner System leakage rate are also not precursors or

initiators to an accident. The interlocks function to provide assurance that at least one air lock door will be closed and thereby perform its accident mitigating function of minimizing the leakage of radioactivity into the environment during accident conditions. The Hydrogen Recombiner System is manually initiated following a loss-of-coolant accident (LOCA) to maintain the hydrogen concentration within the primary containment below its flammable limit during post-LOCA conditions.

An inconsistency exists between the applicability statement of LCO 3.6.1.2 and the requirement of the restoration statements to restore prior to increasing reactor coolant system temperature over 200 °F. Eliminating this inconsistency does not diminish the requirements contained in the Technical Specifications.

Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed change to the Operating License, the Technical Specifications and the Bases would replace the detailed and prescriptive technical requirements contained in Option A of Appendix J with performance based requirements and supporting regulatory/industry documents contained in Option B of Appendix J. This proposed change includes a description of the 10 CFR 50 Appendix J Testing Program Plan in Section 6.8.4.f of the Technical Specifications.

This program plan, with one exception, is consistent with RG [Regulatory Guide] 1.163. This exception to the RG is acceptable as it is technically equivalent to and replaces an exemption that was applicable to Option A of Appendix J. Therefore, this program plan establishes leakage-rate test methods, procedures, acceptance criteria and analyses which comply with Option B of Appendix J to 10 CFR 50.

The implementation of this program continues to provide adequate assurance that during a DBA [Design Basis Accident]-LOCA the primary containment and its components will continue to limit leakage rates to less than the allowable leakage rates described in the Technical Specifications and thereby limit leakage consistent with the assumptions of the accident analyses. Therefore, the increased test intervals permitted by Option B for the primary containment and its penetrations will continue to implement the safety objectives underlying the requirements of Appendix J.

As discussed under the margin of safety, the impact of the proposed change on the consequences of a release is negligible. The slight increase in the risk to the population is compensated by the corresponding risk reduction benefits associated with the reduction in component cycling, stress, and wear associated with increased test intervals.

At least one air lock door in each air lock will continue to be closed during the onset of an accident that would release radioactivity into primary containment. Therefore, the air lock interlocks continue to provide assurance that at least one leak tested barrier will limit leakage during accident conditions.

The Hydrogen Recombiner System will continue to operate to maintain the hydrogen concentration within the primary containment below its flammable limit during post-LOCA conditions. This provides assurance that primary containment integrity will not be challenged by hydrogen burns.

Eliminating the inconsistency between the restoration statements and the applicability requirements of LCO 3.6.1.2 does not diminish the requirements contained in the Technical Specifications. The Technical Specifications continue to require that the leakage limits of LCO 3.6.1.2 be met prior to entering OPERATIONAL CONDITIONS 1, 2, or 3 (i.e., temperature greater than 200 °F).

Accordingly, operation with the proposed change to the Operating License, the Technical Specifications and the Bases will not significantly increase the consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change would implement Option B of Appendix J of 10 CFR 50 for Type A, B and C testing. Option B would allow increased testing intervals after satisfying certain performance based criteria. The proposed change also corrects any inconsistency between the restoration statements and the applicability requirements of LCO 3.6.1.2. In addition, the proposed change affects the testing intervals for the interlocks on the primary containment air lock and for the measuring of the Hydrogen Recombiner System leakage rate.

No new plant operating modes, system operating configurations nor failure modes are introduced by the proposed change. The primary containment and its penetrations will continue to perform their accident mitigating function. The Hydrogen Recombiner System will continue to function to prevent hydrogen burns within primary containment during post-LOCA conditions.

Accordingly, operation with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

A regulatory impact analysis of implementing performance-based requirements indicates that relaxing the frequency of Type A, B and C testing leads to an increase in overall reactor risk of approximately two percent. As indicated in the Staff's Regulatory Impact Analysis, this increase is considered to be marginal to safety.

As indicated above, increasing test intervals can slightly increase the risk to the population associated with the consequences of a release; however, this is compensated by the corresponding risk reduction benefits associated with the reduction in component cycling, stress, and wear associated with increased test intervals. Therefore, when considering the total integrated risk, the risk associated with increased test intervals is negligible.

The proposed change is consistent with current plant safety analyses. In addition, the proposed change does not require revisions to the design of NMP2. As such, the proposed individual changes will maintain the same level of reliability of the equipment associated with containment integrity, assumed to operate in the plant safety analysis, or provide continued assurance that specified parameters affecting leak rate integrity, will remain within their acceptance limits.

The as-left leakage after performing a required leakage test continues to be less than 0.60 La for combined Type B and C leakage and less than or equal to 0.75 La for Type A leakage. These as-left acceptance criteria and the testing frequency as established by the 10 CFR 50 Appendix J Testing Program Plan provide assurance that the measured leakage rate will not exceed the maximum allowable leakage of La during plant operation.

Visual examination of accessible interior and exterior surfaces of the primary containment continues to be performed prior to initiating a Type A test. The total number of visual examinations performed will continue to be three times during a 10-year period. Therefore, visual examinations of the primary containment will continue to allow for the timely uncovering of evidence of structural deterioration and satisfy the requirements of RG 1.163.

The primary containment air lock interlocks will be tested prior to conducting an air lock seal leakage test. This testing requirement continues to provide adequate assurance that at least one leak tested air lock door in each air lock will be closed during accident conditions.

The measuring of the Hydrogen Recombiner System Leakage rate will continue to be included as part of the overall integrated leakage rate test. The test schedule for measuring system leakage will also continue to coincide with the schedule for performing a Type A test.

The leakage limits of LCO 3.6.1.2 will continue to be met prior to entering into OPERATIONAL CONDITIONS 1, 2, or 3 (i.e., temperature greater than 200 °F). Satisfying these leakage limits provides assurance that the measured leakage rate will not exceed the maximum allowable leakage rate of La during plant operation. Therefore, operation with the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

*NRC Project Director:* Susan Frant Shankman, Acting

*Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York*

*Date of amendment request:* January 17, 1996.

*Description of amendment request:* The proposed amendment would revise the Technical Specifications (TSs) including revisions to Specifications 3/4.3.1, "Reactor Protection System Instrumentation," 3/4.3.2, "Isolation Actuation Instrumentation," 3/4.3.3, "Emergency Core Cooling System Actuation Instrumentation," 3/4.3.4.2, "End-of-Cycle Recirculation Pump Trip System Instrumentation," and the associated Bases to relocate response time limit tables from the TSs to the Updated Safety Analysis Report (USAR). The proposed revisions to the TSs also include several administrative changes.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment relocates Tables 3.3.1-2, "Reactor Protection System Response Times," 3.3.2-3, "Isolation System Instrumentation Response Times" 3.3.3-3, "Emergency Core Cooling System Response Times" and 3.3.4.2-3 "End-of-Cycle Recirculation Pump Trip System Response Time" from the Technical Specifications to the USAR. The Technical Specification Surveillance Requirements and associated actions are not affected and remain in the Technical Specifications. This change to the reactor protection system instrumentation, isolation actuation instrumentation, and emergency core cooling system instrumentation is being done in accordance with the guidance provided in Generic Letter 93-08, "Relocation of Technical Specification Tables of Instrument Response Time Limits," and the change to the end-of-cycle recirculation pump trip system instrumentation is consistent with NUREG 1433, "Standard Technical Specifications, BWR/4." This change allows NMP2 [Nine Mile Point Unit 2] to administratively control subsequent changes to the response time limits in accordance with 10CFR50.59.

Additionally, procedures which contain the various response time limits are also subject to the change control provisions of 10 CFR 50.59. Relocating this information does not affect the initial conditions of a design basis accident or transient analysis. The proposed Technical Specification changes do not affect

the capability of the associated systems to perform their intended functions within their required response times. Since any subsequent changes to the USAR or procedures which contain the response time limits are evaluated in accordance with 10CFR50.59, the proposed amendment does not involve an increase in the probability or consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change would relocate the response time limit tables from the Technical Specifications to the USAR. Subsequent changes to the USAR, or in procedures which contain the various response time limits, would be evaluated in accordance with the requirements of 10CFR50.59, which would evaluate the possibility of the creation of a new or different kind of accident. The proposed change does not involve any physical alteration of the plant, change in a Limiting Condition for Operation or change in Surveillance Requirements. No new failure modes are introduced. Therefore, this proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed change would relocate the response time limit tables from the Technical Specifications to the USAR. Future changes to the response time limits in the USAR, or in procedures which contain the various response time limits, would be in accordance with 10CFR50.59, which would evaluate the proposed change to determine whether it involved any reduction in the margin of safety. The response time limits to be transposed from the Technical Specifications to the USAR are the same as the existing Technical Specifications. Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

*NRC Project Director:* Susan Frant Shankman, Acting.

*Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York*

*Date of amendment request:* January 25, 1996.

*Description of amendment request:* The proposed amendment would change a footnote in Table 3.3.3-1 and the corresponding footnote in surveillance Table 4.3.3.1-1 (both referenced by Technical Specification 3/4.3.3 "Emergency Core Cooling System Actuation Instrumentation") to more clearly define when, during cold shutdown and refueling (i.e., Operational Conditions 4 and 5), the Loss of Voltage and Degraded Voltage relays associated with the 4.16 kV Emergency Bus Undervoltage are required to be operable. The footnotes currently state: "Required when ESF [Engineered Safety Features] equipment is required to be OPERABLE." The proposed amendment would change the footnotes to state: "Required when the associated diesel generator is required to be OPERABLE."

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed change would require the Loss of Power instruments to be OPERABLE in Operational Conditions 4 and 5 only when the associated diesel generator is required to be OPERABLE. The Loss of Power relays provide a support function to initiate the associated diesel generator start and bus unloading sequences. If that diesel generator is not in service, the loss of power relays perform no safety function. Therefore, relating diesel generator OPERABILITY and Loss of Power instrument OPERABILITY will not involve an increase in the probability of an accident previously evaluated.

The proposed change does not affect the requirements of ESF OPERABILITY. The change does not affect diesel generator response to a loss of voltage or degraded voltage on the Divisional 4.16 kV electrical busses when the diesel generator is required to be OPERABLE. Automatic response of the ESF functions is unaffected by removing the Loss of Power relays from service under these conditions, therefore, the proposed change will not involve a significant increase in the consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a modification of plant equipment nor does it change the way the equipment will be maintained or operated. The revision to Technical Specifications will continue to require the Loss of Power instrumentation to be OPERABLE when the associated diesel generator is required to be OPERABLE. The Loss of Power instruments will continue to perform their safety function of initiating the diesel generator start and bus unloading sequences.

Therefore, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed change will not affect the OPERABILITY, operation or reliability of any ESF function including the diesel generators. All ESF functions will remain available during postulated accidents with a loss of offsite electrical power. The change simply clarifies when the Loss of Power instruments are required to be OPERABLE during Operational Conditions 4 and 5. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

*NRC Project Director:* Susan Frant Shankman, Acting.

*Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York*

*Date of amendment request:* March 15, 1996.

*Description of amendment request:* The proposed amendment would revise the surveillance requirements of Technical Specification (TS) 4.6.2.1 "Containment Systems—Depressurization Systems—Suppression Pool" to extend the time interval for performing the containment drywell-to-suppression chamber bypass leakage test from 18 months to an interval corresponding to that required for the Containment Integrated Leak Rate Test. The provisions of TS 4.0.2 (which would provide an extension of up to

25% of the specified surveillance interval) will not apply. Specifically, existing TS 4.6.2.1.d would become subparagraphs d and e to require that the suppression pool be demonstrated operable:

d. At least once per 18 months by conducting a visual inspection of the exposed accessible interior and exterior surfaces of the suppression chamber.\*

e. At least every outage by requiring the performance of a Containment Integrated Leak Rate Test, as scheduled in conformance with the criteria specified in the 10 CFR 50 Appendix J Testing Program Plan described in Section 6.8.4.f. by conducting a drywell-to-suppression chamber bypass leak test at an initial differential pressure of 3 psi and verifying that the [drywell-to-suppression chamber bypass flow area] A/the square root of K calculated from the measured leakage is within the specified limit of 0.0054 square feet.

1. If any drywell-to-suppression chamber bypass leak test fails to meet the specified limit, the test schedule for subsequent tests shall be reviewed and approved by the Commission.

2. If two consecutive tests fail to meet the specified limit, a test shall be performed at least each refueling outage until two consecutive tests meet the specified limit, at which time the original test schedule may be resumed.

3. The provisions of Specification 4.0.2 do not apply.

\*Includes each vacuum relief valve and associated piping.

The proposed changes would also add a new surveillance requirement for the testing of the bypass leakage path containing the suppression chamber vacuum breakers, with associated acceptance criteria, which would be performed each refueling outage that the bypass leak test is not performed. Specifically, a new TS 4.6.2.1f would require that the suppression pool be demonstrated operable:

f. During each refueling outage for which the drywell-to-suppression chamber bypass leak test in Specification 4.6.2.1.e is not conducted, by conducting a test of the four drywell-to-suppression chamber bypass leak paths containing the suppression chamber vacuum breakers at a differential pressure of at least 3 psi and

1. Verifying that the total leakage area A/the square root of K contributed by all four bypass leak paths is less than or equal to 24% of the specified limit, and

2. The leakage area for any one of the four bypass leak paths is less than or equal to 12% of the specified limit.

By separate action, the NRC has provided notice of a proposed amendment to change the frequency of Containment Integrated Leak Rate Tests in accordance with Option B of 10 CFR Part 50 Appendix J. The proposed changes described herein are intended

to be consistent with the changes proposed under Option B.

**Basis for proposed no significant hazards consideration determination:** As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation on Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes involve the drywell-to-suppression chamber bypass leak test frequency. There are no physical or operational changes to the plant as a result of these proposed TS revisions. Furthermore, the primary containment acts as an accident mitigator and not as an accident initiator. Therefore, the proposed TS changes do not affect the probability of any previously evaluated accident.

The continued testing of bypass leakage pathways containing the suppression chamber vacuum breakers on a refueling frequency, and the continued requirement for visual inspection of containment structural features assures that the bypass leakage path will not degrade beyond the TS allowable limit during the interval between performance of the bypass leakage test. Therefore, radioactivity release following an accident will not be increased since the pressure suppression capability of the containment is not reduced from the existing design, and there will be no significant increase in the consequences of any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes involve the drywell to suppression chamber bypass leak test frequency. There are no physical or operational changes as a result of these proposed TS changes. These proposed TS changes also include a requirement to continue performing a surveillance test on the bypass leakage pathways containing the vacuum breaker assemblies each refueling outage for which the drywell-to-suppression chamber test is not conducted. This test, along with the visual inspection required every refueling cycle, will ensure that acceptable bypass leakage is maintained during those intervals when the bypass leak test is not required. Accordingly, the possibility of a new or different type of accident is not introduced. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The drywell-to-suppression chamber bypass leak test data obtained during previous testing at NMP2 [Nine Mile Point Unit 2] demonstrates conformance, by a large

margin, to the TS and design leakage requirements. The test data and engineering evaluations indicate that there is negligible risk that the bypass leakage will change adversely in future years. Furthermore, the proposed test frequency is judged to be acceptable based on the small risk of bypass leakage through paths other than those containing the suppression chamber vacuum breakers.

A test of the bypass leak pathways containing the vacuum breakers will be used to verify acceptable bypass leakage during those outages when the bypass leak test is not performed. The proposed test of the bypass leak pathways containing the vacuum breakers, with stringent acceptance criteria, combined with the other negligible potential leakage areas provide an acceptable level of assurance that the bypass leakage can be measured. This capability ensures that an adverse condition can be detected and corrected such that the existing level of confidence that the primary containment will function as required during a LOCA [loss-of-coolant accident] is maintained. Therefore, the proposed TS changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

**Local Public Document Room location:** Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

**Attorney for licensee:** Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

**NRC Project Director:** Susan Frant Shankman, Acting.

**Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York**

**Date of amendment request:** March 20, 1996.

**Description of amendment request:** The proposed amendment would revise Tables 3.3.1-1 and 4.3.1-1 of Technical Specification 3/4.3.1 "Reactor Protection System Instrumentation" to delete the operability requirement for the Average Power Range Monitor (APRM) Neutron Flux-Upscale, Setdown and Inoperative functions in Operational Conditions (OCs) 3 (Hot Shutdown) and 4 (Cold Shutdown). These same functions would also be revised for OC 5 (Refueling) to indicate that operability will only be required during shutdown margin demonstrations performed per TS 3.10.3.

**Basis for proposed no significant hazards consideration determination:** The revisions to the APRM functions are proposed to support licensee's plans to replace Local Power Range Monitors during the next refueling outage. The revisions also provide for the eventual replacement of the existing APRM System with the Nuclear Measurement Analysis and Control Power Range Neutron Monitoring System, and the eventual installation of the Oscillation Power Range Monitor system for the detection of reactor instability conditions. These modifications are based upon Report NEDO-31960, "BWR Owners' Group Long-Term Solutions Licensing Methodology, approved by the Commission July 12, 1993; the licensee's response of November 8, 1994, selecting Option III in NEDO-31960 for Nine Mile Point, Unit 2; NRC Generic Letter 94-02, "Long-Term Solutions and Upgrade of Interim Operating Recommendations for Thermal-Hydraulic Instabilities in Boiling Water Reactors" dated July 11, 1994; and General Electric Licensing Topical Report, NEDC-32410P-A, "Nuclear Measurement Analysis and Control Power Range Neutron Monitor (NUMAC-PRNM) Retrofit Plus Option III Stability Trip Function," which was approved by the Commission September 5, 1995.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Reactor Protection System (RPS) initiates a reactor scram when one or more monitored parameters exceed their specified limits to preserve the integrity of the fuel cladding and the Reactor Coolant System and to minimize the energy that must be absorbed following a loss-of-coolant accident. The proposed changes will revise the OCs in which the APRM Neutron Flux-Upscale, Setdown and Inoperative RPS Instrumentation is required. These changes do not affect the probability of precursors of any accidents previously evaluated, and therefore, do not increase their probability.

During normal operation in OCs 3 and 4, all control rods are fully inserted and the reactor mode switch position control rod withdrawal blocks do not allow control rods to be withdrawn. Therefore, the RPS APRM functions are not required. Specification 3.9.10 does allow one control rod to be removed from the core in OC 4 by placing the mode switch in the refuel position. However, with the reactor mode switch in the refuel position, refueling interlocks are in place (i.e., one-rod out, etc.), which together with

adequate shutdown margin will preclude unacceptable reactivity excursions. The APRM Neutron Flux-Upscale, Setdown function is not required during OC 5 except during shutdown margin demonstrations. The SRMs [source range monitors], IRMs [intermediate range monitors], and refueling interlocks provide adequate protection from reactivity excursions during OC 5. The exception is during the shutdown margin demonstration when more than one control rod will be withdrawn and the APRMs will continue to be required to be operable as a backup to the IRMs. Testing of the RPS APRM functions will continue to be performed in those OCs for which operability is required. Consequently, the reliability and performance of the RPS APRM functions in these OCs will not be adversely affected. Therefore, the proposed change will not result in a significant increase in the consequences of any accidents previously evaluated.

The operation of Nine Mile Point Unit 2 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will revise the applicable OCs in which the APRM neutron Flux-Upscale, Setdown and Inoperative RPS instrumentation is required. Changes to OC requirements will not introduce any new accident precursors and will not involve any physical alternations to plant configurations which could initiate a new or different kind of accident. NMP2 is analyzed for a single control rod withdrawal error during refueling. Since the core is designed to meet shutdown requirements with the highest worth rod withdrawn, the core remains subcritical even with one rod withdrawn. The one-rod-out interlock which allows only one control rod to be withdrawn in OC 5 is not affected by the proposed changes. Consequently, the proposed changes do not create an accident different than the previously analyzed single control rod withdrawal error event. Surveillance testing will continue to be performed to assure reliability and maintain current performance levels. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2 in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The proposed changes to the RPS APRM function instrumentation Technical Specification requirements will not adversely affect the design or the performance characteristics of the RPS instrumentation nor will it affect the ability of the RPS APRM instrumentation to perform its intended function. As discussed above, the subject RPS instrumentation is not required in OC 3, 4, and 5 except for shutdown margin demonstrations. Accordingly, deletion of the requirement to have these functions operable in these OCs will not significantly reduce a margin of safety. Surveillance testing will continue to be performed for those OCs in which the instrumentation is required to assure reliability. Therefore, the proposed

changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

*NRC Project Director:* Susan Frant Shankman, Acting.

*Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut*

*Date of amendment request:* March 28, 1996.

*Description of amendment request:* The proposed amendment would change Technical Specification Section 3.7.7, "Sealed Source Contamination," by making the criteria for testing sealed sources for contamination and leakage at Millstone Unit No. 2 the same as those at Millstone Unit No. 3, the Haddam Neck Plant, and Seabrook Station. Specifically, the sealed sources that are required to be free of greater than or equal to 0.005 microcuries of removable contamination would be those that would exceed "100 microcuries of beta and/or gamma emitting material or 5 microcuries of alpha emitting material." The Bases Section 3/4.7.7, "Sealed Source Contamination," would also be changed to reference the appropriate section of 10 CFR 70.39.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

Pursuant to 10 CFR 50.92, NNECO [Northeast Nuclear Energy Company] has reviewed the proposed changes and concludes that the changes do not involve a significant hazards consideration (SHC) since the proposed changes satisfy the criteria in 10 CFR 50.92(c). That is, the proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes make the criteria for testing sealed sources for contamination and leakage

at Millstone Unit No. 2 the same as those at Millstone Unit No. 3, the Haddam Neck Plant and Seabrook Station. Although the leakage criteria for sealed sources that are to be tested is being changed, the allowable leakage remains small. Any leakage that is identified would not cause a significant radiation exposure. The source storage area is routinely surveyed by Health Physics in accordance with Health Physics Department procedures and any significant leakage would be detected. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change in the criteria for testing sealed sources for contamination and leakage will not change the way the sources are used. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The possible radiation exposure to both the workers and the public from this change is very small. All protective systems which would detect any release of material from the site remain in place so there is no reduction in safety for the public. Likewise, all protective systems for the workers remain in place. Workers using the sources routinely pass through the whole body contamination monitors. In addition, the source storage areas are surveyed routinely by Health Physics in accordance with Health Physics Department procedures, and any significant leakage would be detected. The bases section is being revised to reference the appropriate section of 10 CFR 70.39. Therefore, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and Waterford Library, Attn: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385.

*Attorney for licensee:* Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

*NRC Project Director:* Phillip F. McKee.

*Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York*

*Date of amendment request:* March 12, 1996.

*Description of amendment request:*

The proposed changes would remove a requirement to interconnect two or more accumulators for the purpose of cross checking instrumentation in the event that one of the two pressure or level instrument channels on an accumulator is declared inoperable.

*Basis for proposed no significant**hazards consideration determination:*

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

*Response:* The design basis accident for which the accumulators were designed is the double ended guillotine break of a cold leg. Interconnecting or not interconnecting accumulators does not have any effect on the probability of occurrence of this event. By eliminating the requirement to interconnect accumulators, the proposed amendment assures that a minimum of three accumulators are available, as assumed in the safety analyses, to mitigate the consequences of a large-break loss-of-coolant [LBLOCA] accident. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* The proposed amendment does not involve any physical changes to plant equipment or setpoints and does not create the possibility of a new or different kind of accident. Eliminating the requirement to interconnect accumulators ensures that the plant configuration is maintained consistent with that assumed in the safety analysis and no new failure modes are created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* There is no margin of safety specified in the Technical Specifications for these instrument channels. There are no setpoints or allowable values associated with these instrument channels which affect Safety Limits or Limiting Safety System Settings. The proposed amendment ensures that the safety analysis assumption regarding the accumulators remains valid and the resulting peak fuel clad temperature meets specified acceptance criteria. The proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room*

*location:* White Plains Public Library,

100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Project Director:* Susan Frant Shankman, Acting.

*Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York*

*Date of amendment request:* March 14, 1996.

*Description of amendment request:*

The proposed changes would allow a one-time extension of the inspection interval for the steam generator tubes that is due in July 1996.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. As stated in the Basis of the IP3 [Indian Point Unit 3] Technical Specifications, the program for inservice inspection of steam generator tubes regarding equipment, procedures, and sample selection is based upon the guidance and recommendations in Regulatory Guide 1.83 and NRC Generic Letter 85-02. The addition of the footnote to extend the surveillance due date will not increase the deviation from the guidance and recommendation stated above, and, therefore will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not involve the addition of any new or different type of equipment, nor does it involve the operation of equipment required for safe operation of the facility in a manner different from those addressed in the Final Safety Analysis Report. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* The proposed license amendment does not involve a significant reduction in a margin of safety. The proposed change does not adversely affect any safety related system or component operation or

operability, instrument operation, or safety system setpoints and does not result in increased severity of any of the accidents considered in the safety analysis. This change has no adverse effect on any margin of safety and, therefore, does not create a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room*

*location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Project Director:* Susan Frant Shankman, Acting

*Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York*

*Date of amendment request:* March 22, 1996.

*Description of amendment request:*

The amendment proposes changes to the Technical Specifications (TS) to establish operability requirements for avoidance and protection from thermal hydraulic instabilities to be consistent with Boiling Water Reactor Owners Group long-term solution Option I-D. Editorial changes are also made to support the revised specifications, improve readability of Bases sections, and enhance the presentation of requirements for single loop operation.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The implementation of BWR Owners' Group long-term stability solution Option I-D at FitzPatrick does not modify the assumptions contained in the existing accident analysis. The use of an exclusion region and the operator actions required to avoid and minimize operation inside the region do not increase the possibility of an accident. Conditions of operation outside of the exclusion region are within the analytical envelope of the existing safety analysis. The operator action requirement to exit the

exclusion region upon entry minimizes the possibility of an oscillation occurring. The actions to drive control rods and/or to increase recirculation flow to exit the region are maneuvers within the envelope of normal plant evolutions. The flow referenced scram has been analyzed and will provide automatic fuel protection in the event of an instability. Thus, each proposed operating requirement provides defense in depth for protection from an instability event while maintaining the existing assumptions of the accident analysis.

2. Create the possibility of a new or different kind of accident from those previously evaluated because:

The proposed operating requirements either mandate operation within the envelope of existing plant operating conditions or force specific operating maneuvers within those carried out in normal operation. Since operation of the plant with all of the proposed requirements are within the existing operating basis, an unanalyzed accident will not be created through implementation of the proposed change.

3. Involve a significant reduction in the margin of safety because:

Each of the proposed requirements for plant thermal hydraulic stability provides a means for fuel protection. The combination of avoiding possible unstable conditions and the automatic flow referenced reactor scram provides an in depth means for fuel protection. Therefore, the individual or combination of means to avoid and suppress an instability supplements the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

*NRC Project Director:* Susan Frank Shankman, Acting.

*Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York*

*Date of amendment request:* March 22, 1996.

*Description of amendment request:* The amendment proposes to revise Technical Specification (TS) Table 3.2-2, "Core and Containment Cooling System Initiation and Control Instrumentation Operability Requirements." The proposed changes will revise allowed outage times (AOTs)

for 4kV Emergency Bus Undervoltage Trip Functions. The AOTs for these trip functions were extended by Amendment 227; however, the AOT extensions for these trip functions were not consistent with the requirements of Standard Technical Specifications (STS), NUREG-1433, and differed from the recommendations in the associated Licensing Topical Report. Additional changes are proposed to TS Table 3.2-2 and to TS Table 4.2-2, "Core and Containment Cooling System Instrumentation Test and Calibration Requirements." These changes will: (1) replace the generic actions for inoperable instrument channels with function-specific actions, (2) replace the generic test AOT with function-specific test AOTs, and (3) relocate selected trip functions from the TS to an Authority controlled document.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are limited to replacement of the generic actions and test AOT with function-specific actions and test AOTs, and relocation of selected trip functions from the TS to an Authority controlled document. The changes do not introduce any new modes of plant operation, make any physical changes, or alter any operational setpoints. Therefore, the changes do not degrade the performance of any safety system assumed to function in the accident analysis. Consequently, there is no effect on the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from those previously evaluated.

The proposed changes do not introduce any new accident initiators or failure mechanisms since the changes do not introduce any new modes of plant operation, make any physical changes, or alter any operational setpoints. Therefore the changes do not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The relocated requirements do not satisfy the 10 CFR 50.36 criteria for inclusion in the Technical Specifications. Therefore, the changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

*NRC Project Director:* Susan Frant Shankman, Acting.

*Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York*

*Date of amendment request:* March 27, 1996.

*Description of amendment request:* The amendment proposes to revise the Technical Specifications to support adoption of the primary containment leakage rate testing requirements of Option B to 10 CFR 50, Appendix J at the FitzPatrick plant, and clarify the numerical value of the allowable containment leakage rate ( $L_a$ ) as 1.5 percent per day.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Authority has evaluated the proposed TS Amendment and determined that it does not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92, operation of the James A. FitzPatrick Nuclear Power Plant in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The proposed changes do not involve a change to the design or operation of the plant. The systems affected by this proposed TS change are not assumed in any safety analyses to initiate any accident sequence. Therefore, the probability of any accident previously evaluated is not increased by this proposed TS change. The clarification of the allowable containment leakage rate ( $L_a$ ) is consistent with the accident analyses. There is no change to the consequences of an accident previously evaluated because maintaining leakage within limits assumed in the accident analyses ensures that the dose consequences resulting from an accident are not increased. The proposed TS changes maintain an equivalent level of reliability

and availability for all affected systems. The ability of the affected systems associated with maintaining leak rate integrity to perform their intended function is unaffected by the proposed TS changes. Implementation of these changes will provide continued assurance that specified parameters associated with containment integrity will remain within acceptance limits, and as such, will not significantly increase the consequences of a previously evaluated accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes allow adoption of those requirements specified in Option B to 10 CFR 50, Appendix J, and do not involve a change to the plant design and operation. As a result, the proposed changes do not affect the parameters or conditions that could contribute to the initiation of any accidents. The methods of performing primary containment leakage rate testing are not changed. No new accident modes are created by allowing extended intervals for Type A, B and C testing, or by clarifying the numerical value of the allowable containment leakage rate ( $L_a$ ). No safety-related equipment or safety functions are altered, or adversely affected, as a result of these changes. The proposed changes will not introduce failure mechanisms beyond those already considered in the current plant safety analyses. Extension of the test intervals, and clarification of the allowable leakage rate, does not contribute to the possibility of a new or different kind of accident or malfunction from those previously analyzed.

3. Involve a significant reduction in the margin of safety because: The proposed changes affect the frequency of primary containment leakage rate testing, and the numerical definition of the allowable containment leakage rate ( $L_a$ ). The design of the FitzPatrick plant is not changed. The methodology for test performance is unchanged and Type A, B and C tests will continue to be performed at  $\geq P_a$ . The proposed changes provide sufficient controls to ensure that proper maintenance and repairs are performed on the primary containment, and systems and components penetrating the primary containment. The reliability of containment systems assumed to operate in the plant safety analyses is not reduced. The numerical value of  $L_a$  specified in Specification 6.20 is consistent with the accident analyses, therefore, the dose consequences of any analyzed accidents are not increased. Therefore, the proposed changes provide continued assurance of the leak tightness of the containment without adversely affecting the public health and safety and, as such, will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

*Attorney for licensee:* Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

*NRC Project Director:* Susan Frant Shankman, Acting.

*Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey*

*Date of amendment request:* April 22, 1996.

*Description of amendment request:* The amendments would change the Technical Specifications to implement 10 CFR Part 50, Appendix J, Option B, for the Type A test by referring to Regulatory Guide 1.163, "Performance-Based Containment Leakage-Test Program."

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Containment leak rate testing is not an initiator of any accident. The proposed changes do not make any physical changes to the containment. The proposed changes do not affect performance of the containment, reactor operations or accident analysis. Therefore, the proposed changes will not involve an increase in the probability of any previously evaluated accident.

Since the allowable leakage rate is not being changed and since the analysis documented in NUREG-1493, "Performance-Based Containment Leak-Test Program" concludes that the impact on public health and safety due to extended intervals is negligible, the proposed changes will not involve an increase in the consequences of any previously evaluated accident. Therefore, adoption of a performance-based verification of leakage rates for the overall containment boundary will provide an equivalent level of safety and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change makes no physical changes to the plant. Since no physical changes are involved and since the analysis documented in NUREG-1493 confirms that the performance based schedule continues to maintain a minimal impact on public risk, it can be concluded that the effect of the containment on any accident will not change.

The proposed change does not affect normal plant operations or configuration, nor does it affect leak rate test pressure.

Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes are based on NRC-accepted provisions, and maintain necessary levels of reliability of containment integrity. The performance-based approach to leakage rate testing recognizes that historically good results of containment testing provide appropriate assurance of future containment integrity. This supports the conclusion that the impact on the health and safety of the public as a result of extended test intervals is negligible. Since the analysis documented in NUREG-1493 confirms that the performance based schedule continues to maintain a minimal impact on public risk, it can be concluded that the margin of safety is not significantly affected by the proposed changes.

The test history at Salem Units 1 and 2 (no ILRT failures) provides continued assurance of the leak tightness of the containment structure.

Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079.

*Attorney for licensee:* Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005-3502.

*NRC Project Director:* John F. Stolz.

*Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee*

*Date of amendment request:* April 4, 1996 (TS 96-01).

*Description of amendment request:* The proposed change would revise the appropriate technical specifications, surveillances, and bases as needed for the conversion from Westinghouse nuclear fuel to Framatome Cogema Mark-BW17 nuclear fuel.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The analyses provided in Topical Report BAW-10220P show that the changes do not significantly change the results of previously evaluated events. These analyses provide the template for accident analyses assumptions that must be met by the cycle-specific reload analysis.

The SQN Units 1 and 2 Cycle 9 reload cores with Mark-BW fuel will be designed to operate within the approved limits for accident analysis. The limits provided in the TS and described in the Updated Final Safety Analysis Report (UFSAR) provide the framework for accident analyses. By maintaining these limits, the probability or consequences of accidents related to the core changes do not significantly change. Thus, it is concluded that there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The change to Mark-BW fuel cores and mixed (transition) cores has been evaluated in the Topical Report BAW-10220P. It was concluded that the change did not create new or different kinds of accidents. The change in fuel suppliers has been evaluated for consideration of the effects of power distribution and peaking factors such that there are no restrictions on the use of Mark-BW fuel assemblies beyond those already established in the UFSAR and TS. Adherence to the safety analysis limits restricts the possibility of new or different accidents. Historically, new accidents have not been associated with changes in fuel suppliers as long as safety analysis limits continue to be met. It is concluded that transition to Mark-BW fuel does not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The margin of safety is established by the acceptance criteria used by NRC. Meeting the acceptance criteria assures that the consequences of accidents are within known and acceptable limits. The loss-of-coolant accident (LOCA) acceptance criteria are unchanged: peak cladding temperature of  $\leq 2200$  degrees Fahrenheit, peak cladding oxidation of  $\leq 17$  percent, average clad oxidation of  $\leq 1$  percent, and long-term coolability. These requirements continue to be met. The methods used to demonstrate conformance with these limits have changed, and were reviewed to assure that the methods, as well as the results, are acceptable. The acceptance criteria for Departure from Nucleate Boiling (DNB) events has not changed and is still the 95 percent probability and 95 percent confidence interval that DNB is not occurring during the transient. The DNB correlation,

and methods used to demonstrate that DNB limits are met, have changed, and these changes were reviewed to assure conformance with acceptable practices. Other changes, as well as the changes discussed above, have been evaluated in the referenced safety analyses and are shown to meet applicable acceptance criteria. Other margins, such as avoiding fuel centerline melting are not significantly changed. Based on these results, it is concluded that the margin of safety is not significantly reduced.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room*

*location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

*NRC Project Director:* Frederick J. Hebdon.

*Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri*

*Date of application request:* April 12, 1996.

*Description of amendment request:* The proposed amendment would change Technical Specification (TS) 3/4.4 and its associated Bases to address the installation of laser welded tube sleeves in the Callaway Plant steam generators.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The elevated tubesheet LWS [laser welded sleeve] configuration has been designed and analyzed in accordance with the requirements of the ASME [American Society of Mechanical Engineers] Code. The applied stresses and fatigue usage for the sleeve and weld are bounded by the limits established in the ASME Code. ASME Code minimum material property values are used for the structural and plugging limit analysis. Ultrasonic inspection is used to verify that minimum weld fusion zone thickness are produced. Mechanical testing has shown that the individual joint structural strength of Alloy 690 LWS under normal, upset and faulted conditions provides margin to the acceptance limits. These acceptance limits bound the most limiting (3 times normal

operating pressure differential) burst margin recommended by RG [Regulatory Guide] 1.121. Therefore, each individual joint provides for structural integrity exceeding RG recommendations.

Leakage testing for 7/8" and 3/4" tube sleeves has demonstrated that no unacceptable levels of primary to secondary leakage are expected during any plant condition, including the case where the seal weld is not produced in the lower joint of the tubesheet sleeve. Similar tests of 11/16" tube sleeves will be completed prior to Refuel 8.

The sleeve minimum acceptable wall thickness (used for developing the depth-based plugging limit for the sleeve) is determined using the guidance of Regulatory Guide 1.121 and the pressure stress equation of Section III of the ASME Code. The limiting requirement of Regulatory Guide 1.121, which applies to part throughwall degradation, is that the minimum acceptable wall must maintain a factor of safety of three against tube failure under normal operating (design) conditions. A bounding set of design and transient loading input conditions was used for the minimum wall thickness evaluation in the generic evaluation. Evaluation of the minimum acceptable wall thickness for normal, upset and postulated accident condition loading per the ASME Code indicates these conditions are bounded by the design condition requirement minimum wall thickness.

A bounding tube wall degradation growth rate per cycle and an eddy current uncertainty has been assumed for determining the sleeve TS plugging limit. The sleeve wall degradation extent determined by eddy current examination, which would require plugging sleeved tubes, is developed using the guidance of RG 1.121 and is defined in WCAP-14596 to be 39 percent throughwall of the sleeve nominal wall thickness.

The consequences of failure of the sleeve joint are bounded by the current steam generator tube rupture analysis included in the Callaway FSAR. Due to the slight reduction in diameter caused by the sleeve wall thickness, primary coolant release rates would be slightly less than assumed for the steam generator tube rupture analysis (depending on the break location), and therefore, would result in lower total primary fluid mass release to the secondary system.

The proposed change does not adversely impact any other previously evaluated design basis accident of the results of LOCA and non-LOCA accident analyses for the current TS minimum reactor coolant system flow rate. The results of the analyses and testing demonstrate that the sleeve assembly is an acceptable means of maintaining tube integrity. Furthermore, per Regulatory Guide 1.83, "Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes" recommendations, the sleeved tube can be monitored through periodic inspections with present eddy current techniques. These measures demonstrate that installation of sleeves spanning degraded areas of the tube will restore the tube to a condition consistent with its original design basis.

Corrosion testing of laser welded sleeve joints indicates that the corrosion resistance

(relative to roll transition control samples) can be increased by greater than a factor of ten with the application of a post weld heat treatment [PWHT]. All free span laser welds will receive a post weld heat treatment. Therefore, rapid corrosion degradation of the free span laser weld joint region is not expected. Recently performed corrosion testing of LWS joints in locked (at the first TSP [tube support plate] structure) tube conditions indicates that the PWHT, the stress corrosion cracking initiation potential in the weld region of the parent tube is reduced and the cracking resistance is enhanced. Similar test results and conclusions would be expected for Callaway based on the similarity of designs and expected tube far field residual stresses.

Conformance of the sleeve design with the applicable sections of the ASME Code and results of the leakage and mechanical tests, support the conclusion that installation of LWS will not increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Sleeving will not adversely affect any plant component. Stress and fatigue analysis of the repair has shown that the ASME Code and Regulatory Guide 1.121 criteria are not exceeded. Implementation of LWS maintains overall tube bundle structural and leakage integrity at a level consistent to that of the originally supplied tubing during all plant conditions. Leak and mechanical testing of sleeves support the conclusions of the calculations that each sleeve joint retains both structural and leakage integrity during all conditions. Sleeving of tubes does not provide a mechanism resulting in an accident outside of the area affected by the sleeves. Any accident as a result of potential tube or sleeve degradation in the repaired portion of the tube is bounded by the existing tube rupture accident analysis.

Implementation of LWS will reduce the potential for primary to secondary leakage during a postulated steam line break while not significantly impacting available primary coolant flow area in the event of a LOCA. By effectively isolating degraded areas of the tube through repair, the potential for steam line break leakage is reduced. These degraded intersections now are returned to a condition consistent with the Design Basis. While the installation of a sleeve reduces primary coolant flow, the reduction is far below that caused by plugging. Therefore, far greater primary coolant flow area is maintained through sleeving versus plugging.

3. The proposed change does not involve a significant reduction in a margin of safety.

The LWS repair of degraded steam generator tubes has been shown by analysis to restore the integrity of the tube bundle consistent with its original design basis condition, i.e., tube/sleeve operational and faulted condition stresses are bounded by the ASME Code requirements and the repaired tubes are leaktight. The safety factors used in the design of sleeves for the repair of degraded tubes are consistent with the safety factors in the ASME Code used in steam

generator design. The design of the tubesheet sleeve lower joints for the 3/4" and 7/8" sleeves have been verified by testing to preclude leakage during normal and postulated accident conditions. Similar tests of 1 1/16" sleeves will be completed prior to Refuel 8. The portions of the installed sleeve assembly which represent the reactor coolant pressure boundary can be monitored for the initiation and progression of sleeve/tube wall degradation, thus satisfying the requirements of Regulatory Guide 1.83. The portion of the tube bridged by the sleeve joints is effectively removed from the pressure boundary, and the sleeve then forms the new pressure boundary. The areas of the sleeved tube assembly which require inspection are defined in WCAP-14596.

In addition, since the installed sleeve represents a portion of the pressure boundary, a baseline inspection of these areas is required prior to operation with sleeves installed. The effect of sleeving on the design transients and accident analyses has been reviewed based on the installation of sleeves up to the level of steam generator tube plugging coincident with the minimum reactor flow rate and the Callaway Safety Analysis.

Provisional requirements cited in other NRC Safety Evaluation Reports addressing the implementation of sleeving have required the reduction of the individual steam generator normal operation primary to secondary leakage limit from 500 to 150 gpd. Consistent with these evaluations, Union Electric will reduce the per steam generator leak rate limit of 500 gpd in TS 3.4.6.2.c to 150 gpd. The establishment of this leakage limit at 150 gpd provides additional safety margin.

Finally, Union Electric will reduce the tube plugging limit from 48 percent through wall to 40 percent through wall to be consistent with NUREG-1431. The establishment of the plugging limit at 40 percent through wall provides additional safety margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

*NRC Project Director:* William H. Bateman.

*Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri*

*Date of application request:* April 12, 1996.

*Description of amendment request:* The proposed amendment would

change Technical Specification (TS) 3/4.4 and its associated Bases to address the installation of electrosleeves in the Callaway Plant steam generators.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The electrosleeve configuration has been designed and analyzed in accordance with the requirements of the ASME [American Society of Mechanical Engineers] Code. The applied stresses and fatigue usage for the sleeve are bounded by the limits established in the ASME Code. ASME Code minimum material property values are used for the structural and plugging limit analysis. Mechanical testing has shown that the structural strength of nickel electrosleeves under normal, upset and faulted conditions provides margin to the acceptance limits. These acceptance limits bound the most limiting (3 times normal operating pressure differential) burst margin recommended by RG [Regulatory Guide] 1.121. Leakage testing for 5/8", 7/8" and 3/4" tube sleeves has demonstrated that no unacceptable levels of primary to secondary leakage are expected during any plant condition. Similar tests of 1 1/16" tube electrosleeves will be completed prior to Refuel 8.

The sleeve nominal wall thickness (used for developing the depth-based plugging limit for the sleeve) is determined using the guidance of Regulatory Guide 1.121 and the pressure stress equation of Section III of the ASME Code. The limiting requirement of Regulatory Guide 1.121, which applies to part throughwall degradation, is that the minimum acceptable wall must maintain a factor of safety of three against tube failure under normal operating (design) conditions. A bounding set of design and transient loading input conditions was used for the minimum wall thickness evaluation in the generic evaluation. Evaluation of the minimum acceptable wall thickness for normal, upset and postulated accident condition loading per the ASME Code indicates these conditions are bounded by the design condition requirement minimum wall thickness.

A bounding tube wall degradation growth rate per cycle and an NDE [nondestructive examination] uncertainty has been assumed for determining the sleeve TS plugging limit. The sleeve wall degradation extent determined by NDE, which would require plugging sleeved tubes, is developed using the guidance of RG 1.121 and is defined in BAW-10219P to be 20 percent throughwall.

The consequences of failure of the sleeve are bounded by the current steam generator tube rupture analysis included in the Callaway FSAR [final safety analysis report]. Due to the slight reduction in diameter caused by the sleeve wall thickness, primary coolant release rates would be slightly less

than assumed for the steam generator tube rupture analysis (depending on the break location), and therefore, would result in lower total primary fluid mass release to the secondary system.

The proposed change does not adversely impact any other previously evaluated design basis accident or the results of LOCA [loss-of-coolant accident] and non-LOCA accident analyses for the current TS minimum reactor coolant system flow rate. The results of the analyses and testing demonstrate that the electrosleeve is an acceptable means of maintaining tube integrity. Furthermore, per Regulatory Guide 1.83 recommendations, the sleeved tube can be monitored through periodic inspections with present NDE techniques. These measures demonstrate that installation of sleeves spanning degraded areas of the tube will restore the tube to a condition consistent with its original design basis.

Conformance of the electrosleeve design with the applicable sections of the ASME Code and results of the leakage and mechanical tests, support the conclusion that installation of electrosleeves will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Electrosleeving does not represent a potential to adversely affect any plant component. Stress and fatigue analysis of the repair has shown that the ASME Code and Regulatory Guide 1.121 criteria are not exceeded. Implementation of electrosleeving maintains overall tube bundle structural and leakage integrity at a level consistent to that of the originally supplied tubing during all plant conditions. Leak and mechanical testing of electrosleeves support the conclusions of the calculations that each sleeve retains both structural and leakage integrity during all conditions. Sleeving of tubes does not provide a mechanism resulting in an accident outside of the area affected by the sleeves. Any accident as a result of potential tube or sleeve degradation in the repaired portion of the tube is bounded by the existing tube rupture accident analysis.

Implementation of sleeving will reduce the potential for primary to secondary leakage during a postulated steam line break while not significantly impacting available primary coolant flow area in the event of a LOCA. By effectively isolating degraded areas of the tube through repair, the potential for steam line break leakage is reduced. These degraded intersections now are returned to a condition consistent with the Design Basis. While the installation of a sleeve reduces primary coolant flow, the reduction is far below that caused by plugging. Therefore, far greater primary coolant flow area is maintained through sleeving versus plugging.

3. The proposed change does not involve a significant reduction in a margin of safety.

The electrosleeve repair of degraded steam generator tubes has been shown by analysis to restore the integrity of the tube bundle consistent with its original design basis

condition, i.e., tube/sleeve operational and faulted condition stresses are bounded by the ASME Code requirements and the repaired tubes are leaktight. The safety factors used in the design of sleeves for the repair of degraded tubes are consistent with the safety factors in the ASME Code used in steam generator design. The portions of the installed sleeve assembly which represent the reactor coolant pressure boundary can be monitored for the initiation and progression of sleeve/tube wall degradation, thus satisfying the requirements of Regulatory Guide 1.83. The portion of the tube bridged by the sleeve is effectively removed from the pressure boundary, and the sleeve then forms the new pressure boundary. The areas of the sleeved tube assembly which require inspection are defined in BAW-10219P.

In addition, since the installed sleeve represents a portion of the pressure boundary, a baseline inspection of these areas is required prior to operation with sleeves installed. The effect of sleeving on the design transients and accident analyses has been reviewed based on the installation of sleeves up to the level of steam generator tube plugging coincident with the minimum reactor flow rate and the Callaway Safety Analysis.

Provisional requirements cited in other NRC Safety Evaluation Reports addressing the implementation of sleeving have required the reduction of the individual steam generator normal operation primary to secondary leakage limit from 500 to 150 gpd.

Consistent with these evaluations, Union Electric will reduce the per steam generator leak rate limit of 500 gpd in TS 3.4.6.2.c to 150 gpd. The establishment of this leakage limit at 150 gpd provides additional safety margin.

Finally, Union Electric will reduce the tube plugging limit from 48 percent through wall to 40 percent through wall to be consistent with NUREG-1431. The establishment of the plugging limit at 40 percent through wall provides additional safety margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

*NRC Project Director:* William H. Bateman.

*Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont*

*Date of amendment request:* April 4, 1996.

*Description of amendment request:* The proposed amendment would revise the Technical Specifications regarding secondary containment integrity including addition of required actions in the event secondary containment integrity is not maintained when required. It would also require surveillance of the secondary containment isolation valves under the licensee's in-service testing program.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not result in any hardware changes. The requirements for Secondary Containment integrity are not assumed in the initiation of any analyzed event. The proposed changes establish and maintain adequate assurance that Secondary Containment Integrity will be maintained as assumed in analyses for the mitigation of accident consequences. Not requiring Secondary Containment Integrity when the reactor coolant system is not vented in the Cold Shutdown condition or the Refuel Mode does not involve an increase in previously evaluated accident consequences since no mechanism exists to impart additional fission-products into the reactor coolant. Under these conditions, activities for which the reactor coolant system would not be vented would be strictly controlled and monitored. As a result, leaks or pipe breaks would typically be detected before significant inventory loss occurred. These activities would typically be performed after refueling when few noncondensable gases remain in the reactor coolant. The temperature limitation of 212°F will ensure that water, not steam, would be emitted from the postulated leak or pipe break. In addition, under these conditions, stored energy is sufficiently low that even with loss of inventory following a recirculation line break, core coverage would be maintained by the low pressure emergency core cooling systems required per Specification 3.5.H and the fuel would not exceed its peak clad temperature limit. As a result, the potential for failed fuel and a subsequent increase in reactor coolant activity is minimized and significant releases of radioactive material to the environment would not be expected to occur. Therefore, these changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal operation and will not alter the method used by any system to perform its design function. The proposed changes to not allow plant operation in any mode that is not already evaluated and will still ensure Secondary Containment Integrity is maintained when required. Thus, these changes do not create the possibility of a new or different kind of

accident from any accident previously evaluated.

(3) The proposed changes to Secondary Containment Integrity requirements have no impact on any safety analysis assumptions. Secondary Containment Integrity will be maintained as assumed in the safety analyses and as stated in current Bases 3.7.B and 3.7.C. Not requiring Secondary Containment Integrity when the reactor coolant system is not vented in the Cold Shutdown condition or the Refuel Mode does not involve significant reduction in a margin of safety since no mechanism exists to impart additional fission products into the reactor coolant. Under these conditions, activities for which the reactor coolant system would not be vented would be strictly controlled and monitored. As a result, leaks or pipe breaks would typically be detected before significant inventory loss occurred. These activities would typically be performed after refueling, at low decay levels, and with reactor coolant temperature less than or equal to 212°F. In addition, under these conditions, stored energy in the reactor core is very low. The reactor pressure vessel would rapidly depressurize in the event of a large primary system leak and the low pressure emergency core cooling systems required per Specification 3.5.H under these conditions would be adequate to keep the core flooded. This would ensure that the fuel would not be uncovered and would not exceed the peak clad temperature limit.

As a result, the potential for failed fuel and a subsequent increase in reactor coolant activity is minimized and significant releases of radioactive material to the environment would not be expected to occur. Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

*Attorney for licensee:* R.K. Gad, III, Ropes and Gray, One International Place, Boston, MA 02110-2624.

*NRC Project Director:* Susan Frant Shankman.

*Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont*

*Date of amendment request:* April 4, 1996.

*Description of amendment request:* The proposed amendment would revise the surveillance requirements for control rod over-travel to remove the specific testing methodology from the Technical Specifications to administratively controlled documents.

*Basis for proposed no significant hazards consideration determination:*

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The control rod drive mechanism over-travel is not considered to be the initiator of any previously analyzed accident. Verification of coupling of the control rods and drive mechanisms is performed by other means and continues to be required in the same manner, so there is no significant increase in the probability of a rod drop accident. The over-travel indication is also not considered in the mitigation of consequences of any previously analyzed accident, and the removal of a specific surveillance of the indication will not affect the response of the control rods or the reactor protection system to these accidents. Therefore, this change will not significantly increase the probability or consequences of any previously analyzed accident.

(2) The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) nor changes in parameters governing normal plant operation. The proposed change will continue to provide effective methods to assure the control rods and their drive mechanisms are coupled and preserve the safety functions associated with the prevention or automatic mitigation of design basis accidents. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed changes continue to provide an appropriate method for verification of the capability of the over-travel indication to perform its function. Therefore, this change will not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

*Attorney for licensee:* R.K. Gad, III, Ropes and Gray, One International Place, Boston, MA 02110-2624.

*NRC Project Director:* Susan Frant Shankman.

*Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia*

*Date of amendment request:* April 15, 1996.

*Description of amendment request:* The proposed changes will clarify the applicability of the quadrant power tilt ratio (QPTR) requirements.

*Basis for proposed no significant hazards consideration determination:*

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of Surry Power Station in accordance with the proposed Technical Specifications change will not:

1. Involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated.

The application of the QPTR limits, as proposed, will assure that the gross core radial power distribution remains consistent with design limits above 50% power. At or below 50% rated thermal power, there is insufficient stored energy in the fuel or insufficient energy being transferred to the reactor coolant to require implementation of a QPTR limit on the distribution of core power. Therefore, the proposed change to clarify the applicability of the QPTR requirements has no impact on the probability of an accident occurrence and does not increase the consequences of any design basis accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no plant modifications or changes in methods of plant operation introduced by the proposed change. The change would limit the application of QPTR limits to operation at power levels >50% to preclude core power distributions from occurring which would violate fuel design criteria previously analyzed. At or below 50% rated thermal power, there is no impact to core power distributions which could affect the fuel design criteria. Therefore, the proposed change does not create the possibility for an accident or malfunction of a different type than that previously evaluated in the safety analysis report.

3. Involve a significant reduction in a margin of safety.

The proposed change only affects the applicability of the QPTR limits. The QPTR limits remain unchanged to preclude any violation of previously analyzed fuel design criteria. Adherence to the QPTR limits, hot channel factors, and applicable Limiting Conditions for Operation will continue. Therefore, the margin of safety as described in the Bases Section of any part of the Technical Specifications is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Local Public Document Room location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

*Attorney for licensee:* Michael W. Maupin, Esq., Hunton and Williams,

Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.  
*NRC Project Director:* Eugene V. Imbro.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

*Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina*

*Date of amendment request:* April 3, 1996.

*Description of amendment request:* The proposed amendments would revise the hydrogen mitigation system Technical Specifications (TS). The change would provide that, if neither the Train A or Train B igniter is operable in any one containment region, then there is an allowance of 7 days to restore one hydrogen igniter to OPERABLE status, or be in Hot Shutdown within the next 6 hours. This would be consistent with the guidance of the Standard TS for Westinghouse plants, NUREG-0431.

*Date of publication of individual notice in Federal Register:* April 16, 1996 (61 FR 16649).

*Expiration date of individual notice:* May 16, 1996.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina.

*Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas*

*Date of amendment request:* January 22, 1996, as supplement by letter dated April 4, 1996.

*Brief description of amendments:* The proposed amendment would modify the

steam generator tube plugging criteria in Technical Specification 3/4.4.5, Steam Generators, and the allowable leakage in Technical Specification 3/4.4.6.2, Operational Leakage, and the associated Bases. The proposed amendment would allow the implementation of steam generator voltage-based repair criteria for the tube support plate (TSP)/tube intersections for Unit 1.

*Date of individual notice in the Federal Register:* April 16, 1996 (61 FR 16651)

*Expiration date of individual notice:* May 16, 1996.

*Local Public Document Room location:* Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

*Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York*

*Date of amendment request:* March 14, 1996.

*Description of amendment request:* The proposed amendment would revise the Technical Specifications for Indian Point Nuclear Generating Unit No. 3 to allow a one-time extension of the test intervals for the pressurizer safety valve setpoint and snubber functional testing that is due in May 1996.

*Date of publication of individual notice in Federal Register:* April 3, 1996 (61 FR 14835)

*Expiration date of individual notice:* May 3, 1996.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was

published in the Federal Register as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

*Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County and Northeast Nuclear Energy Company, et al., Docket Nos. 50-245, 50-336, and 50-423, Millstone Nuclear Power Station, Units 1, 2, and 3, New London County, Connecticut*

*Date of application for amendments:* November 22, 1995.

*Brief description of amendments:* The amendments delete from the Technical Specifications certain review responsibilities of the Plant Operations Review Committee and the Site Operations Review Committee relating to the Emergency Plan and the Security Plan and their respective implementing procedures. The proposed changes are consistent with the guidance of Generic Letter 93-07.

*Date of issuance:* April 24, 1996

*Effective date:* As of the date of issuance, to be implemented within 60 days.

*Amendment Nos.:* 189, 94, 196, and 128

*Facility Operating License Nos. DPR-61, DPR-21, DPR-65, AND NPF-49:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* February 14, 1996 (61 FR 5812)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 24, 1996.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*  
*location:* Russell Library, 123 Broad Street Middletown, Connecticut 06457, for the Haddam Neck Plant, and the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385, for Millstone 1, 2, and 3.

*Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina*

*Date of application for amendments:* January 11, 1996, as supplemented by letter dated April 2, 1996.

*Brief description of amendments:* The amendments revise Technical Specification Table 3.6-1, Table 3.6-2a and Table 3.6-2b to delete references to process penetration M308 and service water system (RN) valves RN-429A and RN-432B from the lists of secondary containment bypass valves and containment isolation valves. The RN valves are no longer in service and are planned to be removed in forthcoming outages. The penetration will then be capped with blank flanges.

*Date of issuance:* April 23, 1996

*Effective date:* As of the date of issuance to be implemented within 30 days.

*Amendment Nos.:* 143 and 137  
*Facility Operating License Nos. NPF-35 and NPF-52:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* February 14, 1996 (61 FR 5813) The April 2, 1996, letter provided additional information that did not change the scope of the January 11, 1996, application and the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 23, 1996.

No significant hazards consideration comments received: No

*Local Public Document Room*  
*location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

*Duke Power Company, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina*

*Date of application of amendments:* December 7, 1995.

*Brief description of amendments:* The amendments revise Secondary Decay Heat Removal Technical Specification (TS) 3.4.2 and TS Table 4.1-1 to delete the requirement of having the main feedwater pump discharge header

pressure switch provide an input to actuate the Anticipatory Reactor Trip System and Emergency Feedwater System.

*Date of Issuance:* April 15, 1996.

*Effective date:* As of the date of issuance to be implemented within 30 days

*Amendment Nos.:* 216, 216, 213.

*Facility Operating License Nos. DPR-38, DPR-47, and DPR-55:* The amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* January 22, 1996 (61 FR 1628).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 15, 1996.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
*location:* Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

*Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida*

*Date of application for amendments:* October 25, 1993, as supplemented August 31, 1994, and October 5, 1995.

*Brief description of amendments:* The amendments modify the surveillance requirements related to dune survey and mangrove swamp monitoring and relocate them to the Final Safety Analysis Report

*Date of Issuance:* April 11, 1996.

*Effective Date:* April 11, 1996.

*Amendment Nos.:* 142 and 82.

*Facility Operating License Nos. DPR-67 and NPF-16:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* December 22, 1993 (58 FR 67844) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 11, 1996

No significant hazards consideration comments received: No.

*Local Public Document Room*  
*location:* Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

*Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine*

*Date of application for amendment:* August 31, 1995, as supplemented February 29, 1996.

*Brief description of amendment:* The amendment revises License Condition 2.B(6)(c), Fire Protection, and relocates fire protection requirements from the Maine Yankee Atomic Power Station

Technical Specifications to the Maine Yankee Fire Protection Plan. The amendment is consistent with the guidance of NRC Generic Letters 86-10, Implementation of Fire Protection Requirements, and 88-12, Removal of Fire Protection Requirements, from the Technical Specifications.

*Date of issuance:* April 5, 1996.

*Effective date:* As of the date of issuance, to be implemented within 60 days.

*Amendment No.:* 156.

*Facility Operating License No. DPR-36:* Amendment revised the Technical Specifications and License.

*Date of initial notice in Federal Register:* October 11, 1995 (60 FR 52932) The February 29, 1996, letter provided document dates that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 5, 1996.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
*location:* Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

*Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut*

*Date of application for amendment:* October 25, 1995.

*Brief description of amendment:* The amendment changes the Technical Specification regarding the average power range monitor (APRM) setpoints. These changes establish limiting conditions for operations and surveillance requirements for the APRM flow-biased scram and rod block setpoints. The amendment also incorporates several editorial changes and renumbered pages, removal of blank pages, revised Table of Contents, and modified Bases section for APRM setpoint requirements.

*Date of issuance:* April 15, 1996.

*Effective date:* As of the date of issuance, to be implemented within 60 days.

*Amendment No.:* 93.

*Facility Operating License No. DPR-21:* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* December 20, 1995 (60 FR 65682).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 1996.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360 and at the temporary local public document room located at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385.

*Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska*

*Date of amendment request:* August 4, 1995, as supplemented by letter dated January 22, 1996.

*Brief description of amendment:* This amendment revised the Technical Specifications (TS) for the requirements for the containment radiation high signal (CRHS) and the safety injection and refueling water (SIRW) tank low signal (STLS) contained in TS 2.15, Tables 2-3 and 2-4. Table 3-2 of TS 3.1 will also be revised to include administrative changes to the CRHS surveillance methods to be consistent with the applicable surveillance functions. The Basis of TS 2.15 is being revised to clarify that the number of installed channels for CRHS is two. The term "SOURCE CHECK" is being deleted from the Definitions section.

*Date of issuance:* April 24, 1996.

*Effective date:* April 24, 1996.

*Amendment No.:* 173.

*Facility Operating License No. DPR-40.* The amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* August 30, 1995 (60 FR 45182).

The January 22, 1996, supplemental letter provided additional clarifying information and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1996.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

*Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania*

*Date of application for amendments:* March 1, 1995, as supplemented by letter dated April 16, 1996.

*Brief description of amendments:* The amendments change the concentration of calibration gas required to calibrate the Hydrogen and Oxygen Analyzers, and support the requirements of

Limerick Generating Station Transient Response Implementation Plan (TRIP) T-102, "Primary Containment Control Bases."

*Date of issuance:* April 23, 1996.

*Effective date:* Both units, as of date of issuance, to be implemented within 45 days.

*Amendment Nos.:* 116 and 78.

*Facility Operating License Nos. NPF-39 and NPF-85.* The amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* April 26, 1995 (60 FR 20525) The April 16, 1996 letter requested a new effective date and did not change the initial proposed no significant hazards consideration determination nor the Federal Register notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 23, 1996.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

*Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee*

*Date of application for amendments:* August 21, 1992; supplemented September 3, 1993, and March 28, 1996 (TS 92-07).

*Brief description of amendments:* The amendments revise the allowable value for the reactor coolant system loss of flow reactor trip setpoint from greater than or equal to 89.4 percent to greater than or equal to 89.6 percent.

*Date of issuance:* April 26, 1996.

*Effective date:* April 26, 1996.

*Amendment Nos.:* 221 and 212.

*Facility Operating License Nos. DPR-77 and DPR-79:* Amendments revise the technical specifications.

*Date of initial notice in Federal Register:* September 30, 1992 (57 FR 45090). The September 3, 1993 and March 28, 1996 supplemental letters provided clarifying information which did not change the proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 1996.

No significant hazards consideration comments received: None.

*Local Public Document Room*

*location:* Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

*Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio*

*Date of application for amendment:* February 5, 1996.

*Brief description of amendment:* This amendment clarifies TS 3/4.3.2.1, Table 3.3-3, Safety Features Actuation System Instrumentation, and revises Bases 3/4.3.1 and 3/4.3.2, Reactor Protection System and Safety System Instrumentation, to accurately reflect the design and actuation logic of the diesel generator load sequencer and the essential bus undervoltage relays.

*Date of issuance:* April 23, 1996.

*Effective date:* April 23, 1996.

*Amendment No.:* 211.

*Facility Operating License No. NPF-3:* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* March 13, 1996 (61 FR 10397).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1996.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606

*Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia*

*Date of application for amendments:* November 20, 1995, as supplemented March 14, 1996.

*Brief description of amendments:* These amendments would permit the use of 10 CFR Part 50 Appendix J, Option B, performance-based containment leakage rate testing.

*Date of issuance:* April 18, 1996.

*Effective date:* April 18, 1996.

*Amendment Nos. 208 and 208.*

*Facility Operating License Nos. DPR-32 and DPR-37:* Amendments revised the Technical Specifications.

*Date of initial notice in Federal Register:* December 20, 1995 (60 FR 65686) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 1996.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an

opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By June 7, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a

current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner

must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

*Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Limestone County, Alabama*

*Date of application for amendment:* April 14, 1996.

*Brief description of amendment:* The proposed amendment clarifies operability requirements for reactor vessel water level instrumentation to permit testing of components required by technical specifications.

*Date of issuance:* April 16, 1996.

*Effective date:* April 16, 1996.

*Amendment Nos.:* 229, 244, and 204.

*Facility Operating License Nos. DPR-33, DPR-52 and DPR-68:* Amendment revises the technical specifications.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration, are contained in a Safety Evaluation dated April 16, 1996. Public comments requested as to proposed no significant hazards consideration: No.

*Local Public Document Room location:* Athens Public library, South Street, Athens, Alabama 35611.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

*NRC Project Director:* Frederick J. Hebdon.

*Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio*

*Date of application for amendment:* April 18, 1996.

*Brief description of amendment:* The amendment approves the use of the station black out diesel generator in lieu of the emergency diesel generator associated with decay heat removal loop 2 during the tenth refueling outage. This condition will continue as long as no work is performed in the switchyard or on the SBODG or the remaining emergency diesel generator and a shutdown risk contingency plan is developed to ensure challenges to spent fuel pool cooling are minimized. This condition is expected to last for no more than seven days.

*Date of issuance:* April 19, 1996.

*Effective date:* April 19, 1996.

*Amendment No.:* 210.

*Facility Operating License No. NPF-3:* This amendment approved a one-time change to the design basis as described in the Updated Safety Analysis Report.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 19, 1996.

*Local Public Document Room location:* University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606.

*Attorney for licensee:* Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* Gail H. Marcus.

Dated at Rockville, Maryland, this 1st of May 1996.

For the Nuclear Regulatory Commission.  
Steven A. Varga,

*Director, Division of Reactor Projects—I/II,  
Office of Nuclear Reactor Regulation.*

[FR Doc. 96-11295 Filed 5-7-96; 8:45 am]

BILLING CODE 7590-01-P

### Privacy Act of 1974, as Amended; Establishment of a New System of Records

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Establishment of a new system of records.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to establish a new Privacy Act System of Records, NRC-41, "Tort Claims and Personal Property Claims," to maintain records needed to evaluate, settle, refer, pay, and/or adjudicate claims filed by individuals against the NRC.

**EFFECTIVE DATES:** The new system of records will become effective without further notice on June 17, 1996, unless comments received on or before that date cause a contrary decision. If changes are made based on NRC's review of comments received, NRC will publish a new final notice.

**ADDRESSES:** Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm Federal workdays. Copies of comments received may be examined, or copied for a fee, at the NRC Public Document Room at 2120 L Street, NW., Lower Level, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jona L. Souder, Freedom of Information/Local Public Document Room Branch, Division of Freedom of Information and

Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-7170 or 800-638-8081.

**SUPPLEMENTARY INFORMATION:** NRC is proposing to establish a new System of Records, NRC-41, "Tort Claims and Personal Property Claims—NRC," that will be used to evaluate, settle, refer, pay, and/or adjudicate claims filed by individuals against the NRC.

The system of records (system) will contain information concerning claims by individuals who seek reimbursement from NRC for loss of or damage to personal property, personal injury, or death. It will also include information concerning individuals who have matters pending before the NRC that may result in a claim being filed. Specific information to be maintained in the system includes, but is not limited to, the individual's name, home address and phone number, work address and phone number, police reports, medical records, insurance information, and any other information necessary for the evaluation of claims or pre-claims.

A report on the proposed new system of records, required by 5 U.S.C. 552a(r) and Appendix I to Office of Management and Budget (OMB) Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," is being sent to OMB, the Committee on Governmental Affairs, U.S. Senate, and the Committee on Government Reform and Oversight, U.S. House of Representatives.

Accordingly, the NRC proposes to add NRC-41 to read as follows:

**NRC-41**

**SYSTEM NAME:**

Tort Claims and Personal Property Claims—NRC.

**SYSTEM LOCATION:**

Primary system—Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, in the Office of the Controller (OC), NRC, 11545 Rockville Pike, Rockville, Maryland, and at the locations listed in Addendum I, Parts 1 and 2. Other NRC systems of records, including but not limited to, NRC-18, "Office of the Inspector General Investigative Records—NRC," and NRC-32, "OC Financial Transactions and Debt Collection Management Records—NRC," may contain some of the information in this system of records.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have filed claims with NRC under the Federal Tort Claims Act or the Military Personnel and Civilian Employees' Claims Act and individuals who have matters pending before the NRC that may result in a claim being filed.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains information relating to loss or damage to property and/or personal injury or death in which the U.S. Government may be liable. This information includes, but is not limited to, the individual's name, home address and phone number, work address and phone number, claim forms and supporting documentation, police reports, witness statements, medical records, insurance information, investigative reports, repair/replacement receipts and estimates, litigation documents, court decisions, and other information necessary for the evaluation and settlement of claims and pre-claims.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Federal Tort Claims Act, 28 U.S.C. 2671 et seq.; The Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. 3721.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to the disclosures permitted under subsection (b) of the Privacy Act, NRC may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To third parties, including claimants' attorneys, insurance companies, witnesses, potential witnesses, local police authorities where an accident occurs, and others who may have knowledge of the matter to the extent necessary to obtain information that will be used to evaluate, settle, refer, pay, and/or adjudicate claims.

b. To the Department of Justice (DOJ) when the matter comes within their jurisdiction, such as to coordinate litigation or when NRC's authority is limited and DOJ advice or approval is required before NRC can award, adjust, compromise, or settle certain claims.

c. To the appropriate Federal agency or agencies when a claim has been incorrectly filed with NRC or when more than one agency is involved and NRC makes agreements with the other agencies as to which one will investigate the claim.

d. The Department of the Treasury to request payment of an award, compromise, or settlement of a claim.

e. Information contained in litigation records is public to the extent that the documents have been filed in a court or public administrative proceeding, unless the court or other adjudicative body has ordered otherwise. Such public information, including information concerning the nature, status, and disposition of the proceeding, may be disclosed to any person, unless it is determined that release of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

*Disclosure Pursuant to 5 U.S.C. 552a(b)(12)*

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system of records to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(a)(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information in this system of records is stored on paper, in log books, and on computer media.

**RETRIEVABILITY:**

Information in this system of records is indexed and accessed by the claimant's name and/or claim number.

**SAFEGUARDS:**

The paper records and log books are stored in locked file cabinets or locked file rooms, and access is restricted to those agency personnel whose official duties and responsibilities require access. Automated records are protected by password.

**RETENTION AND DISPOSAL:**

a. Tort claims and employee claims are destroyed six years and three months after payment or disallowance

in accordance with General Records Schedule (GRS) 6-10.a.

b. Claims affected by a court order or subject to litigation are destroyed after the related action is concluded, or when six years and three months old, whichever is later, in accordance with GRS 10-6.c.

c. Log books are destroyed or deleted when no longer needed in accordance with GRS 23-8.

d. Copies of memoranda contained on electronic media are deleted when no longer needed for updating or revision in accordance with GRS 20-13.

e. Copies of tort claims and personal property claims that become part of NRC's Litigation Case Files are retained by the Government permanently in accordance with NRC Schedule (NRCS) 2-13.4.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Assistant General Counsel for Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**RECORD ACCESS PROCEDURES:**

Same as "Notification Procedure."

**CONTESTING RECORD PROCEDURES:**

Same as "Notification Procedure."

**RECORD SOURCE CATEGORIES:**

Information is obtained from a number of sources, including but not limited to, claimants, NRC employees involved in the incident, witnesses or others having knowledge of the matter, police reports, medical reports, investigative reports, insurance companies, and attorneys.

Dated at Rockville, MD, this 29th day of April, 1996.

For the Nuclear Regulatory Commission.  
James M. Taylor,  
*Executive Director for Operations.*

[FR Doc. 96-11429 Filed 5-7-96; 8:45 am]

**BILLING CODE 7590-01-P**

**OFFICE OF PERSONNEL MANAGEMENT**

**Proposed Collection; Comment Request for Reclearance of Information Collection—SF 2809**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for reclearance of the following information collection. SF 2809, Health Benefits Registration Form, is used by annuitants under Federal retirement systems other than the Civil Service Retirement System and the Federal Employees Retirement System and by the former spouses of Federal employees and annuitants to register for enrollment in the Federal Employees Health Benefits Program. SF 2809 is also used by these persons to change enrollments within the FEHBP. SF 2809 is needed to verify entitlement and to effect premium withholdings.

Approximately 9,000 SF 2809 forms will be processed each year from former spouses and annuitants from other retirement systems. Each form takes approximately 45 minutes to complete. The annual estimated burden is 6,750 hours.

For copies of this proposal, contact Jim Farron on (202) 418-3208, or E-mail to [jmfarron@mail.opm.gov](mailto:jmfarron@mail.opm.gov)

**DATES:** Comments on this proposal should be received on or before July 7, 1996.

**ADDRESSES:** Send or deliver comments to: Kenneth H. Glass, Chief, Insurance Operations Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3415, Washington, DC 20415-0001.

**FOR FURTHER INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT:** Mary Beth Smith-Toomey, Management Services Division, (202) 606-0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

*Deputy Director.*

[FR Doc. 96-11380 Filed 5-7-96; 8:45 am]

**BILLING CODE 6325-01-M**

**RAILROAD RETIREMENT BOARD**

**Sunshine Act Meeting**

Notice is hereby given that the Railroad Retirement Board will hold a

meeting on May 15, 1996, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

*Portion Open to the Public*

- (1) Draft Agreements with the Internal Revenue Service.
- (2) OIG'S Reinvention Proposals—Phase II.
- (3) Proposed Reorganizations:
  - A. Bureau of Information Systems.
  - B. Bureau of Fiscal Operations.
- (4) Office of Programs Restructuring.
- (5) Regulations—Part 230, Final Rule, Reduction and Non-Payment of Annuities by Reason of Work.
- (6) Coverage Determinations:
  - A. Industrial Temps, Inc.
  - B. The Oxford Group, Inc.
  - C. OmniTrax, Inc.
  - D. Genesee Valley Transportation Company, Inc.
  - E. Joliet Junctions Railroad.
  - F. SouthCentral Rail Management LLC (SCRM).
- (7) Labor Member Truth in Budgeting Status Report.

*Portion Closed to the Public*

- (A) *Pending Board Appeals:*
- (1) Anderson, Raymond.
  - (2) Castelluccio, Charles J.
  - (3) Crawford, Rick J.
  - (4) Fisher, Charles F.
  - (5) Fuller, Ralph L.
  - (6) Gifford, Donald F.
  - (7) Harris, Henry J.
  - (8) Herbert, Harold F.
  - (9) Howard, Alvira M.
  - (10) Hudson, Henry H.
  - (11) Knight, Lonice I.
  - (12) McLeod, Jasper N.
  - (13) Morrison, Georgia L.
  - (14) Parker, Jean E.
  - (15) Renfrow, Earl F.
  - (16) Smith, Clifford R.
  - (17) Thorton, Lenill.
  - (18) Trybala, Theresa A.
  - (19) Vance, Allen L.

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312-751-4920.

Dated: May 3, 1996.

Beatrice Ezerski,

*Secretary to the Board.*

[FR Doc. 96-11595 Filed 5-6-96; 10:52 am]

**BILLING CODE 7905-01-M**

**SECURITIES AND EXCHANGE COMMISSION**

[Rel. No. IC-21934; International Series Release No. 974; 812-9880]

**Corporación Financiera Nacional Y Suramericana S.A.**

May 2, 1996.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** Corporación Financiera Nacional Y Suramericana S.A.

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) of the Act that would exempt applicant from all provisions of the Act.

**SUMMARY OF APPLICATION:** Applicant, a Colombian finance corporation, requests an order exempting it from all provisions of the Act. Applicant proposes to establish a sponsored American Depositary Receipt program and other programs to issue and sell its securities in the United States.

**FILING DATE:** The application was filed on December 8, 1995, and amended on April 4, 1996.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 28, 1996 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicant, Carrera 43A No. 3-101, Medellín, Colombia.

**FOR FURTHER INFORMATION CONTACT:** Sarah A. Buescher, Staff Attorney, at (202) 942-0573, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant is a limited liability stock corporation and is classified as a finance corporation under Colombian law. Corporación Financiera Nacional S.A. was founded in 1959 and in 1993 it merged with and absorbed Corporación Financiera Suramericana S.A. Applicant has its headquarters in Medellín and has offices throughout Colombia.

2. As a finance corporation, applicant performs most of the activities conducted by Colombian banks.

However, finance corporations may not offer checking accounts. Therefore, applicant functions in most respects as a commercial bank but not as a retail banking institution. Unlike Colombian banks, finance corporations may act as underwriters for the issuance and placement of securities and may invest in equity securities. Colombian finance corporations are regulated in a similar manner as Colombian banks and often compete with Colombian banks for the same depositors and commercial borrowers. Because applicant may be considered an investment company, it requests an exemption from all provisions of the Act.

3. Applicant's principal business involves securing deposits from the public in the form of demand deposits, term deposits with a maturity of one month or greater, and general guaranty bonds with a maturity of one year or greater, and providing long- and short-term commercial credit through loans and other financing services. Like Colombian banks, applicant uses its deposits to extend credit. Applicant generally holds its loans to maturity. In addition, applicant may negotiate commercial paper and act as a foreign exchange intermediary by issuing letters of credit or granting loans in foreign currency. These activities are also performed by Colombian banks. As of June 30, 1995, applicant had total assets of Ps 995 billion (U.S. \$1.13 billion). Applicant's shareholders' equity as of June 20, 1995 was Ps 325 billion (U.S. \$370 million).

4. Finance corporations, such as applicant, and Colombian banks are both categorized as "credit establishments" under Colombian law and are regulated in a similar manner. The principal entities regulating the Colombian financial system are the Congress of Colombia, the Government (acting through the Ministry of Finance), the Banking Superintendency, and the Central Bank. In addition, applicant, like Colombian banks, is required to pay insurance premiums to the Financial Institutions Guaranty Fund. The regulations applicable to applicant include licensing and approval, minimum capital, capital adequacy, reserve, accounting and reporting, and foreign currency position requirements, regulations concerning related party transactions, restrictions on lending activities, and limits on business activities.

5. The Securities Superintendency also supervises and regulates certain aspects of applicant's operations

because applicant's securities are registered on Colombian stock exchanges. All companies that issue publicly traded securities must register with the Securities Superintendency, and the offering of equity securities abroad by Colombian companies is subject to the securities having an established market in Colombia.

6. Applicant proposes to issue and sell its securities in the United States. Applicant may make one or more registered public offerings, or it may structure private transactions that comply with the exemptions from registration afforded by section 4(2) of the Securities Act of 1933 ("Securities Act"), or Regulation D thereunder.

7. Applicant initially proposes to establish a sponsored ADR facility. Morgan Guaranty Trust Company of New York would act as depositary for any shares of applicant's common stock deposited under such facility and would issue the ADRs representing the shares. The American Depositary Shares ("ADSs") represented by the ADRs would be registered under the Securities Act. In connection with any future offer and sale of common stock in the United States, applicant intends to issue its common stock in the form of ADSs. Applicant anticipates that it may issue and sell between 20% and 25% of its outstanding stock in this manner, after giving effect to the transaction. Applicant contemplates initially offering in the United States up to U.S. \$75 million of equity securities or up to U.S. \$100 million of debt securities, or a combination thereof. Applicant also proposes issuing and selling additional equity or debt securities in the United States in public or private transactions in compliance with applicable law. Applicant will use the proceeds from the offerings of its securities to fund increases in its lending operations.

#### Applicant's Legal Analysis

1. Section 3(a)(3) of the Act defines an investment company to include any issuer engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and that owns or proposes to acquire investment securities having a value exceeding 40% of the issuer's total assets. The majority of applicant's assets consist of loans that could be deemed to be "investment securities" within the meaning of section 3(a)(3). As a result, applicant may be deemed to be an investment company under the Act.

2. Section 6(c) of the Act provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or

appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests an order under section 6(c) exempting it from all provisions of the Act.

3. Rule 3a-6 under the Act exempts foreign banks from the definition of investment company for all purposes of the Act. A "foreign bank" is defined to include a banking institution that is regulated as such by that country's government. Although applicant conducts several of the activities associated with traditional commercial banks, Colombian law distinguishes between banks and finance corporations with respect to checking accounts and equity investments and underwriting of securities. Therefore applicant may not be eligible for the exemption provided by rule 3a-6.

4. Colombian finance corporations are credit establishments subject to extensive regulation by the Banking Superintendency, essentially the same regulation that applies to Colombian banks. Applicant derives the majority of its business from extending commercial credit and similar banking activities. In all material respects, Colombian finance corporations are distinguished from Colombian banks in Colombia's regulatory regime only because the latter may not make equity investments and the former may not offer checking accounts. Otherwise, the virtually identical regulation of both types of credit establishments recognizes that their businesses are very similar in nature, that they compete in the same markets for the same customers, and that their security holders and customers require virtually identical regulatory protections. In the case of applicant, the same regulatory regime that applies to Colombian banks applies to applicant, and such regulations afford the same substantial protection to U.S. investors regardless of whether the issuer of securities is classified as a "bank" or as a "finance corporation" under the Colombian regulatory regime.

5. Applicant also believes that the rationale of Congress and the SEC in promulgating rules under the Act in exempting foreign financial institutions applies to applicant. Applicant represents that its activities do not lend themselves to the abuses against which the Act is directed, and it believes that it satisfies the standards of relief under section 6(c).

#### Applicant's Condition

Applicant agrees that the order granting the requested relief shall be subject to the following condition:

In connection with any offering of securities in the United States, applicant will appoint an agent in the United States to accept any process which may be served on it in any action based on such securities and instituted in the Supreme Court of the State of New York or the United States District Court for the Southern District of New York by any holder of any such securities. Applicant will expressly consent to the jurisdiction of the Supreme Court of the State of New York or the United States District Court for the Southern District of New York in respect of any such action. Applicant also will waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. Such appointment of an agent to accept service and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect of such securities have been paid. No such submission to jurisdiction or appointment of agent for service of process will affect the right of a holder of any such security to bring suit in any court which shall have jurisdiction over applicant by virtue of the offer and sale of such securities or otherwise.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-11405 Filed 5-7-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21935; 812-9950]

#### Indigo Group, Ltd., et al.; Notice of Application

May 2, 1996.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** Indigo Group, Ltd. ("Indigo Group"), James P. Gorter ("Gorter"), and Triangle V III, Limited Partnership ("Triangle").

**RELEVANT ACT SECTIONS:** Order requested under section 17(b) of the Act for an exemption from section 17(a)(2) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit an affiliated person of an affiliated person of Baker, Fentress & Company ("Baker Fentress"), a closed-end investment company, to purchase a strip shopping center from a company controlled by Baker Fentress.

**FILING DATES:** The application was filed on January 5, 1996 and amended on May 1, 1996.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 28, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: c/o Bruce W. Teeters, President, Indigo Group, Inc., 149 South Ridgewood Avenue, Daytona Beach, FL 32114; James P. Gorter, Chairman of the Board, Baker, Fentress & Company, 200 West Madison Street, Suite 3510, Chicago, IL 60606; c/o Andrew B. Widmark, Triangle V III, Limited Partnership, 331 West Main Street, Durham, NC 27701.

**FOR FURTHER INFORMATION CONTACT:** Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicants' Representations

1. Baker Fentress is a closed-end management investment company under the Act. Consolidated-Tomoka Land Co. ("Consolidated Tomoka") is a majority-owned subsidiary of Baker Fentress. Consolidated Tomoka is engaged primarily in the business of commercial and residential real estate development and sales through subsidiaries, and citrus production. Gorter is chairman of the board of directors of Baker Fentress and a director of Consolidated Tomoka.

2. Palms Del Mar, Inc. ("Palms Del Mar") is a wholly-owned subsidiary of Consolidated Tomoka. Palms Del Mar and Consolidated Tomoka are the limited partners of Indigo Group, a partnership primarily engaged in the business of real estate development.

Indigo Group, Inc., another wholly-owned subsidiary of Consolidated Tomoka, is the sole general partner of Indigo Group. As a limited partner, the sole stockholder of the only other limited partner, and the sole stockholder of the sole general partner, Consolidated Tomoka owns 100% of the equity interests in Indigo Group.

3. Triangle is a limited partnership established to invest in real estate and acquire various properties from owners, banks, insurance companies, developers, or builders. Triangle's primary investments are in developed shopping centers. Acquisitions and overall control of operations are handled by Triangle's general partner, Mark Realty Corp. ("Mark Realty").

4. Triangle has issued class A and class B limited partnership interests. The class B limited partnership interests are owned by Mark Realty and members of Mark Realty's management. The class A limited partnership interests are owned by members of Mark Realty's management, investors associated with Mark Realty, and Gorter. Gorter owns class A limited partnership interests having a value of approximately 6% of Triangle's aggregate capital.

5. On September 21, 1995, Indigo Group and Triangle, through their respective general partners, entered into an agreement of purchase and sale (the "Agreement")<sup>1</sup> to permit Triangle to purchase Mariner Village Center, a strip shopping center located in Spring Hill, Florida (the "Property"), from Indigo Group (the "Sale"). The Sale was approved by the officers of both Indigo Group, Inc. and Consolidated Tomoka. Because the Sale is part of the implementation of a business strategy established by Consolidated Tomoka's board of directors, no specific review or authorization of the Sale by Consolidated Tomoka's board of directors was required.

6. Triangle's partnership agreement states that holders of class A limited partnership interests may, by a vote of two thirds of the outstanding class A limited partnership interests, "expel" the general partner. Triangle's partnership agreement also gives the class A limited partners the right to approve all proposed property acquisitions by Triangle. Triangle is required to provide written notice of each proposed acquisition to all class A limited partners for their approval. If any class A limited partner objects to the proposed acquisition within 15 days, Triangle will not complete the acquisition, effectively giving each class

A limited partner a "veto right" over every acquisition. Triangle sent its required notice of the proposed Sale to its class A limited partners, including Gorter, on October 11, 1995. No class A limited partner objected to the Sale.

7. Under the terms of the Amended Agreement, Triangle will purchase the Property from Indigo Group and assume all the rights and privileges belonging to the land. Triangle also will assume all rights, title, and interests of Indigo Group in all the tenant leases relating to the Property. The purchase price Triangle will pay to Indigo Group is \$3.7 million but will be increased to \$3.8 million if Indigo Group is successful in securing a major tenant for the Property before the closing of the Sale. The purchase price will consist of a \$100,000 earnest money deposit and \$1.2 million in additional cash or \$1.3 million in additional cash if the purchase price is increased as described above. In addition, Triangle is expected to assume Indigo Group's liability under its existing mortgage loan on the Property of \$2.4 million. Alternatively, Triangle may seek financing elsewhere and pay Indigo Group an additional \$2.4 million in cash.<sup>2</sup>

#### Applicants' Legal Analysis

1. Applicants request an order under section 17(b) of the Act for an exemption from section 17(a)(2) of the Act. The order would permit Triangle, an affiliated person of an affiliated person of Baker Fentress, to purchase the Property from Indigo Group, a company controlled by Baker Fentress.

2. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, knowingly to purchase from such registered company, or from any company controlled by such registered company, any security or other property. Section 2(a)(3)(D) defines "affiliated person" as, among other things, any officer, director, partner, copartner, or employee of such other person. Thus, Gorter is an affiliated person of Baker Fentress because he is chairman of Baker Fentress's Board of directors.

3. Section 2(a)(3)(B) defines "affiliated person" as, among other things, any

<sup>2</sup> Prior to entering into the Agreement, Indigo received a firm offer of \$4,850,000 from Triangle to purchase the Property and another smaller shopping center, Mariner Town Square, in a single transaction. Indigo also received a preliminary offer of \$4,500,000 for the two properties from a real estate firm not related to any party to the application. Neither of these two offers resulted in a sale of the two properties. Indigo sold Mariner Town Square as a separate parcel in May 1995 for \$1,225,000.

person 5% or more of whose outstanding voting securities are owned with power to vote by such other person. Section 2(a)(42) defines "voting security" as any security presently entitling the owner or holder thereof to vote for the election of directors of a company. Since Triangle's class A limited partners have the right to vote to "expel" the general partner and a "veto right" over every acquisition, the class A limited partnership interests may represent an interest that is tantamount to a voting security. Applicants, therefore, believe that Triangle may be considered an affiliated person of Gorter because he owns 6% of its class A limited partnership interests. Thus, Triangle may be an affiliated person of an affiliated person of Baker Fentress.

4. Section 2(a)(9) defines "control" as the power to exercise a controlling influence over the management or policies of a company. Section 2(a)(9) also establishes a rebuttable presumption that a person who owns more than 25% of the voting securities of a company shall be presumed to control such company. Applicants state that as a result of the ownership by Baker Fentress of a majority of Consolidated Tomoka's outstanding common stock, Consolidated Tomoka and its directly and indirectly wholly-owned subsidiaries, including Indigo Group, are controlled by Baker Fentress. Accordingly, Triangle's purchase of the Property from Indigo Group may be prohibited by section 17(a)(2).

5. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act.

6. Applicants believe that the Sale will benefit all of the applicants and their respective investors. As Indigo Group's sole equity owner, Consolidated Tomoka will benefit from the Sale and therefore Baker Fentress and its stockholders will indirectly benefit from the Sale. Indigo Group is in the business of real estate development which necessarily means the willingness to dispose of developed real estate at times and prices considered to be advantageous. Triangle's primary business is to invest in real estate, east of the Mississippi River, primarily in developed strip shopping centers. The Property is considered by Triangle to be a desirable example of property of the

<sup>1</sup> The Agreement was amended on December 14, 1995 (the "Amended Agreement").

type in which Triangle was formed to invest.

7. Applicants state that Gorter did not take part in any negotiations surrounding the terms of the Sale. Gorter's involvement in the Sale is due solely to his positions with Baker Fentress and Consolidated Tomoka and his limited partnership interests in Triangle. Gorter was unaware of the negotiations and Sale until he received notice from Triangle, on October 11, 1995, in his capacity as a class A limited partner. Applicants submit that Gorter did not exercise his right as a class A limited partner of Triangle to object to the Sale because Gorter and Indigo Group believe that to have done so might have been a breach of his fiduciary duties to Consolidated Tomoka and Baker Fentress by causing them to lose the benefit of a transaction believed by them to be in their best interest. As a result, Indigo Group and Gorter believe that avoidance of the need for the application by Gorter's objection to the Sale was not a viable option.

8. Applicants state that although the policies of Baker Fentress are not directly implicated by the Sale because Baker Fentress is not a party to the Sale, the Sale is not inconsistent with any policies of Baker Fentress. In addition, applicants believe that the terms of the Amended Agreement, including the consideration to be paid and received are reasonable and fair and do not involve overreaching by any of the applicants. Triangle's general partner, Mark Realty, has had extensive experience in valuing and negotiating transactions related to investments in strip shopping malls. Applicants represent that the Sale was negotiated by Mark Realty and Indigo at arms-length. As a result, applicants believe that the purchase price is fair and reasonable both as to amount and as to form of payment. Furthermore, the Sale will not result in any ongoing relationship between Indigo Group and Triangle. For the reasons discussed above, applicants believe that the proposed transaction satisfies the criteria of section 17(b).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-11450 Filed 5-7-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37161; File No. SR-Amex-96-10]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Implementation of a Wireless Data Communications Infrastructure**

May 2, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The American Stock Exchange, Inc. proposes to amend Exchange Rules 60 and 220 and to adopt a policy regarding the use of wireless data communications devices at the Exchange ("Wireless Communications Policy").

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

**1. Purpose**

The Exchange has undertaken the development of an infrastructure ("Infrastructure") to accommodate the use of wireless data communications devices on the Trading Floor. In connection with the implementation of the Infrastructure, the Exchange seeks to amend Rule 220 to explicitly provide that the Exchange may regulate communications between points on the

Floor. The Exchange also seeks to adopt a detailed policy ("Wireless Communications Policy") regarding the use of wireless data communications devices at the Exchange. The Wireless Communications Policy will address the following issues:

1. The ability of the Exchange to administer wireless data communications on a real time basis (e.g., the implementation of a protocol for prioritizing and/or managing message traffic during periods of extraordinary use);
2. Surveillance of wireless data communications;
3. Member, member firm and Exchange preservation of records of orders and trades;
4. Security with respect to confidential wireless transmissions and access to the Infrastructure;
5. Review and approval of member and member firm applications to use wireless data communications devices;
6. The fair allocation of a finite resource (i.e., radio frequency bandwidth);
7. Exchange fees and allocation of expenses associated with the implementation, operation of, and enhancements to, the Infrastructure;
8. Sanctions for violations of the Exchange's Wireless Communications Policy;
9. Inspection and oversight of wireless data communications technology; and
10. The design and implementation of the Infrastructure.

The Wireless Communications Policy furthers the policy in Article IV, Section 1(e) of the Exchange Constitution which currently provides that the Exchange shall not be liable for any damages sustained by a member or member organization growing out of the use or enjoyment by such member or member organization of the facilities afforded by the Exchange to members for the conduct of their business. This provision, as well as similar provisions at other exchanges, reflect the common understanding that exchanges should not bear the risk of liability associated with member firm use of their systems. Accordingly, the Exchange will not be liable to member firms with respect to their use of the Infrastructure.

In addition, the Exchange proposes to adopt new Commentary .03 to Rule 60 which will provide that, in connection with member or member organization use of any electronic system, service, or facility provided by the Exchange to members for the conduct of their business on the Exchange: (i) the Exchange may expressly provide in the contract with any vendor providing all or part of such electronic system,

service, or facility to the Exchange, that such vendor and its subcontractors shall not be liable to members or member organizations for any damages sustained by a member or member organization growing out of the use or enjoyment of such electronic system, service, or facility by the member or member organization, and (ii) members and member organizations shall indemnify the Exchange and any vendor and subcontractor covered by subsection (i) above with regard to any third party claims relating to the member or member organization's use of such electronic system, service or facility. This will provide needed protection for both the Exchange and vendors that may be retained by the Exchange to provide various services for use by member firms. If the Exchange does not have the flexibility to negotiate such liability protection, it will become increasingly difficult to find vendors willing to provide the Exchange with the essential services that it needs.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b) in that it is designed to prevent fraudulent acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market, and, in general, protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has not solicited written comments on the proposed rule change. The Exchange, however, received three written responses to a letter dated February 29, 1996, addressed to all members and member firms regarding the implementation of the Infrastructure and anticipated user fees for wireless data communications devices on the Floor. The three responses to the Exchange's letter concerned objections to the proposed fee structure. Upon further consideration and analysis, the Exchange decided that the specifics of the per device fee will not be determined until the fall of 1997, giving the Exchange a period of time to observe

the Infrastructure in operation. A per device fee will not be imposed prior to that time. In addition, once imposed, the monthly fee will be capped at \$250 per device.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-96-10 and should be submitted by May 29, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-11449 Filed 5-7-96; 8:45 am]

BILLING CODE 8010-01-M

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection Request

Normally on Fridays, the Social Security Administration (SSA) publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 104-13 effective October 1, 1995. The Paperwork Reduction Act of 1995. Since the last list was published in the Federal Register on April 26, 1996, the information collection listed below has been proposed.

(Call the SSA Reports Clearance Officer on (410) 965-4123 for a copy of the form(s) or package(s), or write to her at the address listed below the information collection.)

Modified Benefit Formula Questionnaire-Foreign Pension—0960-NEW. The information collected on form SSA-308 is used by SSA to determine exactly how much (if any) of a foreign pension may be used to reduce the amount of Social Security retirement or disability benefits under the modified benefit formula. The respondents are applicants for Social Security retirement/disability benefits.

*Number of Respondents:* 50,000  
*Frequency of Response:* 1  
*Average Burden Per Response:* 10 minutes

*Estimated Annual Burden:* 8,333 hours

Written comments and recommendations regarding this information collection should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1-A-21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The information collections listed below, which were published in the Federal Register on March 15, 1996 have been submitted to OMB.

(Call Reports Clearance Officer on (410) 965-4123 for copies of package.)

OMB Desk Officer: Laura Oliven  
 SSA Reports Clearance Officer:  
 Charlotte S. Whitenight.

1. *Application for Benefits Under a U.S. International Social Security Agreement—0960-0448.* The information collected on form SSA-2490 is used by the Social Security Administration to determine a claimant's eligibility for U.S. Social Security benefits under the provisions of an international social security agreement. It is also used to take an application for benefits from a foreign country under an agreement. The respondents are individuals who are applying for benefits from either the United States and/or a foreign country with which the United States has an agreement. The United States currently has 17 such agreements.

Number of Respondents: 20,000  
 Frequency of response: 1  
 Average Burden Per Response: 30 minutes  
 Estimated Annual Burden: 10,000 hours.

2. *Self-Employment/Corporate Officer Questionnaire—0960-0487.* The information collected on form SSA-4187 is used by the Social Security Administration to develop a claimant's earnings or corroborate his or her allegation of retirement when he or she is self-employed or a corporate officer. The affected public consists of claimants for benefits who provide the additional information to support their allegation concerning earnings or employment.

Number of Respondents: 50,000  
 Frequency of Response: 1  
 Average Burden Per Response: 20 minutes  
 Estimated Annual Burden: 16,667 hours.

3. *Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—0960-0002.* The information collected on form SSA-723 is used to determine if the Social Security Administration may infer that a missing person is deceased. The respondents are individuals who know or are related to the missing person.

Number of Respondents: 3,000  
 Frequency of Response: 1  
 Average Burden Per Response: 30 minutes  
 Estimated Annual Burden: 1,500 hours.

4. *Partnership Questionnaire—0960-0025.* The form SSA-7104 is used to collect information which is needed to evaluate partnership relationships to determine which portion of the partnership income should be credited

to each partner. The affected public consists of claimants for social security benefits who are involved in a partnership.

Number of Respondents: 12,350  
 Frequency of Response: 1  
 Average Burden Per Response: 30 minutes  
 Estimated Annual Burden: 6,175 hours.

5. *Annual Earnings Operations Direct Mail Followup—0960-0369.* The information collected on forms SSA-L9778, SSA-L9779, SSA-L9780 and SSA-L9781 will be used to determine if the recipients have underestimated their earnings for the current year. This will allow benefits to be withheld if necessary, and will thereby avoid many overpayments. The affected public is beneficiaries who are likely to underestimate their earnings.

Number of Respondents: 400,000  
 Frequency of Response: 1  
 Average Burden Per Response: 10 minutes  
 Estimated Annual Burden: 66,667 hours.

6. *Medical Report on Adult or Child With Allegation of Human Immunodeficiency Virus (HIV) Infection—0960-0503.* The information on forms SSA-4814 and SSA-4815 is used by the Social Security Administration to determine if an individual claiming to have HIV infection meets the requirements for presumptive disability benefits.

	SSA-4814	SSA-4815
Number of Respondents.	25,000 .....	7,500.
Frequency of Response.	1 .....	1.
Average Burden Per Response.	10 minutes	10 minutes.
Estimated Annual Burden.	4,167 hours.	1,250 hours.

Written comments and recommendations regarding these information collections should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, Washington, D.C. 20503  
 (SSA), Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd, 1-A-21 Operations Bldg., Baltimore, MD 21235

Dated: May 2, 1996.  
 Charlotte Whitenight,  
 Reports Clearance Officer, Social Security Administration.

[FR Doc. 96-11447 Filed 5-7-96; 8:45 am]  
 BILLING CODE 4190-29-P

**DEPARTMENT OF STATE**

**Office of the Secretary**

[Public Notice 2378]

**New International Bridge, Eagle Pass, Texas: Finding of No Significant Impact**

**SUMMARY:** The Department of State is issuing a finding of no significant impact on the environment for the new international bridge project sponsored by the City of Eagle Pass International Bridge Board, Eagle Pass, Texas. A draft environmental assessment of the proposed Eagle Pass International Bridge II project was prepared for the sponsor, under the guidance and supervision of the Department of State, by Hicks & Company, of Austin, Texas; Groves and Associates, Inc., of San Antonio, Texas; and Mitrising Associates, of Bethesda, Maryland. A public notice regarding the availability for inspection of the City of Eagle Pass International Bridge Board was published in the Federal Register on November 1, 1990, at 55 FR 46125. No comments were received from the public.

Over 20 federal and state agencies reviewed the draft environmental assessment. All comments received from these agencies were responded to, either by expanding the analysis contained in the draft environmental assessment or by proposing mitigation measures, as appropriate. Additionally, the Permit applicant corresponded and met with several agencies to discuss ways of meeting their concerns and, where appropriate, to discuss mitigation measures. The outcome of this dialogue was recorded in correspondence. Agencies participating in this process were the Immigration and Naturalization Service, the Customs Service, the Food and Drug Administration, the Animal and Plant Health Inspection Service, the General Services Administration, the International Boundary and Water Commission-U.S. Section, the Department of Defense, the Department of Transportation, the U.S. Coast Guard, the Federal Highway Administration, the Interstate Commerce Commission, the Federal Emergency Management Agency, the Department of the Interior, the Department of Commerce, the

Environmental Protection Agency, the Department of State, and appropriate Texas State agencies, including Texas Parks and Wildlife Department, Texas Department of Transportation, Texas Historical Commission, and Texas Natural Resource Conservation Commission. The draft environmental assessment, the comments submitted by the agencies, the response to these comments, and all correspondence between the agencies and the Permit applicant addressing the agencies' concerns, together, constitute the final environmental assessment.

Based on the final environmental assessment and information developed during the review of the City of Eagle Pass's application and of the draft environmental assessment, the Department of State has concluded that issuance of the Permit will not have a significant impact on the quality of the human environment within the United States. In accordance with Council on Environmental Quality Regulations, 40 CFR 1501.4 and 1508.13, and with Department of State Regulations, 22 CFR 161.8(c), an environmental impact statement therefore will not be prepared.

A Finding of No Significant Impact was adopted on April 12, 1996.

**ADDRESSES:** Copies of the Finding of No Significant Impact may be obtained from M. Elizabeth Swope, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, Room 4258, Department of State, Washington, D.C. 20520 (Telephone: 202/647-8529).

**SUPPLEMENTARY INFORMATION:** The Department of State ("the Department") is charged with issuance of Presidential Permits for the construction of international bridges under the International Bridge Act of 1972, 86 Stat. 731; 33 U.S.C. 535 *et seq.*, and Executive Order 11423, 33 Fed. Reg. 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 96 (1993).

The City of Eagle Pass Bridge Board, Texas, has requested from the Department a Permit to build a new bridge (Eagle Pass II) across the Rio Grande River from the City of Eagle Pass, Texas, to Piedras Negras, Coahuila, Mexico. The proposed bridge will be located approximately 0.6 miles south of the existing Eagle Pass International Bridge and immediately north of the international railroad bridge.

The proposed project is comprised of the bridge structure, inspection facilities, and the "Designated Truck Route," and will operate as a 24-hour per day crossing point. The bridge design includes reinforced concrete

design and pre-stressed concrete beam design. The 72-foot bridge roadway will provide six lanes, with sidewalks for pedestrians. The bridge structure will consist of a superstructure and a substructure.

The new bridge will:

- Provide an alternative route for 100 percent of commercial traffic from the existing Eagle Pass International bridge;
- Accommodate projected population growth and economic growth in both Eagle Pass and Piedras Negras;
- Provide for a "Designated Truck Route" that will direct commercial through-traffic out of downtown areas; the "Designated Truck Route" will begin at the GSA Import/Export facilities, ending at El Indio Highway (Hwy 1021), with five lanes, two in each direction, with a single turn lane. Traffic would be routed under the proposed new bridge and under the existing railroad bridge. The El Indio Highway tie-in will direct access to the Loop 431/FM3443 loop system, and thus to State Highway 57 and the Del Rio Highway (Hwy 277).
- Enhance Eagle Pass/Piedras Negras' position as the primary port of entry for the State of Coahuila, Mexico.
- Provide for temporary facilities lasting between five and ten years if GSA cannot immediately finance the general services building. This temporary facility would have between five and ten commercial truck docks, serving approximately 150 to 300 trucks a day.

Dated: May 1, 1996.

M. Elizabeth Swope,  
*Coordinator, U.S.-Mexico Border Affairs,*  
*Office of Mexican Affairs.*

[FR Doc. 96-11402 Filed 5-7-96; 8:45 am]

**BILLING CODE 4710-29-P**

#### [Public Notice 2377]

#### **New International Bridge, Eagle Pass, Texas: Issuance of Presidential Permit**

**SUMMARY:** The Department of State is announcing the issuance to the City of Eagle Pass International Bridge Board of a Presidential Permit for a new international bridge between the City of Eagle Pass, Texas, and Piedras Negras, Coahuila, Mexico. The Permit was signed on April 12, 1996, and issued on May 1, 1996, pursuant to the International Bridge Act of 1972 (33 U.S.C. 535 *et seq.*) and E.O. 11423, 33 FR 11741 (1968) as amended by E.O. 12847, 58 FR 29511 (1993). No objections were received to the issuance of the Presidential Permit after April 12, 1996.

**ADDRESSES:** Copies of the Presidential Permit may be obtained from M. Elizabeth Swope, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, Room 4258, Department of State, Washington, D.C. 20520 (Telephone 202-647-8529).

**SUPPLEMENTARY INFORMATION:** Notice of the application by the City of Eagle Pass International Bridge Board for a permit to build a new international bridge across the Rio Grande between the City of Eagle Pass, Texas, and Piedras Negras, Coahuila, Mexico was published in the Federal Register on November 1, 1990, at 55 FR 46125. The new bridge will be located approximately 0.6 miles south of the existing Eagle Pass International Bridge and immediately north of the international railroad bridge. The bridge will carry pedestrian and commercial vehicular traffic, and is intended to relieve the traffic burden on the existing bridge and downtown area.

The application for the Presidential Permit was reviewed and approved by over two dozen federal, state, and local agencies. The final application and environmental assessment were reviewed and approved or accepted by the Immigration and Naturalization Service, the Customs Service, the Food and Drug Administration, the Animal and Plant Health Inspection Service, the General Services Administration, the International Boundary and Water Commission-U.S. Section, the Department of Defense, the Department of Transportation, the U.S. Coast Guard, the Federal Highway Administration, the Interstate Commerce Commission, the Federal Emergency Management Agency, the Department of the Interior, the Department of Commerce, the Environmental Protection Agency, the Department of State, and appropriate Texas State agencies, including Texas Parks and Wildlife Department, Texas Department of Transportation, Texas Historical Commission, and Texas Natural Resource Conservation Commission.

Dated: May 1, 1996.

M. Elizabeth Swope,  
*Coordinator, U.S.-Mexico Border Affairs,*  
*Office of Mexican Affairs.*

[FR Doc. 96-11403 Filed 5-7-96; 8:45 am]

**BILLING CODE 4710-29-P**

#### **DEPARTMENT OF TRANSPORTATION**

#### **Federal Aviation Administration**

#### **Notice of Extension of Comment Period**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** In accordance with the requirements of the National Environmental Policy Act of 1969, as amended, (NEPA), 42 U.S.C. 4332(2)(C), the FAA is preparing an Environmental Impact Statement (EIS) for Terminal Doppler Weather Radar (TDWR) to serve John F. Kennedy International and La Guardia Airports. A Scoping Paper outlining the objectives and procedures of the scoping process and technical issues to be addressed in the EIS is available upon request to the FAA.

Written requests for the Scoping Paper and written comments on the planned scope of the EIS can be submitted as follows: Federal Aviation Administration, Office of the Chief Counsel, Attention: Docket (AGC-200) Docket No. 28365, 800 Independence Avenue, SW, Washington, DC 20591. Due to considerable continued interest expressed in this scoping effort, the comment period is extended; comments will be accepted until June 14, 1996.

**DATES:** The comment period is extended until June 14, 1996.

**ADDRESSES:** Written comments on the planned scope of work for the EIS can be submitted as follows: Federal Aviation Administration, Office of the Chief Counsel, Attention: Docket (AGC-200) Docket (AGC-200) Docket No. 28365, 800 Independence Avenue, SW, Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Jerome D. Schwartz, Environmental Specialist, Federal Aviation Administration, Wind Shear and Weather Radar Products Team, AND-420, 800 Independence Ave, SW, Washington, DC 20591, telephone (202) 358-4946.

Issued in Washington, DC on May 3, 1996.  
Jack Loewenstein,

*Leader, Integrated Product Team for Surveillance and Weather.*

[FR Doc. 96-11498 Filed 5-7-96; 8:45 am]

BILLING CODE 4910-13-M

**Notice of Extension of Draft Clean Air Act, General Conformity Determination; Comment Period for Seattle-Tacoma International Airport, Seattle, WA**

**ACTION:** The Federal Aviation Administration, Airports Division, Northwest Mountain Region and the Port of Seattle, Seattle, Washington, announce an extension, to May 23, 1996, of the public and agency comment period associated with the Draft General Conformity Determination prepared as specified in Section 176(c) (42 USC

7506c) of the Clean Air Act Amendments of 1990. The Draft General Conformity Determination, and supporting documentation is contained in the February 1996, Final Environmental Impact Statement, Master Plan Update, Seattle-Tacoma International Airport.

This comment period extension applies only to comments pertaining exclusively to the Draft General Conformity Determination and no other issues. Comments on other issues will not be accepted or addressed.

**PUBLIC REVIEW:** The public is invited to review and comment on the Draft Conformity Determination. Copies of the FEIS are available for review at the following locations:

Federal Aviation Administration, Airports Regional Office, Room 540, 1601 Lind Avenue, SW, Renton, WA

Port of Seattle, Aviation Planning, 3rd floor—Room 301, Terminal Building, Sea-Tac Airport, and Pier 69 Bid Office, 2711 Alaskan Way, Seattle

Puget Sound Regional Council, Information Center, 1011 Western Avenue, Seattle  
Beacon Hill Library, 2519—1st Avenue, South, Seattle

Boulevard Park Library, 12015 Roseberg South, Seattle

Seattle Public Library, 1000—4th Avenue, Seattle

Magnolia Library, 2801—34th Ave W, Seattle  
Rainier Beach Library, 9125 Rainier Avenue S., Seattle

Bothell Regional Library, 9654 NE 182nd, Bothell

Burien Library, 14700—6th SW, Burien  
Des Moines Library, 21620—11th South, Des Moines

Federal Way Regional Library, 34200—1st South, Federal Way

Foster Library, 4205 South 142nd, Tukwila  
Kent Regional Library, 212—2nd Ave N, Kent  
Vashon Ober Park, 17210 Vashon Highway, Vashon

Tacoma Public Library, 1102 Tacoma Ave S., Tacoma

University of Washington, Suzallo Library, Government Publications, Seattle

Valley View Library, 17850 Military Road South, SeaTac

West Seattle Library, 2306—42nd Ave SW, Seattle

Bellevue Regional Library, 1111—110th Ave NE, Bellevue

Comments may be directed to: Mr. Dennis Ossenkop, Northwest Mountain Region, Airports Division, Federal Aviation Administration, 1601 Lind Avenue, S.W., Renton, Washington 98055-4056. Comments must be received by May 23, 1996.

Issued in Renton, Washington on May 1, 1996.

Lowell H. Johnson,

*Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.*

[FR Doc. 96-11497 Filed 5-7-96; 8:45 am]

BILLING CODE 4910-13-M

**UNITED STATES INFORMATION AGENCY**

**Culturally Significant Objects Imported for Exhibition; Determination**

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Olmec Art of Ancient Mexico" (See list<sup>1</sup>), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at The National Gallery of Art, in Washington, D.C., on or about June 30, 1996 through October 20, 1996, is in the national interest. Public Notice of this determination is ordered to be published in the Federal Register.

Dated: May 2, 1996.

Les Jin,

*General Counsel.*

[FR Doc. 96-11422 Filed 5-7-96; 8:45 am]

BILLING CODE 8230-01-M

**DEPARTMENT OF VETERANS AFFAIRS**

**Advisory Committee on Cemeteries and Memorials; Notice of Meeting**

The Department of Veterans Affairs gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held at the Hacienda Hotel, 3950 Las Vegas Boulevard South, Las Vegas, NV 89119. This will be the committee's second meeting of fiscal year 1996.

<sup>1</sup> A copy of this list may be obtained by contacting Mr. Paul W. Manning, Assistant General Counsel, at 202/619-5997, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547-0001.

The meeting will convene at 8 a.m. (PT) on June 6, 1996 and will adjourn at 5 p.m. (PT) June 6, 1996. The Advisory Committee meeting will be combined with the biennial conference of the National Cemetery System. The purpose of this meeting to conduct routine advisory committee business and to give the Committee members an opportunity to meet and discuss issues with national cemetery directors. The agenda will specifically include the following: ethics training; a briefing and update from the Director, National Cemetery System; customer service initiatives; and, reinventing government within National Cemetery System.

The meeting will be open to the public. Those wishing to attend should

contact Ms. Dina Wood, Special Assistant to the Director, National Cemetery System [phone (202) 273-5235], no later than May 20, 1996. Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Director, National Cemetery System (40) at 810 Vermont Avenue, NW., Washington, DC. 20420. In any such letters, the writers must fully identify themselves and state the organization or association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those

wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver them to the Director, National Cemetery System.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Director, National Cemetery System, by May 15, 1996. Oral statements will be heard only between 3 p.m. and 4:30 p.m. (PT), June 6, 1996.

Dated: April 30, 1996.

By direction of the Secretary.

Heyward Bannister,

*Committee Management Officer.*

[FR Doc. 96-11420 Filed 5-2-96; 8:45 am]

**BILLING CODE 8320-01-M**

# Corrections

Federal Register

Vol. 61, No. 90

Wednesday, May 8, 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

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 96-016-5]

#### Karnal Blunt

##### Correction

In rule document 96-10260 beginning on page 18233 in the issue of Thursday, April 25, 1996, make the following correction:

#### § 301.89-3 [Corrected]

On page 18235, in the first column, in § 301.89-3(e), five stars should have appeared at the end of the paragraph.

BILLING CODE 1505-01-D

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Transfer of Administrative Jurisdiction; Sam Rayburn Dam and Reservoir Project

##### Correction

In notice document 96-9865 appearing on page 17872, in the issue of Tuesday, April 23, 1996, make the following correction:

On page 17872, in the 1st column, in SUMMARY:, in the 17th line, "47" should read "45".

BILLING CODE 1505-01-D

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Part 1

[Docket No. 960417113-6113-01]

RIN 0651-AA82

#### Revision of Patent Fees for Fiscal Year 1997

##### Correction

In proposed rule document 96-10765 beginning on page 19224, in the issue of Wednesday, May 1, 1996, make the following corrections:

1. On page 19225, in the third column, in the heading entitled "37 CFR 1.492 National State Fees", "State" should read "Stage".

#### §1.20 [Corrected]

2. On page 19226, in the third column, in §1.20 (g), in the first line, after the word "original" insert "or".

BILLING CODE 1505-01-D

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 75

RIN 1219-AA11

#### Safety Standards for Underground Coal Mine Ventilation

##### Correction

In rule document 96-5453 beginning on page 9764 in the issue of Monday, March 11, 1996 make the following corrections:

1. On page 9813, in the second column, in the eighteenth line "March 11, 1997" should read "June 10, 1996".

#### § 75.310 [Corrected]

2. On page 9829, in the third column, in § 75.310(a)(4), in the sixth and seventh lines, "March 11, 1997" should read "June 10, 1997".

#### § 75.333 [Corrected]

3. On page 9834, in the third column, in § 75.333(e)(1)(i), in the fifth and sixth lines, "March 11, 1997" should read "June 10, 1996".

#### § 75.380 [Corrected]

4. On page 9843, in the third column, in § 75.380(f)(2)(ii) and (iii), in the first lines, "March 11, 1997" should read "June 10, 1997".

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 31

[Docket No. 27543; Admendment No. 31-7]

RIN 2120-AE87

#### Airworthiness Standards; Manned Free Balloon Burner Testing

##### Correction

In rule document 96-10004, beginning on page 18220, in the issue of Wednesday, April 24, 1996, make the following correction:

#### § 31.47 [Corrected]

On page 18223, in the first column, in paragraph (a), the third line, "designed and installed so as to create a" should read "designed and installed so as not to create a..."

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### 49 CFR Part 1002

[STB Ex Parte No. 542]

#### Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—1996 Update

##### Correction

In proposed rule document 96-8293, beginning on page 15208 in the issue of Friday, April 5, 1996, make the following correction:

On page 15209, in the first column, under ADDRESSES, in the third line, "No. 5427" should read "No. 542)".

BILLING CODE 1505-01-D

Federal Register

---

Wednesday  
May 8, 1996

---

Part II

**Office of  
Management and  
Budget**

---

**Cost Principles for Educational  
Institutions; Notice**

## OFFICE OF MANAGEMENT AND BUDGET

### Cost Principles for Educational Institutions

**AGENCY:** Office of Management and Budget.

**ACTION:** Final Revision and Recompilation of OMB Circular A-21.

**SUMMARY:** The Office of Management and Budget (OMB) revises OMB Circular A-21, "Cost Principles for Educational Institutions," by incorporating four Cost Accounting Standards applicable to educational institutions, issued by the Cost Accounting Standards Board (CASB) on November 8, 1994 (59 FR 55746), and extending these standards to all sponsored agreements. The revision also: requires certain large institutions to disclose their cost accounting practices by the submission of a Disclosure Statement prescribed by the CASB; amends the definition of equipment; eliminates in 1998 the use of special cost studies to allocate utility, library and student services costs; and, requires the use of fixed facilities and administrative cost rates for the life of sponsored agreements. Further, the revision establishes cost negotiation cognizant agency responsibilities, replaces the term "indirect costs" with "facilities and administrative costs" (to describe more accurately the various cost components of sponsored agreements), clarifies the policy for a change from use allowance to depreciation, adds criteria to interest allowability, and disallows tuition benefits for employee family members. Finally, the revision rescinds OMB Circular A-88, "Indirect Cost Rates, Audits, and Audit Follow-up at Educational Institutions," in its entirety. The recompilation of Circular A-21 in its entirety appears after the revision.

**EFFECTIVE DATES:** The effective date of this revision of Circular A-21 is May 8, 1996, unless otherwise noted within this revision. Circular A-88 is rescinded effective July 1, 1996.

**FOR FURTHER INFORMATION:** Educational institutions should contact the educational institution's cognizant Federal agency. Federal agencies should contact Gilbert Tran, Office of Financial Federal Financial Management, Office of Management and Budget, (202) 395-3993.

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose of Circular A-21

Office of Management and Budget (OMB) Circular A-21, "Cost Principles for Educational Institutions," establishes principles for determining

costs applicable to Federal grants, contracts, and other sponsored agreements with educational institutions.

##### B. Recent Prior Revisions

Circular A-21 was last amended in 1991 and 1993 (56 FR 50224 of 10/1/91 and 58 FR 39996 of 7/15/93, respectively). The 1991 revisions made certain specified costs unallowable for Federal reimbursement and placed a limit on the amount of reimbursable administrative costs. That revision also required a certification to accompany each rate proposal. The 1991 revisions also added Exhibit A containing a list of colleges and universities subject to Section J.12.F, Depreciation and Use Allowance. The 1993 revisions further clarified and standardized the Circular's principles for determining allowable costs.

##### C. Current Revisions

On February 6, 1995, OMB proposed revisions in 60 FR 7104 and 60 FR 7106. In 60 FR 7104, OMB proposed the extension of the four cost accounting standards (CAS) applicable to educational institutions to all sponsored agreements and an amendment to the definition of equipment. In 60 FR 7106, OMB proposed eight additional revisions, including the rescission of OMB Circular A-88, "Indirect Cost Rate, Audits, and Audit Follow-up at Educational Institutions," and mentioned six other revisions for future consideration.

Circular A-21 is revised to:

1. Incorporate the four CAS (48 CFR 9905) and the Disclosure Statement (the Cost Accounting Standards Board's (CASB) form DS-2) and associated administrative requirements promulgated by the CASB for educational institutions. This action will extend the four CAS to all sponsored agreements (see Sections C.10, 11, 12 and 13 and Appendix A) and extend the applicability of the DS-2 (48 CFR 9903.202) to major educational institutions (see Sections C.14, K.2.b and Appendix B). Guidance for the implementation and administration of the CAS requirements and the submission of required DS-2s is also provided.

2. Replace the term "indirect" costs with "facilities and administrative" (F&A) costs. F&A costs are synonymous with "indirect" costs, as previously used in this Circular and as currently used in Appendices A and B.

3. Eliminate the use of special cost studies to allocate utility, library and student services costs effective July 1, 1998, at which time an alternative

methodology making payments on utility costs will be in place (see Section E.2.d(5)).

4. Require Federal funding agencies to use F&A rates in effect at the time of an initial award throughout the life of the sponsored agreement (see Section G.7).

5. Rescind Circular A-88 and establish cost negotiation cognizance for educational institutions and cognizant agency responsibilities in Circular A-21 (see Section G.11).

6. Eliminate the allowability of dependent tuition benefits (see Section J.8.f(2)).

7. Clarify the policy governing the transition from use allowance to depreciation (see Section J.12.b.(3)).

8. Amend the definition of equipment by increasing the capitalization threshold to the lesser of the amount used for financial statement purposes or \$5000 (see Section J.16).

9. Establish criteria for reimbursement of interest costs (see Section J.22.f).

Circular A-21, as amended by this revision, consists of the Circular published at 44 FR 12368 (2/26/79), as amended by Transmittal Memoranda Numbers 1 through 5, at 47 FR 33658 (7/23/82), 51 FR 20908 (6/9/86), 51 FR 43487 (12/2/86), 56 FR 50224 (10/01/91), 58 FR 39996 (7/15/93), respectively, and the amendments herein. A recompilation of the entire Circular A-21 with all its amendments to date appears at the end of this notice and is available in electronic form on the OMB Home Page at <http://www.whitehouse.gov/WH/EOP/OMB>, or in hard copy by calling OMB's Publication Office at (202) 395-7332.

##### D. Paperwork Reduction Act

This revision includes an information collection requirement for educational institutions receiving more than \$25 million in federally-sponsored agreements to file the CASB's DS-2. This revision's information collection requirement covers more educational institutions than those subject to CASB's regulatory requirement for filing the DS-2, pursuant to Public Law 100-679, which was previously approved and assigned OMB control number 0348-0055 (which expires August 31, 1997). On February 6, 1995 (60 FR 7104), OMB requested comments on this proposed information collection requirement in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35 et seq.). The proposed information requirement will not be effective until another notice is published in the Federal Register. The subsequent notice will provide the effective date and the OMB control number.

### E. Comments and Responses

OMB received about 200 comments from colleges and universities, Federal agencies, professional organizations, and accounting firms. The comments and OMB's responses are included in this notice. Several of the comments resulted in modifications to OMB's original proposal.

The comments received and OMB's responses are summarized below.

#### *Cost Accounting Standards (CAS)* (Sections C.10-13 and Appendix A)

*Comment:* Many commenters stated that OMB Circular A-21 currently provides adequate rules and guidelines regarding cost reimbursements for Federal grants and contracts. Therefore, they argued that the proposed incorporation of the CAS would duplicate Circular A-21's requirements.

*Response:* OMB concurs that many of the requirements covered under the CAS currently exist in OMB Circular A-21. However, the four CAS are being incorporated since they provide more explicit provisions and guidance regarding the consistent application of cost accounting practices at educational institutions. To minimize potential conflict between OMB policies and the Cost Accounting Standards Board (CASB) regulations at 48 CFR 9903, the CASB has committed to perform an analysis to identify administrative requirements—especially those relating to contract clauses, definitions of a cost accounting practice, and the cost impact process—that may not be readily adaptable to colleges and universities. The CASB will separately evaluate the need to establish any unique or alternative provisions that should be applied to colleges and universities based on the changes in Circular A-21. Recognizing that the two sets of documents should be compatible, the CASB will, within the limitations imposed by the statutory requirements of the CASB's organic statute, examine the administrative requirements issue in order to determine what improvements can be made to the administrative requirements of the CASB's rules as they effect colleges, universities and Federal cognizant agencies.

*Comment:* The CAS language refers to contracts. Language in the Circular needs to be amended to cover sponsored agreements.

*Response:* The CAS language in Sections C.10, 11, 12 and 13 and Appendix A of the Circular has been changed to cover all forms of sponsored agreements.

*Comment:* The proposal stated that the CAS provisions will not go into

effect on January 9, 1995; however, no other effective date was provided. When will the CAS language become effective?

*Response:* For CAS-covered contracts, the CASB's effective date for the application of CAS was January 9, 1995. For other sponsored agreements, the application of CAS is effective for the educational institution's fiscal year starting on or after the publication date of this revision.

*Comment:* The CAS were intended for commercial enterprises and are not appropriate for colleges and universities. Also, commercial enterprises are not limited by a 26 percent administrative cap; therefore, they can recover additional administrative costs to comply with CAS.

*Response:* Commercial contractors are subject to 19 CAS. Only four of those CAS are being applied to universities. The four CAS are for: (1) consistency in estimating, accumulating and reporting costs; (2) consistency in allocating costs incurred for the same purpose; (3) accounting for unallowable costs; and, (4) cost accounting period. Since these CAS merely strengthen the cost principles currently in Circular A-21, the implementation of CAS should not significantly increase burden or result in any additional costs to universities.

*Comment:* The revision limits an educational institution's flexibility to take necessary or advantageous action in a changing environment.

*Response:* The application of the four CAS should not limit an educational institution's flexibility in a changing business environment. The standards only require that costs be treated consistently and, if an educational institution makes an accounting change that materially impacts sponsored agreement reimbursement, then the change and its impact need to be reported. These requirements currently exist in Circular A-21. A change that converts a cost from direct to F&A (during a period where an educational institution has a predetermined F&A rate) normally is not considered a significant change, because it does not have a material impact on sponsored agreement reimbursement.

*Comment:* Limit CAS coverage to sponsored agreements in excess of \$500,000, which is consistent with CAS coverage of contracts. Some universities have several thousand agreements. Most of them are smaller than the \$500,000 threshold. The smaller agreements should not be covered by these requirements. To cover smaller agreements would hold educational institutions to a higher standard than the industry's standard. At issue is

whether or not a cost impact proposal or some other form of submission for an equitable adjustment should be made on all agreements.

*Response:* The four CAS promote consistency in cost accounting practices used by an educational institution to estimate, accumulate and report costs charged against federally-sponsored agreements. These underlining principles currently exist in Circular A-21 which covers all sponsored agreements. The four CAS set forth more explicit fundamental requirements, techniques and illustrations on how to comply with these principles. Therefore, it is appropriate to extend these CAS to all sponsored agreements.

Furthermore, a cost impact proposal is not required to be prepared for each agreement when an educational institution changes accounting practices. Instead, CAS regulations (48 CFR 9903.306 (e) and (f)) allow the use of "any other suitable technique" for cost impact adjustment. Thus, a cost impact adjustment could be done through the F&A cost negotiation process and rate agreement if deemed appropriate by the cognizant agency.

*Comment:* Educational institutions do not have sufficient funds to build accounting systems effective enough to comply with CAS. Commenters suggested an increase of the administrative cap of 26 percent of modified total direct costs (MTDC) to cover the increased paperwork burden. Failing this, the commenters requested an increase of the alternative administrative threshold rate from 24 percent, as allowed in Section G.8, to 26 percent.

*Response:* Compliance with CAS should not require educational institutions to acquire additional accounting systems. Since the CAS only clarify existing provisions for sponsored agreements, existing accounting systems that comply with § \_\_\_\_\_.21, Standards for financial management systems, in OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Non-Profit Organizations," should require no change.

*Comment:* The Circular should stipulate that Federal agencies retain the latitude to permit certain administrative expenditures to be charged directly to a project when they believe that these costs are essential for the conduct of the project.

*Response:* Section C.11 states that "all costs incurred for the same purpose, in like circumstances, are either direct costs only or F&A costs only with respect to final costs objectives."

However, there are circumstances where it is appropriate to direct charge costs, such as administrative and clerical salaries, when these costs are normally charged indirectly. For example, direct charging of these costs may be appropriate where a major project or activity requires a significant level of administrative or clerical services and individuals involved can be specifically identified with the project or activity. In this example, the administrative or clerical service costs are not incurred for the same purpose and under like circumstances as are administrative and clerical service costs associated with general university functions, such as accounting operations or general administrative activities, which do not result from specifically identifiable requirements.

*Comment:* CAS definitions (for direct cost, "indirect" cost, consistency and accounting change) are more limiting than in Circular A-21. How will such inconsistencies between the two documents be handled?

*Response:* Inconsistency in definitions and cost policy interpretations do not exist between the two documents. To further assure consistency between the two documents, all inquiries related to the CAS applicable to educational institutions will be addressed by OMB's Office of Federal Financial Management, in coordination with the CASB.

*Comment:* The precision required by CAS would not be consistent with future proposed systems of benchmarking, thresholds, caps, and other limiting factors. OMB is sending out mixed messages.

*Response:* The purposes of the four CAS and future proposed revisions to Circular A-21 are different. The four CAS incorporated in the Circular serve to promote consistent treatment of estimated costs proposed to the Federal Government and actual costs charged as reimbursable cost against federally-sponsored agreements. The purposes of the future proposed revisions are to assure the consistent treatment of costs proposed and charged to federally-sponsored agreements.

*Comment:* Some small colleges have training grants with 8 percent overhead limits. Could CAS requirements and disclosures be waived for those educational institutions with low overhead rates (perhaps 10 percent)?

*Response:* Small colleges with less than \$25 million in Federal funding covered under this Circular will be subject to the CAS but are exempt from the Disclosure Statement filing requirements.

*Disclosure Statement (DS-2) (Section C.14 and Appendix B)*

*Comment:* Many commenters express concerns that the preparation of the Disclosure Statement (DS-2) can take as much as 2500 hours. A suggestion was made to require a submission only for the year when the educational institution is required to submit a F&A cost rate proposal.

*Response:* OMB disagrees that the DS-2 can take as much as 2500 hours to complete unless a university does not currently have adequate written cost accounting policies. The DS-2 is a 20-page document that provides a summary of an educational institution's cost accounting system for Federal grants and contracts. The cost accounting practices used for Federal grants and contracts should already be properly documented as required by Subpart C, § \_\_\_\_\_.21, Standards for financial management systems, in OMB Circular A-110. Therefore, the effort to summarize the existing practices in the DS-2 should not be overly burdensome to complete.

In addition, educational institutions do not have to file the DS-2 on an annual basis. Educational institutions are only required to file an initial DS-2 in accordance with the time frame described in Section C.14 and thereafter, educational institutions only need to submit amendments of sections affected by changes in cost accounting practices deemed significant by the cognizant agency. Section C.14.d discourages the resubmission of a complete, updated DS-2 except for extensive changes.

Furthermore, the DS-2 submission is required only for educational institutions receiving more than \$25 million in federally-sponsored agreements during their most recently completed fiscal year.

*Comment:* The paperwork burden imposed has not proven necessary and the costs of providing the information outweigh the benefits to be derived.

*Response:* OMB believes that the DS-2 requires no more information than would normally be provided to the cognizant agency for review of an educational institution's F&A cost rate proposal and for negotiation of the associated rate agreement. OMB does not intend for the paperwork to be an arduous process, rather a reasonable representation of the accounting practices and policies that are used by the educational institution in recovering costs under Federal sponsored programs.

*Comment:* The DS-2 will result in additional work and expense, but, because of the 26 percent cap,

educational institutions will not be allowed to recover those amounts.

*Response:* OMB believes that the information required by the DS-2 is of the type that historically should have been submitted during F&A cost rate negotiations and made available for audits of grants and contracts in accordance OMB Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions." Therefore, the only additional time requirements should be to put the same information in the format required by the DS-2 and to submit information on accounting changes, as needed. Subsequently, the information will not have to be resubmitted every time a rate proposal is submitted. Only changes in cost accounting practices need to be addressed as the changes are made. This should result in administrative cost savings in the long term.

*Comment:* The revision should clarify what constitutes an accounting change, and provide a materiality threshold so that insignificant changes do not have to be reported.

*Response:* OMB does not intend for educational institutions to report insignificant accounting changes. Sections C.14.d and g emphasize that a change is to be reported and approved by the cognizant agency only when "the change is expected to have a *material* impact on the educational institution's negotiated F&A rates \* \* \*" (emphasis added). The determination of whether an accounting change is significant and, therefore, requires an amendment to the DS-2 and possibly a cost impact proposal is to be made by the cognizant agency. However, educational institutions are prohibited under the allocability clauses of the Circular from double-counting any costs to the Federal Government which could result from a change in accounting.

*Comment:* There were many comments about confusion over the submission dates for the initial DS-2 between the proposed dates stated in the proposed revision to Circular A-21 and the dates published by the CASB on November 8, 1994.

*Response:* In order to clarify the submission dates for the initial DS-2, and to prevent confusion, the DS-2 submission dates in this Circular for CAS-covered educational institutions are the same as those published by the CASB on November 8, 1994. The DS-2 submission date for educational institution not covered by the CASB requirements is six months after the end of the fiscal year which starts after the publication date of this revision. In addition, the cognizant agency has the

authority to provide a filing date extension on a case-by-case basis, unless the DS-2 submission date is defined by receipt of a CAS-covered contract by the educational institution.

*Comment:* Small colleges and universities are disproportionately affected by the DS-2 submission requirements since a small university which received a CAS-covered contract and \$25 million in sponsored awards could have the same submission due date as the top 20 universities which receive substantially more Federal awards (approximately \$150 million or more).

*Response:* To provide consistency and avoid confusion among all colleges and universities regarding the submission due dates for the DS-2, OMB has revised the due dates to correspond with the due dates published by the CASB. A cognizant agency has the authority to grant a filing date extension.

*Comment:* A definition is needed for "a component unit" or the previously-defined terms "segment" and "a business unit" should be used.

*Response:* "A component unit" in Section C.14 is replaced with "a business unit." A business unit at colleges and universities means any unit of an educational institution which is not divided into segments. Segment means one of two or more divisions, campus locations, or other subdivisions of an educational institution that operate as independent organizational entities under the auspices of the parent educational institution and report directly to an intermediary group office or the governing central system office of the parent educational institution.

*Comment:* For those educational institutions that are required to file a DS-2, there should be a transition time period (e.g., within one year after submittal) in which the cognizant agency is required to identify any procedures or descriptions that it believes would lead to disallowance of costs in the future and the educational institution should be given an opportunity to correct these procedures or descriptions without a penalty. When the document is found acceptable to the cognizant agency, then it should receive a written acknowledgment that, in the agency's opinion, the document describes acceptable practices. An educational institution would then only be subject to disallowances if it is found to be violating its described practices in such a way that unallowable costs were being incurred.

*Response:* OMB disagrees. The DS-2 should disclose the cost accounting practices used to estimate, accumulate

and report the costs of sponsored agreements over the award periods of performance. If the cognizant agency identifies established or disclosed cost accounting practices that would lead to disallowance of costs, it would require the educational institution to correct the practice and may also compute a cost adjustment, if material, in accordance with Section C.14.e.

*Comment:* Any subsequent cost adjustments for procedures that are inconsistent with those disclosed in the DS-2 and result in unallowable costs should be limited to the time period beginning after acceptance of the DS-2 by the cognizant agency.

*Response:* While the purpose of the DS-2 is to disclose an educational institution's current cost accounting practices and is intended more for future purposes than for a review of past practices, it may be necessary to make adjustments for some unallowable costs that may have been reimbursed in the past. These adjustments will be made at the discretion of the cognizant agency. Adjustments for the effects of deviations from the practices disclosed in the DS-2 can occur only after the filing. However, the effect of deviations by an educational institution from established practices, whether or not a DS-2 submission is required, will continue to be subject to adjustments in accordance with Section C.8.

*Comment:* In resolving questions about costs incurred, any claimed disallowances should be based on requirements of Circular A-21 with regards to allowability of costs and not some procedural issue related to following a procedure described in the DS-2.

*Response:* OMB agrees that Circular A-21 should provide the basis of allowability of costs. However, in some instances, the DS-2 will help to clarify how such costs are allocated and may effect the reimbursement of costs claimed as allocable and, therefore, reimbursable costs.

*Comment:* The DS-2 will be difficult to manage when the reporting entity manages grants from various locations. OMB should clarify disclosure requirements for multi-campus and multi-location educational institutions.

*Response:* OMB expects that educational institutions' accounting policies would be the same, particularly if the locations are all covered by the same cost pools. If this is not the case, OMB believes that preparation of the DS-2 will help educational institutions to develop consistent accounting policies. However, if for some justified reasons various locations maintain different cost accounting practices, a

separate DS-2 should be submitted for each business unit as stated in Section C.14.a.

#### *Terminology ("Indirect" Costs)*

*Comment:* Most commenters agreed with the proposed change of terminology from "indirect" costs to "facilities and administrative" costs. However, some commenters noted that this change will create confusion and conflicts with other OMB cost principles circulars and OMB grants management circulars that still use the term "indirect" costs.

*Response:* OMB agrees that inconsistent terminology may cause short term problems. However, this change is needed to more accurately describe the several cost pools for sponsored agreements at educational institutions. The replacement of the term "indirect" costs will be limited to Circular A-21 and not extended to other OMB grants management circulars because of the several cost pools that exist only in Circular A-21. The term "indirect" costs still appears in Appendix A—CASB's Cost Accounting Standards and Appendix B—Disclosure Statement (DS-2) since these appendices are directly from the CASB's regulations.

#### *Special Cost Studies (Section E.2.d)*

*Comment:* The provision to limit special cost studies to allocate utility, library and student costs should be delayed until reasonable benchmarks can be established for the payment of these costs.

*Response:* Benchmark studies to develop alternative payment methods for facility construction, utilities and library costs are currently underway. In the meantime, due to the ambiguous nature of special cost studies that were the source of disagreement between cognizant agencies and institutions, OMB plans to make utility, library and student services cost recoveries based on special cost studies unallowable costs. This restriction's effective date is delayed until July 1, 1998 at which time OMB will have in place an alternative method to pay utility costs. Utility, library and student services cost allocations based on special cost studies will be disallowed for administrative and facilities payment rates negotiated on or after July 1, 1998. The special cost studies cannot be used to establish rates beyond fiscal year ending in 1998, unless a rate agreement in effect at the time of this publication extends beyond 1998, in which case the use of special cost studies will terminate at the end of the rate agreement period. OMB is currently reviewing proposals for

alternative methodologies for making payments on costs related to utilities. OMB will publish the proposals for public comments prior to July 1, 1997.

*Comment:* Instead of eliminating the special cost studies, OMB should develop standards, methodology and criteria for conducting special cost studies that would be acceptable for the Federal Government.

*Response:* Special cost studies were cited as an example of an area of potential abuse and source of disagreement and distrust between cognizant agencies and institutions. Rather than try to devise a set of complex parameters that would preclude any opportunity for abuse, OMB decided to disallow any cost allocations based upon those studies and, instead, to provide an alternative payment mechanism.

#### *Fixed Rates (Section G.7)*

*Comment:* Clarification of "life of agreement" is needed since a project can extend over a long period of time exceeding ten or fifteen years at times. Does it mean each continuing period of an award or each competing renewal of an award? Fixed rates should only apply prospectively to new awards. "Life" should mean each competitive renewal period. A commenter suggested that a fixed rate apply for a period of three years.

*Response:* OMB has clarified "life of agreement" to mean each new competitive segment. A competitive segment is a period of years approved for a project at the time of the award, usually three to five years. Fixed rates will apply only to awards made after the publication date of this revision.

*Comment:* A clarification is needed for the impact of a fixed rate throughout the life of the award on the various types of rates, i.e., provisional, predetermined and fixed rates.

*Response:* The revision requires that the Federal funding agencies use rates in effect at time of award throughout the life of the award, using the negotiated rates (predetermined, fixed or provisional) at the time of the award. For example, if an educational institution has a provisional rate of 40 percent at the time of the award, the 40 percent rate will be used for funding and reimbursement throughout the life of that award. If an educational institution has predetermined rates of 40 percent (first year), 42 percent (second year) and 45 percent (third year), then a five-year project would have rates of 40 percent (first year), 42 percent (second year) and 45 percent (third, fourth and fifth years).

When an educational institution does not have a negotiated rate with the Federal Government at the time of the award (because the educational institution is a new grantee or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award will be adjusted after a rate is negotiated and approved by the cognizant agency.

*Comment:* To implement a fixed rate throughout the life of an award penalizes a university with growth in facility costs. This would discourage colleges and universities from investing in facility costs.

*Response:* When entering into an agreement with educational institutions to perform a specific project, it is only fair for the Federal Government to commit funding and reimbursement based on the conditions as they are understood to exist at that time. Most research project activities remain in the same laboratory during the entire life of the project and, therefore, the facility costs should remain at the same level. A fixed rate throughout the life of an award would only adversely affect an educational institution when, after the award date, the educational institution moved the project into a more modern and expensive facility. Therefore, for future awards, an educational institution with growth in facility costs should seek to establish future cost rates (fixed or predetermined) that reflect the growing cost pattern.

*Comment:* It is not clear what rate is to be used when the educational institution's rate is decreasing during the life of the award.

*Response:* In the case of anticipated declining cost rates, the educational institution should provide the basis for the anticipated decline. Total funding for the award would reflect the anticipated decline. If a declining cost rate is not anticipated at the time of award, the educational institution may recover the costs at the rates in effect at the time of the award.

*Comment:* Fixed rates should not be applied to primate centers that are funded by the National Institutes of Health P-51 awards, since these centers are involved in a very long-term agreement with the Federal Government for specific research activities.

*Response:* The fixed rates concept does not apply to the seven primate animal care facilities that are involved in special animal research funded under the National Institutes of Health P-51—Primate Research Center Grant. These centers are primarily federally-funded and are involved in a very long-term agreement with the Federal Government. The federally-funded F&A

costs that make up the rates are used to charge the educational institution's users of the facility and are treated as program income and returned to the Federal awards.

*Comment:* Fixed rates should only be used for funding a total project, regardless of Federal reimbursement of a university's F&A costs. This policy is consistent with the funding and reimbursement policies for grants by the National Science Foundation (NSF).

*Response:* Current NSF policies award a fixed amount (direct and F&A costs) for the conduct of an entire project. This policy allows the educational institution to recover more F&A costs than originally budgeted as long as the total reimbursement for the project does not exceed the funding for the total award. The revision in Section G.7 provides that a fixed rate shall be used for both funding and reimbursement of F&A costs during an award's life (or a competitive segment's life). This policy assures that the Federal Government is receiving the level of services (i.e., research) agreed to by the educational institution and the Federal agency when the award was made. If the fixed rate concept is used only for funding of the award and not reimbursement of F&A costs, during periods of increasing rates, while the total funding for the award remains the same, then a shift of funding available for direct costs to F&A costs would occur. Therefore, the funding available for direct cost activities would decrease and so would the level of services (or research).

#### *Cost Negotiation Cognizance (Section G.11)*

*Comment:* The Circular should address the effects that a change in cost negotiation cognizance would have on an educational institution's administrative functions.

*Response:* A change in cost negotiation cognizance should have no impact on an educational institution's administrative functions. The consolidation of cognizant agencies for cost negotiation will enhance the consistency in the application and interpretations of the Circular's cost principles and in the review of cost rate proposals.

*Comment:* Several commenters suggest that the period for cognizant agency assignment should be ten years rather than five since universities frequently negotiate multiple year rates for two or three years.

*Response:* The assignment period for a cognizant agency will remain at five years, as proposed. A five-year period assignment should normally extend over more than two normal negotiation

cycles. Furthermore, since the funding pattern from particular Federal agencies at a particular university usually does not change over a short time period, the cognizance should remain reasonably stable.

*Comment:* One commenter suggests that financial statements rather National Science Foundation (NSF) data should be used in the determination of a cognizant agency.

*Response:* The preferable source for cognizant agency determination would be the Schedule of Federal Awards, as required by OMB Circular A-133, that accompanies an educational institution's financial statements. However, information on the Schedules of Federal Awards has not yet been automated in a Federal data base. Therefore, the best source data are the most recent three years of data published by NSF in its annual report ("Selected Data on Federal Support to Universities and Colleges"), in the table at page 5, entitled "Federal obligations for science and engineering research and development to universities and colleges, ranked by total amount received, by agency; fiscal year." OMB is revising Circular A-133 which will establish a data base that can be used for this purpose.

*Comment:* Which would be the cognizant agency for educational institutions that do not receive either HHS or the Department of Defense, Office of Naval Research (DOD) funding? One commenter suggested that an agency which has a predominant interest and an on-site presence should be the cognizant agency. The concern is that the major funding agency may not have the authority to address cost issues that impact its funded projects.

*Response:* The Circular has been revised to provide that an educational institution will have an assigned cognizant agency even when HHS or DOD provides little or no funding at that educational institution. Cognizance is assigned to either HHS or DOD depending on which of the two agencies (HHS or DOD) provides more funds to the educational institution. In cases where neither HHS nor DOD provides any funding, the cognizant agency assignment shall default to HHS. Other arrangements for cognizance of a particular educational institution may also be made based on mutual agreement by both HHS and DOD.

Section G.11 also states that the cognizant agency is responsible for coordinating the formal negotiation and arranging a pre-negotiation conference if there is interest from another agency. This process assures that an interested major funding agency is not precluded

from participating in the negotiation process.

*Comment:* The agency with Federal audit cognizance (established by Circular A-133) and cost negotiation cognizance (established by Circular A-21) should be the same for each educational institution.

*Response:* With the rescission of OMB A-88, which assigned a single Federal cognizant agency for rate negotiation, audit and audit follow-up, an educational institution may have two different agencies responsible for audit and cost cognizance. OMB believes that the audit function and cost negotiation functions are different functions. This division of responsibility works effectively for State and local governments under Circulars A-87, "Cost Principles for State, Local and Indian Tribal Governments" (60 FR 26484; May 17, 1995), and A-128, "Audits of State and Local Governments" (50 FR 19114; May 10, 1985).

*Comment:* Which agency would be the cognizant cost negotiation agency for the Federally-Funded Research and Development Centers (FFRDCs) associated with educational institutions? Is the FFRDC included in the total dollar amount received by the educational institution for the determination of a cognizant agency?

*Response:* Federal responsibilities associated with FFRDCs are not affected by the revision to Circular A-21. FFRDCs associated with educational institutions are independent organizations that function outside the operational activities of the educational institutions. They are required to comply with the CAS and rules and regulations issued by the CASB set forth in 48 CFR Chapter 99. The determination of their cognizant agency will continue to be based on the primary funding source. Federal funding to FFRDCs shall be excluded from the determination of cost cognizance for an educational institution.

*Comment:* Several commenters suggested that Federal agencies do not have the authority to use a F&A rate for a class of sponsored agreements or a single agreement other than the negotiated rates. To allow this would defeat the purpose of standardized rate agreements.

*Response:* Under normal circumstances, the negotiated rates established between the educational institution and the cognizant agency should be used by all agencies. The Circular has been revised to state that only under special circumstances prescribed by law or regulation can an

agency use a rate other than the negotiated rate.

*Comment:* The proposed revision stated that cognizant assignments as of December 31, 1995, will continue in effect through an educational institution's fiscal years ending during 1997. Is this based on the receipt of the educational institution's cost proposal or is it based on the year for which the proposal is prepared?

*Response:* The transfer of cognizance assignment is based on the receipt date of the cost proposal. The cognizant agency for an educational institution as of December 31, 1995, is responsible for the review and negotiation of rates for all cost proposals submitted to that agency through fiscal years ending during 1997. The cognizant agency is also responsible for any disputes or appeals that result from proposals submitted through fiscal years ending during 1997.

#### *Dependent Tuition Benefits (Section J.8)*

*Comment:* Most commenters stated that dependent tuition benefits are legitimate fringe benefit costs, as are health benefits, and are commonly used by a university to attract the best faculty and staff. This benefit should not be eliminated. A comparison of this benefit to the private sector should not be made since the salary for faculty and staff are typically much lower and university employees do not receive some benefits offered by the private sector, such as stock options. Eliminating the dependent tuition benefit will cause universities to raise wages for their employees, thus ultimately resulting in higher costs for Federal research.

*Response:* OMB disagrees for the following reasons:

(1) Some universities charge federally-sponsored agreements for dependent tuition assistance even when there is no actual cost incurred by the university. For example, in the four universities covered by a recent General Accounting Office (GAO) study ("University Research—U.S. Reimbursement of Tuition Costs for University Employee Family Members," GAO/NSIAD-95-19), when a dependent attended the university where an employee worked, the four universities charged tuition in full or in part to federally-sponsored agreements. GAO's report provided an example in which an institution "would have charged \$18,000 to the fringe benefit pool for a child of a tenured faculty member attending the university during 1993." Generally, provision of substantial fringe benefits that do not in fact impose a measurable cost on an entity are not a "cost" that is properly chargeable to the government.

(2) Since 1977, the Federal Acquisition Regulation (FAR)(48 CFR Subpart 31.205-44, "Training and education costs"), which applies to Federal contracts with commercial firms, has treated dependent tuition benefit as an unallowable cost. This change was made because the procurement regulation review committee, which studied changes to the FAR in the mid 1970's, believed that there was no benefit to the government from subsidizing tuition costs of employee family members.

(3) Dependent tuition benefits are unique to educational institutions, i.e., they are not available as a normal business practice for the private sector (subject to the FAR), State and local governments (subject to OMB Circular A-87), and non-profit organizations (subject to OMB Circular A-122, "Cost Principles for Non-Profit Organizations"). Allowing dependent tuition benefits to educational institutions would provide allowable costs for only one group of grantees and contractors.

(4) No evidence has been offered to support the comment that compensation for educational institution faculty and staff currently is much lower than compensation in the private sector for the same discipline. If higher salary levels are required to attract faculty and staff, then such salaries will be chargeable to Federal awards to the extent allowable under this Circular and the terms of the awards.

Based on the above reasons, the Circular is revised to disallow dependent tuition benefits for educational institutions' fiscal years starting on or after September 30, 1998.

*Comment:* A phase-in period with an effective date of 1998 should be allowed for the total elimination of this benefit.

*Response:* Given existing contractual commitments to faculty and staff, the effective date for making the dependent tuition an unallowable cost is the educational institution's fiscal years beginning on or after September 30, 1998.

#### *Use Allowance/Depreciation (Section J.12)*

*Comment:* The educational institution should be allowed to depreciate the remaining (full) value of the assets at the time of conversion, using the depreciation rate until the assets are disposed.

*Response:* For claiming its costs on a single class of assets, an educational institution always has the choice of selecting either the use allowance or depreciation methodology. These two methodologies are based on different

cost reimbursement principles (i.e., use allowance allows cost recovery beyond useful lives as long as the asset is in use, while depreciation allows a quicker cost recovery based on a depreciable life only). The selection of recovery method is up to the educational institution.

Circular A-21 does not require the educational institution to convert from the use allowance method to the depreciation method. The revision in Section J.12.b.(3) simply clarifies that, in the case where an educational institution, by its own choice, elects to convert from use allowance to the depreciation method, the conversion should be made as if the depreciation method had been used over the entire life of the asset.

Additionally, the "allocability principle" in Section C.4 of Circular A-21 states that "a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship" (emphasis added). 44 FR 12368 (February 26, 1979). The allocability principle would be violated if unclaimed costs could be charged to the future periods that do not benefit from the use of the asset.

*Comment:* Circular A-21 should allow the use allowance method for old buildings and the depreciation method for new buildings rather than restrict the use of one method of reimbursement for one type of assets. The provision should apply to new assets only and not all assets. The commenter recommends changing the language to "a combination of the depreciation and use allowances may not be used for new assets."

*Response:* Section J.12.d has provided that a combination of the depreciation and use allowance may not be used, in like circumstances, for a single class of assets. To allow the use of both methods for a single class of assets would violate the consistent treatment principle of the Circular, complicate the depreciation/use allowance calculation process, and create inequities in the recovery of asset costs against Federal programs. This provision prevents an educational institution from both using depreciation to recover the cost of assets with useful lives that are shorter than the average lives reflected in the use allowance rates (50 years for buildings and 15 years for equipment) AND using allowance for the recovery of assets with longer useful lives. The mix of the two methods for a single class of assets is clearly inequitable to the Federal Government since the use allowance method is a simplified recovery method that is

based on an averaging concept which implicitly recognizes that certain assets within each broad category have lives that differ from the average. OMB does not see the need to change this policy since it is the educational institution's choice to select the appropriate method of recovery for facility costs.

*Comment:* The provision should allow full recovery of assets that are converted from use allowance to depreciation. This could be done by allowing use allowance beyond the asset's depreciable "life"—as long as the assets are in use—until the full cost is recovered. Authorization from the cognizant agency shall be obtained.

*Response:* OMB disagrees. If the depreciation method is used, Section J.12.b.(5) provides that depreciation is not allowed on any assets that have outlived their depreciable lives. However, Section J.12.c.(3) allows a "reasonable use allowance" for any assets that are considered to be fully depreciated after considering the amount of depreciation previously charged to the Federal Government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purposed contemplated. The allowable amounts are determined by the cognizant agency. This provision allows a use allowance for fully depreciated assets only under the most extraordinary circumstances and is not applicable when converting from use allowance to depreciation. This provision is intended to permit reimbursement under unusual circumstances where an asset is treated as having outlived its useful life but nevertheless has future cost consequences that are not recoverable through capitalized repair and replacement costs or as current period expenses.

An example of a "reasonable use allowance" is for the use of an electronic microscope by the educational institution after its useful life. At the start of its service life, a reasonable estimate of the useful life of an electronic microscope is five years. However, after five years, when the asset is fully depreciated and its costs fully recovered, if it is still functional and is used to support Federal projects, then consideration may be given by the cognizant agency for a reasonable use allowance. This approach results in cost savings both for the educational institution and the Federal Government since the educational institution could have replaced the old electronic microscope with a new, more expensive

one and then appropriately charge a use allowance to the Federal projects.

#### *Equipment Definition (Section J.16)*

*Comment:* The effective date of the equipment definition change should be prior to the expiration of an educational institution's F&A cost rate agreements.

*Response:* In order to simplify the transition, the effective date of the equipment definition change will be at the beginning of the next F&A cost rate agreement. An educational institution with predetermined or fixed rates that wishes to raise its equipment threshold earlier should contact its cognizant agency for approval. While educational institutions are free to change their capitalization policy at any time, there should be limitations as to when sponsoring agencies may recognize the change. To do otherwise could result in direct costs and F&A costs being reimbursed under conditions different from those upon which the F&A cost rate was predicated. Federal sponsoring agencies are to award, and grantees are to claim, costs in accordance with the policies in effect at the time the cost rate agreement was issued. At the cognizant agency's discretion, revised cost rates may be established based on an analysis of the impact on cost rates of the conversion.

*Comment:* Clarification is needed on the treatment of depreciation of those assets which had costs between the old \$500 threshold and the new \$5000.

*Response:* In order to clarify the accounting for the unamortized portion of any equipment costs as a result of a change in capitalization levels, language has been added to Section J.16.a.(1) to explain that the unamortized portion may be recovered by continuing to claim the otherwise allowable use allowance or depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

#### *Interest Criteria (Section J.22)*

##### General

*Comment:* Clarifications are needed for the calculations used in the lease-purchase analysis and the cash-flow analysis.

*Response:* The commenter is correct. The Circular has been revised to provide the following clarifications for the interest requirements. A threshold of \$500,000 has been set for the requirement of a lease-purchase analysis for a facility acquisition, a cash-flow analysis is required for debt arrangements over \$1 million (when the initial equity contribution by the educational institution is less than 25

percent), and notification is required in case of a substantial relocation from a building funded in part or whole through Federal reimbursements. The same clarifications adopted in the final revision of the interest provision of Circular A-122 (60 FR 52516), have been included in this revision to Circular A-21 in Section J.22.f. This will maintain conformity across the cost principles circulars.

*Comment:* The requirements under the interest criteria create an additional administrative burden for colleges and universities in a period when the administrative costs are already capped.

*Response:* OMB recognizes that there might be a nominal increase in an administrative burden in a few cases. However, OMB believes that these requirements are needed to protect the Federal Government against abusive financing arrangements (such as "balloon financing method" where the entire principal amount is made at the end of the finance term).

*Comment:* The requirements should only apply prospectively to future asset acquisitions.

*Response:* OMB revises the provision in Section J.22.f to state that the criteria for interest allowability in this revision apply only to facilities and equipment acquired after the effective date of this revision.

*Comment:* What are the reimbursement limitations when the least expensive alternative is not chosen?

*Response:* As the revision in Section J.22.f states, when a lease-purchase analysis is required to be performed, reimbursement will be limited to the least expensive alternative available, whether or not it is the chosen alternative.

*Comment:* Where a facility is acquired and the components are depreciated over varying lives, can interest on debt associated with fully depreciated assets be claimed?

*Response:* No. Under the allocability provisions of Section C.4.a, interest costs on fully depreciated, retired, scrapped, or nonexistent assets are unallowable.

*Comment:* Where a new facility is acquired or constructed with excess capacity intended to meet future needs, can interest costs be claimed for that portion of the facility that is currently excess and not in use?

*Response:* No. Under the allocability provisions of Section C.4.a, interest costs on excess or idle capacity are not allocable to Federal programs and are, therefore, unallowable. This provision also applies to any related costs, such as depreciation.

#### *Lease-Purchase Analysis*

*Comment:* A higher threshold should be established for the requirement of the lease-purchase analysis. Thresholds of \$50 million and \$25 million were recommended.

*Response:* Many commenters indicated that lease-purchase analyses are generally performed by the educational institutions as a common business practice. Such analyses normally are performed for assets under the suggested \$25 million threshold, whether or not Federal funds are involved. The expense of the analysis is justified when one considers the considerably greater amounts that are at stake in a real estate lease or purchase. Also, by identifying the most economical acquisition alternative, such analyses can pay for themselves. Section C.3 of Circular A-21 requires that, to be allowable, costs must be reasonable. A lease-purchase analysis provides such supporting documentation. A threshold of \$25 million or \$50 million is simply too high to protect the interests of the Federal Government.

However, OMB recognizes that a lease-purchase analysis may not be cost effective for smaller facility acquisitions. Therefore, a threshold of \$500,000 has been established in the final revision for the lease-purchase analysis requirement for facilities. Additionally, the analysis is not required to be submitted but is only to be maintained on file for cognizant agency review upon request. There is no requirement for a lease-purchase analysis for equipment.

#### *Cash-Flow Analysis*

*Comment:* The educational institution should have the option of rolling forward the "excess" cash recovery to future years rather than being disallowed in the year incurred since interest costs are often based on a declining principal balance and are not spread evenly over the life of the mortgage.

*Response:* The provision on "excess" cash flow addresses the interest costs to the Federal Government in instances where cash flow from depreciation exceeds debt principal payments (e.g., a "balloon" payment arrangement). In such case, where the entire principal amount is paid at the end of the finance period, the cash flow received by the educational institution for reimbursement of depreciation and interest expenses on a facility would exceed the payments made by the educational institution for interest and principal, thus resulting in an excessive cash flow. The interest on the excess

cash flow should be deducted from interest costs in the year earned and not spread out over the life of the mortgage since the Federal Government pays its proportionate share of future period interest.

The provision requiring an adjustment to allowable interest for positive cash flow does not result in a "disallowance" of depreciation exceeding principal payments. When inflows exceed outflows, earnings are to

be imputed on the excess cash flow and offset against interest costs for the 12-month period. The educational institution, however, retains the excess cash flow which will be needed during periods of negative cash flow.

A sample cash-flow analysis is presented hereafter.

*Comment:* The provision requires that earnings on positive cash flows be offset against interest costs. If principal payments include the cost of land, the

positive cash flow and imputed earnings will be understated.

*Response:* OMB agrees. While interest on debt to acquire land is allowable, the cost of land is not. Accordingly, when computing cash flows, each debt principal payment shall be reduced by an amount equal to the portion of the principal payment attributed to the acquisition of land. This requirement is included in Section J.22.f.

BILLING CODE 3110-01-P

**A-21 Excess Cash-Flow Calculation - Sample Format for Annual Report**

Applicable for debt arrangements over \$1 million, unless initial equity contribution equals 25 percent or more

Year \_\_\_\_ of \_\_\_\_ Years      Month 1      2      3      4      .....      12      Annual Total

Line 1 Prior period's cumulative cash flow balance  
(Prior Month's or Year's Line 9)

Add this period's inflows:

Line 2 Depreciation expense (Note 1)  
Line 3 Interest expense (Note 2)  
Line 4 Amortization of debt issuance costs (Note 2)

Subtract this period's outflows:

Line 5 Principal payments (Note 3)  
Line 6 Interest payments (Note 3)  
Line 7 Subtotal of cumulative cash flows  
(Line 1+2+3+4-5-6)  
Line 8 In initial period only, subtract initial equity contribution (Note 4)  
(Will be zero after initial period)

Line 9 Total of cumulative cash flows  
(In initial period, Line 7 - Line 8)  
(In subsequent periods, equals Line 7)

Line 10 If line 9 is positive, state month's closing interest rate  
on 3-month Treasury Bill  
If line 9 is negative, put "0" (zero)

Line 11 Imputed interest income on cumulative positive cash flow  
Monthly columns = (Line 10 x Line 9)/12

Line 12 Allowable interest for period  
(Line 6 - Line 11)

Note 1: May include amortization of capitalized construction interest in accordance with GAAP. Depreciation expenses should be reported on a monthly basis (Annual expense/12).

Note 2: Interest expense and amortization of debt issuance costs that are not included in loan amount should be reported on a monthly basis (Annual expense/12).

Note 3: If land is included in the financing arrangement, Line 5 would be calculated as: principal payment - (Debt proceeds used to purchase land / total debt proceeds x principal payment). Principal and interest payments should be reported in the month that payments were made.

Note 4: This line may only include amounts of initial equity contribution made prior to occupancy of the facility. The amount is to be entered only in the initial period covered by the cash flow submission, and should be left blank in future periods.

### Interagency Policy Group

*Comment:* The establishment of a Federal interagency group for the development of grant and contract policy should be addressed in Circular A-110 rather than Circular A-21. This group should include representatives from colleges and universities.

*Response:* The commenter is correct that the interagency policy group should be formed under broader auspices than just Circular A-21. In response, the proposal has been deleted from the final revision of this Circular. This proposal is not being pursued at this time.

Alice M. Rivlin,

Director.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget

Circular No. A-21, Revised, Transmittal Memorandum No. 6.

To the Heads of Executive Departments and Establishments

*Subject:* Cost Principles for Educational Institutions.

April 26, 1996.

This transmittal memorandum revises OMB Circular No. A-21, "Cost Principles for Educational Institutions." The attached revision further clarifies and standardizes the Circular's principles for determining costs applicable to grants, contracts, and other agreements with educational institutions, and rescinds OMB Circular A-88, "Indirect Cost Rates, Audits, and Audit Follow-up at Educational Institutions." This revision is effective on the date of its publication in the Federal Register, unless otherwise noted within this revision.

Also attached is a recompilation of Circular A-21 that consists of the original Circular published at 44 FR 12368 (February 26, 1979), as amended by Transmittal Memoranda Numbers 1 through 5, at 47 FR 33658 (July 23, 1982), 51 FR 20908 (June 9, 1986), 51 FR 43487 (December 2, 1986), 56 FR 50224 (October 1, 1991), 58 FR 39996 (July 15, 1993), respectively, and the amendments herein.

Alice M. Rivlin,

Director.

Attachments.

I. Circular A-88 is rescinded, effective July 1, 1996.

II. Circular A-21 is revised as follows:

Revise Sections A, C, G, J and K as follows.

1. In Section A, add subsection 4 to read as follows: 4. *Inquiries.* All inquiries from Federal agencies concerning the cost principles contained in this Circular, including the administration and implementation of the Cost Accounting Standards (CAS) (described in Sections C.10 through C.13) and disclosure statement (DS-2) requirements, shall be addressed by the Office of Management and Budget (OMB), Office of Federal Financial Management, in coordination with the Cost Accounting Standard Board (CASB) with respect to inquiries concerning CAS. Educational

institutions' inquiries should be addressed to the cognizant agency.

2. In Section C, change subsection 8 as follows: 8. *Collection of unallowable costs, excess costs due to noncompliance with cost policies, increased costs due to failure to follow a disclosed accounting practice and increased costs resulting from a change in cost accounting practice.* The following costs shall be refunded (including interest) in accordance with applicable Federal agency regulations:

a. Costs specifically identified as unallowable in Section J, either directly or indirectly, and charged to the Federal Government.

b. Excess costs due to failure by the educational institution to comply with the cost policies in this Circular.

c. Increased costs due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs.

d. Increased costs resulting from a change in accounting practice.

3. In Section C, add subsection 10 to read as follows: 10. *Consistency in estimating, accumulating and reporting costs.*

a. An educational institution's practices used in estimating costs in pricing a proposal shall be consistent with the educational institution's cost accounting practices used in accumulating and reporting costs.

b. An educational institution's cost accounting practices used in accumulating and reporting actual costs for a sponsored agreement shall be consistent with the educational institution's practices used in estimating costs in pricing the related proposal or application.

c. The grouping of homogeneous costs in estimates prepared for proposal purposes shall not per se be deemed an inconsistent application of cost accounting practices under subsection a when such costs are accumulated and reported in greater detail on an actual cost basis during performance of the sponsored agreement.

d. Appendix A also reflects this requirement, along with the purpose, definitions, and techniques for application, all of which are authoritative.

4. In Section C, add subsection 11 to read as follows: 11. *Consistency in allocating costs incurred for the same purpose.*

a. All costs incurred for the same purpose, in like circumstances, are either direct costs only or F&A costs only with respect to final cost objectives. No final cost objective shall have allocated to it as a cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included as a direct cost of that or any other final cost objective. Further, no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any F&A cost pool to be allocated to that or any other final cost objective.

b. Appendix A reflects this requirement along with its purpose, definitions, techniques for application, illustrations and interpretations, all of which are authoritative.

5. In Section C, add subsection 12 to read as follows: 12. *Accounting for unallowable costs.*

a. Costs expressly unallowable or mutually agreed to be unallowable, including costs

mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, application, or proposal applicable to a sponsored agreement.

b. Costs which specifically become designated as unallowable as a result of a written decision furnished by a Federal official pursuant to sponsored agreement disputes procedures shall be identified if included in or used in the computation of any billing, claim, or proposal applicable to a sponsored agreement. This identification requirement applies also to any costs incurred for the same purpose under like circumstances as the costs specifically identified as unallowable under either this subsection or subsection a.

c. Costs which, in a Federal official's written decision furnished pursuant to sponsored agreement disputes procedures, are designated as unallowable directly associated costs of unallowable costs covered by either subsection a or b shall be accorded the identification required by subsection b.

d. The costs of any work project not contractually authorized by a sponsored agreement, whether or not related to performance of a proposed or existing sponsored agreement, shall be accounted for, to the extent appropriate, in a manner which permits ready separation from the costs of authorized work projects.

e. All unallowable costs covered by subsections a through d shall be subject to the same cost accounting principles governing cost allocability as allowable costs. In circumstances where these unallowable costs normally would be part of a regular F&A cost allocation base or bases, they shall remain in such base or bases. Where a directly associated cost is part of a category of costs normally included in a F&A cost pool that shall be allocated over a base containing the unallowable cost with which it is associated, such a directly associated cost shall be retained in the F&A cost pool and be allocated through the regular allocation process.

f. Where the total of the allocable and otherwise allowable costs exceeds a limitation-of-cost or ceiling-price provision in a sponsored agreement, full direct and F&A cost allocation shall be made to the sponsored agreement cost objective, in accordance with established cost accounting practices and standards which regularly govern a given entity's allocations to sponsored agreement cost objectives. In any determination of a cost overrun, the amount thereof shall be identified in terms of the excess of allowable costs over the ceiling amount, rather than through specific identification of particular cost items or cost elements.

g. Appendix A reflects this requirement, along with its purpose, definitions, techniques for application, and illustrations of this standard, all of which are authoritative.

6. In Section C, add subsection 13 to read as follows: 13. *Cost accounting period.*

a. Educational institutions shall use their fiscal year as their cost accounting period, except that:

(1) Costs of a F&A function which exists for only a part of a cost accounting period may

be allocated to cost objectives of that same part of the period on the basis of data for that part of the cost accounting period if the cost is: (i) material in amount, (ii) accumulated in a separate F&A cost pool or expense pool, and (iii) allocated on the basis of an appropriate direct measure of the activity or output of the function during that part of the period.

(2) An annual period other than the fiscal year may, upon mutual agreement with the Federal Government, be used as the cost accounting period if the use of such period is an established practice of the educational institution and is consistently used for managing and controlling revenues and disbursements, and appropriate accruals, deferrals or other adjustments are made with respect to such annual periods.

(3) A transitional cost accounting period other than a year shall be used whenever a change of fiscal year occurs.

b. An educational institution shall follow consistent practices in the selection of the cost accounting period or periods in which any types of expense and any types of adjustment to expense (including prior-period adjustments) are accumulated and allocated.

c. The same cost accounting period shall be used for accumulating costs in a F&A cost pool as for establishing its allocation base, except that the Federal Government and educational institution may agree to use a different period for establishing an allocation base, provided:

(1) The practice is necessary to obtain significant administrative convenience,

(2) The practice is consistently followed by the educational institution,

(3) The annual period used is representative of the activity of the cost accounting period for which the F&A costs to be allocated are accumulated, and

(4) The practice can reasonably be estimated to provide a distribution to cost objectives of the cost accounting period not materially different from that which otherwise would be obtained.

d. Appendix A reflects this requirement, along with its purpose, definitions, techniques for application and illustrations, all of which are authoritative.

7. In Section C, add subsection 14 to read as follows: 14. *Disclosure Statement.*

a. Educational institutions that received aggregate sponsored agreements totaling \$25 million or more subject to this Circular during their most recently completed fiscal year shall disclose their cost accounting practices by filing a Disclosure Statement (DS-2), which is reproduced in Appendix B. With the approval of the cognizant agency, an educational institution may meet the DS-2 submission by submitting the DS-2 for each business unit that received \$25 million or more in sponsored agreements.

b. The DS-2 shall be submitted to the cognizant agency with a copy to the educational institution's audit cognizant office.

c. Educational institutions receiving \$25 million or more in sponsored agreements that are not required to file a DS-2 pursuant to 48 CFR 9903.202-1 shall file a DS-2 covering the first fiscal year beginning after the

publication date of this revision, within six months after the end of that fiscal year. Extensions beyond the above due date may be granted by the cognizant agency on a case-by-case basis.

d. Educational institutions are responsible for maintaining an accurate DS-2 and complying with disclosed cost accounting practices. Educational institutions must file amendments to the DS-2 when disclosed practices are changed to comply with a new or modified standard, or when practices are changed for other reasons. Amendments of a DS-2 may be submitted at any time. If the change is expected to have a material impact on the educational institution's negotiated F&A cost rates, the revision shall be approved by the cognizant agency before it is implemented. Resubmission of a complete, updated DS-2 is discouraged except when there are extensive changes to disclosed practices.

e. Cost and funding adjustments. Cost adjustments shall be made by the cognizant agency if an educational institution fails to comply with the cost policies in this Circular or fails to consistently follow its established or disclosed cost accounting practices when estimating, accumulating or reporting the costs of sponsored agreements, if aggregate cost impact on sponsored agreements is material. The cost adjustment shall normally be made on an aggregate basis for all affected sponsored agreements through an adjustment of the educational institution's future F&A costs rates or other means considered appropriate by the cognizant agency. Under the terms of CAS-covered contracts, adjustments in the amount of funding provided may also be required when the estimated proposal costs were not determined in accordance with established cost accounting practices.

f. Overpayments. Excess amounts paid in the aggregate by the Federal Government under sponsored agreements due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs shall be credited or refunded, as deemed appropriate by the cognizant agency. Interest applicable to the excess amounts paid in the aggregate during the period of noncompliance shall also be determined and collected in accordance with applicable Federal agency regulations.

g. Compliant cost accounting practice changes. Changes from one compliant cost accounting practice to another compliant practice that are approved by the cognizant agency may require cost adjustments if the change has a material effect on sponsored agreements and the changes are deemed appropriate by the cognizant agency.

h. Responsibilities. The cognizant agency shall:

(1) Determine cost adjustments for all sponsored agreements in the aggregate on behalf of the Federal Government. Actions of the cognizant agency official in making cost adjustment determinations shall be coordinated with all affected Federal agencies to the extent necessary.

(2) Prescribe guidelines and establish internal procedures to promptly determine on behalf of the Federal Government that a DS-2 adequately discloses the educational

institution's cost accounting practices and that the disclosed practices are compliant with applicable CAS and the requirements of this Circular.

(3) Distribute to all affected agencies any DS-2 determination of adequacy and/or noncompliance.

8. In Section E, add subsection 2.d(5) to read as follows:

2.d(5) Notwithstanding subsection (3), effective July 1, 1998, a cost analysis study or base other than that in Section F shall not be used to distribute utility, library or student services costs. By that date, OMB shall have in place an alternative methodology for making payments on costs related to utilities.

9. In Section G, add a new subsection 7 to read as follows, and renumber all subsequent subsections from 7, 8 and 9 to 8, 9 and 10, respectively: 7. *Fixed rates for the life of the sponsored agreement.*

a. Federal agencies shall use the negotiated rates for F&A costs in effect at the time of the initial award throughout the life of the sponsored agreement. "Life" for the purpose of this subsection means each competitive segment of a project. A competitive segment is a period of years approved by the Federal funding agency at the time of the award. If negotiated rate agreements do not extend through the life of the sponsored agreement at the time of the initial award, then the negotiated rate for the last year of the sponsored agreement shall be extended through the end of the life of the sponsored agreement. Award levels for sponsored agreements may not be adjusted in future years as a result of changes in negotiated rates.

b. When an educational institution does not have a negotiated rate with the Federal Government at the time of the award (because the educational institution is a new grantee or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award shall be adjusted once a rate is negotiated and approved by the cognizant agency.

10. In Section G, add subsection 11 to read as follows: 11. *Negotiation and approval of F&A rate.*

a. *Cognizant agency assignments.* "A cognizant agency" means the Federal agency responsible for negotiating and approving F&A rates for an educational institution on behalf of all Federal agencies.

(1) Cost negotiation cognizance is assigned to the Department of Health and Human Services (HHS) or the Department of Defense's Office of Naval Research (DOD), normally depending on which of the two agencies (HHS or DOD) provides more funds to the educational institution for the most recent three years. Information on funding shall be derived from relevant data gathered by the National Science Foundation. In cases where neither HHS nor DOD provides Federal funding to an educational institution, the cognizant agency assignment shall default to HHS. Notwithstanding the method for cognizance determination described above, other arrangements for cognizance of a particular educational institution may also be based in part on the types of research performed at the educational institution and

shall be decided based on mutual agreement between HHS and DOD.

(2) Cognizant assignments as of December 31, 1995, shall continue in effect through educational institutions' fiscal years ending during 1997, or the period covered by negotiated agreements in effect on December 31, 1995, whichever is later, except for those educational institutions with cognizant agencies other than HHS or DOD. Cognizance for these educational institutions shall transfer to HHS or DOD at the end of the period covered by the current negotiated rate agreement. After cognizance is established, it shall continue for a five-year period.

b. *Acceptance of rates.* The negotiated rates shall be accepted by all Federal agencies. Only under special circumstances, when required by law or regulation, may an agency use a rate different from the negotiated rate for a class of sponsored agreements or a single sponsored agreement.

c. *Correcting deficiencies.* The cognizant agency shall negotiate changes needed to correct systems deficiencies relating to accountability for sponsored agreements. Cognizant agencies shall address the concerns of other affected agencies, as appropriate.

d. *Resolving questioned costs.* The cognizant agency shall conduct any necessary negotiations with an educational institution regarding amounts questioned by audit that are due the Federal Government related to costs covered by a negotiated agreement.

e. *Reimbursement.* Reimbursement to cognizant agencies for work performed under Circular A-21 may be made by reimbursement billing under the Economy Act, 31 U.S.C. 1535.

f. *Procedure for establishing facilities and administrative rates.* The cognizant agency shall arrange with the educational institution to provide copies of rate proposals to all interested agencies. Agencies wanting such copies should notify the cognizant agency. Rates shall be established by one of the following methods:

(1) *Formal negotiation.* The cognizant agency is responsible for negotiating and approving rates for an educational institution on behalf of all Federal agencies. Non-cognizant Federal agencies, which award sponsored agreements to an educational institution, shall notify the cognizant agency of specific concerns (i.e., a need to establish special cost rates) which could affect the negotiation process. The cognizant agency shall address the concerns of all interested agencies, as appropriate. A pre-negotiation conference may be scheduled among all interested agencies, if necessary. The cognizant agency shall then arrange a negotiation conference with the educational institution.

(2) *Other than formal negotiation.* The cognizant agency and educational institution may reach an agreement on rates without a formal negotiation conference; for example, through correspondence or use of the simplified method described in this Circular.

g. *Formalizing determinations and agreements.* The cognizant agency shall formalize all determinations or agreements reached with an educational institution and

provide copies to other agencies having an interest.

h. *Disputes and disagreements.* Where the cognizant agency is unable to reach agreement with an educational institution with regard to rates or audit resolution, the appeal system of the cognizant agency shall be followed for resolution of the disagreement.

11. In Section J, replace subsection 8.f.(2) to read as follows:

8.f.(2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established educational institutional policies, and are distributed to all institutional activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable for fiscal years beginning after September 30, 1998. See Section J.41.b, Scholarships and student aid costs, for treatment of tuition remission provided to students.

12. In Section J, add subsection 12.b.(3) to read as follows:

12.b.(3) Where the depreciation method is introduced to replace the use allowance method, depreciation shall be computed as if the asset had been depreciated over its entire life (i.e., from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The aggregate amount of use allowances and depreciation attributable to an asset (including imputed depreciation applicable to periods prior to the conversion to the use allowance method as well as depreciation after the conversion) may be less than, and in no case, greater than the total acquisition cost of the asset.

13. In Section J, add subsection 12.c.(4) to read as follows: 12.c.(4) Notwithstanding subsection(3), once an educational institution converts from one cost recovery methodology to another, acquisition costs not recovered may not be used in the calculation of the use allowance in subsection(3).

14. In Section J, amend subsections 16.a.(1) and 16.b.(2) to read as follows:

16.a.(1) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the organization for financial statement purposes, or \$5000. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

16.b.(2) Expenditures for special purpose equipment are allowable as direct charges with the approval of the sponsoring agency.

15. In Section J, add subsection 22.f to read as follows:

22.f. Interest on debt incurred after the effective date of this revision to acquire, replace or renovate capital assets (including renovations, alterations, equipment, land, and capital assets acquired through capital

leases), acquired after the effective date of this revision and used in support of sponsored agreements is subject to the following conditions:

(1) For facilities costing over \$500,000, the educational institution shall prepare, prior to the acquisition or replacement of the facility, a lease-purchase analysis in accordance with § \_\_\_\_\_.44 of OMB Circular A-110, which shows that a financed purchase, including a capital lease is less costly to the educational institution than other operating lease alternatives, on a net present value basis. Discount rates used shall be equal to the educational institution's anticipated interest rates and shall be no higher than the fair market rate available to the educational institution from an unrelated ("arm's length") third-party. The lease-purchase analysis shall include a comparison of the net present value of the projected total cost comparisons of both alternatives over the period the asset is expected to be used by the educational institution. The cost comparisons associated with purchasing the facility shall include the estimated purchase price, anticipated operating and maintenance costs (including property taxes, if applicable) not included in the debt financing, less any estimated asset salvage value at the end of the defined period. The cost comparison for a capital lease shall include the estimated total lease payments, any estimated bargain purchase option, operating and maintenance costs, and taxes not included in the capital leasing arrangement, less any estimated credits due under the lease at the end of the defined period. Projected operating lease costs shall be based on the anticipated cost of leasing comparable facilities at fair market rates under rental agreements that would be renewed or reestablished over the period defined above, and any expected maintenance costs and allowable property taxes to be borne by the educational institution directly or as part of the lease arrangement.

(2) The actual interest cost claimed is predicated upon interest rates that are no higher than the fair market rate available to the educational institution from an unrelated (arm's length) third party.

(3) Investment earnings, including interest income on bond or loan principal, pending payment of the construction or acquisition costs, are used to offset allowable interest cost. Arbitrage earnings reportable to the Internal Revenue Service are not required to be offset against allowable interest costs.

(4) Reimbursements are limited to the least costly alternative based on the total cost analysis required under subsection (1). For example, if an operating lease is determined to be less costly than purchasing through debt financing, then reimbursement is limited to the amount determined if leasing had been used. In all cases where a lease-purchase analysis is required to be performed, Federal reimbursement shall be based upon the least expensive alternative.

(5) Educational institutions are also subject to the following conditions:

(a) For debt arrangements over \$1 million, unless the educational institution makes an initial equity contribution to the asset purchase of 25 percent or more, educational

institutions shall reduce claims for interest cost by an amount equal to imputed interest earnings on excess cash flow, which is to be calculated as follows. Annually, educational institutions shall prepare a cumulative (from the inception of the project) report of monthly cash flows that includes inflows and outflows, regardless of the funding source. Inflows consist of depreciation expense, amortization of capitalized construction interest, and annual interest cost. For cash flow calculations, the annual inflow figures shall be divided by the number of months in the year (i.e., usually 12) that the building is in service for monthly amounts. Outflows consist of initial equity contributions, debt principal payments (less the pro rata share attributable to the unallowable costs of land) and interest payments. Where cumulative inflows exceed cumulative outflows, interest shall be calculated on the excess inflows for that period and be treated as a reduction to allowable interest cost. The rate of interest to be used to compute earnings on excess cash flows shall be the three-month Treasury bill closing rate as of the last business day of that month.

(b) Substantial relocation of federally-sponsored activities from a facility financed by indebtedness, the cost of which was funded in whole or part through Federal reimbursements, to another facility prior to the expiration of a period of 20 years requires notice to the cognizant agency. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation and interest charged to date may require negotiation and/or downward adjustments of replacement space charged to Federal programs in the future.

(c) The allowable costs to acquire facilities and equipment are limited to a fair market value available to the educational institution from an unrelated (arm's length) third party.

(6) The following definitions are to be used for purposes of this section:

(a) "Initial equity contribution" means the amount or value of contributions made by non-Federal entities for the acquisition of the asset prior to occupancy of facilities.

(b) "Asset costs" means the capitalizable costs of an asset, including construction costs, acquisition costs, and other such costs capitalized in accordance with Generally Accepted Accounting Principles (GAAP).

16. In Section K, add an instruction and subsection 2.b(5) under the "Certificate of F&A Costs" to read as follows:

For educational institutions that are required to file a DS-2 in accordance with Section C.14, the following statement shall be added to the "Certificate of F&A Costs":

(5) The rate proposal is prepared using the same cost accounting practices that are disclosed in the DS-2, including its amendments and revisions, filed with and approved by the cognizant agency.

17. Throughout the entire Circular, except for in Appendices A and B, replace the term "indirect costs" with "facilities and administrative costs" and make the following additional amendments:

a. In Section B, add the definition of facilities and administrative (F&A) costs to read as follows:

4. *Facilities and administrative (F&A) costs*, for the purpose of this Circular, means

costs that are incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. F&A costs are synonymous with "indirect" costs, as previously used in this Circular and as currently used in Appendices A and B. The F&A cost categories are described in Section F.1.

b. In Section E, replace subsection 1 to read as follows:

1. *General*. F&A costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an institutional activity, or any other institutional activity. See Section F.1 for a discussion of the components of F&A costs.

c. In Section E, replace subsection 2.e.(1) to read as follows:

2.e.(1) F&A costs are the broad categories of costs discussed in Section F.1.

d. In Section F, replace the first sentence of subsection 1 to read as follows:

1. *Definition of Facilities and Administration*. F&A costs are broad categories of costs.

18. Add Appendices A and B for the CASB's Cost Accounting Standards (CAS) and the CASB's Disclosure Statement (DS-2).

19. In OMB's recompilation of Circular A-21 and its six Transmittal Memoranda, throughout the Circular, consistent conventions were introduced, including some numbering changes, punctuation changes, correction of typographical errors, etc. In addition, in Section J, former subsections 29, "Public information services costs," and 39, "Special services costs," were removed since their contents were merged into subsections 1 and 3 in Transmittal Memorandum No. 4.

#### EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget

Circular No. A-21, Revised

To the Heads of Executive Departments and Establishments

*Subject:* Cost principles for educational institutions.

1. *Purpose*. This Circular establishes principles for determining costs applicable to grants, contracts, and other agreements with educational institutions. The principles deal with the subject of cost determination, and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular project. The principles are designed to provide that the Federal Government bear its fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law. Agencies are not expected to place additional restrictions on individual items of cost. Provision for profit or other increment above cost is outside the scope of this Circular.

2. *Supersession*. The Circular supersedes Federal Management Circular 73-8, dated December 19, 1973. FMC 73-8 is revised and reissued under its original designation of OMB Circular No. A-21.

3. *Applicability*.

a. All Federal agencies that sponsor research and development, training, and other work at educational institutions shall apply the provisions of this Circular in determining the costs incurred for such work. The principles shall also be used as a guide in the pricing of fixed price or lump sum agreements.

b. In addition, Federally Funded Research and Development Centers associated with educational institutions shall be required to comply with the Cost Accounting Standards, rules and regulations issued by the Cost Accounting Standards Board, and set forth in 48 CFR part 99; provided that they are subject thereto under defense related contracts.

4. *Responsibilities*. The successful application of cost accounting principles requires development of mutual understanding between representatives of educational institutions and of the Federal Government as to their scope, implementation, and interpretation.

5. *Attachment*. The principles and related policy guides are set forth in the Attachment, "Principles for determining costs applicable to grants, contracts, and other agreements with educational institutions."

6. *Effective date*. The provisions of this Circular shall be effective October 1, 1979, except for subsequent amendments incorporated herein for which the effective dates were specified in six Transmittal Memoranda (47 FR 33658, 51 FR 20908, 51 FR 43487, 56 FR 50224, and 58 FR 39996 and [insert today's FR cite for this Part]). The provisions shall be implemented by institutions as of the start of their first fiscal year beginning after that date. Earlier implementation, or a delay in implementation of individual provisions, is permitted by mutual agreement between an institution and the cognizant Federal agency.

7. *Inquiries*. Further information concerning this Circular may be obtained by contacting the Office of Federal Financial Management, Office of Management and Budget, Washington, DC 20503, telephone (202) 395-3993.

Attachment.

Principles for Determining Costs Applicable to Grants, Contracts, and Other Agreements With Educational Institutions

#### Table of Contents

##### A. Purpose and scope

1. Objectives
2. Policy guides
3. Application
4. Inquiries

##### B. Definition of terms

1. Major functions of an institution
2. Sponsored agreement
3. Allocation
4. Facilities and administrative (F&A) costs

##### C. Basic considerations

1. Composition of total costs
2. Factors affecting allowability of costs
3. Reasonable costs
4. Allocable costs
5. Applicable credits
6. Costs incurred by State and local governments
7. Limitations on allowance of costs
8. Collection of unallowable costs

9. Adjustment of previously negotiated F&A cost rates containing unallowable costs
  10. Consistency in estimating, accumulating and reporting costs
  11. Consistency in allocating costs incurred for the same purpose
  12. Accounting for unallowable costs
  13. Cost accounting period
  14. Disclosure statement
  - D. Direct costs
    1. General
    2. Application to sponsored agreements
  - E. F&A costs
    1. General
    2. Criteria for distribution
  - F. Identification and assignment of F&A costs
    1. Definition of Facilities and Administration
    2. Depreciation and use allowances
    3. Interest
    4. Operation and maintenance expenses
    5. General administration and general expenses
    6. Departmental administration expenses
    7. Sponsored projects administration
    8. Library expenses
    9. Student administration and services
    10. Offset for F&A expenses otherwise provided for by the Federal Government
  - G. Determination and application of F&A cost rate or rates
    1. F&A cost pools
    2. The distribution basis
    3. Negotiated lump sum for F&A costs
    4. Predetermined rates for F&A costs
    5. Negotiated fixed rates and carry-forward provisions
    6. Provisional and final rates for F&A costs
    7. Fixed rates for the life of the sponsored agreement
    8. Limitation on reimbursement of administrative costs
    9. Alternative method for administrative costs
    10. Individual rate components
    11. Negotiation and approval of F&A rate
  - H. Simplified method for small institutions
    1. General
    2. Simplified procedure
  - I. Reserved
  - J. General provisions for selected items of cost
    1. Advertising and public relations costs
    2. Alcoholic beverages
    3. Alumni/ae activities
    4. Bad debts
    5. Civil defense costs
    6. Commencement and convocation costs
    7. Communication costs
    8. Compensation for personal services
    9. Contingency provisions
    10. Deans of faculty and graduate schools
    11. Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement
    12. Depreciation and use allowances
    13. Donations and contributions
    14. Employee morale, health, and welfare costs and credits
    15. Entertainment costs
    16. Equipment and other capital expenditures
    17. Executive lobbying costs
    18. Fines and penalties
    19. Goods or services for personal use
    20. Housing and personal living expenses
    21. Insurance and indemnification
    22. Interest, fund raising, and investment management costs
    23. Labor relations costs
    24. Lobbying
    25. Losses on other sponsored agreements or contracts
    26. Maintenance and repair costs
    27. Material costs
    28. Memberships, subscriptions and professional activity costs
    29. Patent costs
    30. Plant security costs
    31. Preagreement costs
    32. Professional services costs
    33. Profits and losses on disposition of plant equipment or other capital assets
    34. Proposal costs
    35. Rearrangement and alteration costs
    36. Reconversion costs
    37. Recruiting costs
    38. Rental cost of buildings and equipment
    39. Royalties and other costs for use of patents
    40. Sabbatical leave costs
    41. Scholarships and student aid costs
    42. Selling and marketing
    43. Severance pay
    44. Specialized service facilities
    45. Student activity costs
    46. Taxes
    47. Transportation costs
    48. Travel costs
    49. Termination costs applicable to sponsored agreements
    50. Trustees
- K. Certification of charges  
 Exhibit A—List of Colleges and Universities Subject to Section J.12.f of Circular A-21  
 Appendix A—CASB's Cost Accounting Standards (CAS)  
 Appendix B—CASB's Disclosure Statement (DS-2)

Principles for Determining Costs Applicable to Grants, Contracts, and Other Agreements With Educational Institutions

*A. Purpose and Scope*

1. *Objectives.* This Attachment provides principles for determining the costs applicable to research and development, training, and other sponsored work performed by colleges and universities under grants, contracts, and other agreements with the Federal Government. These agreements are referred to as sponsored agreements.

2. *Policy guides.* The successful application of these cost accounting principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for Federal agency and institutional participation in the financing of a research, training, or other project are properly subject to negotiation between the agency and the institution concerned, in accordance with such governmentwide criteria or legal requirements as may be applicable.

b. Each institution, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research and educational activities in a

manner consonant with its own academic philosophies and institutional objectives.

c. The dual role of students engaged in research and the resulting benefits to sponsored agreements are fundamental to the research effort and shall be recognized in the application of these principles.

d. Each institution, in the fulfillment of its obligations, should employ sound management practices.

e. The application of these cost accounting principles should require no significant changes in the generally accepted accounting practices of colleges and universities. However, the accounting practices of individual colleges and universities must support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to sponsored agreements.

f. Cognizant Federal agencies involved in negotiating facilities and administrative (F&A) cost rates and auditing should assure that institutions are generally applying these cost accounting principles on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments should be fully considered during the rate negotiations and audit.

3. *Application.* These principles shall be used in determining the allowable costs of work performed by colleges and universities under sponsored agreements. The principles shall also be used in determining the costs of work performed by such institutions under subgrants, cost-reimbursement subcontracts, and other awards made to them under sponsored agreements. They also shall be used as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

a. Arrangements under which Federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees of an institution.

b. Capitation awards.

c. Other awards under which the institution is not required to account to the Federal Government for actual costs incurred.

4. *Inquiries.* All inquiries from Federal agencies concerning the cost principles contained in this Circular, including the administration and implementation of the Cost Accounting Standards (CAS) (described in Sections C.10 through C.13) and disclosure statement (DS-2) requirements, shall be addressed by the Office of Management and Budget (OMB), Office of Federal Financial Management, in coordination with the Cost Accounting Standard Board (CASB) with respect to inquiries concerning CAS. Educational institutions' inquiries should be addressed to the cognizant agency.

*B. Definition of Terms*

1. *Major functions of an institution* refers to instruction, organized research, other sponsored activities and other institutional activities as defined below:

a. *Instruction* means the teaching and training activities of an institution. Except for

research training as provided in subsection b, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a non-credit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division. Also considered part of this major function are departmental research, and, where agreed to, university research.

(1) *Sponsored instruction and training* means specific instructional or training activity established by grant, contract, or cooperative agreement. For purposes of the cost principles, this activity may be considered a major function even though an institution's accounting treatment may include it in the instruction function.

(2) *Departmental research* means research, development and scholarly activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function, but as a part of the instruction function of the institution.

b. *Organized research* means all research and development activities of an institution that are separately budgeted and accounted for. It includes:

(1) *Sponsored research* means all research and development activities that are sponsored by Federal and non-Federal agencies and organizations. This term includes activities involving the training of individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(2) *University research* means all research and development activities that are separately budgeted and accounted for by the institution under an internal application of institutional funds. University research, for purposes of this document, shall be combined with sponsored research under the function of organized research.

c. *Other sponsored activities* means programs and projects financed by Federal and non-Federal agencies and organizations which involve the performance of work other than instruction and organized research. Examples of such programs and projects are health service projects, and community service programs. However, when any of these activities are undertaken by the institution without outside support, they may be classified as other institutional activities.

d. *Other institutional activities* means all activities of an institution except:

(1) instruction, departmental research, organized research, and other sponsored activities, as defined above;

(2) F&A cost activities identified in Section F; and

(3) specialized service facilities described in Section J.44. Other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar auxiliary enterprises. This definition

also includes any other categories of activities, costs of which are "unallowable" to sponsored agreements, unless otherwise indicated in the agreements.

2. *Sponsored agreement*, for purposes of this Circular, means any grant, contract, or other agreement between the institution and the Federal Government.

3. *Allocation* means the process of assigning a cost, or a group of costs, to one or more cost objective, in reasonable and realistic proportion to the benefit provided or other equitable relationship. A cost objective may be a major function of the institution, a particular service or project, a sponsored agreement, or a F&A cost activity, as described in Section F. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

4. *Facilities and administrative (F&A) costs*, for the purpose of this Circular, means costs that are incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. F&A costs are synonymous with "indirect" costs, as previously used in this Circular and as currently used in Appendices A and B. The F&A cost categories are described in Section F.1.

#### C. Basic Considerations

1. *Composition of total costs*. The cost of a sponsored agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable F&A costs of the institution, less applicable credits as described in subsection 5.

2. *Factors affecting allowability of costs*. The tests of allowability of costs under these principles are: (a) They must be reasonable; (b) they must be allocable to sponsored agreements under the principles and methods provided herein; (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items.

3. *Reasonable costs*. A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the sponsored agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and sponsored agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its

employees, its students, the Federal Government, and the public at large; and, (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including sponsored agreements.

4. *Allocable costs*. a. A cost is allocable to a particular cost objective (i.e., a specific function, project, sponsored agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a sponsored agreement if (1) it is incurred solely to advance the work under the sponsored agreement; (2) it benefits both the sponsored agreement and other work of the institution, in proportions that can be approximated through use of reasonable methods, or (3) it is necessary to the overall operation of the institution and, in light of the principles provided in this Circular, is deemed to be assignable in part to sponsored projects. Where the purchase of equipment or other capital items is specifically authorized under a sponsored agreement, the amounts thus authorized for such purchases are assignable to the sponsored agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular sponsored agreement under the standards provided in this Circular may not be shifted to other sponsored agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the sponsored agreement, or for other reasons of convenience.

c. Any costs allocable to activities sponsored by industry, foreign governments or other sponsors may not be shifted to federally-sponsored agreements.

d. *Allocation and documentation standard*.

(1) *Cost principles*. The recipient institution is responsible for ensuring that costs charged to a sponsored agreement are allowable, allocable, and reasonable under these cost principles.

(2) *Internal controls*. The institution's financial management system shall ensure that no one person has complete control over all aspects of a financial transaction.

(3) *Direct cost allocation principles*. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost should be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding subsection b, the costs may be allocated or transferred to benefited projects on any reasonable basis, consistent with subsections d. (1) and (2).

(4) *Documentation*. Federal requirements for documentation are specified in this Circular, Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit

Organizations," and specific agency policies on cost transfers. If the institution authorizes the principal investigator or other individual to have primary responsibility, given the requirements of subsection d.(2), for the management of sponsored agreement funds, then the institution's documentation requirements for the actions of those individuals (e.g., signature or initials of the principal investigator or designee or use of a password) will normally be considered sufficient.

5. *Applicable credits.* a. The term "applicable credits" refers to those receipts or negative expenditures that operate to offset or reduce direct or F&A cost items. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. This term also includes "educational discounts" on products or services provided specifically to educational institutions, such as discounts on computer equipment, except where the arrangement is clearly and explicitly identified as a gift by the vendor.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to sponsored agreements for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See Sections F.10, J.12.a, and J.44 for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.* Costs incurred or paid by State or local governments on behalf of their colleges and universities for fringe benefit programs, such as pension costs and FICA and any other costs specifically incurred on behalf of, and in direct benefit to, the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of the institutions, subject to the following:

a. The costs meet the requirements of subsections 1 through 5.

b. The costs are properly supported by cost allocation plans in accordance with applicable Federal cost accounting principles.

c. The costs are not otherwise borne directly or indirectly by the Federal Government.

7. *Limitations on allowance of costs.* Sponsored agreements may be subject to statutory requirements that limit the allowance of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles in this Circular, the amount not recoverable under a sponsored agreement may not be charged to other sponsored agreements.

8. *Collection of unallowable costs, excess costs due to noncompliance with cost policies, increased costs due to failure to follow a disclosed accounting practice and*

*increased costs resulting from a change in cost accounting practice.* The following costs shall be refunded (including interest) in accordance with applicable Federal agency regulations:

a. Costs specifically identified as unallowable in Section J, either directly or indirectly, and charged to the Federal Government.

b. Excess costs due to failure by the educational institution to comply with the cost policies in this Circular.

c. Increased costs due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs.

d. Increased costs resulting from a change in accounting practice.

9. *Adjustment of previously negotiated F&A cost rates containing unallowable costs.* Negotiated F&A cost rates based on a proposal later found to have included costs that (a) are unallowable as specified by (i) law or regulation, (ii) Section J of this Circular, (iii) terms and conditions of sponsored agreements, or (b) are unallowable because they are clearly not allocable to sponsored agreements, shall be adjusted, or a refund shall be made, in accordance with the requirements of this section. These adjustments or refunds are designed to correct the proposals used to establish the rates and do not constitute a reopening of the rate negotiation. The adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

a. For rates covering a future fiscal year of the institution, the unallowable costs will be removed from the F&A cost pools and the rates appropriately adjusted.

b. For rates covering a past period, the Federal share of the unallowable costs will be computed for each year involved and a cash refund (including interest chargeable in accordance with applicable regulations) will be made to the Federal Government. If cash refunds are made for past periods covered by provisional or fixed rates, appropriate adjustments will be made when the rates are finalized to avoid duplicate recovery of the unallowable costs by the Federal Government.

c. For rates covering the current period, either a rate adjustment or a refund, as described in subsections a and b, shall be required by the cognizant agency. The choice of method shall be at the discretion of the cognizant agency, based on its judgment as to which method would be most practical.

d. The amount or proportion of unallowable costs included in each year's rate will be assumed to be the same as the amount or proportion of unallowable costs included in the base year proposal used to establish the rate.

10. *Consistency in estimating, accumulating and reporting costs.*

a. An educational institution's practices used in estimating costs in pricing a proposal shall be consistent with the educational institution's cost accounting practices used in accumulating and reporting costs.

b. An educational institution's cost accounting practices used in accumulating and reporting actual costs for a sponsored agreement shall be consistent with the

educational institution's practices used in estimating costs in pricing the related proposal or application.

c. The grouping of homogeneous costs in estimates prepared for proposal purposes shall not *per se* be deemed an inconsistent application of cost accounting practices under subsection a when such costs are accumulated and reported in greater detail on an actual cost basis during performance of the sponsored agreement.

d. Appendix A also reflects this requirement, along with the purpose, definitions, and techniques for application, all of which are authoritative.

11. *Consistency in allocating costs incurred for the same purpose.*

a. All costs incurred for the same purpose, in like circumstances, are either direct costs only or F&A costs only with respect to final cost objectives. No final cost objective shall have allocated to it as a cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included as a direct cost of that or any other final cost objective. Further, no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any F&A cost pool to be allocated to that or any other final cost objective.

b. Appendix A reflects this requirement along with its purpose, definitions, techniques for application, illustrations and interpretations, all of which are authoritative.

12. *Accounting for unallowable costs.*

a. Costs expressly unallowable or mutually agreed to be unallowable, including costs mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, application, or proposal applicable to a sponsored agreement.

b. Costs which specifically become designated as unallowable as a result of a written decision furnished by a Federal official pursuant to sponsored agreement disputes procedures shall be identified if included in or used in the computation of any billing, claim, or proposal applicable to a sponsored agreement. This identification requirement applies also to any costs incurred for the same purpose under like circumstances as the costs specifically identified as unallowable under either this subsection or subsection a.

c. Costs which, in a Federal official's written decision furnished pursuant to sponsored agreement disputes procedures, are designated as unallowable directly associated costs of unallowable costs covered by either subsection a or b shall be accorded the identification required by subsection b.

d. The costs of any work project not contractually authorized by a sponsored agreement, whether or not related to performance of a proposed or existing sponsored agreement, shall be accounted for, to the extent appropriate, in a manner which permits ready separation from the costs of authorized work projects.

e. All unallowable costs covered by subsections a through d shall be subject to the same cost accounting principles governing cost allocability as allowable costs. In circumstances where these unallowable

costs normally would be part of a regular F&A cost allocation base or bases, they shall remain in such base or bases. Where a directly associated cost is part of a category of costs normally included in a F&A cost pool that shall be allocated over a base containing the unallowable cost with which it is associated, such a directly associated cost shall be retained in the F&A cost pool and be allocated through the regular allocation process.

f. Where the total of the allocable and otherwise allowable costs exceeds a limitation-of-cost or ceiling-price provision in a sponsored agreement, full direct and F&A cost allocation shall be made to the sponsored agreement cost objective, in accordance with established cost accounting practices and standards which regularly govern a given entity's allocations to sponsored agreement cost objectives. In any determination of a cost overrun, the amount thereof shall be identified in terms of the excess of allowable costs over the ceiling amount, rather than through specific identification of particular cost items or cost elements.

g. Appendix A reflects this requirement, along with its purpose, definitions, techniques for application, and illustrations of this standard, all of which are authoritative.

#### 13. *Cost accounting period.*

a. Educational institutions shall use their fiscal year as their cost accounting period, except that:

(1) Costs of a F&A function which exists for only a part of a cost accounting period may be allocated to cost objectives of that same part of the period on the basis of data for that part of the cost accounting period if the cost is: (i) material in amount, (ii) accumulated in a separate F&A cost pool or expense pool, and (iii) allocated on the basis of an appropriate direct measure of the activity or output of the function during that part of the period.

(2) An annual period other than the fiscal year may, upon mutual agreement with the Federal Government, be used as the cost accounting period if the use of such period is an established practice of the educational institution and is consistently used for managing and controlling revenues and disbursements, and appropriate accruals, deferrals or other adjustments are made with respect to such annual periods.

(3) A transitional cost accounting period other than a year shall be used whenever a change of fiscal year occurs.

b. An educational institution shall follow consistent practices in the selection of the cost accounting period or periods in which any types of expense and any types of adjustment to expense (including prior-period adjustments) are accumulated and allocated.

c. The same cost accounting period shall be used for accumulating costs in a F&A cost pool as for establishing its allocation base, except that the Federal Government and educational institution may agree to use a different period for establishing an allocation base, provided:

(1) The practice is necessary to obtain significant administrative convenience,

(2) The practice is consistently followed by the educational institution,

(3) The annual period used is representative of the activity of the cost accounting period for which the F&A costs to be allocated are accumulated, and

(4) The practice can reasonably be estimated to provide a distribution to cost objectives of the cost accounting period not materially different from that which otherwise would be obtained.

d. Appendix A reflects this requirement, along with its purpose, definitions, techniques for application and illustrations, all of which are authoritative.

14. *Disclosure Statement.* a. Educational institutions that received aggregate sponsored agreements totaling \$25 million or more subject to this Circular during their most recently completed fiscal year shall disclose their cost accounting practices by filing a Disclosure Statement (DS-2), which is reproduced in Appendix B. With the approval of the cognizant agency, an educational institution may meet the DS-2 submission by submitting the DS-2 for each business unit that received \$25 million or more in sponsored agreements.

b. The DS-2 shall be submitted to the cognizant agency with a copy to the educational institution's audit cognizant office.

c. Educational institutions receiving \$25 million or more in sponsored agreements that are not required to file a DS-2 pursuant to 48 CFR 9903.202-1 shall file a DS-2 covering the first fiscal year beginning after the publication date of this revision, within six months after the end of that fiscal year. Extensions beyond the above due date may be granted by the cognizant agency on a case-by-case basis.

d. Educational institutions are responsible for maintaining an accurate DS-2 and complying with disclosed cost accounting practices. Educational institutions must file amendments to the DS-2 when disclosed practices are changed to comply with a new or modified standard, or when practices are changed for other reasons. Amendments of a DS-2 may be submitted at any time. If the change is expected to have a material impact on the educational institution's negotiated F&A cost rates, the revision shall be approved by the cognizant agency before it is implemented. Resubmission of a complete, updated DS-2 is discouraged except when there are extensive changes to disclosed practices.

e. Cost and funding adjustments. Cost adjustments shall be made by the cognizant agency if an educational institution fails to comply with the cost policies in this Circular or fails to consistently follow its established or disclosed cost accounting practices when estimating, accumulating or reporting the costs of sponsored agreements, if aggregate cost impact on sponsored agreements is material. The cost adjustment shall normally be made on an aggregate basis for all affected sponsored agreements through an adjustment of the educational institution's future F&A costs rates or other means considered appropriate by the cognizant agency. Under the terms of CAS-covered contracts, adjustments in the amount of funding

provided may also be required when the estimated proposal costs were not determined in accordance with established cost accounting practices.

f. Overpayments. Excess amounts paid in the aggregate by the Federal Government under sponsored agreements due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs shall be credited or refunded, as deemed appropriate by the cognizant agency. Interest applicable to the excess amounts paid in the aggregate during the period of noncompliance shall also be determined and collected in accordance with applicable Federal agency regulations.

g. Compliant cost accounting practice changes. Changes from one compliant cost accounting practice to another compliant practice that are approved by the cognizant agency may require cost adjustments if the change has a material effect on sponsored agreements and the changes are deemed appropriate by the cognizant agency.

h. Responsibilities. The cognizant agency shall:

(1) Determine cost adjustments for all sponsored agreements in the aggregate on behalf of the Federal Government. Actions of the cognizant agency official in making cost adjustment determinations shall be coordinated with all affected Federal agencies to the extent necessary.

(2) Prescribe guidelines and establish internal procedures to promptly determine on behalf of the Federal Government that a DS-2 adequately discloses the educational institution's cost accounting practices and that the disclosed practices are compliant with applicable CAS and the requirements of this Circular.

(3) Distribute to all affected agencies any DS-2 determination of adequacy and/or noncompliance.

#### D. *Direct Costs*

1. *General.* Direct costs are those costs that can be identified specifically with a particular sponsored project, an instructional activity, or any other institutional activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or F&A costs. Where an institution treats a particular type of cost as a direct cost of sponsored agreements, all costs incurred for the same purpose in like circumstances shall be treated as direct costs of all activities of the institution.

2. *Application to sponsored agreements.* Identification with the sponsored work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from F&A costs of sponsored agreements. Typical costs charged directly to a sponsored agreement are the compensation of employees for performance of work under the sponsored agreement, including related fringe benefit costs to the extent they are consistently treated, in like circumstances, by the institution as direct rather than F&A costs; the costs of materials consumed or expended in the performance of the work; and other items of expense

incurred for the sponsored agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of sponsored agreements, provided such items are consistently treated, in like circumstances, by the institution as direct rather than F&A costs, and are charged under a recognized method of computing actual costs, and conform to generally accepted cost accounting practices consistently followed by the institution.

#### *E. F&A Costs*

1. *General.* F&A costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. See Section F.1 for a discussion of the components of F&A costs.

2. *Criteria for distribution.* a. *Base period.* A base period for distribution of F&A costs is the period during which the costs are incurred. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the F&A cost allocation process is to distribute the F&A costs described in Section F to the major functions of the institution in proportions reasonably consistent with the nature and extent of their use of the institution's resources. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the F&A cost categories referred to in subsection 1. In general, the cost groupings established within a category should constitute, in each case, a pool of those items of expense that are considered to be of like nature in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in subsection c. Each such pool or cost grouping should then be distributed individually to the related cost objectives, using the distribution base or method most appropriate in the light of the guides set forth in subsection d.

c. *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groupings (based on account classification or analysis) within a F&A cost category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the major functions of the institution or to less than all functions, such expenses should be set aside as a separate cost grouping for direct assignment or selective allocation in accordance with the guides provided in subsections b and d.

(2) Where any types of expense ordinarily treated as general administration or departmental administration are charged to sponsored agreements as direct costs, expenses applicable to other activities of the institution when incurred for the same purposes in like circumstances must, through separate cost groupings, be excluded from the F&A costs allocable to those sponsored agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research, instructional, and other activities at the institution or within the department.

(4) Where activities provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses, or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central F&A costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat fringe benefits as F&A charges, such costs should be set aside as a separate cost grouping for selective distribution to related cost objectives.

(6) The number of separate cost groupings within a category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

#### *d. Selection of distribution method.*

(1) Actual conditions must be taken into account in selecting the method or base to be used in distributing individual cost groupings. The essential consideration in selecting a base is that it be the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

(2) Where a cost grouping can be identified directly with the cost objective benefited, it should be assigned to that cost objective.

(3) Where the expenses in a cost grouping are more general in nature, the distribution may be based on a cost analysis study which results in an equitable distribution of the costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if appropriate. Cost analysis studies, however, must (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the costs to the related cost objectives in accordance with the relative benefits derived, (c) be statistically sound, (d) be performed specifically at the institution at which the results are to be used, and (e) be reviewed periodically, but not less frequently than every two years, updated if necessary, and used consistently.

Any assumptions made in the study must be stated and explained. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(4) If a cost analysis study is not performed, or if the study does not result in an equitable distribution of the costs, the distribution shall be made in accordance with the appropriate base cited in Section F, unless one of the following conditions is met: (a) it can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to sponsored agreements, or (b) the institution qualifies for, and elects to use, the simplified method for computing F&A cost rates described in Section H.

(5) Notwithstanding subsection (3), effective July 1, 1998, a cost analysis study or base other than that in Section F shall not be used to distribute utility, library or student services costs. By that date, OMB shall have in place an alternative methodology for making payments on costs related to utilities.

e. *Order of distribution.* (1) F&A costs are the broad categories of costs discussed in Section F.1.

(2) Depreciation and use allowances, operation and maintenance expenses, and general administrative and general expenses should be allocated in that order to the remaining F&A cost categories as well as to the major functions and specialized service facilities of the institution. Other cost categories may be allocated in the order determined to be most appropriate by the institutions. When cross allocation of costs is made as provided in subsection (3), this order of allocation does not apply.

(3) Normally a F&A cost category will be considered closed once it has been allocated to other cost objectives, and costs may not be subsequently allocated to it. However, a cross allocation of costs between two or more F&A cost categories may be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the F&A cost categories described in Section F is required.

#### *F. Identification and Assignment of F&A Costs*

##### *1. Definition of Facilities and Administration.*

F&A costs are broad categories of costs. "Facilities" is defined as depreciation and use allowances, interest on debt associated with certain buildings, equipment and capital improvements, operation and maintenance expenses, and library expenses. "Administration" is defined as general administration and general expenses, departmental administration, sponsored projects administration, student administration and services, and all other types of expenditures not listed specifically under one of the subcategories of Facilities (including cross allocations from other pools).

2. *Depreciation and use allowances.* a. The expenses under this heading are the portion of the costs of the institution's buildings, capital improvements to land and buildings,

and equipment which are computed in accordance with Section J.12.

b. In the absence of the alternatives provided for in Section E.2.d, the expenses included in this category shall be allocated in the following manner:

(1) Depreciation or use allowances on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings, shall be assigned to that function.

(2) Depreciation or use allowances on buildings used for more than one function, and on capital improvements and equipment used in such buildings, shall be allocated to the individual functions performed in each building on the basis of usable square feet of space, excluding common areas such as hallways, stairwells, and rest rooms.

(3) Depreciation or use allowances on buildings, capital improvements and equipment related to space (e.g., individual rooms, laboratories) used jointly by more than one function (as determined by the users of the space) shall be treated as follows. The cost of each jointly used unit of space shall be allocated to benefiting functions on the basis of:

(a) the employee full-time equivalents (FTEs) or salaries and wages of those individual functions benefiting from the use of that space; or

(b) institution-wide employee FTEs or salaries and wages applicable to the benefiting major functions (see Section B.1) of the institution.

(4) Depreciation or use allowances on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, shall be allocated to user categories of students and employees on a full-time equivalent basis. The amount allocated to the student category shall be assigned to the instruction function of the institution. The amount allocated to the employee category shall be further allocated to the major functions of the institution in proportion to the salaries and wages of all employees applicable to those functions.

3. *Interest.* Interest on debt associated with certain buildings, equipment and capital improvements, as defined in Sections J.22.e and f, shall be classified as an expenditure under the category Facilities. These costs shall be allocated in the same manner as the depreciation or use allowances on the buildings, equipment and capital improvements to which the interest relates.

4. *Operation and maintenance expenses.* a. The expenses under this heading are those that have been incurred for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; care of grounds; maintenance and operation of buildings and other plant facilities; security; earthquake and disaster preparedness; environmental safety; hazardous waste disposal; property, liability and all other insurance relating to property; space and capital leasing; facility planning and management; and, central

receiving. The operation and maintenance expense category should also include its allocable share of fringe benefit costs, depreciation and use allowances, and interest costs.

b. In the absence of the alternatives provided for in Section E.2.d, the expenses included in this category shall be allocated in the same manner as described in subsection 2.b for depreciation and use allowances.

5. *General administration and general expenses.* a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expense of a general character which do not relate solely to any major function of the institution; i.e., solely to (1) instruction, (2) organized research, (3) other sponsored activities, or (4) other institutional activities. The general administration and general expense category should also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation and use allowances, and interest costs. Examples of general administration and general expenses include: those expenses incurred by administrative offices that serve the entire university system of which the institution is a part; central offices of the institution such as the President's or Chancellor's office, the offices for institution-wide financial management, business services, budget and planning, personnel management, and safety and risk management; the office of the General Counsel; and, the operations of the central administrative management information systems. General administration and general expenses shall not include expenses incurred within non-university-wide deans' offices, academic departments, organized research units, or similar organizational units. (See subsection 6, Departmental administration expenses.)

b. In the absence of the alternatives provided for in Section E.2.d, the expenses included in this category shall be grouped first according to common major functions of the institution to which they render services or provide benefits. The aggregate expenses of each group shall then be allocated to serviced or benefited functions on the modified total cost basis. Modified total costs consist of the same elements as those in Section G.2. When an activity included in this F&A cost category provides a service or product to another institution or organization, an appropriate adjustment must be made to either the expenses or the basis of allocation or both, to assure a proper allocation of costs.

6. *Departmental administration expenses.* a. The expenses under this heading are those that have been incurred for administrative and supporting services that benefit common or joint departmental activities or objectives in academic deans' offices, academic departments and divisions, and organized research units. Organized research units include such units as institutes, study centers, and research centers. Departmental administration expenses are subject to the following limitations.

(1) Academic deans' offices. Salaries and operating expenses are limited to those attributable to administrative functions.

(2) Academic departments:

(a) Salaries and fringe benefits attributable to the administrative work (including bid and proposal preparation) of faculty (including department heads), and other professional personnel conducting research and/or instruction, shall be allowed at a rate of 3.6 percent of modified total direct costs. This category does not include professional business or professional administrative officers. This allowance shall be added to the computation of the F&A cost rate for major functions in Section G; the expenses covered by the allowance shall be excluded from the departmental administration cost pool. No documentation is required to support this allowance.

(b) Other administrative and supporting expenses incurred within academic departments are allowable provided they are treated consistently in like circumstances. This would include expenses such as the salaries of secretarial and clerical staffs, the salaries of administrative officers and assistants, travel, office supplies, stockrooms, and the like.

(3) Other fringe benefit costs applicable to the salaries and wages included in subsections (1) and (2) are allowable, as well as an appropriate share of general administration and general expenses, operation and maintenance expenses, and depreciation and/or use allowances.

(4) Federal agencies may authorize reimbursement of additional costs for department heads and faculty only in exceptional cases where an institution can demonstrate undue hardship or detriment to project performance.

b. In developing the departmental administration cost pool, special care should be exercised to ensure that costs incurred for the same purpose in like circumstances are treated consistently as either direct or F&A costs. For example, salaries of technical staff, laboratory supplies (e.g., chemicals), telephone toll charges, animals, animal care costs, computer costs, travel costs, and specialized shop costs shall be treated as direct cost wherever identifiable to a particular cost objective. Direct charging of these costs may be accomplished through specific identification of individual costs to benefiting cost objectives, or through recharge centers or specialized service facilities, as appropriate under the circumstances. The salaries of administrative and clerical staff should normally be treated as F&A costs. Direct charging of these costs may be appropriate where a major project or activity explicitly budgets for administrative or clerical services and individuals involved can be specifically identified with the project or activity. Items such as office supplies, postage, local telephone costs, and memberships shall normally be treated as F&A costs.

c. In the absence of the alternatives provided for in Section E.2.d, the expenses included in this category shall be allocated as follows:

(1) The administrative expenses of the dean's office of each college and school shall

be allocated to the academic departments within that college or school on the modified total cost basis.

(2) The administrative expenses of each academic department, and the department's share of the expenses allocated in subsection (1) shall be allocated to the appropriate functions of the department on the modified total cost basis.

7. *Sponsored projects administration.* a. The expenses under this heading are limited to those incurred by a separate organization(s) established primarily to administer sponsored projects, including such functions as grant and contract administration (Federal and non-Federal), special security, purchasing, personnel, administration, and editing and publishing of research and other reports. They include the salaries and expenses of the head of such organization, assistants, and immediate staff, together with the salaries and expenses of personnel engaged in supporting activities maintained by the organization, such as stock rooms, stenographic pools and the like. This category also includes an allocable share of fringe benefit costs, general administration and general expenses, operation and maintenance expenses, depreciation/use allowances. Appropriate adjustments will be made for services provided to other functions or organizations.

b. In the absence of the alternatives provided for in Section E.2.d, the expenses included in this category shall be allocated to the major functions of the institution under which the sponsored projects are conducted on the basis of the modified total cost of sponsored projects.

c. An appropriate adjustment shall be made to eliminate any duplicate charges to sponsored agreements when this category includes similar or identical activities as those included in the general administration and general expense category or other F&A cost items, such as accounting, procurement, or personnel administration.

8. *Library expenses.* a. The expenses under this heading are those that have been incurred for the operation of the library, including the cost of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under Section C.5. The library expense category should also include the fringe benefits applicable to the salaries and wages included therein, an appropriate share of general administration and general expense, operation and maintenance expense, and depreciation and use allowances. Costs incurred in the purchases of rare books (museum-type books) with no value to sponsored agreements should not be allocated to them.

b. In the absence of the alternatives provided for in Section E.2.d, the expenses included in this category shall be allocated first on the basis of primary categories of users, including students, professional employees, and other users.

(1) The student category shall consist of full-time equivalent students enrolled at the institution, regardless of whether they earn credits toward a degree or certificate.

(2) The professional employee category shall consist of all faculty members and other

professional employees of the institution, on a full-time equivalent basis.

(3) The other users category shall consist of all other users of library facilities.

c. Amount allocated in subsection b shall be assigned further as follows:

(1) The amount in the student category shall be assigned to the instruction function of the institution.

(2) The amount in the professional employee category shall be assigned to the major functions of the institution in proportion to the salaries and wages of all faculty members and other professional employees applicable to those functions.

(3) The amount in the other users category shall be assigned to the other institutional activities function of the institution.

9. *Student administration and services.* a. The expenses under this heading are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmity services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose responsibilities to the institution require administrative work that benefits sponsored projects may also be included to the extent that the portion charged to student administration is determined in accordance with Section J.8. This expense category also includes the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, operation and maintenance, and use allowances and/or depreciation.

b. In the absence of the alternatives provided for in Section E.2.d, the expenses in this category shall be allocated to the instruction function, and subsequently to sponsored agreements in that function.

10. *Offset for F&A expenses otherwise provided for by the Federal Government.* a. The items to be accumulated under this heading are the reimbursements and other payments from the Federal Government which are made to the institution to support solely, specifically, and directly, in whole or in part, any of the administrative or service activities described in subsections 2 through 9.

b. The items in this group shall be treated as a credit to the affected individual F&A cost category before that category is allocated to benefiting functions.

#### G. *Determination and Application of F&A Cost Rate or Rates*

1. *F&A cost pools.* a. (1) Subject to subsection b, the separate categories of F&A costs allocated to each major function of the institution as prescribed in Section F shall be aggregated and treated as a common pool for that function. The amount in each pool shall be divided by the distribution base described in subsection 2 to arrive at a single F&A cost rate for each function.

(2) The rate for each function is used to distribute F&A costs to individual sponsored agreements of that function. Since a common pool is established for each major function of

the institution, a separate F&A cost rate would be established for each of the major functions described in Section B.1 under which sponsored agreements are carried out.

(3) Each institution's F&A cost rate process must be appropriately designed to ensure that Federal sponsors do not in any way subsidize the F&A costs of other sponsors, specifically activities sponsored by industry and foreign governments. Accordingly, each allocation method used to identify and allocate the F&A cost pools, as described in Sections E.2 and F.2 through F.9, must contain the full amount of the institution's modified total costs or other appropriate units of measurement used to make the computations. In addition, the final rate distribution base (as defined in subsection 2) for each major function (organized research, instruction, etc., as described in Section B.1) shall contain all the programs or activities which utilize the F&A costs allocated to that major function. At the time a F&A cost proposal is submitted to a cognizant Federal agency, each institution must describe the process it uses to ensure that Federal funds are not used to subsidize industry and foreign government funded programs.

b. In some instances a single rate basis for use across the board on all work within a major function at an institution may not be appropriate. A single rate for research, for example, might not take into account those different environmental factors and other conditions which may affect substantially the F&A costs applicable to a particular segment of research at the institution. A particular segment of research may be that performed under a single sponsored agreement or it may consist of research under a group of sponsored agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of a sponsored agreement is performed within an environment which appears to generate a significantly different level of F&A costs, provisions should be made for a separate F&A cost pool applicable to such work. The separate F&A cost pool should be developed during the regular course of the rate determination process and the separate F&A cost rate resulting therefrom should be utilized; provided it is determined that (1) such F&A cost rate differs significantly from that which would have been obtained under subsection a, and (2) the volume of work to which such rate would apply is material in relation to other sponsored agreements at the institution.

2. *The distribution basis.* F&A costs shall be distributed to applicable sponsored agreements and other benefiting activities within each major function (see Section B.1) on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to the first \$25,000 of each subgrant or subcontract (regardless of the period covered

by the subgrant or subcontract). Equipment, capital expenditures, charges for patient care and tuition remission, rental costs, scholarships, and fellowships as well as the portion of each subgrant and subcontract in excess of \$25,000 shall be excluded from modified total direct costs. Other items may only be excluded where necessary to avoid a serious inequity in the distribution of F&A costs. For this purpose, a F&A cost rate should be determined for each of the separate F&A cost pools developed pursuant to subsection 1. The rate in each case should be stated as the percentage which the amount of the particular F&A cost pool is of the modified total direct costs identified with such pool.

3. *Negotiated lump sum for F&A costs.* A negotiated fixed amount in lieu of F&A costs may be appropriate for self-contained, off-campus, or primarily subcontracted activities where the benefits derived from an institution's F&A services cannot be readily determined. Such negotiated F&A costs will be treated as an offset before allocation to instruction, organized research, other sponsored activities, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined rates for F&A costs.* Public Law 87-638 (76 Stat. 437) authorizes the use of predetermined rates in determining the "indirect costs" (F&A costs in this Circular) applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for F&A costs for a period of two to four years should be the norm in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of F&A costs during the ensuing accounting periods.

5. *Negotiated fixed rates and carry-forward provisions.* When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the F&A cost for the next rate negotiation. When the rate is negotiated before the carry-forward adjustment is determined, the carry-forward amount may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected F&A costs allocable to sponsored agreements for the forecast period plus or minus the carry-forward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an

advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carry-forward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carry-forward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate.

6. *Provisional and final rates for F&A costs.* Where the cognizant agency determines that cost experience and other pertinent facts do not justify the use of predetermined rates, or a fixed rate with a carry-forward, or if the parties cannot agree on an equitable rate, a provisional rate shall be established. To prevent substantial overpayment or underpayment, the provisional rate may be adjusted by the cognizant agency during the institution's fiscal year. Predetermined or fixed rates may replace provisional rates at any time prior to the close of the institution's fiscal year. If a provisional rate is not replaced by a predetermined or fixed rate prior to the end of the institution's fiscal year, a final rate will be established and upward or downward adjustments will be made based on the actual allowable costs incurred for the period allowed.

7. *Fixed rates for the life of the sponsored agreement.* a. Federal agencies shall use the negotiated rates for F&A costs in effect at the time of the initial award throughout the life of the sponsored agreement. "Life" for the purpose of this subsection means each competitive segment of a project. A competitive segment is a period of years approved by the Federal funding agency at the time of the award. If negotiated rate agreements do not extend through the life of the sponsored agreement at the time of the initial award, then the negotiated rate for the last year of the sponsored agreement shall be extended through the end of the life of the sponsored agreement. Award levels for sponsored agreements may not be adjusted in future years as a result of changes in negotiated rates.

b. When an educational institution does not have a negotiated rate with the Federal Government at the time of the award (because the educational institution is a new grantee or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award shall be adjusted once a rate is negotiated and approved by the cognizant agency.

8. *Limitation on reimbursement of administrative costs.* a. Notwithstanding the provisions of subsection 1.a, the administrative costs charged to sponsored agreements awarded or amended (including continuation and renewal awards) with effective dates beginning on or after the start of the institution's first fiscal year which begins on or after October 1, 1991, shall be limited to 26% of modified total direct costs (as defined in subsection 2) for the total of

General Administration and General Expenses, Departmental Administration, Sponsored Projects Administration, and Student Administration and Services (including their allocable share of depreciation and/or use allowances, interest costs, operation and maintenance expenses, and fringe benefits costs, as provided by Sections F.5, F.6, F.7 and F.9) and all other types of expenditures not listed specifically under one of the subcategories of facilities in Section F.

b. Existing F&A cost rates that affect institutions' fiscal years which begin on or after October 1, 1991, shall be unilaterally amended by the cognizant Federal agency to reflect the cost limitation in subsection a.

c. Permanent rates established prior to this revision which have been amended in accordance with subsection b may be renegotiated. However, no such renegotiated rate may exceed the rate which would have been in effect if the agreement had remained in effect; nor may the administrative portion of any renegotiated rate exceed the limitation in subsection a.

d. Institutions should not change their accounting or cost allocation methods which were in effect on May 1, 1991, if the effect is to: (i) change the charging of a particular type of cost from F&A to direct, or (ii) reclassify costs, or increase allocations, from the administrative pools identified in subsection a to the other F&A cost pools or fringe benefits. Cognizant Federal agencies are authorized to permit changes where an institution's charging practices are at variance with acceptable practices followed by a substantial majority of other institutions.

9. *Alternative method for administrative costs.* a. Notwithstanding the provisions of subsection 1.a, an institution may elect to claim fixed allowance for the "Administration" portion of F&A costs. The allowance could be either 24% of modified total direct costs or a percentage equal to 95% of the most recently negotiated fixed or predetermined rate for the cost pools included under "Administration" as defined in Section F.1, whichever is less, provided that no accounting or cost allocation changes with the effects described in subsection 8.d have occurred. Under this alternative, no cost proposal need be prepared for the "Administration" portion of the F&A cost rate nor is further identification or documentation of these costs required (see subsection c). Where a negotiated F&A cost agreement includes this alternative, an institution shall make no further charges for the expenditure categories described in Sections F.5, F.6, F.7 and F.9.

b. In negotiations of rates for subsequent periods, an institution that has elected the option of subsection a may continue to exercise it at the same rate without further identification or documentation of costs, provided that no accounting or cost allocation changes with the effects described in subsection 8.d have occurred.

c. If an institution elects to accept a threshold rate, it is not required to perform a detailed analysis of its administrative costs. However, in order to compute the facilities components of its F&A cost rate, the institution must reconcile its F&A cost

proposal to its financial statements and make appropriate adjustments and reclassifications to identify the costs of each major function as defined in Section B.1, as well as to identify and allocate the facilities components. Administrative costs that are not identified as such by the institution's accounting system (such as those incurred in academic departments) will be classified as instructional costs for purposes of reconciling F&A cost proposals to financial statements and allocating facilities costs.

10. *Individual rate components.* In order to satisfy the requirements of Section J.12.f and to provide mutually agreed upon information for management purposes, each F&A cost rate negotiation or determination shall include development of a rate for each F&A cost pool as well as the overall F&A cost rate.

11. *Negotiation and approval of F&A rate.*  
a. *Cognizant agency assignments.* "A cognizant agency" means the Federal agency responsible for negotiating and approving F&A rates for an educational institution on behalf of all Federal agencies.

(1) Cost negotiation cognizance is assigned to the Department of Health and Human Services (HHS) or the Department of Defense's Office of Naval Research (DOD), normally depending on which of the two agencies (HHS or DOD) provides more funds to the educational institution for the most recent three years. Information on funding shall be derived from relevant data gathered by the National Science Foundation. In cases where neither HHS nor DOD provides Federal funding to an educational institution, the cognizant agency assignment shall default to HHS. Notwithstanding the method for cognizance determination described above, other arrangements for cognizance of a particular educational institution may also be based in part on the types of research performed at the educational institution and shall be decided based on mutual agreement between HHS and DOD.

(2) Cognizant assignments as of December 31, 1995, shall continue in effect through educational institutions' fiscal years ending during 1997, or the period covered by negotiated agreements in effect on December 31, 1995, whichever is later, except for those educational institutions with cognizant agencies other than HHS or DOD. Cognizance for these educational institutions shall transfer to HHS or DOD at the end of the period covered by the current negotiated rate agreement. After cognizance is established, it shall continue for a five-year period.

b. *Acceptance of rates.* The negotiated rates shall be accepted by all Federal agencies. Only under special circumstances, when required by law or regulation, may an agency use a rate different from the negotiated rate for a class of sponsored agreements or a single sponsored agreement.

c. *Correcting deficiencies.* The cognizant agency shall negotiate changes needed to correct systems deficiencies relating to accountability for sponsored agreements. Cognizant agencies shall address the concerns of other affected agencies, as appropriate.

d. *Resolving questioned costs.* The cognizant agency shall conduct any necessary negotiations with an educational

institution regarding amounts questioned by audit that are due the Federal Government related to costs covered by a negotiated agreement.

e. *Reimbursement.* Reimbursement to cognizant agencies for work performed under Circular A-21 may be made by reimbursement billing under the Economy Act, 31 U.S.C. 1535.

f. *Procedure for establishing facilities and administrative rates.* The cognizant agency shall arrange with the educational institution to provide copies of rate proposals to all interested agencies. Agencies wanting such copies should notify the cognizant agency. Rates shall be established by one of the following methods:

(1) *Formal negotiation.* The cognizant agency is responsible for negotiating and approving rates for an educational institution on behalf of all Federal agencies. Non-cognizant Federal agencies, which award sponsored agreements to an educational institution, shall notify the cognizant agency of specific concerns (i.e., a need to establish special cost rates) which could affect the negotiation process. The cognizant agency shall address the concerns of all interested agencies, as appropriate. A pre-negotiation conference may be scheduled among all interested agencies, if necessary. The cognizant agency shall then arrange a negotiation conference with the educational institution.

(2) *Other than formal negotiation.* The cognizant agency and educational institution may reach an agreement on rates without a formal negotiation conference; for example, through correspondence or use of the simplified method described in this Circular.

g. *Formalizing determinations and agreements.* The cognizant agency shall formalize all determinations or agreements reached with an educational institution and provide copies to other agencies having an interest.

h. *Disputes and disagreements.* Where the cognizant agency is unable to reach agreement with an educational institution with regard to rates or audit resolution, the appeal system of the cognizant agency shall be followed for resolution of the disagreement.

#### H. *Simplified Method for Small Institutions.*

1. *General.* a. Where the total direct cost of work covered by this Circular at an institution does not exceed \$10 million in a fiscal year, the use of the simplified procedure described in subsection 2, may be used in determining allowable F&A costs. Under this simplified procedure, the institution's most recent annual financial report and immediately available supporting information with salaries and wages segregated from other costs, will be utilized as a basis for determining the F&A cost rate applicable to all sponsored agreements.

b. The simplified procedure should not be used where it produces results which appear inequitable to the Federal Government or the institution. In any such case, F&A costs should be determined through use of the regular procedure.

2. *Simplified procedure.* a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish a F&A cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

- (1) General administration and general expenses (exclusive of costs of student administration and services, student activities, student aid, and scholarships).
- (2) Operation and maintenance of physical plant; and depreciation and use allowances; after appropriate adjustment for costs applicable to other institutional activities.
- (3) Library.
- (4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under subsection (1) have previously been allocated to other institutional activities, they may be included in the F&A cost pool. The total amount of salaries and wages included in the F&A cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established in subsection a the amount of salaries and wages included under subsection b.

d. Establish the F&A cost rate, determined by dividing the amount in the F&A cost pool, subsection b, by the amount of the distribution base, subsection c.

e. Apply the F&A cost rate to direct salaries and wages for individual agreements to determine the amount of F&A costs allocable to such agreements.

#### J. *General Provisions for Selected Items of Cost*

Sections 1 through 50 provide principles to be applied in establishing the allowability of certain items involved in determining cost. These principles should apply irrespective of whether a particular item of cost is properly treated as direct cost or F&A cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific sponsored agreement and the provisions below, the agreement should govern.

1. *Advertising and public relations costs.* a. The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The term public relations includes community relations and means those activities dedicated to maintaining the image of the institution or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

c. The only allowable advertising costs are those which are solely for:

- (1) The recruitment of personnel required for the performance by the institution of obligations arising under the sponsored

agreement, when considered in conjunction with all other recruitment costs, as set forth in Section J.37;

(2) The procurement of goods and services for the performance of the sponsored agreement;

(3) The disposal of scrap or surplus materials acquired in the performance of the sponsored agreement except when institutions are reimbursed for disposal costs at a predetermined amount in accordance with Circular A-110; or

(4) Other specific purposes necessary to meet the requirements of the sponsored agreement.

d. The only allowable public relations costs are:

(1) Costs specifically required by sponsored agreements;

(2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of sponsored agreements; or

(3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of contract/grant awards, financial matters, etc.

e. Costs identified in subsections c and d if incurred for more than one sponsored agreement or for both sponsored work and other work of the institution, are allowable to the extent that the principles in Sections D and E are observed.

f. Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in subsections c, d, and e;

(2) Costs of convocations or other events related to instruction or other institutional activities including:

(i) Costs of displays, demonstrations, and exhibits;

(ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;

(4) Costs of advertising and public relations designed solely to promote the institution.

2. *Alcoholic beverages.* Costs of alcoholic beverages are unallowable.

3. *Alumni/ae activities.* Costs incurred for, or in support of, alumni/ae activities and similar services are unallowable.

4. *Bad debts.* Any losses, whether actual or estimated, arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

5. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies,

firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in Section J.12. Costs of local civil defense projects not on the institution's premises are unallowable.

6. *Commencement and convocation costs.* Costs incurred for commencements and convocations are unallowable, except as provided for in Section F.9.

7. *Communication costs.* Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

8. *Compensation for personal services.* a. *General.* Compensation for personal services covers all amounts paid currently or accrued by the institution for services of employees rendered during the period of performance under sponsored agreements. Such amounts include salaries, wages, and fringe benefits (see subsection f). These costs are allowable to the extent that the total compensation to individual employees conforms to the established policies of the institution, consistently applied, and provided that the charges for work performed directly on sponsored agreements and for other work allocable as F&A costs are determined and supported as provided below. Charges to sponsored agreements may include reasonable amounts for activities contributing and intimately related to work under the agreements, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences. Incidental work (that in excess of normal for the individual), for which supplemental compensation is paid by an institution under institutional policy, need not be included in the payroll distribution systems described below, provided such work and compensation are separately identified and documented in the financial management system of the institution.

b. *Payroll distribution.* (1) *General Principles.* (a) The distribution of salaries and wages, whether treated as direct or F&A costs, will be based on payrolls documented in accordance with the generally accepted practices of colleges and universities. Institutions may include in a residual category all activities that are not directly charged to sponsored agreements, and that need not be distributed to more than one activity for purposes of identifying F&A costs and the functions to which they are allocable. The components of the residual category are not required to be separately documented.

(b) The apportionment of employees' salaries and wages which are chargeable to more than one sponsored agreement or other cost objective will be accomplished by methods which will (1) be in accordance with Sections A.2 and C, (2) produce an equitable distribution of charges for

employee's activities, and (3) distinguish the employees' direct activities from their F&A activities.

(c) In the use of any methods for apportioning salaries, it is recognized that, in an academic setting, teaching, research, service, and administration are often inextricably intermingled. A precise assessment of factors that contribute to costs is not always feasible, nor is it expected. Reliance, therefore, is placed on estimates in which a degree of tolerance is appropriate.

(d) There is no single best method for documenting the distribution of charges for personal services. Methods for apportioning salaries and wages, however, must meet the criteria specified in subsection b.(2). Examples of acceptable methods are contained in subsection c. Other methods which meet the criteria specified in subsection b.(2) also shall be deemed acceptable, if a mutually satisfactory alternative agreement is reached.

(2) *Criteria for Acceptable Methods.* (a) The payroll distribution system will (i) be incorporated into the official records of the institution, (ii) reasonably reflect the activity for which the employee is compensated by the institution, and (iii) encompass both sponsored and all other activities on an integrated basis, but may include the use of subsidiary records. (Compensation for incidental work described in Section J.8.a need not be included.)

(b) The method must recognize the principle of after-the-fact confirmation or determination so that costs distributed represent actual costs, unless a mutually satisfactory alternative agreement is reached. Direct cost activities and F&A cost activities may be confirmed by responsible persons with suitable means of verification that the work was performed. Confirmation by the employee is not a requirement for either direct or F&A cost activities if other responsible persons make appropriate confirmations.

(c) The payroll distribution system will allow confirmation of activity allocable to each sponsored agreement and each of the categories of activity needed to identify F&A costs and the functions to which they are allocable. The activities chargeable to F&A cost categories or the major functions of the institution for employees whose salaries must be apportioned (see subsection b.(1)(b)), if not initially identified as separate categories, may be subsequently distributed by any reasonable method mutually agreed to, including, but not limited to, suitably conducted surveys, statistical sampling procedures, or the application of negotiated fixed rates.

(d) Practices vary among institutions and within institutions as to the activity constituting a full workload. Therefore, the payroll distribution system may reflect categories of activities expressed as a percentage distribution of total activities.

(e) Direct and F&A charges may be made initially to sponsored agreements on the basis of estimates made before services are performed. When such estimates are used, significant changes in the corresponding work activity must be identified and entered into the payroll distribution system. Short-

term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term, such as an academic period.

(f) The system will provide for independent internal evaluations to ensure the system's effectiveness and compliance with the above standards.

(g) For systems which meet these standards, the institution will not be required to provide additional support or documentation for the effort actually performed.

c. *Examples of Acceptable Methods for Payroll Distribution:* (1) *Plan-Confirmation:* Under this method, the distribution of salaries and wages of professorial and professional staff applicable to sponsored agreements is based on budgeted, planned, or assigned work activity, updated to reflect any significant changes in work distribution. A plan-confirmation system used for salaries and wages charged directly or indirectly to sponsored agreements will meet the following standards:

(a) A system of budgeted, planned, or assigned work activity will be incorporated into the official records of the institution and encompass both sponsored and all other activities on an integrated basis. The system may include the use of subsidiary records.

(b) The system will reasonably reflect only the activity for which the employee is compensated by the institution (compensation for incidental work described in subsection a need not be included). Practices vary among institutions and within institutions as to the activity constituting a full workload. Hence, the system will reflect categories of activities expressed as a percentage distribution of total activities. (See Section H for treatment of F&A costs under the simplified method for small institutions.)

(c) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify F&A costs and the functions to which they are allocable. The system may treat F&A cost activities initially within a residual category and subsequently determine them by alternate methods as discussed in subsection b.(2)(c).

(d) The system will provide for modification of an individual's salary or salary distribution commensurate with a significant change in the employee's work activity. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term, such as an academic period. Whenever it is apparent that a significant change in work activity which is directly or indirectly charged to sponsored agreements will occur or has occurred, the change will be documented over the signature of a responsible official and entered into the system.

(e) At least annually a statement will be signed by the employee, principal investigator, or responsible official(s) using suitable means of verification that the work was performed, stating that salaries and wages charged to sponsored agreements as direct charges, and to residual, F&A cost or

other categories are reasonable in relation to work performed.

(f) The system will provide for independent internal evaluation to ensure the system's integrity and compliance with the above standards.

(g) In the use of this method, an institution shall not be required to provide additional support or documentation for the effort actually performed.

(2) *After-the-fact Activity Records:* Under this system the distribution of salaries and wages by the institution will be supported by activity reports as prescribed below.

(a) Activity reports will reflect the distribution of activity expended by employees covered by the system (compensation for incidental work as described in subsection a need not be included).

(b) These reports will reflect an after-the-fact reporting of the percentage distribution of activity of employees. Charges may be made initially on the basis of estimates made before the services are performed, provided that such charges are promptly adjusted if significant differences are indicated by activity records.

(c) Reports will reasonably reflect the activities for which employees are compensated by the institution. To confirm that the distribution of activity represents a reasonable estimate of the work performed by the employee during the period, the reports will be signed by the employee, principal investigator, or responsible official(s) using suitable means of verification that the work was performed.

(d) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify F&A costs and the functions to which they are allocable. The system may treat F&A cost activities initially within a residual category and subsequently determine them by alternate methods as discussed in subsection b.(2)(c).

(e) For professorial and professional staff, the reports will be prepared each academic term, but no less frequently than every six months. For other employees, unless alternate arrangements are agreed to, the reports will be prepared no less frequently than monthly and will coincide with one or more pay periods.

(f) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as records for this purpose, provided that they meet the requirements in subsections (a) through (e).

(3) *Multiple Confirmation Records:* Under this system, the distribution of salaries and wages of professorial and professional staff will be supported by records which certify separately for direct and F&A cost activities as prescribed below.

(a) For employees covered by the system, there will be direct cost records to reflect the distribution of that activity expended which is to be allocable as direct cost to each sponsored agreement. There will also be F&A cost records to reflect the distribution of that activity to F&A costs. These records may be kept jointly or separately (but are to be certified separately, see below).

(b) Salary and wage charges may be made initially on the basis of estimates made before the services are performed, provided that such charges are promptly adjusted if significant differences occur.

(c) Institutional records will reasonably reflect only the activity for which employees are compensated by the institution (compensation for incidental work as described in subsection a need not be included).

(d) The system will reflect activity applicable to each sponsored agreement and to each category needed to identify F&A costs and the functions to which they are allocable.

(e) To confirm that distribution of activity represents a reasonable estimate of the work performed by the employee during the period, the record for each employee will include: (i) the signature of the employee or of a person having direct knowledge of the work, confirming that the record of activities allocable as direct costs of each sponsored agreement is appropriate; and, (ii) the record of F&A costs will include the signature of responsible person(s) who use suitable means of verification that the work was performed and is consistent with the overall distribution of the employee's compensated activities. These signatures may all be on the same document.

(f) The reports will be prepared each academic term, but no less frequently than every six months.

(g) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as records for this purposes, provided they meet the requirements in subsections (a) through (f).

d. *Salary rates for faculty members.* (1) *Salary rates for academic year.* Charges for work performed on sponsored agreements by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsoring agency.

(2) *Periods outside the academic year.* (a) Except as otherwise specified for teaching activity in subsection (b), charges for work performed by faculty members on sponsored agreements during the summer months or other period not included in the base salary period will be determined for each faculty member at a rate not in excess of the base salary divided by the period to which the base salary relates, and will be limited to charges made in accordance with other parts of this section. The base salary period used in computing charges for work performed during the summer months will be the number of months covered by the faculty member's official academic year appointment.

(b) Charges for teaching activities performed by faculty members on sponsored agreements during the summer months or other periods not included in the base salary period will be based on the normal policy of the institution governing compensation to faculty members for teaching assignments during such periods.

(3) *Part-time faculty.* Charges for work performed on sponsored agreements by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for the part-time assignments. For example, an institution pays \$5000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time to a sponsored agreement. Thus, his additional compensation, chargeable by the institution to the agreement, would be one-half of \$5000, or \$2500.

e. *Noninstitutional professional activities.* Unless an arrangement is specifically authorized by a Federal sponsoring agency, an institution must follow its institution-wide policies and practices concerning the permissible extent of professional services that can be provided outside the institution for noninstitutional compensation. Where such institution-wide policies do not exist or do not adequately define the permissible extent of consulting or other noninstitutional activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on sponsored agreements be allocated between (1) institutional activities, and (2) noninstitutional professional activities. If the sponsoring agency considers the extent of noninstitutional professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

f. *Fringe benefits.* (1) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable, provided such costs are distributed to all institutional activities in proportion to the relative amount of time or effort actually devoted by the employees. See Section J.40 for treatment of sabbatical leave.

(2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, tuition or remission of tuition for individual employees are allowable, provided such benefits are granted

in accordance with established educational institutional policies, and are distributed to all institutional activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable for fiscal years beginning after September 30, 1998. See Section J.41.b, Scholarships and student aid costs, for treatment of tuition remission provided to students.

(3) Rules for pension plan costs are as follows:

(a) Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided: (i) such policies meet the test of reasonableness, (ii) the methods of cost allocation are equitable for all activities, (iii) the amount of pension cost assigned to each fiscal year is determined in accordance with subsection (b), and (iv) the cost assigned to a given fiscal year is paid or funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

(b) The amount of pension cost assigned to each fiscal year shall be determined in accordance with generally accepted accounting principles. Institutions may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Cost" (48 Part 9904-412).

(c) Premiums paid for pension plan termination insurance pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (Pub. L. 93-406) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and prohibited transactions of pension plan fiduciaries imposed under ERISA are also unallowable.

(4) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of institution-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the institution demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees. Fringe benefits shall be treated in the same manner as the salaries and wages of the employees receiving the benefits. The benefits related to salaries and wages treated as direct costs shall also be treated as direct costs; the benefits related to salaries and wages treated as F&A costs shall be treated as F&A costs.

g. *Institution-furnished automobiles.* That portion of the cost of institution-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable regardless of whether the cost is reported as taxable income to the employees.

9. *Contingency provisions.* Contributions to a contingency reserve or any similar provision made for events, the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their

happening, are unallowable. (See also Section J.21.c.)

10. *Deans of faculty and graduate schools.* The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

11. *Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement.*

a. *Definitions.* "Conviction," as used herein, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon verdict or a plea, including a conviction due to a plea of nolo contendere.

"Costs," include, but are not limited to, administrative and clerical expenses; the cost of legal services, whether performed by in-house or private counsel; the costs of the services of accountants, consultants, or others retained by the institution to assist it; costs of employees, officers and trustees, and any similar costs incurred before, during, and after commencement of a judicial or administrative proceeding that bears a direct relationship to the proceedings.

"Fraud," as used herein, means (i) acts of fraud or corruption or attempts to defraud the Federal Government or to corrupt its agents, (ii) acts that constitute a cause for debarment or suspension (as specified in agency regulations), and (iii) acts which violate the False Claims Act, 31 U.S.C., sections 3729-3731, or the Anti-kickback Act, 41 U.S.C., sections 51 and 54.

"Penalty," does not include restitution, reimbursement, or compensatory damages.

"Proceeding," includes an investigation.

b. (1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal Government, or a State, local or foreign government, are not allowable if the proceeding (a) relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation, by the institution (including its agents and employees); and (b) results in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of institutional liability.

(iii) In the case of any civil or administrative proceeding, the imposition of a monetary penalty.

(iv) A final decision by an appropriate Federal official to debar or suspend the institution, to rescind or void an award, or to terminate an award for default by reason of a violation or failure to comply with a law or regulation.

(v) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in subsections (i) through (iv).

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings shall be unallowable if any one of them results in one of the dispositions shown in subsection b.

c. If a proceeding referred to in subsection b is commenced by the Federal Government and is resolved by consent or compromise

pursuant to an agreement entered into by the institution and the Federal Government, then the costs incurred by the institution in connection with such proceedings that are otherwise not allowable under subsection b may be allowed to the extent specifically provided in such agreement.

d. If a proceeding referred to in subsection b is commenced by a State, local or foreign government, the authorized Federal official may allow the costs incurred by the institution for such proceedings, if such authorized official determines that the costs were incurred as a result of (1) a specific term or condition of a federally-sponsored agreement, or (2) specific written direction of an authorized official of the sponsoring agency.

e. Costs incurred in connection with proceedings described in subsection b, but which are not made unallowable by that subsection, may be allowed by the Federal Government, but only to the extent that:

(1) The costs are reasonable in relation to the activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the costs incurred, as allowable and allocable costs, is not prohibited by any other provision(s) of the sponsored agreement;

(3) The costs are not otherwise recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and,

(4) The percentage of costs allowed does not exceed the percentage determined by an authorized Federal official to be appropriate considering the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate. Such percentage shall not exceed 80 percent. However, if an agreement reached under subsection c has explicitly considered this 80 percent limitation and permitted a higher percentage, then the full amount of costs resulting from that agreement shall be allowable.

f. Costs incurred by the institution in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (Pub. L. 100-700), including the cost of all relief necessary to make such employee whole, where the institution was found liable or settled, are unallowable.

g. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with defense against Federal Government claims or appeals, or the prosecution of claims or appeals against the Federal Government, are unallowable.

h. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the sponsored agreements.

i. Costs which may be unallowable under this section, including directly associated costs, shall be segregated and accounted for by the institution separately. During the pendency of any proceeding covered by subsections b and f, the Federal Government

shall generally withhold payment of such costs. However, if in the best interests of the Federal Government, the Federal Government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement by the institution to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

12. *Depreciation and use allowances.* Institutions may be compensated for the use of their buildings, capital improvements, and equipment, provided that they are used, needed in the institutions' activities, and properly allocable to sponsored agreements. Such compensation shall be made by computing either depreciation or use allowance. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not computed. The allocation for depreciation or use allowance shall be made in accordance with Section F.2. Depreciation and use allowances are computed applying the following rules:

a. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. For this purpose, the acquisition cost will exclude (1) the cost of land; (2) any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it is presently located; and (3) any portion of the cost of buildings and equipment contributed by or for the institution where law or agreement prohibit recovery. For an asset donated to the institution by a third party, its fair market value at the time of the donation shall be considered as the acquisition cost.

b. In the use of the depreciation method, the following shall be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency.

(3) Where the depreciation method is introduced to replace the use allowance method, depreciation shall be computed as if the asset had been depreciated over its entire life (i.e., from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The aggregate amount of use allowances and depreciation attributable to an asset (including imputed depreciation applicable to periods prior to the conversion to the use allowance method

as well as depreciation after the conversion) may be less than, and in no case, greater than the total acquisition cost of the asset.

(4) When the depreciation method is used for buildings, a building "shell" may be treated separately from other building components, such as plumbing system and heating and air conditioning system. Each component item may then be depreciated over its estimated useful life. On the other hand, the entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life.

(5) Where the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that have outlived their depreciable lives. (See also subsection c.(3).)

c. Under the use allowance method, the following shall be observed:

(1) The use allowance for buildings and improvements (including improvements such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost.

(2) In contrast to the depreciation method, the entire building must be treated as a single asset without separating its "shell" from other building components under the use allowance method. The entire building must be treated as a single asset, and the two-percent use allowance limitation must be applied to all parts of the building. The two-percent limitation, however, need not be applied to equipment or other assets that are merely attached or fastened to the building but not permanently fixed and are used as furnishings, decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, and carpeting). Such equipment and assets will be considered as not being permanently fixed to the building if they can be removed without the need for costly or extensive alterations or repairs to the building to make the space usable for other purposes. Equipment and assets which meet these criteria will be subject to the six and two-thirds percent equipment use allowance.

(3) A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the Federal Government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

(4) Notwithstanding subsection (3), once an educational institution converts from one cost recovery methodology to another, acquisition costs not recovered may not be used in the calculation of the use allowance in subsection (3).

d. Except as otherwise provided in subsections b and c, a combination of the depreciation and use allowance methods may not be used, in like circumstances, for a

single class of assets (e.g., buildings, office equipment, and computer equipment).

e. Charges for use allowances or depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, when the depreciation method is used, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.

f. This section applies to the largest college and university recipients of Federal research and development funds as displayed in Exhibit A.

(1) Institutions shall expend currently, or reserve for expenditure within the next five years, the portion of F&A cost payments made for depreciation or use allowances under sponsored research agreements, consistent with Section F.2, to acquire or improve research facilities. This provision applies only to Federal agreements which reimburse F&A costs at a full negotiated rate. These funds may only be used for (a) liquidation of the principal of debts incurred to acquire assets that are used directly for organized research activities, or (b) payments to acquire, repair, renovate, or improve buildings or equipment directly used for organized research. For buildings or equipment not exclusively used for organized research activity, only appropriately proportionate amounts will be considered to have been expended for research facilities.

(2) An assurance that an amount equal to the Federal reimbursements has been appropriately expended or reserved to acquire or improve research facilities shall be submitted as part of each F&A cost proposal submitted to the cognizant Federal agency which is based on costs incurred on or after October 1, 1991. This assurance will cover the cumulative amounts of funds received and expended during the period beginning after the period covered by the previous assurance and ending with the fiscal year on which the proposal is based. The assurance shall also cover any amounts reserved from a prior period in which the funds received exceeded the amounts expended.

13. *Donations and contributions.* a. The value of donated services and property are not allowable either as a direct or F&A cost, except that depreciation or use allowances on donated assets are permitted in accordance with Section J.12.a. The value of donated services and property may be used to meet cost sharing or matching requirements, in accordance with Circular A-110.

b. Donations or contributions made by the institution, regardless of the recipient, are unallowable.

14. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, food services, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee

performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations. Losses resulting from operating food services are allowable only if the institution's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only (a) where the institution can demonstrate unusual circumstances, and (b) with the approval of the cognizant Federal agency.

15. *Entertainment costs.* Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.

16. *Equipment and other capital expenditures.* a. For purposes of this subsection, the following definitions apply:

(1) "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the organization for financial statement purposes, or \$5000. The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable use allowances or depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency.

(2) "Capital expenditures" means the cost of the asset including the cost to put it in place. Capital expenditure for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the institution's regular accounting practices.

(3) "Special purpose equipment" means equipment which is used only for research, medical, scientific, or other technical activities.

(4) "General purpose equipment" means equipment, the use of which is not limited only to research, medical, scientific or other technical activities. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

b. The following rules of allowability shall apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except where approved in advance by the sponsoring agency.

(2) Expenditures for special purpose equipment are allowable as direct charges with the approval of the sponsoring agency.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as direct charges, except where approved in advance by the sponsoring agency.

(4) Capital expenditures are unallowable as F&A costs. See Section J.12 for allowability of depreciation or use allowances on buildings, capital improvements, and equipment. Also see Section J.38 for allowability of rental costs on land, buildings, and equipment.

17. *Executive lobbying costs.* Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a federally-sponsored agreement or regulatory matter on any basis other than the merits of the matter.

18. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the sponsored agreement, or instructions in writing from the authorized official of the sponsoring agency authorizing in advance such payments.

19. *Goods or services for personal use.* Costs of goods or services for personal use of the institution's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

20. *Housing and personal living expenses.* a. Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent, etc.), housing allowances and personal living expenses for/of the institution's officers are unallowable regardless of whether the cost is reported as taxable income to the employees.

b. The term "officers" includes current and past officers.

21. *Insurance and indemnification.* a. Costs of insurance required or approved, and maintained, pursuant to the sponsored agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss or damage to federally-owned property are unallowable, except to the extent that the Federal Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for a self-insurance program are allowable, to the extent that the types of coverage, extent of

coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (whether through purchased insurance or self-insurance) are unallowable, unless expressly provided for in the sponsored agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the institution only to the extent expressly provided for in the sponsored agreement, except as provided in subsection d.

f. Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the institution's materials or workmanship are unallowable.

g. Medical liability (malpractice) insurance is an allowable cost of research programs only to the extent that the research involves human subjects. Medical liability insurance costs shall be treated as a direct cost and shall be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance.

22. *Interest, fund raising, and investment management costs.* a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable, except as indicated in subsection e.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

d. Costs related to the physical custody and control of monies and securities are allowable.

e. The cost of interest paid to an external party is allowable where associated with the following assets, provided the assets are used in support of sponsored agreements, and the total cost (including depreciation or use allowance, operation and maintenance costs, interest, etc.) does not exceed the rental cost of comparable assets in the same locality.

(1) Buildings acquired or completed on or after July 1, 1982.

(2) Major reconstruction and remodeling of existing buildings completed on or after July 1, 1982.

(3) Acquisition or fabrication of capital equipment (as defined in Section J.16, Equipment and other capital expenditures) completed on or after July 1, 1982, costing \$10,000 or more, if agreed to by the Federal Government.

f. Interest on debt incurred after the effective date of this revision to acquire, replace or renovate capital assets (including renovations, alterations, equipment, land, and capital assets acquired through capital leases), acquired after the effective date of this revision and used in support of sponsored agreements is subject to the following conditions:

(1) For facilities costing over \$500,000, the educational institution shall prepare, prior to the acquisition or replacement of the facility, a lease-purchase analysis in accordance with § 44 of OMB Circular A-110, which shows that a financed purchase, including a capital lease, is less costly to the educational institution than other operating lease alternatives, on a net present value basis. Discount rates used shall be equal to the educational institution's anticipated interest rates and shall be no higher than the fair market rate available to the educational institution from an unrelated ("arm's length") third party. The lease-purchase analysis shall include a comparison of the net present value of the projected total cost comparisons of both alternatives over the period the asset is expected to be used by the educational institution. The cost comparisons associated with purchasing the facility shall include the estimated purchase price, anticipated operating and maintenance costs (including property taxes, if applicable) not included in the debt financing, less any estimated asset salvage value at the end of the defined period. The cost comparison for a capital lease shall include the estimated total lease payments, any estimated bargain purchase option, operating and maintenance costs, and taxes not included in the capital leasing arrangement, less any estimated credits due under the lease at the end of the defined period. Projected operating lease costs shall be based on the anticipated cost of leasing comparable facilities at fair market rates under rental agreements that would be renewed or reestablished over the period defined above, and any expected maintenance costs and allowable property taxes to be borne by the educational institution directly or as part of the lease arrangement.

(2) The actual interest cost claimed is predicated upon interest rates that are no higher than the fair market rate available to the educational institution from an unrelated (arm's length) third party.

(3) Investment earnings, including interest income on bond or loan principal, pending payment of the construction or acquisition costs, are used to offset allowable interest cost. Arbitrage earnings reportable to the Internal Revenue Service are not required to be offset against allowable interest costs.

(4) Reimbursements are limited to the least costly alternative based on the total cost analysis required under subsection (1). For example, if an operating lease is determined to be less costly than purchasing through debt financing, then reimbursement is limited to the amount determined if leasing had been used. In all cases where a lease-purchase analysis is required to be performed, Federal reimbursement shall be based upon the least expensive alternative.

(5) Educational institutions are also subject to the following conditions:

(a) For debt arrangements over \$1 million, unless the educational institution makes an initial equity contribution to the asset purchase of 25 percent or more, educational institutions shall reduce claims for interest cost by an amount equal to imputed interest earnings on excess cash flow, which is to be calculated as follows. Annually, educational institutions shall prepare a cumulative (from the inception of the project) report of monthly cash flows that includes inflows and outflows, regardless of the funding source. Inflows consist of depreciation expense, amortization of capitalized construction interest, and annual interest cost. For cash flow calculations, the annual inflow figures shall be divided by the number of months in the year (i.e., usually 12) that the building is in service for monthly amounts. Outflows consist of initial equity contributions, debt principal payments (less the pro rata share attributable to the unallowable costs of land) and interest payments. Where cumulative inflows exceed cumulative outflows, interest shall be calculated on the excess inflows for that period and be treated as a reduction to allowable interest cost. The rate of interest to be used to compute earnings on excess cash flows shall be the three-month Treasury bill closing rate as of the last business day of that month.

(b) Substantial relocation of federally-sponsored activities from a facility financed by indebtedness, the cost of which was funded in whole or part through Federal reimbursements, to another facility prior to the expiration of a period of 20 years requires notice to the cognizant agency. The extent of the relocation, the amount of the Federal participation in the financing, and the depreciation and interest charged to date may require negotiation and/or downward adjustments of replacement space charged to Federal programs in the future.

(c) The allowable costs to acquire facilities and equipment are limited to a fair market value available to the educational institution from an unrelated (arm's length) third party.

(6) The following definitions are to be used for purposes of this section:

(a) "Initial equity contribution" means the amount or value of contributions made by non-Federal entities for the acquisition of the asset prior to occupancy of facilities.

(b) "Asset costs" means the capitalizable costs of an asset, including construction costs, acquisition costs, and other such costs capitalized in accordance with Generally Accepted Accounting Principles (GAAP).

23. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

24. *Lobbying.* Reference is made to the common rule published at 55 FR 6736 (2/26/90), and OMB's governmentwide guidance, amendments to OMB's governmentwide guidance, and OMB's clarification notices published at 54 FR 52306 (12/20/89), 61 FR 1412 (1/19/96), 55 FR 24540 (6/15/90) and 57 FR 1772 (1/15/92), respectively. In addition, the following restrictions shall apply:

a. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

(3) Any attempt to influence (i) the introduction of Federal or State legislation, (ii) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity, or (iii) any government official or employee in connection with a decision to sign or veto enrolled legislation;

(4) Any attempt to influence (i) the introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or

(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. The following activities are excepted from the coverage of subsection a:

(1) Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a *Congressional Record* notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(2) Any lobbying made unallowable by subsection a.(3) to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the institution's authority to perform the grant, contract, or other agreement; or

(3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. When an institution seeks reimbursement for F&A costs, total lobbying costs shall be separately identified in the F&A cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of Section B.1.d.

d. Institutions shall submit as part of their annual F&A cost rate proposal a certification that the requirements and standards of this section have been complied with.

e. Institutions shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to this section complies with the requirements of this Circular.

f. Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this section during any particular calendar month when: (1) the employee engages in lobbying (as defined in subsections a and b) 25 percent or less of the employee's compensated hours of employment during that calendar month, and (2) within the preceding five-year period, the institution has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions (1) and (2) are met, institutions are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions (1) and (2) are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

g. Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions shall be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this Circular, provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

25. *Losses on other sponsored agreements or contracts.* Any excess of costs over income under any other sponsored agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for F&A costs.

26. *Maintenance and repair costs.* Costs incurred for necessary maintenance, repair or upkeep of property (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

27. *Material costs.* Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the sponsored agreement, are allowable. Purchases made specifically for the sponsored agreement should be charged thereto at their actual prices after deducting

all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the sponsored agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the sponsored agreement. Where federally-donated or furnished materials is used in performing the sponsored agreement, such material will be used without charge.

28. *Memberships, subscriptions and professional activity costs.*

a. Costs of the institution's membership in business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

d. Costs of membership in any civic or community organization are unallowable.

e. Costs of membership in any country club or social or dining club or organization are unallowable.

29. *Patent costs.* Costs of preparing disclosures, reports, and other documents required by the sponsored agreement, and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the sponsored agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Federal Government, are allowable. (See also Section J.39.)

30. *Plant security costs.* Necessary expenses incurred to comply with security requirements, including wages, uniforms and equipment of personnel engaged in plant protection, are allowable.

31. *Preagreement costs.* Costs incurred prior to the effective date of the sponsored agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable thereunder if incurred after such date, are unallowable unless approved by the sponsoring agency.

32. *Professional services costs.* a. Costs of professional and consulting services, including legal services rendered by the members of a particular profession who are not employees of the institution, are allowable, subject to subsection b and Section J.11 when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. Retainer fees, to be allowable, must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case

include (1) the past pattern of such costs, particularly in the years prior to the award of sponsored agreements; (2) the impact of sponsored agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Federal Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under sponsored agreements.

33. *Profits and losses on disposition of plant equipment or other capital assets.* Profits or losses arising from the sale or exchange of plant, facilities, equipment or other capital assets, including sale or exchange of either short-term or long-term investments, shall not be considered in computing the costs of sponsored agreements except for pension plans as provided in Section J.8.f. When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds shall be made in accordance with Circular A-110.

34. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential federally and non-federally-sponsored agreements or projects, including the development of data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as F&A costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable to the current period. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

35. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency.

36. *Reconversion costs.* Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of a sponsored agreement, fair wear and tear excepted, are allowable.

37. *Recruiting costs.* a. Subject to subsections b, c, and d, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the institution uses employment agencies, costs not in

excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or F&A cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Federal Government.

38. *Rental cost of buildings and equipment.*

a. Rental costs of buildings or equipment are allowable to the extent that the decision to rent or lease is in accordance with Section C.3. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

b. Rental costs under "sale and lease back" arrangements are allowable only up to the amount that would be allowed if the institution continued to own the property.

c. Rental costs under "less-than-arms-length" leases are allowable only up to the amount that would be allowed if the institution owned the property. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other.

d. Where significant rental costs are incurred under leases which create a material equity in the leased property, they are allowable only up to the amount that would be allowed if the institution purchased the property on the date the lease agreement was executed. For this purpose, a material equity in the property exists when the lease:

(1) Is noncancelable or is cancelable only upon the occurrence of some remote contingency, and

(2) Has one or more of the following characteristics:

(a) Title to the property passes to the institution at some time during or after the lease period.

(b) The term of the lease corresponds substantially to the estimated useful life of the property (i.e., the period of economic usefulness to the legal owner of the property).

(c) The initial term is less than the useful life of the property and the institution has the option to renew the lease for the remaining useful life at substantially less than fair rental value.

(d) The property was acquired by the leaser to meet the special needs of the institution and will probably be usable only for that purpose and only by the institution.

(e) The institution has the right, during or at the expiration of the lease, to purchase the

property at a price which at the inception of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option), except for any discount normally given to educational institutions.

39. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the sponsored agreement and applicable to tasks or processes thereunder, are allowable unless the Federal Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

40. *Sabbatical leave costs.* Costs of leave of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

41. *Scholarships and student aid costs.* a. Costs of scholarships, fellowships, and other programs of student aid are allowable only when the purpose of the sponsored agreement is to provide training to selected participants and the charge is approved by the sponsoring agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that (1) there is a bona fide employer-employee relationship between the student and the institution for the work performed, (2) the tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work, and (3) it is the institution's practice to similarly compensate students in nonsponsored as well as sponsored activities.

b. Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages shall be subject to the reporting requirements stipulated in Section J.8, and shall be treated as direct or F&A cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis.

42. *Selling and marketing.* Costs of selling and marketing any products or services of the institution (unless allowed under Section J.1.c. or J.34) are unallowable.

43. *Severance pay.* a. Severance pay is compensation in addition to regular salary and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-

employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal recurring turnover and which otherwise meet the conditions of subsection a may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Federal Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

d. Costs incurred in excess of the institution's normal severance pay policy applicable to all persons employed by the institution upon termination of employment are unallowable.

44. *Specialized service facilities.* a. The costs of institutional services involving the use of highly complex or specialized facilities such as electronic computers, wind tunnels, and reactors are allowable, provided the charge for the service meets the conditions of subsections b through d.

b. The cost of each service normally shall consist of both its direct costs and its allocable share of F&A costs with deductions for appropriate income of Federal financing as described in Section C.5.

c. The cost of such institutional services when material in amount will be charged directly to users, including sponsored agreements based on actual use of the services and a schedule of rates that does not discriminate between federally and non-federally supported activities of the institution, including use by the institution for internal purposes. Charges for the use of specialized facilities should be designed to recover not more than the aggregate cost of the services over a long-term period agreed to by the institution and the cognizant Federal agency. Accordingly, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year as long as rates are reviewed periodically for consistency with the long-term plan and adjusted if necessary.

d. Where the costs incurred for such institutional services are not material, they may be allocated as F&A costs. Such arrangements must be agreed to by the institution and the cognizant Federal agency.

e. Where it is in the best interest of the Federal Government and the institution to establish alternative costing arrangements, such arrangements may be worked out with the cognizant Federal agency.

45. *Student activity costs.* Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the sponsored agreements.

46. *Taxes.* a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable.

Payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Federal Government, and in the latter case when the sponsoring agency makes available the necessary exemption certificates; and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as sponsored agreement costs, will be credited or paid to the Federal Government in the manner directed by the Federal Government. However, any interest actually paid or credited to an institution incident to a refund of tax, interest, and penalty will be paid or credited to the Federal Government only to the extent that such interest accrued over the period during which the institution has been reimbursed by the Federal Government for the taxes, interest, and penalties.

47. *Transportation costs.* Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate F&A cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the sponsored agreement, should be treated as a direct cost.

48. *Travel costs.* a. *General.* Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, results in reasonable charges, and is in accordance with the institution's travel policy and practices consistently applied to all institutional travel activities.

b. *Lodging and subsistence.* Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the institution in its regular operations as a result of an institutional policy and the amounts claimed under sponsored agreements represent reasonable and allocable costs. In the absence of an acceptable institutional policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code, or by the Administrator of General Services, or the President (or his or her designee) pursuant to any provisions of such subchapter shall

apply to sponsored agreements (41 U.S.C. 420).

c. *Commercial air travel.* Airfare costs in excess of the lowest available commercial discount airfare, Federal Government contract airfare (where authorized and available), or customary standard (coach or equivalent) airfare, are unallowable except when such accommodations would: require circuitous routing; require travel during unreasonable hours; excessively prolong travel; greatly increase the duration of the flight; result in increased costs that would offset transportation savings; or offer accommodations not reasonably adequate for the medical needs of the traveler. Where an institution can reasonably demonstrate to the sponsoring agency either the nonavailability of discount airfare or Federal contract airfare for individual trips or, on an overall basis, that it is the institution's practice to make routine use of such airfare, specific determinations of nonavailability will generally not be questioned by the Federal Government, unless a pattern of avoidance is detected. However, in order for airfare costs in excess of the customary standard commercial airfare to be allowable, e.g., use of first-class airfare, the institution must justify and document on a case-by-case basis the applicable condition(s) set forth above.

d. *Air travel by other than commercial carrier.* "Cost of travel by institution-owned, -leased, or -chartered aircraft," as used in this subsection, includes the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. Costs of travel via institution-owned, -leased, or -chartered aircraft shall not exceed the cost of allowable commercial air travel, as provided for in subsection c.

49. *Termination costs applicable to sponsored agreement.* a. Termination of sponsored agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this Circular in the case of termination.

b. The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of the termination,

such costs are generally allowable within the limitations set forth in this Circular, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other Federal agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal Government or acquired or produced by the institution for the agreement, except when the institution is reimbursed for disposals at a predetermined amount in accordance with the provisions of Circular A-110.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

50. *Trustees.* Travel and subsistence costs of trustees, regardless of the purpose of the trip, are unallowable.

#### K. Certification of Charges

1. To assure that expenditures for sponsored agreements are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under the agreements will include a certification, signed by an authorized official of the university, which

reads essentially as follows: "I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the application and award documents."

2. *Certification of F&A costs. a. Policy.* (1) No proposal to establish F&A cost rates shall be acceptable unless such costs have been certified by the educational institution using the Certificate of F&A Costs set forth in subsection b. The certificate must be signed on behalf of the institution by an individual at a level no lower than vice president or chief financial officer of the institution that submits the proposal.

(2) No F&A cost rate shall be binding upon the Federal Government if the most recent required proposal from the institution has not been certified. Where it is necessary to establish F&A cost rates, and the institution has not submitted a certified proposal for establishing such rates in accordance with the requirements of this section, the Federal Government shall unilaterally establish such rates. Such rates may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When F&A cost rates are unilaterally established by the Federal Government because of failure of the institution to submit a certified proposal for establishing such rates in accordance with this section, the rates established will be set at a level low enough to ensure that potentially unallowable costs will not be reimbursed.

b. *Certificate.* The certificate required by this section shall be in the following form:

#### Certificate of F&A Costs

This is to certify that to the best of my knowledge and belief:

(1) I have reviewed the F&A cost proposal submitted herewith;

(2) All costs included in this proposal [identify date] to establish billing or final F&A costs rate for [identify period covered by rate] are allowable in accordance with the requirements of the Federal agreement(s) to which they apply and with the cost principles applicable to those agreements.

(3) This proposal does not include any costs which are unallowable under applicable cost principles such as (without limitation): advertising and public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, and defense of fraud proceedings; and

(4) All costs included in this proposal are properly allocable to Federal agreements on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements.

For educational institutions that are required to file a DS-2 in accordance with Section C.14, the following statement shall be added to the "Certificate of F&A Costs":

(5) The rate proposal is prepared using the same cost accounting practices that are disclosed in the DS-2, including its amendments and revisions, filed with and approved by the cognizant agency.

I declare under penalty of perjury that the foregoing is true and correct.

Institution: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Official: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

Exhibit A—List of Colleges and Universities; Subject to Section J.12.f of Circular A-21

1. Johns Hopkins University
2. Stanford University
3. Massachusetts Institute of Technology
4. University of Washington
5. University of California-Los Angeles
6. University of Michigan
7. University of California-San Diego
8. University of California-San Francisco
9. University of Wisconsin-Madison
10. Columbia University
11. Yale University
12. Harvard University
13. Cornell University
14. University of Pennsylvania
15. University of California-Berkeley
16. University of Minnesota
17. Pennsylvania State University
18. University of Southern California
19. Duke University
20. Washington University
21. University of Colorado
22. University of Illinois-Urbana
23. University of Rochester
24. University of North Carolina-Chapel Hill
25. University of Pittsburgh
26. University of Chicago
27. University of Texas-Austin
28. University of Arizona
29. New York University
30. University of Iowa
31. Ohio State University
32. University of Alabama-Birmingham
33. Case Western Reserve
34. Baylor College of Medicine
35. California Institute of Technology
36. Yeshiva University
37. University of Massachusetts
38. Vanderbilt University
39. Purdue University
40. University of Utah
41. Georgia Institute of Technology
42. University of Maryland-College Park
43. University of Miami
44. University of California-Davis
45. Boston University
46. University of Florida
47. Carnegie-Mellon University
48. Northwestern University
49. Indiana University
50. Michigan State University
51. University of Virginia
52. University of Texas-SW Medical Center
53. University of California-Irvine
54. Princeton University
55. Tulane University of Louisiana
56. Emory University
57. University of Georgia
58. Texas A&M University-all campuses
59. New Mexico State University
60. North Carolina State University-Raleigh
61. University of Illinois-Chicago
62. Utah State University
63. Virginia Commonwealth University
64. Oregon State University
65. SUNY-Stony Brook
66. University of Cincinnati

67. CUNY-Mount Sinai School of Medicine
68. University of Connecticut
69. Louisiana State University
70. Tufts University
71. University of California-Santa Barbara
72. University of Hawaii-Manoa
73. Rutgers State University of New Jersey
74. Colorado State University
75. Rockefeller University
76. University of Maryland-Baltimore
77. Virginia Polytechnic Institute & State University
78. SUNY-Buffalo
79. Brown University
80. University of Medicine & Dentistry of New Jersey
81. University of Texas-Health Science Center San Antonio
82. University of Vermont
83. University of Texas-Health Science Center Houston
84. Florida State University
85. University of Texas-MD Anderson Cancer Center
86. University of Kentucky
87. Wake Forest University
88. Wayne State University
89. Iowa State University of Science & Technology
90. University of New Mexico
91. Georgetown University
92. Dartmouth College
93. University of Kansas
94. Oregon Health Sciences University
95. University of Texas-Medical Branch-Galveston
96. University of Missouri-Columbia
97. Temple University
98. George Washington University
99. University of Dayton

#### Appendix A—Part 99005—Cost Accounting Standards for Educational Institutions

##### *CAS 9905.501—Consistency in Estimating, Accumulating and Reporting Costs by Educational Institutions*

###### Purpose

The purpose of this standard is to ensure that each educational institution's practices used in estimating costs for a proposal are consistent with cost accounting practices used by the educational institution in accumulating and reporting costs. Consistency in the application of cost accounting practices is necessary to enhance the likelihood that comparable transactions are treated alike. With respect to individual sponsored agreements, the consistent application of cost accounting practices will facilitate the preparation of reliable cost estimates used in pricing a proposal and their comparison with the costs of performance of the resulting sponsored agreement. Such comparisons provide one important basis for financial control over costs during sponsored agreement performance and aid in establishing accountability for costs in the manner agreed to by both parties at the time of agreement. The comparisons also provide an improved basis for evaluating estimating capabilities.

###### Definitions

(a) The following are definitions of terms which are prominent in this standard.

(1) *Accumulating costs* means the collecting of cost data in an organized manner, such as through a system of accounts.

(2) *Actual cost* means an amount determined on the basis of cost incurred (as distinguished from forecasted cost), including standard cost properly adjusted for applicable variance.

(3) *Estimating costs* means the process of forecasting a future result in terms of cost, based upon information available at the time.

(4) *Indirect cost pool* means a grouping of incurred costs identified with two or more objectives but not identified specifically with any final cost objective.

(5) *Pricing* means the process of establishing the amount or amounts to be paid in return for goods or services.

(6) *Proposal* means any offer or other submission used as a basis for pricing a sponsored agreement, sponsored agreement modification or termination settlement or for securing payments thereunder.

(7) *Reporting costs* means the providing of cost information to others.

###### Fundamental Requirement

An educational institution's practices used in estimating costs in pricing a proposal shall be consistent with the educational institution's cost accounting practices used in accumulating and reporting costs.

An educational institution's cost accounting practices used in accumulating and reporting actual costs for a sponsored agreement shall be consistent with the educational institution's practices used in estimating costs in the related proposal or application.

The grouping of homogeneous costs in estimates prepared for proposal purposes shall not *per se* be deemed an inconsistent application of cost accounting practices of this paragraph when such costs are accumulated in reported in greater detail on an actual costs basis during performance of the sponsored agreement.

###### Techniques for Application

(a) The standard allows grouping of homogeneous costs in order to cover those cases where it is not practicable to estimate sponsored agreement costs by individual cost element. However, costs estimated for proposal purposes shall be presented in such a manner and in such detail that any significant cost can be compared with the actual cost accumulated and reported therefor. In any event, the cost accounting practices used in estimating costs in pricing a proposal and in accumulating and reporting costs on the resulting sponsored agreement shall be consistent with respect to:

(1) The classification of elements of cost as direct or indirect; (2) the indirect cost pools to which each element of cost is charged or proposed to be charged; and (3) the methods of allocating indirect costs to the sponsored agreement.

(b) Adherence to the requirement of this standard shall be determined as of the date of award of the sponsored agreement, unless the sponsored agreement has submitted cost or pricing data pursuant to 10 U.S.C. 2306(a) or 41 U.S.C. 254(d) (Pub. L. 87-653), in which case adherence to the requirement of

this standard shall be determined as of the date of final agreement on price, as shown on the signed certificate of current cost or pricing data. Notwithstanding 9905.501-40(b), changes in established cost accounting practices during sponsored agreement performance may be made in accordance with Part 9903 (48 CFR 9903).

(b) The standard does not prescribe the amount of detail required in accumulating and reporting costs. The basic requirement which must be met, however, is that for any significant amount of estimated cost, the sponsored agreement must be able to accumulate and report actual cost at a level which permits sufficient and meaningful comparison with its estimates. The amount of detail required may vary considerably depending on how the proposed costs were estimated, the data presented in justification or lack thereof, and the significance of each situation. Accordingly, it is neither appropriate nor practical to prescribe a single set of accounting practices which would be consistent in all situations with the practices of estimating costs. Therefore, the amount of accounting and statistical detail to be required and maintained in accounting for estimated costs has been and continues to be a matter to be decided by Government procurement authorities on the basis of the individual facts and circumstances.

##### *CAS 9905.502—Consistency in Allocating Costs Incurred for the Same Purpose by Educational Institutions*

###### Purpose

The purpose of this standard is to require that each type of cost is allocated only once and on only one basis to any sponsored agreement or other cost objective. The criteria for determining the allocation of costs to a sponsored agreement or other cost objective should be the same for all similar objectives. Adherence to these cost accounting concepts is necessary to guard against the overcharging of some cost objectives and to prevent double counting. Double counting occurs most commonly when cost items are allocated directly to a cost objective without eliminating like cost items from indirect cost pools which are allocated to that cost objective.

###### Definitions

(a) The following are definitions of terms which are prominent in this standard.

(1) *Allocate* means to assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Cost objective* means a function, organizational subdivision, sponsored agreement, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

(3) *Direct cost* means any cost which is identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with a sponsored agreement are

direct costs of that sponsored agreement. All costs identified specifically with other final cost objectives of the educational institution are direct costs of those cost objectives.

(4) *Final cost objective* means a cost objective which has allocated to it both direct and indirect costs, and in the educational institution's accumulation system, is one of the final accumulation points.

(5) *Indirect cost* means any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(6) *Indirect cost pool* means a grouping of incurred costs identified with two or more cost objectives but not identified with any final cost objective.

(7) *Intermediate cost objective* means a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools and/or final cost objectives.

#### Fundamental Requirement

All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to final cost objectives. No final cost objective shall have allocated to it as an indirect cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included as a direct cost of that or any other final cost objective. Further, no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any indirect cost pool to be allocated to that or any other final cost objective.

#### Techniques for Application

(a) The Fundamental Requirement is stated in terms of cost incurred and is equally applicable to estimates of costs to be incurred as used in sponsored agreement proposals.

(b) The Disclosure Statement to be submitted by the educational institution will require that the educational institution set forth its cost accounting practices with regard to the distinction between direct and indirect costs. In addition, for those types of cost which are sometimes accounted for as direct and sometimes accounted for as indirect, the educational institution will set forth in its Disclosure Statement the specific criteria and circumstances for making such distinctions. In essence, the Disclosure Statement submitted by the educational institution, by distinguishing between direct and indirect costs, and by describing the criteria and circumstances for allocating those items which are sometimes direct and sometimes indirect, will be determinative as to whether or not costs are incurred for the same purpose. Disclosure Statement as used herein refers to the statement required to be submitted by educational institutions in Section C.14.

(c) In the event that an educational institution has not submitted a Disclosure Statement, the determination of whether specific costs are directly allocable to sponsored agreements shall be based upon the educational institution's cost accounting practices used at the time of sponsored agreement proposal.

(d) Whenever costs which serve the same purpose cannot equitably be indirectly allocated to one or more final cost objectives in accordance with the educational institution's disclosed accounting practices, the educational institution may either (1) use a method for reassigning all such costs which would provide an equitable distribution to all final cost objectives, or (2) directly assign all such costs to final cost objectives with which they are specifically identified. In the event the educational institution decides to make a change for either purpose, the Disclosure Statement shall be amended to reflect the revised accounting practices involved.

(e) Any direct cost of minor dollar amount may be treated as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives, provided that such treatment produces results which are substantially the same as the results which would have been obtained if such cost had been treated as a direct cost.

#### Illustrations

(a) Illustrations of costs which are incurred for the same purpose:

(1) An educational institution normally allocates all travel as an indirect cost and previously disclosed this accounting practice to the Government. For purposes of a new proposal, the educational institution intends to allocate the travel costs of personnel whose time is accounted for as direct labor directly to the sponsored agreement. Since travel costs of personnel whose time is accounted for as direct labor working on other sponsored agreements are costs which are incurred for the same purpose, these costs may no longer be included within indirect cost pools for purposes of allocation to any covered Government sponsored agreement. The educational institution's Disclosure Statement must be amended for the proposed changes in accounting practices.

(2) An educational institution normally allocates purchasing activity costs indirectly and allocates this cost to instruction and research on the basis of modified total costs. A proposal for a new sponsored agreement requires a disproportionate amount of subcontract administration to be performed by the purchasing activity. The educational institution prefers to continue to allocate purchasing activity costs indirectly. In order to equitably allocate the total purchasing activity costs, the educational institution may use a method for allocating all such costs which would provide an equitable distribution to all applicable indirect cost pools. For example, the educational institution may use the number of transactions processed rather than its former allocation base of modified total costs. The educational institution's Disclosure Statement must be amended for the proposed changes in accounting practices.

(b) Illustrations of costs which are not incurred for the same purpose:

(1) An educational institution normally allocates special test equipment costs directly to sponsored agreements. The costs of general purpose test equipment are normally included in the indirect cost pool which is allocated to sponsored agreements. Both of these accounting practices were previously

disclosed to the Government. Since both types of costs involved were not incurred for the same purpose in accordance with the criteria set forth in the educational institution's Disclosure Statement, the allocation of general purpose test equipment costs from the indirect cost pool to the sponsored agreement, in addition to the directly allocated special test equipment costs, is not considered a violation of the standard.

(2) An educational institution proposes to perform a sponsored agreement which will require three firemen on 24-hour duty at a fixed-post to provide protection against damage to highly inflammable materials used on the sponsored agreement. The educational institution presently has a firefighting force of 10 employees for general protection of its facilities. The educational institution's costs for these latter firemen are treated as indirect costs and allocated to all sponsored agreements; however, it wants to allocate the three fixed-post firemen directly to the particular sponsored agreement requiring them and also allocate a portion of the cost of the general firefighting force to the same sponsored agreement. The educational institution may do so but only on condition that its disclosed practices indicate that the costs of the separate classes of firemen serve different purposes and that it is the educational institution's practice to allocate the general firefighting force indirectly and to allocate fixed-post firemen directly.

#### Interpretation

(a) Consistency in Allocating Costs Incurred for the Same Purpose by Educational Institutions, provides, in this standard, that " \* \* no final cost objective shall have allocated to it as a direct cost any cost, if other costs incurred for the same purpose, in like circumstances, have been included in any indirect cost pool to be allocated to that or any other final cost objective."

(b) This interpretation deals with the way this standard applies to the treatment of costs incurred in preparing, submitting, and supporting proposals. In essence, it is addressed to whether or not, under the standard, all such costs are incurred for the same purpose, in like circumstances.

(c) Under this standard, costs incurred in preparing, submitting, and supporting proposals pursuant to a specific requirement of an existing sponsored agreement are considered to have been incurred in different circumstances from the circumstances under which costs are incurred in preparing proposals which do not result from such specific requirement. The circumstances are different because the costs of preparing proposals specifically required by the provisions of an existing sponsored agreement relate only to that sponsored agreement while other proposal costs relate to all work of the educational institution.

(d) This interpretation does not preclude the allocation, as indirect costs, of costs incurred in preparing all proposals. The cost accounting practices used by the educational institution, however, must be followed consistently and the method used to reallocate such costs, of course, must provide

an equitable distribution to all final cost objectives.

*CAS 9905.505—Accounting for Unallowable Costs—Educational Institutions*

**Purpose**

(a) The purpose of this standard is to facilitate the negotiation, audit, administration and settlement of sponsored agreements by establishing guidelines covering (1) identification of costs specifically described as unallowable, at the time such costs first become defined or authoritatively designated as unallowable, and (2) the cost accounting treatment to be accorded such identified unallowable costs in order to promote the consistent application of sound cost accounting principles covering all incurred costs. The standard is predicated on the proposition that costs incurred in carrying on the activities of an educational institution—regardless of the allowability of such costs under Government sponsored agreements—are allocable to the cost objectives with which they are identified on the basis of their beneficial or causal relationships.

(b) This standard does not govern the allowability of costs. This is a function of the appropriate procurement or reviewing authority.

**Definitions**

(a) The following are definitions of terms which are prominent in this standard.

(1) *Directly associated cost* means any cost which is generated solely as a result of the incurrence of another cost, and which would not have been incurred had the other cost not been incurred.

(2) *Expressly unallowable cost* means a particular item or type of cost which, under the express provisions of an applicable law, regulation, or sponsored agreement, is specifically named and stated to be unallowable.

(3) *Indirect cost* means any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(4) *Unallowable cost* means any cost which, under the provisions of any pertinent law, regulation, or sponsored agreement, cannot be included in prices, cost reimbursements, or settlements under a Government sponsored agreement to which it is allocable.

**Fundamental Requirement**

(a) Costs expressly unallowable or mutually agreed to be unallowable, including costs mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, application, or proposal applicable to a Government Sponsored Agreement.

(b) Costs which specifically become designated as unallowable as a result of a written decision furnished by a Federal official pursuant to sponsored agreement disputes procedures shall be identified if included in or used in the computation of any billing, claim, or proposal applicable to a sponsored agreement. This identification requirement applies also to any costs incurred for the same purpose under like

circumstances as the costs specifically identified as unallowable under either this paragraph or paragraph (a) of this subsection.

(c) Costs which, in a Federal official's written decision furnished pursuant to disputes procedures, are designated as unallowable directly associated costs of unallowable costs covered by either paragraph (a) or (b) of this subsection shall be accorded the identification required by paragraph b. of this subsection.

(d) The costs of any work project not contractually authorized, whether or not related to performance of a proposed or existing contract, shall be accounted for, to the extent appropriate, in a manner which permits ready separation from the costs of authorized work projects.

(e) All unallowable costs covered by paragraphs (a) through (d) of this subsection shall be subject to the same cost accounting principles governing cost allocability as allowable costs. In circumstances where these unallowable costs normally would be part of a regular indirect-cost allocation base or bases, they shall remain in such base or bases. Where a directly associated cost is part of a category of costs normally included in an indirect-cost pool that will be allocated over a base containing the unallowable cost with which it is associated, such a directly associated cost shall be retained in the indirect-cost pool and be allocated through the regular allocation process.

(f) Where the total of the allocable and otherwise allowable costs exceeds a limitation-of-cost or ceiling-price provision in a sponsored agreement, full direct and indirect cost allocation shall be made to the cost objective, in accordance with established cost accounting practices and Standards which regularly govern a given entity's allocations to Government sponsored agreement cost objectives. In any determination of unallowable cost overrun, the amount thereof shall be identified in terms of the excess of allowable costs over the ceiling amount, rather than through specific identification of particular cost items or cost elements.

**Techniques for Application**

(a) The detail and depth of records required as backup support for proposals, billings, or claims shall be that which is adequate to establish and maintain visibility of identified unallowable costs (including directly associated costs), their accounting status in terms of their allocability to sponsored agreement cost objectives, and the cost accounting treatment which has been accorded such costs. Adherence to this cost accounting principle does not require that allocation of unallowable costs to final cost objectives be made in the detailed cost accounting records. It does require that unallowable costs be given appropriate consideration in any cost accounting determinations governing the content of allocation bases used for distributing indirect costs to cost objectives. Unallowable costs involved in the determination of rates used for standard costs, or for indirect-cost bidding or billing, need be identified only at the time rates are proposed, established, revised or adjusted.

(b) The visibility requirement of paragraph (a) of this subsection, may be satisfied by any form of cost identification which is adequate for purposes of sponsored agreement cost determination and verification. The standard does not require such cost identification for purposes which are not relevant to the determination of Government sponsored agreement cost. Thus, to provide visibility for incurred costs, acceptable alternative practices would include (1) the segregation of unallowable costs in separate accounts maintained for this purpose in the regular books of account, (2) the development and maintenance of separate accounting records or workpapers, or (3) the use of any less formal cost accounting techniques which establishes and maintains adequate cost identification to permit audit verification of the accounting recognition given unallowable costs. Educational institutions may satisfy the visibility requirements for estimated costs either (1) by designation and description (in backup data, workpapers, etc.) of the amounts and types of any unallowable costs which have specifically been identified and recognized in making the estimates, or (2) by description of any other estimating technique employed to provide appropriate recognition of any unallowable costs pertinent to the estimates.

(c) Specific identification of unallowable costs is not required in circumstances where, based upon considerations of materiality, the Government and the educational institution reach agreement on an alternate method that satisfies the purpose of the standard.

**Illustrations**

(a) An auditor recommends disallowance of certain direct labor and direct material costs, for which a billing has been submitted under a sponsored agreement, on the basis that these particular costs were not required for performance and were not authorized by the sponsored agreement. The Federal officer issues a written decision which supports the auditor's position that the questioned costs are unallowable. Following receipt of the Federal officer's decision, the educational institution must clearly identify the disallowed direct labor and direct material costs in the educational institution's accounting records and reports covering any subsequent submission which includes such costs. Also, if the educational institution's base for allocation of any indirect cost pool relevant to the subject sponsored agreement consists of direct labor, direct material, total prime cost, total cost input, etc., the educational institution must include the disallowed direct labor and material costs in its allocation base for such pool. Had the Federal officer's decision been against the auditor, the educational institution would not, of course, have been required to account separately for the costs questioned by the auditor.

(b) An educational institution incurs, and separately identifies, as a part of a service center or expense pool, certain costs which are expressly unallowable under the existing and currently effective regulations. If the costs of the service center or indirect expense pool are regularly a part of the educational institution's base for allocation of general administration and general expenses

(GA&GE) or other indirect expenses, the educational institution must allocate the GA&GE or other indirect expenses to sponsored agreements and other final cost objectives by means of a base which includes the identified unallowable indirect costs.

(c) An auditor recommends disallowance of certain indirect costs. The educational institution claims that the costs in question are allowable under the provisions of Office Of Management and Budget Circular A-21, Cost Principles For Educational Institutions; the auditor disagrees. The issue is referred to the Federal officer for resolution pursuant to the sponsored agreement disputes clause. The Federal officer issues a written decision supporting the auditor's position that the total costs questioned are unallowable under the Circular. Following receipt of the Federal officer's decision, the educational institution must identify the disallowed costs and specific other costs incurred for the same purpose in like circumstances in any subsequent estimating, cost accumulation or reporting for Government sponsored agreements, in which such costs are included. If the Federal officer's decision had supported the educational institution's contention, the costs questioned by the auditor would have been allowable and the educational institution would not have been required to provide special identification.

(d) An educational institution incurred certain unallowable costs that were charged indirectly as general administration and general expenses (GA&GE). In the educational institution's proposals for final indirect cost rates to be applied in determining allowable sponsored agreement costs, the educational institution identified and excluded the expressly unallowable costs. In addition, during the course of negotiation of indirect cost rates to be used for bidding and billing purposes, the educational institution agreed to classify as unallowable cost, various directly associated costs of the identifiable unallowable costs. On the basis of negotiations and agreements between the educational institution and the Federal officer's authorized representatives, indirect cost rates were established, based on the net balance of allowable GA&GE. Application of the rates negotiated to proposals, and to billings, for covered sponsored agreements constitutes compliance with the standard.

(e) An employee, whose salary, travel, and subsistence expenses are charged regularly to the general administration and general expenses (GA&GE) pool, takes several business associates on what is clearly a business entertainment trip. The entertainment costs of such trips is expressly unallowable because it constitutes entertainment expense prohibited by OMB Circular A-21, and is separately identified by the educational institution. The educational institution does not regularly include its GA&GE in any indirect-expense allocation base. In these circumstances, the employee's travel and subsistence expenses would be directly associated costs for identification with the unallowable entertainment expense. However, unless this type of activity constituted a significant part of the employee's regular duties and

responsibilities on which his salary was based, no part of the employee's salary would be required to be identified as a directly associated cost of the unallowable entertainment expense.

#### *CAS 9905.506—Cost Accounting Period—Educational Institutions*

##### Purpose

The purpose of this standard is to provide criteria for the selection of the time periods to be used as cost accounting periods for sponsored agreement cost estimating, accumulating, and reporting. This standard will reduce the effects of variations in the flow of costs within each cost accounting period. It will also enhance objectivity, consistency, and verifiability, and promote uniformity and comparability in sponsored agreement cost measurements.

##### Definitions

(a) The following are definitions of terms which are prominent in this standard.

(1) *Allocate* means to assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Cost Objective* means a function, organizational subdivision, sponsored agreement, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

(3) *Fiscal year* means the accounting period for which annual financial statements are regularly prepared, generally a period of 12 months, 52 weeks, or 53 weeks.

(4) *Indirect cost pool* means a grouping of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

##### Fundamental Requirement

Educational institutions shall use their fiscal year as their cost accounting period, except that:

Costs of an indirect function which exists for only a part of a cost accounting period may be allocated to cost objectives of that same part of the period.

An annual period other than the fiscal year may be used as the cost accounting period if its use is an established practice of the educational institution.

A transitional cost accounting period other than a year shall be used whenever a change of fiscal year occurs.

An educational institution shall follow consistent practices in the selection of the cost accounting period or periods in which any types of expense and any types of adjustment to expense (including prior-period adjustments) are accumulated and allocated.

The same cost accounting period shall be used for accumulating costs in an indirect cost pool as for establishing its allocation base, except that the contracting parties may agree to use a different period for establishing an allocation base.

##### Techniques for Application

(a) The cost of an indirect function which exists for only a part of a cost accounting

period may be allocated on the basis of data for that part of the cost accounting period if the cost is (1) material in amount, (2) accumulated in a separate indirect cost pool or expense pool, and (3) allocated on the basis of an appropriate direct measure of the activity or output of the function during that part of the period.

(b) The practices required by this standard shall include appropriate practices for deferrals, accruals, and other adjustments to be used in identifying the cost accounting periods among which any types of expense and any types of adjustment to expense are distributed. If an expense, such as insurance or employee leave, is identified with a fixed, recurring, annual period which is different from the educational institution's cost accounting period, the standard permits continued use of that different period. Such expenses shall be distributed to cost accounting periods in accordance with the educational institution's established practices for accruals, deferrals, and other adjustments.

(c) Indirect cost allocation rates, based on estimates, which are used for the purpose of expediting the closing of sponsored agreements which are terminated or completed prior to the end of a cost accounting period need not be those finally determined or negotiated for that cost accounting period. They shall, however, be developed to represent a full cost accounting period, except as provided in paragraph (a) of this subsection.

(d) An educational institution may, upon mutual agreement with the Government, use as its cost accounting period a fixed annual period other than its fiscal year, if the use of such a period is an established practice of the educational institution and is consistently used for managing and controlling revenues and disbursements, and appropriate accruals, deferrals or other adjustments are made with respect to such annual periods.

(e) The parties may agree to use an annual period which does not coincide precisely with the cost accounting period for developing the data used in establishing an allocation base: Provided,

(1) The practice is necessary to obtain significant administrative convenience, (2) the practice is consistently followed by the educational institution, (3) the annual period used is representative of the activity of the cost accounting period for which the indirect costs to be allocated are accumulated, and (4) the practice can reasonably be estimated to provide a distribution to cost objectives of the cost accounting period not materially different from that which otherwise would be obtained.

(f) When a transitional cost accounting period is required, educational institution may select any one of the following: (1) the period, less than a year in length, extending from the end of its previous cost accounting period to the beginning of its next regular cost accounting period, (2) a period in excess of a year, but not longer than 15 months, obtained by combining the period described in subparagraph (f)(1) of this subsection with the previous cost accounting period, or (3) a period in excess of a year, but not longer than 15 months, obtained by combining the period

described in subparagraph (f)(1) of this subsection with the next regular cost accounting period. A change in the educational institution's cost accounting period is a change in accounting practices for which an adjustment in the sponsored agreement price may be required.

#### Illustrations

(a) An educational institution allocates indirect expenses for Organized Research on the basis of a modified total direct cost base. In a proposal for a sponsored agreement, it estimates the allocable expenses based solely on the estimated amount of indirect costs allocated to Organized Research and the amount of the modified total direct cost base estimated to be incurred during the 8 months in which performance is scheduled to be commenced and completed. Such a proposal would be in violation of the requirements of this standard that the calculation of the amounts of both the indirect cost pools and the allocation bases be based on the educational institution's cost accounting period.

(b) An educational institution whose cost accounting period is the calendar year,

installs a computer service center to begin operations on May 1. The operating expense related to the new service center is expected to be material in amount, will be accumulated in an intermediate cost objective, and will be allocated to the benefiting cost objectives on the basis of measured usage. The total operating expenses of the computer service center for the 8-month part of the cost accounting period may be allocated to the benefiting cost objectives of that same 8-month period.

(c) An educational institution changes its fiscal year from a calendar year to the 12-month period ending May 31. For financial reporting purposes, it has a 5-month transitional "fiscal year." The same 5-month period must be used as the transitional cost accounting period; it may not be combined, because the transitional period would be longer than 15 months. The new fiscal year must be adopted thereafter as its regular cost accounting period. The change in its cost accounting period is a change in accounting practices; adjustments of the sponsored agreement prices may thereafter be required.

(d) Financial reports are prepared on a calendar year basis on a university-wide

basis. However, the contracting segment does all internal financial planning, budgeting, and internal reporting on the basis of a twelve month period ended June 30. The contracting parties agree to use the period ended June 30 and they agree to overhead rates on the June 30 basis. They also agree on a technique for prorating fiscal year assignment of the university's central system office expenses between such June 30 periods. This practice is permitted by the standard.

(e) Most financial accounts and sponsored agreement cost records are maintained on the basis of a fiscal year which ends November 30 each year. However, employee vacation allowances are regularly managed on the basis of a "vacation year" which ends September 30 each year. Vacation expenses are estimated uniformly during each "vacation year." Adjustments are made each October to adjust the accrued liability to actual, and the estimating rates are modified to the extent deemed appropriate. This use of a separate annual period for determining the amounts of vacation expense is permitted.

**BILLING CODE 3110-01-P**

Appendix B—Disclosure Statement (DS-2) for Educational Institutions

FORM APPROVED OMB NUMBER  
0348-0055

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>	<b>INDEX</b>
	<u>Page</u>
<b>GENERAL INSTRUCTIONS</b> .....	(i)
<b>COVER SHEET AND CERTIFICATION</b> .....	C-1
<b>PART I - General Information</b> .....	I-1
<b>PART II - Direct Costs</b> .....	II-1
<b>PART III - Indirect Costs</b> .....	III-1
<b>PART IV - Depreciation and Use Allowances</b> .....	IV-1
<b>PART V - Other Costs and Credits</b> .....	V-1
<b>PART VI - Deferred Compensation and Insurance Costs</b> .....	VI-1
<b>PART VII - Central system or Group Expenses</b> .....	VII-1

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>	<b>GENERAL INSTRUCTIONS</b>
<p>1. This Disclosure Statement has been designed to meet the requirements of Public Law 100-679, and persons completing it are to describe the educational institution and its cost accounting practices. For complete regulations, instructions and timing requirements concerning submission of the Disclosure Statement, refer to Section 9903.202 of Chapter 99 of Title 48 CFR (48 CFR 9903).</p> <p>2. Part I of the Statement provides general information concerning each reporting unit (e.g., segments, business units, and central system or group (intermediate administration) offices). Parts II through VI pertain to the types of costs generally incurred by the segment or business unit directly performing under Federally sponsored agreements (e.g., contracts, grants and cooperative agreements). Part VII pertains to the types of costs that are generally incurred by a central or group office and are allocated to one or more segments performing under Federally sponsored agreements.</p> <p>3. Each segment or business unit required to disclose its cost accounting practices should complete the Cover Sheet, the Certification, and Parts I through VI.</p> <p>4. Each central or group office required to disclose its cost accounting practices for measuring, assigning and allocating its costs to segments performing under Federally sponsored agreements should complete the Cover Sheet, the Certification, Part I and Part VII of the Disclosure Statement. Where a central or group office incurs the types of cost covered by Parts IV, V and VI, and the cost amounts allocated to segments performing under Federally sponsored agreements are material, such office(s) should complete Parts IV, V, or VI for such material elements of cost. While a central or group office may have more than one reporting unit submitting Disclosure Statements, only one Statement needs to be submitted to cover the central or group office operations.</p> <p>5. The Statement must be signed by an authorized signatory of the reporting unit.</p> <p>6. The Disclosure Statement should be answered by marking the appropriate line or inserting the applicable letter code which describes the segment's (reporting unit's) cost accounting practices.</p> <p>7. A number of questions in this Statement may need narrative answers requiring more space than is provided. In such instances, the reporting unit should use the attached continuation sheet provided. The continuation sheet may be reproduced locally as needed. The number of the question involved should be indicated and the same coding required to answer the questions in the Statement should be used in presenting the answer on the continuation sheet. Continuation sheets should be inserted at the end of the pertinent Part of the Statement. On each continuation sheet, the reporting unit should enter the next sequential page number for that Part and, on the last continuation sheet used, the words "End of Part" should be inserted after the last entry.</p>	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>	<b>GENERAL INSTRUCTIONS</b>
<p>8. Where the cost accounting practice being disclosed is clearly set forth in the institution's existing written accounting policies and procedures, such documents may be cited on a continuation sheet and incorporated by reference. In such cases, the reporting unit should provide the date of issuance and effective date for each accounting policy and/or procedures document cited. Alternatively, copies of the relevant parts of such documents may be attached as appendices to the pertinent Disclosure Statement Part. Such continuation sheets and appendices should be labeled and cross-referenced with the applicable Disclosure Statement item number. Any supplementary comments needed to fully describe the cost accounting practice being disclosed should also be provided.</p> <p>9. Disclosure Statements must be amended when disclosed practices are changed to comply with a new CAS or when practices are changed with or without agreement of the Government (Also see 48 CFR 9903.202-3).</p> <p>10. Amendments shall be submitted to the same offices to which submission would have to be made were an original Disclosure Statement being filed.</p> <p>11. Each amendment should be accompanied by an amended cover sheet (indicating revision number and effective date of the change) and a signed certification. For all resubmissions, on each page, insert "Revision Number ____" and "Effective Date ____" in the Item Description block; and, insert "Revised" under each Item Number amended. Resubmitted Disclosure Statements must be accompanied by similar notations identifying the items which have been changed.</p> <p style="text-align: center;">ATTACHMENT - Blank Continuation Sheet</p>	

<b>COST ACCOUNTING STANDARDS BOARD                  DISCLOSURE STATEMENT                  REQUIRED BY PUBLIC LAW 100-679                  EDUCATIONAL INSTITUTIONS</b>		<b>CONTINUATION SHEET</b>
		<b>NAME OF REPORTING UNIT</b>
<b>Item No.</b>	<b>Item description</b>	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>	<b>COVER SHEET AND CERTIFICATION</b>
0.1	<b>Educational Institution</b>  (a) <b>Name</b>  (b) <b>Street Address</b>  (c) <b>City, State and ZIP Code</b>  (d) <b>Division or Campus of (if applicable)</b>
0.2	<b>Reporting Unit is: (Mark one.)</b>  A. <input type="checkbox"/> <b>Independently Administered Public Institution</b> B. <input type="checkbox"/> <b>Independently Administered Nonprofit Institution</b> C. <input type="checkbox"/> <b>Administered as Part of a Public System</b> D. <input type="checkbox"/> <b>Administered as Part of a Nonprofit System</b> E. <input type="checkbox"/> <b>Other (Specify) _____</b>
0.3	<b>Official to Contact Concerning this Statement:</b>  (a) <b>Name and Title</b>  (b) <b>Phone Number (include area code and extension)</b>
0.4	<b>Statement Type and Effective Date:</b>  A. <b>(Mark type of submission. If a revision, enter number)</b>  (a) <input type="checkbox"/> <b>Original Statement</b> (b) <input type="checkbox"/> <b>Amended Statement; Revision No. _____</b>  B. <b>Effective Date of this Statement: (Specify) _____</b>
0.5	<b>Statement Submitted To (Provide office name, location and telephone number, include area code and extension):</b>  A. <b>Cognizant Federal Agency:</b> _____ _____  B. <b>Cognizant Federal Auditor:</b> _____ _____

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>	<b>COVER SHEET AND CERTIFICATION</b>
<p style="text-align: center;"><b>CERTIFICATION</b></p> <p style="text-align: center;">I certify that to the best of my knowledge and belief this Statement, as amended in the case of a Revision, is the complete and accurate disclosure as of the date of certification shown below by the above-named organization of its cost accounting practices, as required by the Disclosure Regulations (48 CFR 9903.202) of the Cost Accounting Standards Board under 41 U.S.C. § 422.</p> <p style="text-align: center;">Date of Certification: _____</p> <p style="text-align: center;">_____ (Signature)</p> <p style="text-align: center;">_____ (Print or Type Name)</p> <p style="text-align: center;">_____ (Title)</p> <p style="text-align: center;"><b>THE PENALTY FOR MAKING A FALSE STATEMENT IN THIS DISCLOSURE IS PRESCRIBED IN 18 U.S.C. § 1001</b></p>	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART I - GENERAL INFORMATION</b>  <b>NAME OF REPORTING UNIT</b>
Item No.	Item description	
<b>Part I</b>		
1.1.0	<p><b><u>Description of Your Cost Accounting System</u></b> for recording expenses charged to Federally sponsored agreements (e.g., contracts, grants and cooperative agreements) . (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.)</p> <p>A.    ___    <b>Accrual</b></p> <p>B.    ___    <b>Modified Accrual Basis</b> <u>1/</u></p> <p>C.    ___    <b>Cash Basis</b></p> <p>Y.    ___    <b>Other</b> <u>1/</u></p>	
1.2.0	<p><b><u>Integration of Cost Accounting with Financial Accounting.</u></b> The cost accounting system is: (Mark one. If B or C is marked, describe on a continuation sheet the costs which are accumulated on memorandum records.)</p> <p>A.    ___            <b>Integrated with financial accounting records (Subsidiary cost accounts are all controlled by general ledger control accounts.)</b></p> <p>B.    ___            <b>Not integrated with financial accounting records (Cost data are accumulated on memorandum records.)</b></p> <p>C.    ___    <b>Combination of A and B</b></p>	
1.3.0	<p><b><u>Unallowable Costs.</u></b> Costs that are not reimbursable as allowable costs under the terms and conditions of Federally sponsored agreements are: (Mark one)</p> <p>A.    ___    <b>Specifically identified and recorded separately in the formal financial accounting records.</b> <u>1/</u></p> <p>B.    ___    <b>Identified in separately maintained accounting records or workpapers.</b> <u>1/</u></p> <p>C.    ___    <b>Identifiable through use of less formal accounting techniques that permit audit verification.</b> <u>1/</u></p> <p>D.    ___    <b>Combination of A, B or C</b> <u>1/</u></p> <p>E.    ___    <b>Determinable by other means.</b> <u>1/</u></p> <p><u>1/</u> Describe on a Continuation Sheet.</p>	

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS		PART I - GENERAL INFORMATION
		NAME OF REPORTING UNIT
Item No.	Item description	
1.3.1	<p><b>Treatment of Unallowable Costs.</b> (Explain on a continuation sheet how unallowable costs and directly associated costs are treated in each allocation base and indirect expense pool, e.g., when allocating costs to a major function or activity; when determining indirect cost rates; or, when a central office or group office allocates costs to a segment.)</p>	
1.4.0	<p><b>Cost Accounting Period:</b> _____ (Specify the twelve month period used for the accumulation and reporting of costs under Federally sponsored agreements, e.g., 7/1 to 6/30. If the cost accounting period is other than the institution's fiscal year used for financial accounting and reporting purposes, explain circumstances on a continuation sheet.)</p>	
1.5.0	<p><b>State Laws or Regulations.</b> Identify on a continuation sheet any State laws or regulations which influence the institution's cost accounting practices, e.g., State administered pension plans, and any applicable statutory limitations or special agreements on allowance of costs.</p>	
<p><u>1/</u> Describe on a Continuation Sheet.</p>		

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART II - DIRECT COSTS</b>
		<b>NAME OF REPORTING UNIT</b>
<b>Item No.</b>	<b>Item description</b>	
	<b>Instructions for Part II</b>	
	<p style="text-align: center;">Institutions should disclose what costs are, or will be, charged directly to Federally sponsored agreements or similar cost objectives as Direct Costs. It is expected that the disclosed cost accounting practices (as defined at 48 CFR 9903.302-1) for classifying costs either as direct costs or indirect costs will be consistently applied to all costs incurred by the reporting unit.</p>	
2.1.0	<p><u>Criteria for Determining How Costs are Charged to Federally Sponsored Agreements or Similar Cost Objectives.</u> (For all major categories of cost under each major function or activity such, as instruction, organized research, other sponsored activities and other institutional activities, describe on a continuation sheet, your criteria for determining when costs incurred for the same purpose, in like circumstances, are treated either as direct costs only or as indirect costs only with respect to final cost objectives. Particular emphasis should be placed on items of cost that may be treated as either direct or indirect costs (e.g., Supplies, Materials, Salaries and Wages, Fringe Benefits, etc.) depending upon the purpose of the activity involved. Separate explanations on the criteria governing each direct cost category identified in this Part II are required. Also, list and explain if there are any deviations from the specified criteria.)</p>	
2.2.0	<p><u>Description of Direct Materials.</u> All materials and supplies directly identified with Federally sponsored agreements or similar cost objectives. (Describe on a continuation sheet the principal classes of materials which are charged as direct materials and supplies.)</p>	
2.3.0	<p><u>Method of Charging Direct Materials and Supplies.</u> (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.)</p>	
2.3.1	<p>Direct Purchases for Projects are Charged to Projects at:</p> <p>A.    ___       Actual Invoiced Costs          B.    ___       Actual Invoiced Costs Net of Discounts Taken          Y.    ___       Other(s) <u>1/</u>          Z.    ___       Not Applicable</p>	
2.3.2	<p>Inventory Requisitions from Central or Common, Institution-owned Inventory. (Identify the inventory valuation method used to charge projects):</p> <p>A.    ___       First In, First Out          B.    ___       Last In, First Out          C.    ___       Average Costs <u>1/</u>          D.    ___       Predetermined Costs <u>1/</u>          Y.    ___       Other(s) <u>1/</u>          Z.    ___       Not Applicable</p>	
	<p><u>1/</u> Describe on a Continuation Sheet.</p>	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART II - DIRECT COSTS</b>			
		<b>NAME OF REPORTING UNIT</b>			
<b>Item No.</b>	<b>Item description</b>				
2.4.0	<b>Description of Direct Personal Services.</b> All personal services directly identified with Federally sponsored agreements or similar cost objectives. (Describe on a continuation sheet the personal services compensation costs, including applicable fringe benefits costs, if any, within each major institutional function or activity that are charged as direct personal services.)				
2.5.0	<b>Method of Charging Direct Salaries and Wages.</b> (Mark the appropriate line(s) for each Direct Personal Services Category to identify the method(s) used to charge direct salary and wage costs to Federally sponsored agreements or similar cost objectives. If more than one line is marked in a column, fully describe on a continuation sheet, the applicable methods used.)				
		<u>Direct Personal Services Category</u>			
		<u>Faculty</u>	<u>Staff</u>	<u>Students</u>	<u>Other 1/</u>
		(1)	(2)	(3)	(4)
	A. Payroll Distribution Method (Individual time card/actual hours and rates)	_____	_____	_____	_____
	B. Plan - Confirmation (Budgeted, planned or assigned work activity, updated to reflect significant changes)	_____	_____	_____	_____
	C. After-the-fact Activity Records (Percentage Distribution of employee activity)	_____	_____	_____	_____
	D. Multiple Confirmation Records (Employee Reports prepared each academic term, to account for employee's activities, direct and indirect charges are certified separately.)	_____	_____	_____	_____
	Y. Other(s) 1/	_____	_____	_____	_____
	1/ Describe on a Continuation Sheet.				

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART II - DIRECT COSTS</b>
		<b>NAME OF REPORTING UNIT</b>
<b>Item No.</b>	<b>Item description</b>	
<b>2.5.1</b>	<b>Salary and Wage Cost Distribution Systems.</b>  Within each major function or activity, are the methods marked in Item 2.5.0 used by all employees compensated by the reporting unit? (If "NO", describe on a continuation sheet, the types of employees not included and describe the methods used to identify and distribute their salary and wage costs to direct and indirect cost objectives.)  <div style="margin-left: 40px;">                     _____ Yes                      _____ No                 </div>	
<b>2.5.2</b>	<b>Salary and Wage Cost Accumulation System.</b>  (Within each major function or activity, describe, on a continuation sheet, the specific accounting records or memorandum records used to accumulate and record the share of the total salary and wage costs attributable to each employee's direct (Federally sponsored projects, non-sponsored projects or similar cost objectives) and indirect activities. Indicate how the salary and wage cost distributions are reconciled with the payroll data recorded in the institution's financial accounting records.)	
<b>2.6.0</b>	<b>Description of Direct Fringe Benefits Costs.</b> All fringe benefits that are attributable to direct salaries and wages and are charged directly to Federally sponsored agreements or similar cost objectives. (Describe on a continuation sheet <u>all</u> of the different types of fringe benefits which are classified and charged as direct costs, e.g., actual or accrued costs of vacation, holidays, sick leave, sabbatical leave, premium pay, social security, pension plans, post-retirement benefits other than pensions, health insurance, training, tuition, tuition remission, etc.)	
<b>2.6.1</b>	<b>Method of Charging Direct Fringe Benefits.</b> (Describe on a continuation sheet, how each type of fringe benefit cost identified in item 2.6.0. is measured, assigned and allocated (for definitions, See 9903.302-1); first, to the major functions (e.g., instruction, research); and, then to individual projects or direct cost objectives within each function.)	
<b>2.7.0</b>	<b>Description of Other Direct Costs.</b> All other items of cost directly identified with Federally sponsored agreements or similar cost objectives. (List on a continuation sheet the principal classes of other costs which are charged directly, e.g., travel, consultants, services, subgrants, subcontracts, malpractice insurance, etc.)	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART II - DIRECT COSTS</b>																										
		<b>NAME OF REPORTING UNIT</b>																										
<b>Item No.</b>	<b>Item description</b>																											
2.8.0	<p><b><u>Cost Transfers.</u></b> When Federally sponsored agreements or similar cost objectives are credited for cost transfers to other projects, grants or contracts, is the credit amount for direct personal services, materials, other direct charges and applicable indirect costs always based on the same amount(s) or rate(s) (e.g., direct labor rate, indirect costs) originally used to charge or allocate costs to the project (Consider transactions where the original charge and the credit occur in different cost accounting periods). (Mark one , if "No" , explain on a continuation sheet how the credit differs from original charge.)</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes  <input type="checkbox"/> No                 </p>																											
2.9.0	<p><b><u>Interorganizational Transfers.</u></b> This item is directed only to those materials, supplies, and services which are, or will be transferred to you from other segments of the educational institution. (Mark the appropriate line(s) in each column to indicate the basis used by you as transferee to charge the cost or price of interorganizational transfers or materials, supplies, and services to Federally sponsored agreements or similar cost objectives. If more than one line is marked in a column, explain on a continuation sheet.)</p> <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: center; border-bottom: 1px solid black;"><u>Materials</u> (1)</th> <th style="text-align: center; border-bottom: 1px solid black;"><u>Supplies</u> (2)</th> <th style="text-align: center; border-bottom: 1px solid black;"><u>Services</u> (3)</th> </tr> </thead> <tbody> <tr> <td>A. At full cost <u>excluding</u> indirect costs attributable to group or central office expenses.</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>B. At full cost <u>including</u> indirect costs attributable to group or central office expenses.</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>C. At established catalog or market price or prices based on adequate competition.</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Y. Other(s) <u>1/</u></td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Z. Interorganizational transfers are not applicable</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> </tbody> </table> <p style="margin-top: 10px;"><u>1/</u> Describe on a Continuation Sheet.</p>					<u>Materials</u> (1)	<u>Supplies</u> (2)	<u>Services</u> (3)	A. At full cost <u>excluding</u> indirect costs attributable to group or central office expenses.	_____	_____	_____	B. At full cost <u>including</u> indirect costs attributable to group or central office expenses.	_____	_____	_____	C. At established catalog or market price or prices based on adequate competition.	_____	_____	_____	Y. Other(s) <u>1/</u>	_____	_____	_____	Z. Interorganizational transfers are not applicable	_____	_____	_____
	<u>Materials</u> (1)	<u>Supplies</u> (2)	<u>Services</u> (3)																									
A. At full cost <u>excluding</u> indirect costs attributable to group or central office expenses.	_____	_____	_____																									
B. At full cost <u>including</u> indirect costs attributable to group or central office expenses.	_____	_____	_____																									
C. At established catalog or market price or prices based on adequate competition.	_____	_____	_____																									
Y. Other(s) <u>1/</u>	_____	_____	_____																									
Z. Interorganizational transfers are not applicable	_____	_____	_____																									

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS		PART III - INDIRECT COSTS
		NAME OF REPORTING UNIT
Item No.	Item description	
	<p><b>Instructions for Part III</b></p> <p>Institutions should disclose how the segment's total indirect costs are identified and accumulated in specific indirect cost categories and allocated to applicable indirect cost pools and service centers within each major function or activity, how service center costs are accumulated and "billed" to users, and the specific indirect cost pools and allocation bases used to calculate the indirect cost rates that are used to allocate accumulated indirect costs to Federally sponsored agreements or similar final cost objectives. A continuation sheet should be used wherever additional space is required or when a response requires further explanation to ensure clarity and understanding.</p> <p>The following Allocation Base Codes are provided for use in connection with Items 3.1.0 and 3.3.0.</p> <p>A. Direct Charge or Allocation            B. Total Expenditures            C. Modified Total Cost Basis            D. Modified Total Direct Cost Basis            E. Salaries and Wages            F. Salaries, Wages and Fringe Benefits            G. Number of Employees (head count)            H. Number of Employees (full-time equivalent basis)            I. Number of Students (head count)            J. Number of Students (full-time equivalent basis)            K. Student Hours – classroom and work performed            L. Square Footage            M. Usage            N. Unit of Product            O. Total Production            P. More than one base (Separate Cost Groupings) <u>1/</u>            Y. Other(s) <u>1/</u>            Z. Category or Pool not applicable</p> <p><u>1/</u> List on a continuation sheet, the category and subgrouping(s) of expense involved and the allocation base(s) used.</p>	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART III - INDIRECT COSTS</b>																																																					
		<b>NAME OF REPORTING UNIT</b>																																																					
<b>Item No.</b>	<b>Item description</b>																																																						
<b>3.1.0</b>	<p><b><u>Indirect Cost Categories - Accumulation and Allocation.</u></b> This item is directed at the identification, accumulation and allocation of all indirect costs of the institution. (Under the column heading, "Accumulation Method," insert "Yes" or "No" to indicate if the cost elements included in each indirect cost category are identified, recorded and accumulated in the institution's formal accounting system. If "No," describe on a continuation sheet, how the cost elements included in the indirect cost category are identified and accumulated. Under the column heading "Allocation Base," enter one of the allocation base codes A through P, Y, or Z, to indicate the basis used for allocating the accumulated costs of each indirect cost category to other applicable indirect cost categories, indirect cost pools, other institutional activities, specialized service facilities and other service centers. Under the column heading "Allocation Sequence," insert 1, 2, or 3 next to each of the first three indirect cost categories to indicate the sequence of the allocation process. If cross-allocation techniques are used, insert "CA." If an indirect cost category listed in this section is not used, insert "NA.")</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;"><u>Indirect Cost Category</u></th> <th style="text-align: center; border-bottom: 1px solid black;"><u>Accumulation Method</u></th> <th style="text-align: center; border-bottom: 1px solid black;"><u>Allocation Base Code</u></th> <th style="text-align: center; border-bottom: 1px solid black;"><u>Allocation Sequence</u></th> </tr> </thead> <tbody> <tr> <td>(a) Depreciation/Use Allowances/Interest</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Building</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td style="padding-left: 20px;">Equipment</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td style="padding-left: 20px;">Capital Improvements to Land <u>1/</u></td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td style="padding-left: 20px;">Interest <u>1/</u></td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td>(b) Operation and Maintenance</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td>(c) General Administration and General Expense</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td>(d) Departmental Administration</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td>(e) Sponsored Projects Administration</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td>(f) Library</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td>(g) Student Administration and Services</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> <tr> <td>(h) Other <u>1/</u></td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> <td style="text-align: center;">---</td> </tr> </tbody> </table>			<u>Indirect Cost Category</u>	<u>Accumulation Method</u>	<u>Allocation Base Code</u>	<u>Allocation Sequence</u>	(a) Depreciation/Use Allowances/Interest				Building	---	---	---	Equipment	---	---	---	Capital Improvements to Land <u>1/</u>	---	---	---	Interest <u>1/</u>	---	---	---	(b) Operation and Maintenance	---	---	---	(c) General Administration and General Expense	---	---	---	(d) Departmental Administration	---	---	---	(e) Sponsored Projects Administration	---	---	---	(f) Library	---	---	---	(g) Student Administration and Services	---	---	---	(h) Other <u>1/</u>	---	---	---
<u>Indirect Cost Category</u>	<u>Accumulation Method</u>	<u>Allocation Base Code</u>	<u>Allocation Sequence</u>																																																				
(a) Depreciation/Use Allowances/Interest																																																							
Building	---	---	---																																																				
Equipment	---	---	---																																																				
Capital Improvements to Land <u>1/</u>	---	---	---																																																				
Interest <u>1/</u>	---	---	---																																																				
(b) Operation and Maintenance	---	---	---																																																				
(c) General Administration and General Expense	---	---	---																																																				
(d) Departmental Administration	---	---	---																																																				
(e) Sponsored Projects Administration	---	---	---																																																				
(f) Library	---	---	---																																																				
(g) Student Administration and Services	---	---	---																																																				
(h) Other <u>1/</u>	---	---	---																																																				
<p><u>1/</u> Describe on a Continuation Sheet.</p>																																																							

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART III - INDIRECT COSTS</b>																																																						
		<b>NAME OF REPORTING UNIT</b>																																																						
<b>Item No.</b>	<b>Item description</b>																																																							
<b>3.2.0</b>	<p><b>Service Centers.</b> Service centers are departments or functional units which perform specific technical or administrative services primarily for the benefit of other units within a reporting unit. Service Centers include "recharge centers" and the "specialized service facilities" defined in Section J of Circular A-21. (The codes identified below should be inserted on the appropriate line for each service center listed. The column numbers correspond to the paragraphs listed below that provide the codes. Explain on a Continuation Sheet if any of the services are charged to users on a basis other than usage of the services. Enter "Z" in Column 1, if not applicable.)</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 5%; text-align: center;">(1)</th> <th style="width: 5%; text-align: center;">(2)</th> <th style="width: 5%; text-align: center;">(3)</th> <th style="width: 5%; text-align: center;">(4)</th> <th style="width: 5%; text-align: center;">(5)</th> <th style="width: 5%; text-align: center;">(6)</th> </tr> </thead> <tbody> <tr> <td>(a) Scientific Computer Operations</td> <td style="text-align: center;">—</td> </tr> <tr> <td>(b) Business Data Processing</td> <td style="text-align: center;">—</td> </tr> <tr> <td>(c) Animal Care Facilities</td> <td style="text-align: center;">—</td> </tr> <tr> <td>(d) Other Service Centers with Annual Operating Budgets exceeding \$1,000,000 or that generate significant charges to Federally sponsored agreements either as a direct or indirect cost. (Specify below; use a Continuation Sheet, if necessary)</td> <td style="text-align: center;">—</td> </tr> <tr> <td>_____</td> <td style="text-align: center;">—</td> </tr> <tr> <td>_____</td> <td style="text-align: center;">—</td> </tr> </tbody> </table> <p>(1) <b>Category Code:</b> Use code "A" if the service center costs are billed only as direct costs of final cost objectives; code "B" if billed only to indirect cost categories or indirect cost pools; code "C" if billed to both direct and indirect cost objectives.</p> <p>(2) <b>Burden Code:</b> Code "A" – center receives an allocation of all applicable indirect costs; Code "B" – partial allocation of indirect costs; Code "C" – no allocation of indirect costs.</p> <p>(3) <b>Billing Rate Code:</b> Code "A" – billing rates are based on historical costs; Code "B" – rates are based on projected costs; Code "C" – rates are based on a combination of historical and projected costs; Code "D" – billings are based on the actual costs of the billing period; Code "Y" – other (explain on a Continuation Sheet).</p> <p>(4) <b>User Charges Code:</b> Code "A" – all users are charged at the same billing rates; Code "B" – some users are charged at different rates than other users (explain on a Continuation Sheet).</p> <p>(5) <b>Actual Costs vs. Revenues Code:</b> Code "A" – billings (revenues) are compared to actual costs (expenditures) at least annually; Code "B" – billings are compared to actual costs less frequently than annually.</p> <p>(6) <b>Variance Code:</b> Code "A" – Annual variances between billed and actual costs are prorated to users (as credits or charges); Code "B" – variances are carried forward as adjustments to billing rate of future periods; Code "C" – annual variances are charged or credited to indirect costs; Code "Y" – other (explain on a Continuation Sheet).</p>								(1)	(2)	(3)	(4)	(5)	(6)	(a) Scientific Computer Operations	—	—	—	—	—	—	(b) Business Data Processing	—	—	—	—	—	—	(c) Animal Care Facilities	—	—	—	—	—	—	(d) Other Service Centers with Annual Operating Budgets exceeding \$1,000,000 or that generate significant charges to Federally sponsored agreements either as a direct or indirect cost. (Specify below; use a Continuation Sheet, if necessary)	—	—	—	—	—	—	_____	—	—	—	—	—	—	_____	—	—	—	—	—	—
	(1)	(2)	(3)	(4)	(5)	(6)																																																		
(a) Scientific Computer Operations	—	—	—	—	—	—																																																		
(b) Business Data Processing	—	—	—	—	—	—																																																		
(c) Animal Care Facilities	—	—	—	—	—	—																																																		
(d) Other Service Centers with Annual Operating Budgets exceeding \$1,000,000 or that generate significant charges to Federally sponsored agreements either as a direct or indirect cost. (Specify below; use a Continuation Sheet, if necessary)	—	—	—	—	—	—																																																		
_____	—	—	—	—	—	—																																																		
_____	—	—	—	—	—	—																																																		

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART III - INDIRECT COSTS</b>
		<b>NAME OF REPORTING UNIT</b>
<b>Item No.</b>	<b>Item description</b>	
<b>3.3.0</b>	<u>Indirect Cost Pools and Allocation Bases</u>  (Identify all of the indirect cost pools established for the accumulation of indirect costs, excluding service centers, and the allocation bases used to distribute accumulated indirect costs to Federally sponsored agreements or similar cost objectives within each major function or activity. For all applicable indirect cost pools, enter the applicable Allocation Base Code A through P, Y, or Z, to indicate the basis used for allocating accumulated pool costs to Federally sponsored agreements or similar cost objectives.)	
	<u>Indirect Cost Pools</u>	<u>Allocation Base Code</u>
	<b>A. Instruction</b>	
	<input type="checkbox"/> On-Campus	<input type="text"/>
	<input type="checkbox"/> Off-Campus	<input type="text"/>
	<input type="checkbox"/> Other <u>1/</u>	<input type="text"/>
	<b>B. Organized Research</b>	
	<input type="checkbox"/> On-Campus	<input type="text"/>
	<input type="checkbox"/> Off-Campus	<input type="text"/>
	<input type="checkbox"/> Other <u>1/</u>	<input type="text"/>
	<b>C. Other Sponsored Activities</b>	
	<input type="checkbox"/> On-Campus	<input type="text"/>
	<input type="checkbox"/> Off-Campus	<input type="text"/>
	<input type="checkbox"/> Other <u>1/</u>	<input type="text"/>
	<b>D. Other Institutional Activities <u>1/</u></b>	
<b>3.4.0</b>	<u>Composition of Indirect Cost Pools.</u> (For each pool identified under Items 3.1.0 and 3.2.0, describe on a continuation sheet the major organizational components, subgroupings of expenses, and elements of cost included.)	
	<u>1/ Describe on a Continuation Sheet.</u>	

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS		PART III - INDIRECT COSTS
		NAME OF REPORTING UNIT
Item No.	Item description	
3.5.0	<p><u>Composition of Allocation Bases.</u> (For each allocation base code used in Items 3.1.0 and 3.3.0, describe on a continuation sheet the makeup of the base. For example, if a modified total direct cost base is used, specify which of the elements of direct cost identified in Part II, Direct Costs, that are included, e.g., materials, salaries and wages, fringe benefits, travel costs, and excluded, e.g., subcontract costs over first \$25,000. Where applicable, explain if service centers are included or excluded. Specify the benefitting functions and activities included. If any cost objectives are excluded from the allocation base, such cost objectives and the alternate allocation method used should be identified. If an indirect cost allocation is based on Cost Analysis Studies, identify the study, and fully describe the study methods and techniques applied, the composition of the specific allocation base used, and the frequency of each recurring study)</p>	
3.6.0	<p><u>Allocation of Indirect Costs to Programs That Pay Less Than Full Indirect Costs.</u> Are appropriate direct costs of all programs and activities included in the indirect cost allocation bases, regardless of whether allocable indirect costs are fully reimbursed by the sponsoring organizations?</p> <p>A.     ___ Yes</p> <p>B.     ___ No <u>1/</u></p>	
	<p><u>1/</u> Describe on a Continuation Sheet.</p>	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART IV - DEPRECIATION AND USE ALLOWANCES</b>																																																				
		<b>NAME OF REPORTING UNIT</b>																																																				
<b>Item No.</b>	<b>Item description</b>																																																					
<b>4.1.0</b>	<p style="text-align: center;"><b>Part IV</b></p> <p><b>Depreciation Charged to Federally Sponsored Agreements or Similar Cost Objectives.</b> (For each asset category listed below, enter a code from A through C in Column (1) describing the method of depreciation; a code from A through D in Column (2) describing the basis for determining useful life; a code from A through C in Column (3) describing how depreciation methods or use allowances are applied to property units; and Code A or B in Column (4) indicating whether or not the estimated residual value is deducted from the total cost of depreciable assets. Enter Code Y in each column of an asset category where another or more than one method applies. Enter Code Z in Column (1) only, if an asset category is not applicable.)</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 15%;"><u>Asset Category</u></th> <th style="text-align: center; width: 15%;"><u>Depreciation Method</u> (1)</th> <th style="text-align: center; width: 15%;"><u>Useful Life</u> (2)</th> <th style="text-align: center; width: 15%;"><u>Property Unit</u> (3)</th> <th style="text-align: center; width: 15%;"><u>Residual Value</u> (4)</th> </tr> </thead> <tbody> <tr> <td>(a) Land Improvements</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(b) Buildings</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(c) Building Improvements</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(d) Leasehold Improvements</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(e) Equipment</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(f) Furniture and Fixtures</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(g) Automobiles and Trucks</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(h) Tools</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>(i) Enter Code Y on this line if other asset categories are used and enumerate on a continuation sheet each such asset category and the applicable codes. (Otherwise enter Code Z.)</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> </tbody> </table> <p><u>Column (1)</u>—Depreciation Method Code</p> <p>A. Straight Line                  B. Expensed at Acquisition                  C. Use Allowance                  Y. Other or more than one method <u>1/</u></p> <p><u>Column (2)</u>—Useful Life Code</p> <p>A. Replacement Experience                  B. Term of Lease                  C. Estimated service life                  D. As prescribed for use allowance by Office of Management and Budget Circular No. A-21                  Y. Other or more than one method <u>1/</u></p> <p><u>Column (3)</u>—Property Unit Code</p> <p>A. Individual units are accounted for separately                  B. Applied to groups of assets with similar service lives                  C. Applied to groups of assets with varying service lives                  Y. Other or more than one method <u>1/</u></p> <p><u>Column (4)</u>—Residual Value Code</p> <p>A. Residual value is deducted                  B. Residual value is not deducted                  Y. Other or more than one method <u>1/</u></p> <p><u>1/</u> Describe on a Continuation Sheet.</p>				<u>Asset Category</u>	<u>Depreciation Method</u> (1)	<u>Useful Life</u> (2)	<u>Property Unit</u> (3)	<u>Residual Value</u> (4)	(a) Land Improvements	_____	_____	_____	_____	(b) Buildings	_____	_____	_____	_____	(c) Building Improvements	_____	_____	_____	_____	(d) Leasehold Improvements	_____	_____	_____	_____	(e) Equipment	_____	_____	_____	_____	(f) Furniture and Fixtures	_____	_____	_____	_____	(g) Automobiles and Trucks	_____	_____	_____	_____	(h) Tools	_____	_____	_____	_____	(i) Enter Code Y on this line if other asset categories are used and enumerate on a continuation sheet each such asset category and the applicable codes. (Otherwise enter Code Z.)	_____	_____	_____	_____
<u>Asset Category</u>	<u>Depreciation Method</u> (1)	<u>Useful Life</u> (2)	<u>Property Unit</u> (3)	<u>Residual Value</u> (4)																																																		
(a) Land Improvements	_____	_____	_____	_____																																																		
(b) Buildings	_____	_____	_____	_____																																																		
(c) Building Improvements	_____	_____	_____	_____																																																		
(d) Leasehold Improvements	_____	_____	_____	_____																																																		
(e) Equipment	_____	_____	_____	_____																																																		
(f) Furniture and Fixtures	_____	_____	_____	_____																																																		
(g) Automobiles and Trucks	_____	_____	_____	_____																																																		
(h) Tools	_____	_____	_____	_____																																																		
(i) Enter Code Y on this line if other asset categories are used and enumerate on a continuation sheet each such asset category and the applicable codes. (Otherwise enter Code Z.)	_____	_____	_____	_____																																																		

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART IV - DEPRECIATION AND USE ALLOWANCES</b>
		<b>NAME OF REPORTING UNIT</b>
Item No.	Item description	
4.1.1	<b>Asset Valuations and Useful Lives.</b> Are the asset valuations and useful lives used in your indirect cost proposal consistent with those used in the institution's financial statements? (Mark one.)  A. <input type="checkbox"/> Yes B. <input type="checkbox"/> No <u>1/</u>	
4.2.0	<b>Fully Depreciated Assets.</b> Is a usage charge for fully depreciated assets charged to Federally sponsored agreements or similar cost objectives? (Mark one. If yes, describe the basis for the charge on a continuation sheet.)  A. <input type="checkbox"/> Yes B. <input type="checkbox"/> No	
4.3.0	<b>Treatment of Gains and Losses on Disposition of Depreciable Property.</b> Gains and losses are: (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.)  A. <input type="checkbox"/> Excluded from determination of sponsored agreement costs B. <input type="checkbox"/> Credited or charged currently to the same pools to which the depreciation of the assets was originally charged C. <input type="checkbox"/> Taken into consideration in the depreciation cost basis of the new items, where trade-in is involved D. <input type="checkbox"/> Not accounted for separately, but reflected in the depreciation reserve account Y. <input type="checkbox"/> Other(s) <u>1/</u> Z. <input type="checkbox"/> Not applicable	
4.4.0	<b>Criteria for Capitalization.</b> (Enter (a) the minimum dollar amount of expenditures which are capitalized for acquisition, addition, alteration, donation and improvement of capital assets, and (b) the minimum number of expected life years of assets which are capitalized. If more than one dollar amount or number applies, show the information for the majority of your capitalized assets, and enumerate on a continuation sheet the dollar amounts and/or number of years for each category or subcategory of assets involved which differs from those for the majority of assets.)  A.    Minimum Dollar Amount <input type="text"/> B.    Minimum Life Years <input type="text"/>	
4.5.0	<b>Group or Mass Purchase.</b> Are group or mass purchases (initial complement) of similar items, which individually are less than the capitalization amount indicated above, capitalized? (Mark one.)  A. <input type="checkbox"/> Yes <u>1/</u> B. <input type="checkbox"/> No	
<u>1/</u> Describe on a Continuation Sheet.		

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART V - OTHER COSTS AND CREDITS</b>
		<b>NAME OF REPORTING UNIT</b>
<b>Item No.</b>	<b>Item description</b>	
<b>Part V</b>		
<b>5.1.0</b>	<b>Method of Charging Leave Costs.</b> Do you charge vacation, sick, holiday and sabbatical leave costs to sponsored agreements on the cash basis of accounting (i.e., when the leave is taken or paid), or on the accrual basis of accounting (when the leave is earned)? (Mark applicable line(s))  <b>A.</b> ___ <b>Cash</b>  <b>B.</b> ___ <b>Accrual</b> <u>1/</u>	
<b>5.2.0</b>	<b>Applicable Credits.</b> This item is directed at the treatment of "applicable credits" as defined in Section C of OMB Circular A-21 and other incidental receipts (e.g., purchase discounts, insurance refunds, library fees and fines, parking fees, etc.). (Indicate how the principal types of credits and incidental receipts the institution receives are usually handled.)  <b>A.</b> ___           The credits/receipts are offset against the specific direct or indirect costs to which they relate.  <b>B.</b> ___           The credits/receipts are handled as a general adjustment to the indirect pool.  <b>C.</b> ___           The credits/receipts are treated as income and are not offset against costs.  <b>D.</b> ___           Combination of methods <u>1/</u>  <b>Y.</b> ___           Other <u>1/</u>	
<u>1/</u> Describe on a Continuation Sheet.		

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>	<b>PART VI - DEFERRED COMPENSATION AND INSURANCE COSTS</b>												
<b>NAME OF REPORTING UNIT</b>													
<b>Item No.</b>	<b>Item description</b>												
<p><b>Instructions for Part VI</b></p> <p>This part covers the measurement and assignment of costs for employee pensions, post retirement benefits other than pensions (including post retirement health benefits) and insurance. Some organizations may incur all of these costs at the main campus level or for public institutions at the governmental unit level, while others may incur them at subordinate organization levels. Still others may incur a portion of these costs at the main campus level and the balance at subordinate organization levels.</p> <p>Where the segment (reporting unit) does not directly incur such costs, the segment should, on a continuation sheet, identify the organizational entity that incurs and records such costs. When the costs allocated to Federally sponsored agreements are material, and the reporting unit does not have access to the information needed to complete an item, the reporting unit should require that entity to complete the applicable portions of this Part VI. (See item 4, page (i), General Instructions)</p>													
<p><b>6.1.0</b></p>	<p><b><u>Pension Plans.</u></b></p>												
<p><b>6.1.1</b></p>	<p><b>Defined-Contribution Pension Plans.</b> Identify the types and number of pension plans whose costs are charged to Federally sponsored agreements. (Mark applicable line(s) and enter number of plans.)</p> <table style="width: 100%; margin-left: 40px;"> <thead> <tr> <th style="text-align: left; width: 10%;"></th> <th style="text-align: center; width: 60%;"><u>Type of Plan</u></th> <th style="text-align: center; width: 30%;"><u>Number of Plans</u></th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">A.</td> <td>_____ Institution employees participate in State/Local Government Retirement Plan(s)</td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="vertical-align: top;">B.</td> <td>_____ Institution uses TIAA/CREF plan or other defined contribution plan that is managed by an organization not affiliated with the institution</td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="vertical-align: top;">C.</td> <td>_____ Institution has its own Defined-Contribution Plan(s) <u>1/</u></td> <td style="text-align: center;">_____</td> </tr> </tbody> </table>		<u>Type of Plan</u>	<u>Number of Plans</u>	A.	_____ Institution employees participate in State/Local Government Retirement Plan(s)	_____	B.	_____ Institution uses TIAA/CREF plan or other defined contribution plan that is managed by an organization not affiliated with the institution	_____	C.	_____ Institution has its own Defined-Contribution Plan(s) <u>1/</u>	_____
	<u>Type of Plan</u>	<u>Number of Plans</u>											
A.	_____ Institution employees participate in State/Local Government Retirement Plan(s)	_____											
B.	_____ Institution uses TIAA/CREF plan or other defined contribution plan that is managed by an organization not affiliated with the institution	_____											
C.	_____ Institution has its own Defined-Contribution Plan(s) <u>1/</u>	_____											
<p><b>6.1.2</b></p>	<p><b>Defined-Benefit Pension Plan.</b> (For each defined-benefit plan (other than plans that are part of a State or Local government pension plan) describe on a continuation sheet the actuarial cost method, the asset valuation method, the criteria for changing actuarial assumptions and computations, the amortization periods for prior service costs, the amortization periods for actuarial gains and losses, and the funding policy.)</p>												
<p><u>1/</u> Describe on a Continuation Sheet.</p>													

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS		PART VI - DEFERRED COMPENSATION AND INSURANCE COSTS
		NAME OF REPORTING UNIT
Item No.	Item description	
6.2.0	<p><b>Post Retirement Benefits Other Than Pensions (including post retirement health care benefits) (PRBs).</b> (Identify on a continuation sheet all PRB plans whose costs are charged to Federally sponsored agreements. For each plan listed, state the plan name and indicate the approximate number and type of employees covered by each plan.)</p> <p>Z. <input type="checkbox"/> Not Applicable</p>	
6.2.1	<p><b>Determination of Annual PRB Costs.</b> (On a continuation sheet, indicate whether PRB costs charged to Federally sponsored agreements are determined on the cash or accrual basis of accounting. If costs are accrued, describe the accounting practices used, including actuarial cost method, the asset valuation method, the criteria for changing actuarial assumptions and computations, the amortization periods for prior service costs, the amortization periods for actuarial gains and losses, and the funding policy.)</p>	
6.3.0	<p><b>Self-Insurance Programs (Employee Group Insurance).</b> Costs of the self-insurance programs are charged to Federally sponsored agreements or similar cost objectives: (Mark one.)</p> <p>A. <input type="checkbox"/> When accrued (book accrual only)  B. <input type="checkbox"/> When contributions are made to a nonforfeitable fund  C. <input type="checkbox"/> When contributions are made to a forfeitable fund  D. <input type="checkbox"/> When the benefits are paid to an employee  E. <input type="checkbox"/> When amounts are paid to an employee welfare plan  Y. <input type="checkbox"/> Other or more than one method <u>1/</u>  Z. <input type="checkbox"/> Not Applicable</p>	
6.4.0	<p><b>Self-Insurance Programs (Worker's Compensation, Liability and Casualty Insurance.)</b></p>	
6.4.1	<p><b>Worker's Compensation and Liability.</b> Costs of such self-insurance programs are charged to Federally sponsored agreements or similar cost objectives: (Mark one.)</p> <p>A. <input type="checkbox"/> When claims are paid or losses are incurred (no provision for reserves)  B. <input type="checkbox"/> When provisions for reserves are recorded based on the present value of the liability  C. <input type="checkbox"/> When provisions for reserves are recorded based on the full or undiscounted value, as contrasted with present value, of the liability  D. <input type="checkbox"/> When funds are set aside or contributions are made to a fund  Y. <input type="checkbox"/> Other or more than one method <u>1/</u>  Z. <input type="checkbox"/> Not Applicable</p>	
<p><u>1/</u> Describe on a Continuation Sheet.</p>		

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART VI - DEFERRED COMPENSATION AND INSURANCE COSTS</b>
		<b>NAME OF REPORTING UNIT</b>
<b>Item No.</b>	<b>Item description</b>	
<b>6.4.2</b>	<p data-bbox="316 436 1356 493"><b>Casualty Insurance. Costs of such self-insurance programs are charged to Federally sponsored agreements or similar cost objectives: (Mark one.)</b></p> <p data-bbox="316 520 1047 550"><b>A.     ___ When losses are incurred (no provision for reserves)</b></p> <p data-bbox="316 577 1258 606"><b>B.     ___ When provisions for reserves are recorded based on replacement costs</b></p> <p data-bbox="316 634 1364 714"><b>C.     ___ When provisions for reserves are recorded based on reproduction costs new less observed depreciation (market value) excluding the value of land and other indestructibles.</b></p> <p data-bbox="316 741 1347 800"><b>D.     ___ Losses are charged to fund balance with no charge to contracts and grants (no provision for reserves)</b></p> <p data-bbox="316 827 868 856"><b>Y.     ___ Other or more than one method <u>1/</u></b></p> <p data-bbox="316 884 641 913"><b>Z.     ___ Not Applicable</b></p> <p data-bbox="316 1745 722 1774"><b><u>1/</u> Describe on a Continuation Sheet.</b></p>	

<b>COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679 EDUCATIONAL INSTITUTIONS</b>		<b>PART VII - CENTRAL SYSTEM OR GROUP EXPENSES</b>
<b>Item No.</b>	<b>NAME OF REPORTING UNIT</b>	
<b>Item No.</b>	<b>Item description</b>	
	<p><b>DISCLOSURE BY CENTRAL SYSTEM OFFICE, OR GROUP (INTERMEDIATE ADMINISTRATION) OFFICE, AS APPLICABLE.</b></p> <p><b>Instructions for Part VII</b></p> <p>This part should be completed <u>only</u> by the central system office or a group office of an educational system when that office is responsible for administering two or more segments, where it allocates its costs to such segments and where at least one of the segments is required to file Parts I through VI of the Disclosure Statement.</p> <p>The reporting unit (central system or group office) should disclose how costs of services provided by the reporting unit are, or will be, accumulated and allocated to applicable segments of the institution. For a central system office, disclosure should cover the entire institution. For a group office, disclosure should cover all of the subordinate organizations administered by that group office.</p>	
7.1.0	<p><b><u>Organizational Structure.</u></b></p> <p>On a continuation sheet, list all segments of the university or university system, including hospitals, Federally Funded Research and Development Centers (FFRDC's), Government-owned Contractor-operated (GOCO) facilities, and lower-tier group offices serviced by the reporting unit.</p>	
7.2.0	<p><b><u>Cost Accumulation and Allocation.</u></b></p> <p>On a continuation sheet, provide a description of:</p> <p>A. The services provided to segments of the university or university system (including hospitals, FFRDC's, GOCO facilities, etc.), in brief.</p> <p>B. How the costs of the services are identified and accumulated.</p> <p>C. The basis used to allocate the accumulated costs to the benefitting segments.</p> <p>D. Any costs that are transferred from a segment to the central system office or the intermediate administrative office, and which are reallocated to another segment(s). If none, so state.</p> <p>E. Any fixed management fees that are charged to a segment(s) in lieu of a prorata or allocation basis and the basis of such charges. If none, so state.</p>	

FORM CASB DS-2 (REV 10/94)

**Resistant  
Federal**

---

Wednesday  
May 8, 1996

---

**Part III**

**Federal Emergency  
Management Agency**

Federal Radiological Emergency  
Response Plan (FRERP); Operational  
Plan; Notice

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Federal Radiological Emergency Response Plan (FRERP); Operational Plan

**AGENCY:** Federal Emergency  
Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency gives notice of and publishes the Federal Radiological Emergency Response Plan (FRERP) as the operational plan for Federal agencies to discharge their responsibilities during peacetime radiological emergencies. The FRERP establishes an organized, integrated capability for participating Federal agencies to respond to a wide range of peacetime radiological emergencies. The Plan provides a concept of operations, outlines Federal policies and planning considerations, and specifies authorities and responsibilities of each Federal agency that has a significant role in such emergencies. The FRERP is now fully operational for use in the Federal response to radiological emergencies.

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Antush, Operations Division, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, telephone (202) 646-3617.

**SUPPLEMENTARY INFORMATION:** On September 6, 1994, FEMA published the proposed Federal Radiological Emergency Response Plan in the Federal Register (59 FR 46086-46107). Referred to interchangeably as the FRERP, or the Plan, the Federal Radiological Emergency Response Plan was developed by FEMA and 16 other Federal agencies. It was published in interim but operational form pending formal agency concurrences by each of the 17 agencies that cooperated in the development of this Plan.

Federal agencies respond to radiological emergencies using the FRERP, each agency in accordance with its existing statutory authorities and funding resources. The Lead Federal Agency is responsible for coordination of the overall Federal response to the emergency. FEMA is responsible for coordinating non-radiological support using the structure of the Federal Response Plan. The relationship between the FRERP and the Federal Response Plan is discussed in the FRERP, and will be further described in a Radiological Emergencies Annex to the Federal Response Plan.

Section 304 of Pub. L. 96-295 requires that the President prepare and publish a plan to provide for expeditious, efficient, and coordinated Federal response to accidents at nuclear power facilities. Executive Order (E.O.) 12241 of September 29, 1980, as amended by E.O. 12657, delegated this responsibility to the Director of FEMA. FEMA published the first FRERP on November 8, 1985, 50 FR 46542. The FRERP published today updates and supersedes the Plan published in 1985.

After the September 6, 1994 publication, FEMA presented the interim proposed Plan to the management of the other 16 Federal agencies. Each of these agencies has provided its written concurrence with the Plan. Several of the agencies offered proposed changes to the interim Plan. FEMA and other members of the Federal Response Subcommittee reviewed those proposed changes and determined that they are minor, clarify Federal agency roles and responsibilities, and that they do not affect the basic organization or responsiveness of the Plan.

The 1994 notice requested public comments on the proposed plan. Over 70 comments were received from approximately 20 organizations representing Federal and State Government agencies and private industry that will be affected by changes in the FRERP. The remainder of the Preamble provides the Federal Response Subcommittee's ("the Committee") response to the comments received during the comment period. The comments, and the Committee's responses, are listed in the order of appearance in the FRERP. The page numbers cited in the comment summary refer to the page numbers in the September 6, 1994, Federal Register notice of the proposed plan. The organization that provided the comment is identified in the brackets following the comment.

#### Responses to Comments

*Comment 1.* The word "domestic" in II.B.3. of the Table of Contents on page 46086 should be stricken and changed to read "NASA/DOD Satellites\* \* \*" In addition, this change should be made everywhere in the plan where the word "domestic" appears (e.g., pages 46088-46089), including all such references in the tables. [NASA]

*Response:* Based on subsequent discussions with NASA, the word "domestic" is stricken from the title in II.B.3 of the Table of Contents, in II.B.3 of the text and in Table II-1, so the category now reads "Satellites Containing Radioactive Materials".

*Comment 2.* The phrase "that could require a response by several Federal agencies" found in I. Introduction and Background, C. Scope on page 46087 is vague and doesn't explain who will make the decision based on what criteria. Any Federal response should be tied to a structured classification system, statutory authority, or the request for assistance from a State or other appropriate jurisdiction. This is more clearly stated in Section D.3 on the same page. [Department of Nuclear Safety (Illinois)]

*Response—*This phrase was purposely worded to provide Federal agencies maximum flexibility to respond to State and local requests for assistance in the event of a radiological emergency. The Committee believes that the use of a structured classification system would adversely impact the ability of the Federal Government to configure their response to meet the specific needs that would be associated with a particular emergency. As the comment recognizes, information contained in various paragraphs of II. Concept of Operations, provides greater details on how Federal support can be requested.

*Comment 3.* Page 46087, I. Introduction and Background, C. Scope, last sentence. The U.S. Code citations to the referenced statutory authorities should be included (e.g., Subsection 274.b of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2021(b)). [NASA]

*Response—*The appropriate citations have been added to the referenced authorities in Appendix C, Federal Agency Response Missions, Capabilities and Resources, References, and Authorities.

*Comment 4.* On page 46087, the last sentence of the first paragraph of I.D.2. Coordination by Federal Agencies, states "The degree to which the Federal response is merged or to which activities are adjusted will be based upon the requirements and priorities set by the State." This is the way the State would hope the Federal Government will work with them. However, after reading the rest of the plan, this is not the policy the Federal Government is planning on pursuing. [Office of Emergency Management—Department of Motor Vehicles and Public Safety (Nevada)]

*Response—*The Committee made a determined effort to assure that the Plan describes a Federal response in support of the State response. As stated in Section II.A., "The concept of operations recognizes the preeminent role of State and local governments for determining and implementing any measures to protect life, property, and the environment in areas not under the

control of a Federal agency.” Accordingly, the Federal agencies that are signatories to this plan recognize that State and local governments are their “customers” and that the off-site Federal role is one of providing support and assistance as requested. This applies to all aspects of a radiological emergency response in the affected off-site area (e.g., environmental monitoring and assessment, implementation of protective actions, release of public information, and determination of restoration priorities). For example, on page 46089 Section II.D.3. Radiological Monitoring and Assessment states that the Federal radiological monitoring and assessment response activity will “support the monitoring and assessment programs of the States.” Also, on page 46091 Section II.D.4. Protective Action Recommendations states “The LFA will assist State and local authorities, if requested, by advising them on protective actions for the public.”

*Comment 5.* On page 46087 the second paragraph in I.D.2. Coordination by Federal Agencies states, “Appropriate independent emergency actions may be taken by the participating Federal agencies within the limits of their own statutory authority to protect the public, minimize immediate hazards, and gather information about the emergency that might be lost by delay.” This was the philosophy used by DOE and EPA in an exercise in which the town of Rachel, NV, was evacuated without State and local officials being notified. DOE and EPA took it upon themselves to go door to door and issue an evacuation order which is not within their statutory authority. They can assist but they do not issue an evacuation order. In an emergency, the locals may not be able to respond quickly enough to participate in an evacuation order, but Federal agencies must inform the State and local officials of their plans before they take any action and not after the fact. In the State of Nevada, the Governor is the only one who can issue an evacuation order. A paragraph stressing the importance of Federal agencies informing the State and local officials before the response is taken and not after should be inserted into the plan. [*Office of Emergency Management Department of Motor Vehicles and Public Safety (Nevada)*]

*Response*—While the Committee agrees that State and local officials should be notified and kept informed of all Federal activities in the affected off-site areas, the Committee believes that this issue is adequately addressed in the plan as written. As stated in Section II.A., “The concept of operations

recognizes the preeminent role of State and local governments for determining and implementing any measures to protect life, property, and the environment in areas not under the control of a Federal agency.” The adherence of the Federal agencies to this principle has been clearly demonstrated by their actions in the FRMAC-93, Hanford, and DIAGRAM JUMP exercises that have been conducted with the states of Nebraska, Iowa, and Washington over the past 2 years.

*Comment 6.* On page 46087, the first paragraph of Section I.D.3. Federal Agency Authorities states, “Some Federal agencies have authority to respond to certain situations affecting public health and safety with or without a State request.” It is not clear under what circumstances the Federal agencies will respond. The authority is vague. I think that if it is in time of emergency that has already been addressed, this sentence should be removed. [*Office of Emergency Management—Department of Motor Vehicles and Public Safety (Nevada)*]

*Response*—The purpose of this sentence was to indicate that under a few very unlikely situations some Federal agencies have the authority to initiate actions to protect public health and safety without being requested to do so by either State or local officials. However, because the signatories to the FRERP do not believe that these situations will occur during a radiological emergency the plan does not go into any level of detail about these specific situations. It is the intention of all Federal agencies to work closely with State and local officials in the development and implementation of actions to protect public health and safety. Federal agencies will make every attempt to get approval from State and local officials before taking any actions involving the general public.

*Comment 7.* The Commenter recommended that the following be added to I.E. Training and Exercises on page 46087: “Reimbursement for training and exercises shall be in accordance with Section D.6.” [*Yankee Atomic Electric Company*]

*Response*—Paragraph I.D.6. clearly states that each Agency will pay its own way in a response to an emergency. Also, each Agency will fund its own preparedness and planning activities, including participation in drills and exercises. However, there may be situations in which special funding may be available for either response or exercise participation and Agencies are free to seek reimbursement as appropriate. The reimbursement of State and local expenses for their

participation in training and exercises will be handled in accordance with pre-existing agreements between the appropriate Federal agency. The Committee made no changes to the plan.

*Comment 8.* Paragraph I.F.1. Relationship to the Federal Response Plan (FRP) on page 46087 should include explanatory remarks and include appropriate U.S. Code citations to the Stafford Act and the provisions or section pertinent to a declaration. [NASA]

*Response*—The Committee believes that the existing wording adequately describes the relationship between the FRERP and the FRP and that the intended audience for this plan is sufficiently familiar with the Stafford Act that additional clarification is not needed. The Radiological Emergencies Annex to the FRP, which is currently under development, will provide additional clarification of the FRERP/FRP relationship.

*Comment 9.* Sections I.F.1. Without a Stafford Act Declaration on page 46087 and I.F.2. With a Stafford Act Declaration on page 46088 state (Section F.1) that in the absence of a Stafford Act declaration, FEMA “is responsible for coordinating non-radiological support using the structure of the Federal Response Plan (FRP),” but then goes on to state (Section F.2), “When a Stafford Act Declaration has activated the FRP\* \* \*” The two statements appear contradictory on their face, although perhaps some editing would resolve the apparent contradiction. [*FEMA—Region II*]

*Response*—Because the FEMA responsibility for coordination of non-radiological support would be the same for emergencies whether or not there is a Stafford Act declaration, it seems more efficient to use procedures and resources that already exist, and are used during emergencies throughout the year. The phrase, “activate the Federal Response Plan,” has come to mean that a Stafford Act declaration has been made. In order to make clear that a Stafford Act declaration has not been made, but the same familiar emergency response procedures should be followed, the phrase, “using the structure of the Federal Response Plan,” was devised. It indicates that Federal agencies should respond using whatever statutory authorities and funding they already possess—not Stafford Act authorities or funding. If there is a subsequent Stafford Act declaration, Stafford Act authorities and funding would then apply. The Radiological Emergencies Annex to the FRP, which is under development, will explain the

relationship between the FRERP and the FRP in more detail.

*Comment 10.* Section I.F. Relationship to the Federal Response Plan (FRP) on pages 46087 and 46088, refers to a "Stafford Act Declaration." The FRERP does not define or explain what a "Stafford Act Declaration" is. Although this terminology may be familiar to FEMA personnel and local officials dealing with a variety of natural and man-made disasters, it is not necessarily familiar to NRC licensees who may potentially be involved in some aspects of implementation of the FRERP. Accordingly, a very brief notation that a Stafford Act declaration is a formal declaration of a major disaster by the President would be appropriate. [NRC—Office of General Counsel]

*Response*—The Committee believes that the intended audience for this plan is sufficiently familiar with the terminology that additional clarifying language is not needed. The Radiological Emergencies Annex to the FRP, which is under development, will clearly explain the relationship between the FRERP and the FRP.

*Comment 11.* Section I.F.1. Without a Stafford Act Declaration at the top of the first column on page 46088 says FEMA coordinates non-radiological support. This appears to be a shift from the old concept that FEMA would be the clearinghouse for all requests for Federal assistance. [Department of Nuclear Safety (Illinois)]

*Response*—The Commenter is correct. Without a Presidential disaster declaration, the LFA coordinates the radiological response to the emergency while FEMA coordinates the non-radiological response. Accordingly, the Federal Government must identify the appropriate persons for State and local officials to interact with. The LFA and the Senior FEMA Official must work closely together to ensure that all the needs of the affected State and local governments are addressed. The Radiological Emergencies Annex to the FRP, which is under development, will clearly explain the relationship between the FRERP and the FRP.

*Comment 12.* Revise the last sentence of I.F.1. Without a Stafford Act Declaration on page 46088 to read, "FEMA, which has the responsibility for coordinating non-radiological support, will use the structures of the FRP to accomplish this activity." [USDA]

*Response*—This change was incorporated into the plan.

*Comment 13.* The information in Section I.G. Authorities on page 46088 should be updated with the appropriate citations to the statutory authority and

the updated information about any amendments to Executive Order 12241 should be included. [NASA]

*Response*—This information has been incorporated into the plan as appropriate.

*Comment 14.* In Section II. Concept of Operations on page 46088 some reference to radioactive wastes should be addressed. This is and will be a major portion of potential emergencies for planning of all agencies. This could be addressed in 5 (Other Types of Emergencies). [DOE]

*Response*—The disposition of radioactive wastes is a component of any radiological emergency, not a separate type of emergency. The protection of the public from exposure to radioactive waste is included in the Protective Action Recommendations section, specifically,

"Recommendations regarding the disposition of contaminated livestock and poultry" and "Recommendations for recovery, return and cleanup issues." Advice to the State will be provided by the LFA supported by the Advisory Team for Environment, Food and Health.

*Comment 15.* The second paragraph of Section II.A. Introduction on page 46088 states, "The concept of operations recognizes the preeminent role of State and local governments for determining and implementing any measures to protect life, property, and the environment in areas not under the control of a Federal agency." Recognizing the State and local government roles is fine but it is not enough. The plan needs to say that the Federal agencies will work with the State and local governments to accomplish their responsibilities. The States need to know that the Federal agencies plan to work in conjunction with the State and local governments to protect life, property, and the environment. It needs to be stated. Otherwise, the impression is—well, we recognize your responsibilities, but we don't have to support or work with you. [Office of Emergency Management—Department of Motor Vehicles and Public Safety (Nevada)]

*Response*—The Federal agencies that are signatories to this plan recognize that State and local governments are their "customers" and that the off-site Federal role is one of providing support and assistance as requested. This applies to all aspects of a radiological emergency response in the affected off-site area (e.g., environmental monitoring and assessment, implementation of protective actions, release of public information, and determination of restoration priorities). For example, on

page 46089 Section II.D.3. Radiological Monitoring and Assessment states that the Federal radiological monitoring and assessment response activity will "support the monitoring and assessment programs of the States." Also, on page 46091 Section II.D.4. Protective Action Recommendations states, "The LFA will assist State and local authorities, if requested, by advising them on protective actions for the public." The Committee cannot emphasize enough the preeminent role of the State and local governments; therefore, it has recommended, and the Federal Radiological Preparedness Coordinating Committee has agreed to develop a program to disseminate the details of the revised FRERP to Federal agency responders and the State emergency services organizations.

*Comment 16.* The language in Section II.B.1. Nuclear Facility on page 46088 should clearly state that State and local requests for Federal assistance during a nuclear plant accident should be made directly to the NRC. Likewise, Federal assistance for emergencies involving DOD, DOE, non-licensed materials, transportation accidents, and unknown sources (B.1, 2, 3, 4, & 5) have new LFA designations, and presumably these LFAs should handle assistance requests directly. Current guidance requires making such requests through FEMA or directly to a Federal supporting agency. [Department of Nuclear Safety (Illinois)]

*Response*—Paragraph I.D.5. Requests for Federal Assistance on page 46087 clearly states that State and local governments as well as the owners and operators of radiological facilities or activities may make requests directly to any of the Federal agencies listed in Table II-1 on page 46089, FEMA, or other Federal agencies with whom they may have preexisting arrangements or relationships. While the preferred means of notification and requesting support is through the designated LFA, the signatory Agencies will automatically notify the appropriate Federal agency if they are notified of a radiological emergency for which they are not the LFA. For example, if the emergency involved a commercial nuclear power plant the NRC is the LFA and any requests, either initial or follow-up, should be made to the NRC. However, if EPA is requested to provide support by an affected State, the EPA will notify the NRC of the situation and then support the NRC response to assist the State as appropriate. If the emergency involved unlicensed radioactive material that is not owned by DOD or DOE the designated LFA is EPA and should receive State and local requests for assistance. If DOE were

notified of this situation they would automatically call EPA. It should be noted that with the publication of this plan previous guidance is now superseded.

*Comment 17.* Section II.B.1. Nuclear Facility on page 46088 designates DOD or DOE as the Lead Federal Agency for responding to emergencies at facilities that they own. Section II.B.1.(a) provides that NRC is the Lead Federal Agency for facilities that it licenses. Although the listing for types of facilities that NRC is responsible for includes gaseous diffusion facilities, there is ambiguity with respect to who is responsible for the gaseous diffusion facilities operated by USEC. DOE actually owns the gaseous diffusion plants that are leased to U.S. Energy Corporation (USEC). The NRC will be issuing certificates of compliance but will not be licensing the USEC operated gaseous diffusion plants. If the intent is that NRC should have the lead responsibility for these facilities then the phrase "regarding an activity licensed by NRC" in Section II.B.1.(a) should be revised to read "regarding an activity licensed or regulated by NRC." [NRC—Office of General Counsel]

*Response*—It was determined by the Committee that the present FRERP language clearly states that the NRC is the designated LFA and that no changes in the wording are necessary.

*Comment 18.* In Section II.B.3. Domestic Satellites Containing Radioactive Materials on page 46088 the word "domestic" should be deleted from the title to read as "NASA/DOD Satellites Containing Radioactive Materials." In addition, it is suggested that wording be added to allow NASA and DOD to determine on their own who will be the LFA for missions that involve a NASA payload on a DOD launch vehicle or visa versa. [NASA]

*Response*—The Committee agreed to strike the word "domestic" from the title. With regard to joint NASA/DOD satellite missions, it is the intent of the Committee to allow NASA and DOD to determine between themselves who will be the LFA in the event of an accident. Satellites that are not domestic are discussed in II.B.4, "Impact from Foreign or Unknown Source."

*Comment 19.* Section II.B.4. Impact from Foreign or Unknown Source on page 46088 needs to be revised to clarify what is intended to be covered. The text of that paragraph is inconsistent with its title, which title suggests no direct involvement by the United States. Further, an explanation of "an ongoing interest" and "intimately involved in mission operations" in defining "joint" and "venture" is needed. Such a

definition may include cooperative missions, for example, between the U.S. and Russia, and, if so, then the appropriate policy decisions need to be made at the appropriate levels of the Executive and Legislative Branches to mandate this responsibility on our government agencies. Coordination or discussions with Executive Branch high-level policy officials who are responsible for such "ventures" are needed prior to the finalization of this policy. Also, this text and the definitions should be cleared by such officials. If not, it is recommended that such coordination take place prior to finalizing this FRERP, and that a better understanding be attained as to what U.S./foreign governments involvements are contemplated here. [NASA]

*Response*—Per discussion with NASA, the second paragraph in II.B.4. was moved to II.B.3 to be more consistent.

*Comment 20.* Table II-1, Identification of Lead Federal Agency for Radiological Emergencies on page 46089 should be changed to read "NASA/DOD" satellites instead of "Domestic" satellites. It is further recommended that DOE be listed as an LFA. [NASA]

*Response*—Per discussion with NASA, the wording has been changed to read "Satellites Containing \* \* \*" with NASA or DOD as the potential LFA.

*Comment 21.* Section II.C. Radiological Sabotage and Terrorism on page 46089 states that, "Sabotage and terrorism are not treated as separate types of emergencies; rather, they are considered a complicating dimension of the types listed in Table II-1." Sabotage and terrorism in our State is a real possibility. There are miles and miles of roads that transport nuclear weapons for dismantling at our Hawthorne Facility. I think that the threat is not a routine radiological incident that becomes complicated. It is planned and carried out with due care. It cannot be treated as a complicating dimension. These incidents are not widely occurring, however, with the situation overseas nothing is for sure. I think you should reconsider the Federal stand on this. [Office of Emergency Management—Department of Motor Vehicles and Public Safety (Nevada)]

*Response*—The comment is correct in that radiological sabotage and terrorism are not routine radiological incidents that become complicated. The intent of the discussion was to indicate that the emergency can involve any of the types of emergencies listed and the response is complicated because the LFA must coordinate radiological response activities with the FBI's law

enforcement response activities. The additional coordination results in a more complicated response, which the Committee feels is adequately discussed.

*Comment 22.* The second paragraph of Section II.C. Radiological Sabotage and Terrorism should be clarified to state that although the duties of the FBI are to investigate and/or handle the immediate threat they are not relieved from the responsibility to protect additional facilities or material not immediately affected by an act of sabotage or terrorism. [DOE]

*Response*—The purpose of the FRERP is to describe overall coordination mechanisms. It need not describe all of the duties of each agency. The FBI is satisfied that the FRERP discussion is appropriate. Additional information on distribution of response duties can be found in MOUs between the FBI and each LFA.

*Comment 23.* Section II.D. Response Functions and Responsibilities on page 46089 does not identify which Federal resources have a capability to mitigate a release, only monitor and assess. A section should address the agency's responsibility to mitigate a release to prevent further loss of life or severe effects to the public. [DOE]

*Response*—The Committee disagreed with the need to make mitigating statements in that all Federal and civil agencies responsible for radiological events take every step to mitigate a release.

*Comment 24.* Section II.D.1. Onscene Coordination on page 46089 states that the LFA will coordinate with "onscene" actions and oversee "onsite" response, but that DOE has the initial responsibility for coordinating Federal monitoring and assessment activities. Again, does a request for DOE assistance have to be made through NRC for a power plant accident? [Department of Nuclear Safety (Illinois)]

*Response*—The answer is No. However, as stated in the response to Comment 16 the preferred route for requesting assistance is through the designated LFA identified in Section II.B. Determination of Lead Federal Agency (LFA) on page 46088. Although a call to any of the Federal agencies that participate in this plan will result in obtaining the necessary assistance, a call to the LFA first will get quicker results because, for the situation described in the comment, the NRC will probably already be in contact with DOE and have it standing by to provide assistance.

*Comment 25.* The third paragraph of Section II.D.1. Onscene Coordination should be revised to read "\* \* \* (DOI)

will provide liaison between the LFA and Indian tribal governments except in cases where existing agreements permit direct communication \* \* \*." [NRC—Office of Nuclear Materials Safety and Safeguards]

*Response*—The Committee agrees and has revised the first sentence to read, "In the absence of existing agreements for radiological emergencies occurring on or with possible consequences to Indian tribal land, DOI will provide liaison between Federally recognized Indian tribal governments and LFA, State, and local agencies for coordination of response and protective action efforts."

*Comment 26.* The last sentence in the second paragraph of Section II.D.3. Radiological Monitoring and Assessment on page 46090 implies that the affected State does not have the lead response role in the event of the activation of additional Federal resources. It is recommended that the last sentence be revised to read, "States should be encouraged to allow the FRMAC to collocate with their radiological assessment activities." [Virginia Power]

*Response*—The second paragraph of Section II.A. Introduction on page 46088 states, "The concept of operations recognizes the preeminent role of State and local governments for determining and implementing any measures to protect life, property, and the environment in areas not under the control of a Federal agency." As stated in the response to Comment 15 this applies to all aspects of a Federal response to State and local requests for assistance in responding to a radiological emergency. The purpose of the last sentence in the second paragraph of Section II.D.3. Radiological Monitoring and Assessment on page 46090 was to recommend that Federal and State/local assets be collocated in order to maximize the efficiency of the response and to better protect public health and safety and environmental quality. It may be overwhelming for a FRMAC with a working environment for 200 people to collocate with State radiological assessment activities. However, in order to address the comment the sentence has been reworded to read, "Federal Government and States are encouraged to collocate their radiological assessment activities at this center."

*Comment 27.* Section II.D.3.a.(1) Initial Response Coordination Responsibility on page 46090 states DOE will "maintain a common set of all offsite radiological monitoring data \* \* \* and ensure the technical integrity of the data." The language should be

clarified to indicate the responsibility refers to all offsite data gathered by DOE and other Federal agencies. There is no practical way DOE can ensure the technical integrity of data gathered by States or utilities unless DOE sets the standards for all radiological monitoring prior to implementation of the FRERP. Such would not be a workable situation. Likewise, the following section (d) should clarify that DOE will provide interpretations, etc., based on its own data or that of other Federal agencies.

[Department of Nuclear Safety (Illinois)]  
*Response*—The Committee agrees with the recommendation to reword this sentence to indicate that this requirement applies only to data gathered by the FRMAC and this change has been made to the plan. However, the Committee disagrees with the recommendation to limit the interpretation of monitoring data by the FRMAC only to the data obtained by Federal agencies. FRMAC staff will be used to evaluate any available monitoring data that becomes available to them during the course of the emergency. Likewise, State and local staff should be free to use any and all data that they have available regardless of whether it comes from State or Federal sources.

*Comment 28.* Section II.D.3.a.(2) Transition of Response Coordination Responsibility on page 46090 implies that EPA will assume responsibility for coordination only if the other Federal agencies will provide resources, personnel, and money for the long-term duration. EPA should identify a mechanism for controlling the costs associated with these resources. If EPA does not have the equipment, personnel, and money to follow up and coordinate the response, then why would any agency commit to an open checkbook with the past record that has been demonstrated. These agencies should be able to track and have input to the costs incurred. [DOE]

*Response*—As Section I.D.6. Reimbursement on page 46087 states, "The cost of each Federal agency's participation in support of the FRERP is the responsibility of that agency, \* \* \*." The Committee feels that this issue was clearly stated as written and that the mechanisms for tracking response costs is an internal process specific to each agency and therefore is best handled on an agency-specific basis.

*Comment 29.* Section II.D.3.c. Role of the Lead Federal Agency (LFA) on page 46090 should allow for the release of official information to the local governments also impacted or involved in the event and not just to the State agency, particularly if the local agency

asked for the assistance. It should provide a mechanism to allow for official release of information to the local governments in an expedient manner. [DOE]

*Response*—The Committee agrees with this recommendation and reworded the sentence to read "Approve the release of official Federal offsite monitoring data and assessments." This will allow the release of approved material to all affected parties as quickly as possible.

*Comment 30.* Section II.D.3.c. Role of the Lead Federal Agency (LFA) on page 46090 states, "Approve the release of official Federal offsite monitoring data and assessments to the State." In our DOE exercise, this approval was so long in the making that the exercise came to a complete standstill and information flow was not generated until after the exercise. Again, you practice what you will do in an actual emergency. Why does the Lead Federal Agency need to approve information released to the State? Once something is released into the environment it is no longer classified. In order for the State to respond to the incident, we must have information to assist us in the necessary response. Any delay in that information flow could be lethal to the general public as well as to the environment. Information for the general public may have to be screened so as not to panic the private citizens, but information for the responders needs to be timely and complete. If the Lead Federal Agency is screening information for security purposes, they must remember to forward this confirmed information immediately to the states. [Nevada]

*Response*—The Committee agrees that the timely release of accurate information is very important. The Lead Federal Agency is responsible for clearing information to ensure that the State and local responders receive accurate and timely information. It is the intent of the FRMAC and other Federal response centers to release information as soon as the correctness of the information is verified.

*Comment 31.* Section II.D.3.d.(1) USDA on page 46090 should clarify that in each case USDA will assist the affected States, in monitoring, collecting samples, etc. These activities should not be carried out independently by Federal agencies. [Department of Nuclear Safety (Illinois)]

*Response*—As stated in the response to Comment 15, the role of the Federal agencies is to support the State and local governments response to the emergency. Section II.D.3 states that Federal offsite monitoring and assessment activities will be

coordinated with those of the State and that Federal procedures for implementing this monitoring are designed to be compatible with the requirements of the State.

*Comment 32.* The second sentence in Section II.D.4. Protective Action Recommendations on page 46091 should be changed to read as follows: "This includes emergency actions such as sheltering, evacuation, and guidance on the use of radioactive substances (e.g., thyroid blocking agents)." The reason for this change is that iodine, itself, is not given as a prophylactic agent; typically, it is administered as potassium iodide. [Westinghouse Electric Corporation]

*Response*—The Committee agrees with this recommendation and reworded the sentence to address this comment by inserting the word "stable" before "iodine."

*Comment 33.* The third sentence in Section II.D.4.b. Role of the Advisory Team for Environment, Food, and Health on page 46091 states, "The Advisory Team will not release information to the public \* \* \*" should make clear that the Team releases no information to the public without authorization from the LFA after consultation with the affected States. As currently worded, it could be interpreted that the Team could be authorized to release information by some agency other than the LFA. [Department of Nuclear Safety (Illinois)]

*Response*—The Committee believes that the wording is appropriate as written. The Advisory Team is prohibited from releasing any information to the public without the express permission of the LFA. Even if the Advisory Team receives permission to release information/recommendations from a Federal agency that has jurisdiction in a specific area it cannot release the information/recommendations until the LFA has also approved its release.

*Comment 34.* Section II.D.4.b. Role of the Advisory Team for Environment, Food, and Health on page 46091 should be modified to reflect that re-entry is part of the mitigation efforts as determined by the incident commander and command staff, which is comprised of the agencies directly involved. Non-emergency re-entry is part of the recovery planning process and should be addressed under that planning. Please clarify this section to state this is for emergency re-entry or non-emergency re-entry. [DOE]

*Response*—The LFA will assist the State and local authorities (including the incident commander), if requested, by advising them on such issues as

reentry to perform mitigation activities. The Advisory Team agencies have expertise and experience to assist the LFA in developing the advice. The paragraph was intended to list the areas of expertise of the Advisory Team. It does not imply that the Advisory Team will perform those functions.

*Comment 35.* Section II.D.4.b. Role of the Advisory Team for Environment, Food, and Health on page 46091 states that the Advisory Team will select a "chairman." This should be changed to read "chair or chairperson or team leader" in accordance with Government guidelines. [NASA]

*Response*—The Committee agrees and replaced "chairman" with "chair."

*Comment 36.* The first sentence in Section II.D.4.b. Role of the Advisory Team for Environment, Food, and Health on page 46091 should be changed to read as follows: "The Advisory Team is established by representatives from EPA, HHS, USDA, and other Federal agencies as needed for the provision of interagency coordinated advice to the LFA concerning environmental, food and health matters." The deletion of LFA from the list of representatives makes the wording consistent with Section II.D.4.b. and Appendix B—Definitions. [Westinghouse Electric Corporation]

*Response*—The FRRERP establishes the concept of the Advisory Team. The current wording was carefully written to assure that the Advisory Team is available to the LFA when the LFA needs advice. The Advisory Team is not established by EPA, HHS, and USDA, but is always available to support the LFA.

*Comment 37.* In Section II.D.4.b. Role of the Advisory Team for Environment, Food, and Health on page 46091 the wording of (6) should be changed to read as follows: "(6) Recommendations for minimizing losses of agricultural resources from the effects of radioactive contamination." The effects of the accident on agricultural resources will be from the radioactive contamination on or in the food that could result in unacceptable internal exposure from eating the food. The health effects would not result from the exposure of the food to radiation, which would have no effect. [Westinghouse Electric Corporation]

*Response*—The Committee felt the present wording was appropriate and no change was necessary.

*Comment 38.* Section II.D.5.b. Role of Other Federal Agencies on page 46091 should be revised by adding a statement that the types of available support listed here supplements the roles/responsibilities of these agencies which

are outlined in the Federal Response Plan. [FEMA—Region VII]

*Response*—The types of available support listed in this section are intended to describe the many non-radiological activities that FEMA will coordinate. In fact, there may be other activities not listed here that FEMA will also coordinate. FEMA will provide guidance on how it will accomplish that coordination in supporting documents.

*Comment 39.* The lead paragraph in II.D.5.b. Role of Other Federal Agencies on page 46091 contains the statement, "The following types of assistance not related to radiological monitoring and assessment that may be provided by Federal agencies as needed or requested." However, under the departmental listing are the following direct references related to radiological monitoring and assessment activities:

- (1) USDA, item (e),
- (2) DOC, "loaning radiation shielding materials" for what purpose?
- (3) DOD, advice on proper medical treatment of personnel exposed to or contaminated by radioactive materials,
- (4) DOE, advice on medical treatment of personnel exposed to or contaminated by radioactive materials,
- (5) HHS, (c) study of exposed populations, (d) medical advice, (e) assessing health impacts.

These are all areas of legitimate Federal activity, but they should be listed among the direct radiological monitoring and assessment responsibilities of these agencies, not under the non-technical support roles. [Department of Nuclear Safety (Illinois)]

*Response*—The Committee understands the confusion and reworded the sentence to read, "The following indicates other types of assistance that may be provided by Federal agencies as needed or requested."

*Comment 40.* Sections II.D.5.b.(1) Department of Agriculture on page 46091 and paragraph A.2.(14) in Appendix C on page 46101 state temporary housing is a responsibility of the Department of Agriculture (USDA). Is that true? [FEMA—Region VII]

*Response*—USDA is a potential source of temporary housing resources. Through its farm loan programs the USDA typically has a number of repossessed properties that may be available for use as temporary housing in emergency situations. Although housing is not the primary responsibility of USDA, it does have resources that could be beneficial and should be factored into Federal response assets.

*Comment 41.* Section II.D.5.b.(7) Department of Interior (DOI) on page

46092 should include DOI's responsibility concerning Indian lands. [FEMA-Region VII]

*Response*—The Committee revised this section to include Indian tribal lands.

*Comment 42.* The second paragraph of Section II.D.6. Public Information Coordination on page 46092 should clarify that if it is deemed necessary to release Federal information regarding public health and safety prior to establishment of a Federal presence at the JIC, any such release must be coordinated through the LFA and the States before it is made. States, in compliance with NUREG-0654 for fixed nuclear facilities, already have in place a mechanism for coordinated dissemination of public information during an emergency. Any attempt by the Federal Government to release information outside of this mechanism has the potential for causing confusion for State authorities and the public. [Department of Nuclear Safety (Illinois)]

*Response*—The Committee agrees with the comment and has revised the sentence in that paragraph to read, "In these instances, Federal agencies will coordinate with the LFA and the State in advance or as soon as possible after the information has been released."

*Comment 43.* Section II.D.7.b. White House Coordination on page 46093 states that FEMA submits information concerning the non-technical response to the Lead Federal Agency for inclusion in the reports to the White House. Does this eliminate the requirement for FEMA SITREP reporting (from the DFO and/or Regional Operations Centers) under the FRERP? [FEMA—Region VII]

*Response*—No, this section does not apply to the generation of reports under other response plans. In those situations in which the FRP and FRERP are both being used the Radiological Emergencies Annex to the FRP, which is under development, should be consulted to determine the appropriate mechanism for developing White House reports and briefings.

*Comment 44.* The wording in II.E.1.a.(3) and on page 46093 is duplicated in E.2.a. (1) and (2). Delete E.1.a. (3) and (4). [Yankee Atomic Electric Company]

*Response*—The Committee recognizes that this was indeed a duplication, but that it was appropriate to keep as written.

*Comment 45.* Step (4) of Section II.E.1.a. Role of the Lead Federal Agency on page 46094 under requires the LFA to "Verify that the State has been notified." That verification step by the LFA is not reflected in Figure II-1.

Notification Process. The figure indicates that only FEMA is required to verify State and local notification.

[Department of Nuclear Safety (Illinois)]

*Response*—The Committee agrees and Figure II-1 has been changed as appropriate.

*Comment 46.* Figure II-1, Notification Process, on page 46095 should not reflect that the Lead Federal Agency must notify the State and local response organizations. The State and local response organizations are notified by the onsite organization, which may be the Lead Federal Agency. The verification is specified to be performed by FEMA. This diagram indicates duplication of activities that could be resolved by the clarification recommended above. [Yankee Atomic Electric Company]

*Response*—It is true that for fixed facilities, the onsite organization notifies the State and local response organizations. The FRERP also covers transportation accidents and unknown source emergencies. In these cases, the LFA may be the first to receive direct notification from local police or a member of the public. Anyone at any level of government or private industry or any member of the general public may call and request Federal assistance under the FRERP. In fact, there have been numerous situations in which the EPA, as the LFA, has received notification from private individuals and organizations about potential radiological emergency situations. In each of these cases, EPA's first action is to inform the individual or organization to call the appropriate State or local agency. EPA then also calls the State or local agency to ensure that they are notified of the situation. The current wording assures that the State and local organizations are notified under all potential emergencies.

*Comment 47.* Section II.E.2. Activation and Deployment on page 46096 has FEMA, as well as the LFA, and other Federal agencies initially coordinating response actions from "their headquarters locations, usually from their respective headquarters EOCs." Under the Regional Response Plan, coordination would be from the Regional Operations Center, which would be activated by the Regional Director, and staffed with ESF Departments and Agencies at the Regional level. [FEMA—Region II]

*Response*—The FRERP statement is true for many of the LFAs in the early phase of a Federal response even if this response is little more than to receive the first notification and notify the affected region. In fact, one LFA does not have regions. No changes were made

because the majority of LFAs respond this way even for a short time.

*Comment 48.* Section II.E.2.a. Role of Lead Federal Agency (LFA) on page 46096 should be revised by adding words that indicate that the Federal Onscene Commander will be the Senior Agency Official for this mishap/accident. [NASA]

*Response*—The use of the term Federal Onscene Commander was chosen to indicate that the FRERP is consistent with the Incident Command System that is used by most State and local organizations. The concept and duties of an OSC are understood by State and local organizations. It is the intent of the FRERP that agencies adopt the FRERP terminology as much as possible in order to standardize the Federal response.

*Comment 49.* Section II.E.2.b. Role of the Federal Emergency Management Agency (FEMA) on page 46096 has FEMA deploying ERT-A, although there is still no mention of the Regional Office, and establishing a DFO, although there is no mention of a Stafford Act Declaration in this regard. [FEMA—Region II]

*Response*—The Committee understands the concerns expressed by the comment and is deleting the deployment of the ERT-A and establishment of the DFO from this section.

*Comment 50.* Section II.E.3. Response Operations on page 46096 should be revised by adding a statement to indicate that, during the initial stages of response (i.e., first 48 to 72 hours), FEMA and other appropriate non-technical Federal agencies will coordinate their response from the Joint Operations Center. This will contribute to more effective coordination, between the Lead Federal Agency and FEMA, of on-site and off-site activities, including public information concerns during the critical stages of an incident. [FEMA—Region VII]

*Response*—The FRERP was written to take advantage of systems already in place. Although the Joint Operations Center is a new term in the FRERP, these facilities have long been identified for LFA emergency response. They cannot always accommodate all response activities. Some are not owned by or under the control of the LFA. Some are located on protected property that could pose logistical problems for access and use. FEMA also has a system in place to fulfill its non-radiological functions. It was determined that it would be efficient to maintain those systems and share information with the extensive use of liaisons. Participating

agencies should exercise with liaisons to develop those coordination skills.

*Comment 51.* Section II.E.3. Response Operations on page 46096 has FEMA and OFA liaison and support of response operations coming out of their headquarters offices, with exchange of liaisons at EOCs to support onscene operations. They may "also activate a regional or field office EOC in support of the emergency." This may be entirely appropriate for the FRERP, but has little to do with the FRP. [*FEMA—Region II*]

*Response*—Section II.E.3 was written in broad terms so that existing agency plans could be used without major changes. The terms "will generally" and "may also activate" allow flexibility to adopt the FRERP as each agency deems appropriate.

*Comment 52.* Section II.E.3. Response Operations on page 46096 should use correct outline form. [*USDA*]

- a.
- (1)
- (a)
- etc.

*Response*—The Committee agrees that the correct format should be used and the plan was reviewed to ensure that the appropriate format was followed.

*Comment 53.* Section II.E.3. Response Operations, b. Disaster Field Office (DFO) on page 46098 states that a Disaster Field Office will be established by FEMA, "in coordination with the State and local authorities and other Federal Agencies." Again, there is no mention of a declaration in regard to establishing a DFO. Furthermore, the description of the DFO's coordinating function does not mention the ESF-based operation envisaged under the FRP. Is it the intention of this plan to establish a DFO for the FRERP in the absence of a declaration? How does this provision relate to the activation "of a regional or field office EOC in support of the emergency" described on above? [*FEMA—Region II*]

*Response*—FEMA will use the structures of the FRP to provide the appropriate level and type of resources needed to support its role under the FRERP and to meet the requirements of the situation. Initially, FEMA will implement its monitoring and coordination functions from a ROC, State EOC or other facility. A DFO will be established in conjunction with an emergency or disaster declared and the appointment of a Federal Coordinating Officer.

*Comment 54.* Section II.E.3.b. Disaster Field Office (DFO) on page 46098 states that the Senior FEMA Official (SFO) is the official in charge of the DFO without a Stafford Act Declaration. However, with a Stafford Act Declaration, the

Federal Coordinating Officer (FCO) is the designated authority. This paragraph should be clarified accordingly.

[*FEMA—Region VII*]

*Response*—The comment is correct. The Senior FEMA Official is in charge of the coordination function without a Stafford Act declaration and the FCO is in charge of this function from a DFO with a Stafford Act declaration.

*Comment 55.* The section heading II.E.3.d. Advisory Team on Environment, Food, and Health on page 46098 should be Change to: "d. Advisory Team for Environment, Food, and Health." [*USDA*]

*Response*—The Committee accepted the recommendation and made necessary changes.

*Comment 56.* The first sentence in Section II.E.3. Response Operations, d. Advisory Team on Environment, Food, and Health on page 46098 should be revised by deleting the term "LFA" (not on the team, supported by the team). [*USDA*]

*Response*—The Committee accepted this recommendation and made the change.

*Comment 57.* The first paragraph of Section II.E.4. Response Deactivation on page 46098 states, "Each agency will discontinue emergency response operations when advised that Federal assistance is no longer required or when its statutory responsibilities have been fulfilled." The language is vague and subjective. It should be clarified to state who makes the determination and on what basis. It is suggested that agencies discontinue emergency response operation after determining in consultation with the State(s) that initially requested support, that Federal assistance is no longer required. Sections b., c., d., and e. all provide criteria for discontinuance of specific functions and facilities, while Section a. does not. [*Department of Nuclear Safety (Illinois)*]

*Response*—The Committee believes that the criteria in paragraphs b. through e. provide adequate discussion of the criteria for the termination of Federal responses at those facilities. Paragraph a. is applicable to paragraphs b. through e.

*Comment 58.* In Section II.E.5. Recovery on page 46098 should EPA be listed along with the State as being responsible for planning the recovery of the affected area? [*USDA*]

*Response*—No, the EPA's philosophy is that they will support State and local governments, if and when requested, during environmental restoration activities.

*Comment 59.* Appendix A—Acronyms on page 46099 should

contain all the acronyms used in the plan (e.g., GIS). [*NASA*]

*Response*—The Committee agrees with this comment and will review the plan to ensure that all acronyms are listed in Appendix A.

*Comment 60.* In Appendix B—Definitions the definition for "onsite" on page 46100 may not be adequate. The definition of "onsite" given in the FRERP, which is based on jurisdiction, is somewhat different than the definition typically used when considering packaging of radioactive waste for the Department of Energy, which is based on "access control." An example of where a jurisdiction-based definition may not be adequate: If a site does not have Access Control Boundaries (e.g., physical barriers or security guards), then the area does not qualify as "onsite" relative to being exempt from DOE packaging regulations. [*Westinghouse Electric Corporation*]

*Response*—The Committee believes the current definition of "onsite" in the FRERP is appropriate for its intended use under this plan and that no change was necessary.

*Comment 61.* In Appendix B—Definitions the definition of Protective Action Guide (PAG) on page 46100 should cite applicable EPA and FDA references for PAGs. [*FEMA—Region VII*]

*Response*—The definition of Protective Action Guide (PAG) is not limited to EPA and FDA PAGs but acknowledges State PAGs may exist.

*Comment 62.* The second sentence in Section A.1. Summary of Response Mission in Appendix C on page 46100 should be changed to read: "USDA will actively participate with EPA and HHS on the Advisory Team \* \* \*, when convened." [*USDA*]

*Response*—The Committee agrees with this recommendation and made the change.

*Comment 63.* The fourth reference listed in Section D.3. DOE References of Appendix C on page 46102 should be changed to read as follows: "(4) DOE Order 5500.4A, Public Affairs Policy and Planning Requirements for Emergencies, June 1992 which supersedes the cited reference." [*Westinghouse Electric Corporation*]

*Response*—The Committee agreed with this recommendation and made the change.

*Comment 64.* The first sentence of Section J.2. Capabilities and Resources in Appendix C on page 46104 should be revised to read: "DOT is responsible for working with the International Atomic Energy Agency \* \* \*" [*USDA*]

*Response*—The Committee agreed with this recommendation and made the change.

*Comment 65.* Revise reference 1 in Section O.3. NASA References in Appendix C on page 46106 to read “(1) KHB 1860.1B.” [NASA]

*Response*—The Committee agreed with this recommendation and made the change.

*Comment 66.* Revise the second authority in Section O.4. NASA Specific Authorities in Appendix C on page 46106 read: “(2) NHB 1700.1(V1-B) NASA Safety Policy and Requirements Document.” [NASA]

*Response*—The Committee agreed with this recommendation and made the change.

*Comment 67.* Pursuant to 44 CFR Part 350, State and local jurisdictions that fall within the emergency planning zones of commercial nuclear facilities are required to develop and maintain comprehensive radiological emergency response capabilities. These capabilities are required to be demonstrated during Federally evaluated exercises to provide continued reasonable assurance of the health and safety of the public.

Typically, this capability is demonstrated without full regard to the Federal resources that would be provided by the activation of the FRERP. To assist in the prevention of potential coordination difficulties at the State level, it is recommended that FEMA be given the responsibility to provide personnel to simulate the involvement of the various Federal agencies. Another alternative would be to establish measures for supporting a smooth integration of Federal resources. This could include the evaluation and demonstration of the interactions between FRERP, State, local, and other involved agencies.

It is recommended that the FRERP be revised to address the issuance of emergency public information related to an emergency at a fixed nuclear site. Emergency public information provided by any Federal agency should be either limited to the coordinated issuance of information through the Joint Information Center or restricted to information not associated with response actions, emergency conditions at the facility, or pertaining to protective action recommendations, or their bases, in any way. Without this control of emergency information, the flow of coordinated and consistent information to the public could be easily compromised. [Virginia Power]

*Response*—Federal agencies are encouraged to participate in exercises to the extent they are able in order to test coordination functions. It would not be

helpful to an agency if FEMA acted for them in exercises. State and Federal agencies should cooperate in planning exercises that test coordination activities.

The Committee understands the concern about the uncoordinated release of public information during a radiological emergency. It also believes that the Section II.D.6. Public Information Coordination on page 46092 adequately states how the Federal agencies will address this issue. Moreover, LFAs are expected to develop supporting documents that provide details on how they intend to implement their public information coordination responsibilities described in the FRERP.

*Comment 68.* Section II.E.3. Response Operations, which begins on page 46096 should be revised to clarify how data will be transferred between the FRMAC, JIC, DFO, and EOF and whether or not these facilities will be collocated or located in different areas. [Department of Health—Nebraska]

*Response*—The FRERP is a plan that is designed to provide the basic framework for coordinating the Federal response to a radiological emergency. It is not a detailed operating procedure. The location of these facilities is dependent upon many factors—the nature of accident, the geographical location of affected areas, the type and amount of radionuclide(s) released, the availability of appropriate facilities, etc. Because of this large number of factors it is impossible to tell beforehand how these facilities will be positioned. FRMAC operations documents provide details for transferring data among emergency response facilities when authorized by the State and the LFA.

*Comment 69.* Only the Governor or Director of Radiological Health can activate the FRERP on behalf of the State of Mississippi. This limit on activation authority should be retained. The ability of a newly elected Civil Defense Director to activate the FRERP could create unnecessary confusion. [Department of Health—Mississippi]

*Response*—It is not the intent of the FRERP to restrict who may request Federal assistance in responding to a radiological emergency. If the State of Mississippi wishes to place a limitation on who among its professional staff can request Federal assistance that is their prerogative. However, the signatory agencies to the FRERP will always respond to requests for assistance from any level of State or local government or private industry.

The FRERP is not a plan that is activated by some specific action, request, or criteria having been met. The

FRERP is intended to be used whenever any signatory Federal agency responds to a radiological emergency no matter what size. This assures that notification, coordination, sharing information, and reporting activities are not overlooked in any response.

*Comment 70.* The NRC contributes very little to the offsite management of an accident at a commercial nuclear power plant. Although they have given themselves the lead role as spokesperson in the JIC, they do not drill with the State. Therefore they should not come in during an actual event and take over the management of the media. [Department of Health—Mississippi]

*Response*—It is not the intent of the FRERP to have the NRC or any other LFA to manage the JIC or the media. Rather, the LFA is expected to coordinate the Federal public information at the JIC. This activity is coordinated with the State representatives to ensure that the public has the latest and most accurate information.

*Comment 71.* Who takes over the radiological monitoring and assessment activities under the FRERP if DOE is dissolved? Will this activity go away or will the functions be transferred to another agency? [Department of Health—Mississippi]

*Response*—The FRERP was written based on the current structures and functions of the various agencies and departments that are signatories to the plan. If any of these agencies should be dissolved the remaining agencies will review the situation and address any deficiencies that may result. If the changes are severe enough the plan may be revised.

*Comment 72.* Recent experiences with radiological incidents in Michigan have led to confusion and problematic jurisdictional issues arising from implementation of the revised FRERP. For example, the Michigan Department of Public Health was forced to make a determination on the radiological consequences of a contaminated rail car because the EPA and NRC regional offices felt they had no authority to make a determination based on their understanding of the FRERP. Also, during a bomb-scare incident involving radioactive material (thorium) the NRC claimed they had no responsibility pursuant to the FRERP and that EPA was the Lead Federal Agency. It is unclear whether EPA is properly prepared to provide such assistance, both from a resource perspective and a regulatory jurisdiction perspective for emergencies involving AEA materials for which no licensee has been

identified. Although Michigan supports the FRERP concept and welcomes the availability of Federal resources for responding to radiological emergencies, we are very concerned that implementation of the current FRERP may be premature, resulting in unnecessary confusion and inefficient management of actions necessary for adequate public health protection.

[Department of Public Health—Michigan]

*Response*—The Committee understands the concerns expressed. However, we believe that most of these concerns represent “growing pains” as the various Federal agencies adapt to their new roles and responsibilities. The Committee strongly believes that the revised FRERP will result in providing improved Federal support to State and local governments.

*Comment 73.* The definition of emergency in the FRERP appears to include any situation that may result in substantial damage to or loss of property. The key qualifier in the definition being the word “substantial” which is extremely subjective and imparts a vague context to the entire FRERP. It is now unclear whether the FRERP is, or is intended to be, a new Federal mechanism to address radiologically contaminated sites vis à vis the NRC’s Site Decommissioning Management Plan, DOE’s Formerly Utilized Sites Remedial Action Program, or EPA’s National Priorities List under Superfund. [Department of Health—Michigan]

*Response*—The definition of emergency was written to be vague in order to provide flexibility to the Federal Government in responding to State and local requests for assistance. Because the level of expertise and available resources varies significantly from one State to another, what might be substantial to one State might not be substantial to another. Also, who would determine what is substantial—the State or the Federal Government. By leaving the definition vague the affected State and local governments and the Federal Government can work together to develop the appropriate level of response based on the specific characteristics of the emergency at hand. With regard to using the FRERP to address radiologically contaminated sites—that is not its purpose. Generally speaking these sites do not present an imminent danger to the health and safety of the general public and therefore do not qualify as emergencies, even though the cost to clean them up may be significant. Therefore, the cleanup of contaminated land should be

accomplished in accordance with other mechanisms.

*Comment 74.* The comments received by FEMA on the proposed revisions to the FRERP should be shared with all parties that may be directly affected by the implementation of the FRERP.

[Department of Public Health—Michigan]

*Response*—The Committee agrees with this comment. All of the significant comments received by FEMA, along with the Federal response, will be published with the final FRERP as soon as it is approved.

Dated: May 1, 1996.

James L. Witt,  
Director.

Accordingly, the Federal Emergency Management Agency gives notice that the Federal Radiological Emergency Response Plan is operational. The text of the Plan reads as follows.

#### Table of Contents

#### Table of Contents

#### List of Figures

#### List of Tables

#### Statements of Consideration

#### I. Introduction and Background

##### A. Introduction

##### B. Participating Federal Agencies

##### C. Scope

##### D. Plan Considerations

##### 1. Public and Private Sector Response

##### 2. Coordination by Federal Agencies

##### 3. Federal Agency Authorities

##### 4. Federal Agency Resource Commitments

##### 5. Requests for Federal Assistance

##### 6. Reimbursement

##### E. Training and Exercises

##### F. Relationship to the Federal Response Plan (FRP)

##### 1. Without a Stafford Act Declaration

##### 2. With a Stafford Act Declaration

##### G. Authorities

#### II. Concept of Operations

##### A. Introduction

##### B. Determination of Lead Federal Agency (LFA)

##### 1. Nuclear Facility

##### a. Licensed by Nuclear Regulatory Commission (NRC) or an Agreement State

##### b. Owned or Operated by DOD or DOE

##### c. Not Licensed, Owned, or Operated by a Federal Agency or an Agreement State

##### 2. Transportation of Radioactive Materials

##### a. Shipment of Materials Licensed by NRC or an Agreement State

##### b. Materials Shipped by or for DOD or DOE

##### c. Shipment of Materials Not Licensed or Owned by a Federal Agency or an Agreement State

##### 3. Satellites Containing Radioactive Materials

##### 4. Impact from Foreign or Unknown Source

##### 5. Other Types of Emergencies

##### C. Radiological Sabotage and Terrorism

##### D. Response Functions and Responsibilities

##### 1. Onscene Coordination

##### 2. Onsite Management

#### 3. Radiological Monitoring and Assessment

##### a. Role of Department of Energy (DOE)

##### b. Role of the Environmental Protection Agency (EPA)

##### c. Role of the Lead Federal Agency (LFA)

##### d. Role of Other Federal Agencies

#### 4. Protective Action Recommendations

##### a. Role of the Lead Federal Agency (LFA)

##### b. Role of the Advisory Team for Environment, Food, and Health

##### 5. Other Federal Resource Support

##### a. Role of the Federal Emergency Management Agency (FEMA)

##### b. Role of Other Federal Agencies

##### 6. Public Information Coordination

##### a. Role of the Lead Federal Agency (LFA)

##### b. Role of the Federal Emergency Management Agency (FEMA)

##### c. Role of Other Participating Agencies

##### 7. Congressional and White House Coordination

##### a. Congressional Coordination

##### b. White House Coordination

##### 8. International Coordination

##### 9. Response Function Overview

#### E. Stages of the Federal Response

##### 1. Notification

##### a. Role of the Lead Federal Agency (LFA)

##### b. Role of the Federal Emergency Management Agency (FEMA)

##### 2. Activation and Deployment

##### a. Role of the Lead Federal Agency (LFA)

##### b. Role of Federal Emergency Management Agency (FEMA)

##### c. Role of Other Federal Agencies

##### 3. Response Operations

##### a. Joint Operations Center (JOC)

##### b. Disaster Field Office (DFO)

##### c. Federal Radiological Monitoring and Assessment Center (FRMAC)

##### d. Advisory Team for Environment, Food and Health

##### e. Joint Information Center (JIC)

##### 4. Response Deactivation

##### 5. Recovery

#### Appendix A Acronyms

#### Appendix B Definitions

#### Appendix C Federal Agency Response Missions, Capabilities and Resources, References, and Authorities

#### List of Figures

##### II-1 Notification Process

##### II-2 Onscene Response Operations Structure

#### List of Tables

##### II-1 Identification of Lead Federal Agency for Radiological Emergencies

##### II-2 Response Function Overview

#### I. Introduction and Background

##### A. Introduction

The objective of the Federal Radiological Emergency Response Plan (FRERP) is to establish an organized and integrated capability for timely, coordinated response by Federal agencies to peacetime radiological emergencies.

The FRERP:

1. Provides the Federal Government’s concept of operations based on specific authorities for responding to radiological emergencies;

2. Outlines Federal policies and planning considerations on which the

concept of operations of this Plan and Federal agency specific response plans are based; and

3. Specifies authorities and responsibilities of each Federal agency that may have a significant role in such emergencies.

There are two Sections in this Plan. Section I contains background, considerations, and scope. Section II describes the concept of operations for response.

#### *B. Participating Federal Agencies*

Each participating agency has responsibilities and/or capabilities that pertain to various types of radiological emergencies. The following Federal agencies participate in the FRERP:

1. Department of Agriculture (USDA);
2. Department of Commerce (DOC);
3. Department of Defense (DOD);
4. Department of Energy (DOE);
5. Department of Health and Human Services (HHS);
6. Department of Housing and Urban Development (HUD);
7. Department of the Interior (DOI);
8. Department of Justice (DOJ);
9. Department of State (DOS);
10. Department of Transportation (DOT);
11. Department of Veterans Affairs (VA);
12. Environmental Protection Agency (EPA);
13. Federal Emergency Management Agency (FEMA);
14. General Services Administration (GSA);
15. National Aeronautics and Space Administration (NASA);
16. National Communications System (NCS); and
17. Nuclear Regulatory Commission (NRC).

#### *C. Scope*

The FRERP covers any peacetime radiological emergency that has actual, potential, or perceived radiological consequences within the United States, its Territories, possessions, or territorial waters and that could require a response by the Federal Government. The level of the Federal response to a specific emergency will be based on the type and/or amount of radioactive material involved, the location of the emergency, the impact on or the potential for impact on the public and environment, and the size of the affected area. Emergencies occurring at fixed nuclear facilities or during the transportation of radioactive materials, including nuclear weapons, fall within the scope of the Plan regardless of whether the facility or radioactive materials are publicly or privately owned, Federally regulated, regulated by an Agreement State, or not

regulated at all. (Under the Atomic Energy Act of 1954 [Subsection 274.b.], the NRC has relinquished to certain States its regulatory authority for licensing the use of source, byproduct, and small quantities of special nuclear material.)

#### *D. Plan Considerations*

1. **Public and Private Sector Response.** For an emergency at a fixed nuclear facility or a facility not under the control of a Federal agency, State and local governments have primary responsibility for determining and implementing measures to protect life, property, and the environment in areas outside the facility boundaries. The owner or operator of a nuclear facility has primary responsibility for actions within the boundaries of that facility, for providing notification and advice to offsite officials, and for minimizing the radiological hazard to the public.

For emergencies involving an area under Federal control, the responsibility for onsite actions belongs to a Federal agency, while offsite actions are the responsibility of the State or local government.

For all other emergencies, the State or local government has the responsibility for taking emergency actions both onsite and offsite, with support provided, upon request, by Federal agencies as designated in Section II of this plan.

2. **Coordination by Federal Agencies.** This Plan describes how the Federal response to a radiological emergency will be organized. It includes guidelines for notification of Federal agencies and States, coordination and leadership of Federal response activities onscene, and coordination of Federal public information activities and Congressional relations by Federal agencies. The Plan suggests ways in which the State, local, and Federal agencies can most effectively integrate their actions. The degree to which the Federal response is merged or to which activities are adjusted will be based upon the requirements and priorities set by the State.

Appropriate independent emergency actions may be taken by the participating Federal agencies within the limits of their own statutory authority to protect the public, minimize immediate hazards, and gather information about the emergency that might be lost by delay.

3. **Federal Agency Authorities.** Some Federal agencies have authority to respond to certain situations affecting public health and safety with or without a State request. Appendix C of this Plan cites relevant legislative and executive authorities. This Plan does not create

any new authorities nor change any existing ones.

A response to radiological emergencies on or affecting Federal lands not occupied by a government agency should be coordinated with the agency responsible for managing that land to ensure that response activities are consistent with Federal statutes governing the use and occupancy of these lands. This coordination is necessary in the case of Indian tribal lands because Federally recognized Indian tribes have a special relationship with the U.S. Government, and the State and local governments may have limited or no authority on their reservations.

In the event of an offsite radiological accident involving a nuclear weapon, special nuclear material, classified components, or all three, the owner (either DOD, DOE, or NASA) will declare a National Defense Area (NDA) or National Security Area (NSA), respectively, and this area will become "onsite" for the purposes of this plan. NDAs and NSAs are established to safeguard classified information, and/or restricted data, or equipment and material. Establishment of these areas places non-Federal lands under Federal control and results only from an emergency event. It is possible that radioactive contamination would extend beyond the boundaries of these areas.

In accordance with appropriate national security classification directives, information may be classified concerning nuclear weapons, special nuclear materials at reactors, and certain fuel cycle facilities producing military fuel.

4. **Federal Agency Resource Commitments.** Agencies committing resources under this Plan do so with the understanding that the duration of the commitment will depend on the nature and extent of the emergency and the State and local resources available. Should another emergency occur that is more serious or of higher priority (such as one that may jeopardize national security), Federal agencies will reassess resources committed under this Plan.

5. **Requests for Federal Assistance.** State and local government requests for assistance, as well as those from owners and operators of radiological facilities or activities, may be made directly to the Federal agencies listed in Table II-1, FEMA, or to other Federal agencies with whom they have preexisting arrangements or relationships.

6. **Reimbursement.** The cost of each Federal agency's participation in support of the FRERP is the responsibility of that agency, unless other agreements or reimbursement mechanisms exist. GSA will be

reimbursed for supplies and services provided under this Plan in accordance with prior interagency agreements.

#### E. Training and Exercises

Federal agencies, in conjunction with State and local governments, will periodically exercise the FRERP. Each agency will coordinate its exercises with the Federal Radiological Preparedness Coordinating Committee's (FRPCC's) Subcommittee on Federal Response to avoid duplication and to invite participation by other Federal agencies.

Federal agencies will assist other Federal agencies and State and local governments with planning and training activities designed to improve response capabilities. Each agency should coordinate its training programs with the FRPCC's Subcommittee on Training to avoid duplication and to make its training available to other agencies.

#### F. Relationship to the Federal Response Plan (FRP)

1. Without a Stafford Act Declaration. Federal agencies will respond to radiological emergencies using the FRERP, each agency in accordance with existing statutory authorities and funding resources. The LFA has responsibility for coordination of the overall Federal response to the emergency. FEMA is responsible for coordinating non-radiological support using the structure of the Federal Response Plan (FRP).

2. With a Stafford Act Declaration. When a major disaster or emergency is declared under the Stafford Act and an associated radiological emergency exists, the functions and responsibilities of the FRERP remain the same. The LFA coordinates the management of the radiological response with the Federal Coordinating Officer (FCO). Although the direction of the radiological response remains the same with the LFA, the FCO has the overall responsibility for the coordination of Federal assistance in support of State and local governments using the FRP.

#### G. Authorities

The following authorities are the basis for the development of this Plan:

1. Nuclear Regulatory Commission Authorization, Public Law 96-295, June 30, 1980, Section 304. This authorization requires the President to prepare and publish a "National Contingency Plan" (subsequently renamed the FRERP) to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in case of accidents at commercial nuclear power plants.

2. Executive Order (E.O.) 12241, National Contingency Plan, September 29, 1980. This E.O. delegates to the Director of FEMA the responsibility for publishing the National Contingency Plan (i.e., the FRERP) for accidents at nuclear power facilities and requires that it be published from time to time in the Federal Register. Executive Order 12241 has been amended by Executive Order 12657, FEMA Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants.

Authorities for the activities of individual Federal agencies appear in Appendix C.

### II. Concept of Operations

#### A. Introduction

The concept of operations for a response provides for the designation of one agency as the Lead Federal Agency (LFA) and for the establishment of onscene, interagency response centers. The FRERP describes both the responsibilities of the LFA and other Federal agencies that may be involved and the functions of each of the onscene centers.

The concept of operations recognizes the preeminent role of State and local governments for determining and implementing any measures to protect life, property, and the environment in areas not under the control of a Federal agency.

#### B. Determination of Lead Federal Agency (LFA)

The agency that is responsible for leading and coordinating all aspects of the Federal response is referred to as the LFA and is determined by the type of emergency. In situations where a Federal agency owns, authorizes, regulates, or is otherwise deemed responsible for the facility or radiological activity causing the emergency and has authority to conduct and manage Federal actions onsite, that agency normally will be the LFA.

The following identifies the LFA for each specified type of radiological emergency.

1. Nuclear Facility—a. Licensed by Nuclear Regulatory Commission (NRC) or an Agreement State. The NRC is the LFA for an emergency that occurs at a fixed facility or regarding an activity licensed by the NRC or an Agreement State. These include, but are not limited to, commercial nuclear power reactors, fuel cycle facilities, DOE-owned gaseous diffusion facilities that are operating under NRC regulatory oversight, and radiopharmaceutical manufacturers.

b. Owned or Operated by DOD or DOE. The LFA is either DOD or DOE,

depending on which agency owns or authorizes operation of the facility. These emergencies may involve reactor operations, nuclear material and weapons production, radioactive material from nuclear weapons, or other radiological activities.

c. Not Licensed, Owned, or Operated by a Federal Agency or an Agreement State. The EPA is the LFA for an emergency that occurs at a facility not licensed, owned, or operated by a Federal agency or an Agreement State. These include facilities that possess, handle, store, or process radium or accelerator-produced radioactive materials.

2. Transportation of Radioactive Materials—a. Shipment of Materials Licensed by NRC or an Agreement State. The NRC is the LFA for an emergency that involves radiological material licensed by the NRC or an Agreement State.

b. Materials Shipped by or for DOD or DOE. The LFA is either DOD or DOE depending on which of these agencies has custody of the material at the time of the accident.

c. Shipment of Materials Not Licensed or Owned by a Federal Agency or an Agreement State. The EPA is the LFA for an emergency that involves radiological material not licensed or owned by a Federal agency or an Agreement State.

3. Satellites Containing Radioactive Materials. NASA is the LFA for NASA spacecraft missions. DOD is the LFA for DOD spacecraft missions. DOE and EPA provide technical assistance to DOD and NASA.

In the event of an emergency involving a joint U.S. Government and foreign government spacecraft venture containing radioactive sources and/or classified components, the LFA will be DOD or NASA, as appropriate. A joint U.S./foreign venture is defined as an activity in which the U.S. Government has an ongoing interest in the successful completion of the mission and is intimately involved in mission operations. A joint venture is not created by simply selling or supplying material to a foreign country for use in their spacecraft. DOE and EPA will provide technical support and assistance to the LFA.

4. Impact from Foreign or Unknown Source. The EPA is the LFA for an emergency that involves radioactive material from a foreign or unknown source that has actual, potential, or perceived radiological consequences in the United States, its Territories, possessions, or territorial waters. The foreign or unknown source may be a reactor (e.g., Chernobyl), a spacecraft

containing radioactive material, radioactive fallout from atmospheric testing of nuclear devices, imported radioactively contaminated material, or a shipment of foreign-owned radioactive material. Unknown sources of radioactive material refers to that material whose origin and/or radiological nature is not yet established. These types of sources include contaminated scrap metal or abandoned radioactive material. DOD, DOE, NASA, and NRC provide technical assistance to EPA.

5. Other Types of Emergencies. In the event of an unforeseen type of emergency not specifically described in this Plan or a situation where conditions exist involving overlapping responsibility that could cause confusion regarding LFA role and responsibilities, DOD, DOE, EPA, NASA, and NRC will confer upon receipt of notification of the emergency to determine which agency is the LFA.

TABLE II-1.—IDENTIFICATION OF LEAD FEDERAL AGENCY FOR RADIOLOGICAL EMERGENCIES

Type of emergency	Lead Federal agency
1. Nuclear Facility: a. Licensed by NRC or an Agreement State. b. Owned or Operated by DOD or DOE. c. Not Licensed, Owned, or Operated by a Federal Agency or an Agreement State.	NRC. DOD or DOE. EPA.
2. Transportation of Radioactive Materials: a. Shipment of Materials Licensed by NRC or an Agreement State. b. Materials Shipped by or for DOD or DOE. c. Shipment of Materials Not Licensed or Owned by a Federal Agency or an Agreement State.	NRC. DOD or DOE. EPA.
3. Satellites Containing Radioactive Materials.	NASA or DOD.
4. Impact from Foreign or Unknown Source.	EPA.
5. Other Types of Emergencies.	LFAs confer.

**C. Radiological Sabotage and Terrorism**

For fixed facilities and materials in transit, responses to radiological emergencies generally do not depend on the initiating event. The coordinated response to contain or mitigate a threatened or actual release of radioactive material would be essentially the same whether it resulted from an accidental or deliberate act. For malevolent acts involving improvised

nuclear or radiation dispersal devices, the response is further complicated by the magnitude of the threat and the need for specialized technical expertise/ actions. Therefore, sabotage and terrorism are not treated as separate types of emergencies; rather, they are considered a complicating dimension of the types listed in Table II-1.

The Atomic Energy Act directs the Federal Bureau of Investigation (FBI) to investigate all alleged or suspected criminal violations of the Act. Additionally, the FBI is legally responsible for locating any nuclear weapon, device, or material and for restoring nuclear facilities to their rightful custodians. In view of its unique responsibilities under the Atomic Energy Act (amended by the Energy Reorganization Act), the FBI has concluded formal agreements with the LFAs that provide for interface, coordination, and technical assistance in support of the FBI's mission.

Generally, for fixed facilities and materials in transit, the designated LFA and supporting agencies will perform the functions delineated in this plan and provide technical support and assistance to the FBI in the performance of its mission. It would be difficult to outline all the possible scenarios arising from criminal or terrorist activity. As a result, the Federal response will be tailored to the specific circumstances of the event at hand. For those emergencies where an LFA is not specifically designated (e.g., improvised nuclear device), the Federal response will be guided by the established interagency agreements and contingency plans. In accordance with these agreements and plans, the signatory agency(ies) supporting the FBI will coordinate and manage the technical portion of the response and activate/request assistance under the FRERP for measures to protect the public health and safety. In all cases, the FBI will manage and direct the law enforcement and intelligence aspects of the response; coordinating activities with appropriate Federal, State, and local agencies within the framework of the FRERP and/or as provided for in established interagency agreements or plans.

**D. Response Functions and Responsibilities**

1. Onscene Coordination. The LFA will lead and coordinate all Federal onscene actions and assist State and local governments in determining measures to protect life, property, and the environment. The LFA will ensure that FEMA and other Federal agencies assist the State and local government agencies in implementing protective

actions, if requested by the State and local government agencies.

The LFA will coordinate Federal response activities from an onscene location, referred to as the Joint Operations Center (JOC). Until the LFA has established its base of operations in a JOC, the LFA will accomplish that coordination from another LFA facility, usually a Headquarters operations center.

In the absence of existing agreements for radiological emergencies occurring on or with possible consequences to Indian tribal lands, DOI will provide liaison between federally recognized Indian tribal governments and LFA, State, and local agencies for coordination of response and protective action efforts. Additionally, DOI will advise and assist the LFA on economic, social, and political matters in the United States insular areas should a radiological emergency occur.

2. Onsite Management. The LFA will oversee the onsite response; monitor and support owner or operator activities (when there is an owner or operator); provide technical support to the owner or operator, if requested; and serve as the principal Federal source of information about onsite conditions. The LFA will provide a hazard assessment of onsite conditions that might have significant offsite impact and ensure onsite measures are taken to mitigate offsite consequences.

3. Radiological Monitoring and Assessment. DOE has the initial responsibility for coordinating the offsite Federal radiological monitoring and assessment assistance during the response to a radiological emergency. In a prolonged response, EPA will assume the responsibility for coordinating the assistance at some mutually agreeable time, usually after the emergency phase.

Some of the participating Federal agencies may have radiological planning and emergency responsibilities as part of their statutory authority, as well as established working relationships with State counterpart agencies. The monitoring and assessment activity, coordinated by DOE, does not alter those responsibilities but complements them by providing for coordination of the initial Federal radiological monitoring and assessment response activity.

Activities will:

- Support the monitoring and assessment programs of the States;
- Respond to the assessment needs of the LFA; and
- Meet statutory responsibilities of participating Federal agencies.

Federal offsite monitoring and assessment activities will be

coordinated with those of the State. Federal agency plans and procedures for implementing this monitoring and assessment activity are designed to be compatible with the radiological emergency planning requirements for State, local governments, specific facilities, and existing memoranda of understanding and interagency agreements.

DOE may respond to a State or LFA request for assistance by dispatching a Radiological Assistance Program (RAP) team. If the situation requires more assistance than a RAP team can provide, DOE will alert or activate additional resources. These resources may include the establishment of a Federal Radiological Monitoring and Assessment Center (FRMAC) to be used as an onscene coordination center for Federal radiological assessment activities. Federal and State agencies are encouraged to collocate their radiological assessment activities.

Federal radiological monitoring and assessment activities will be activated as a component of an FRERP response or pursuant to a direct request from State or local governments, other Federal agencies, licensees for radiological materials, industries, or the general public after evaluating the magnitude of the problem and coordinating with the State(s) involved.

DOE and other participating Federal agencies may learn of an emergency when they are alerted to a possible problem or receive a request for radiological assistance. DOE will maintain national and regional coordination offices as points of access to Federal radiological emergency assistance. Requests for Federal radiological monitoring and assessment assistance will generally be directed to the appropriate DOE radiological assistance Regional Coordinating Office. Requests also can go directly to DOE's Emergency Operations Center (EOC) in Washington, DC. When other agencies receive requests for Federal radiological monitoring and assessment assistance, they will promptly notify the DOE EOC.

a. Role of Department of Energy (DOE)—(1) Initial Response Coordination Responsibility. DOE, as coordinator, has the following responsibilities:

(a) Coordinate Federal offsite radiological environmental monitoring and assessment activities;

(b) Maintain technical liaison with State and local agencies with monitoring and assessment responsibilities;

(c) Maintain a common set of all offsite radiological monitoring data, in an accountable, secure, and retrievable

form, and ensure the technical integrity of the FRMAC data;

(d) Provide monitoring data and interpretations, including exposure rate contours, dose projections, and any other requested radiological assessments, to the LFA, and to the States;

(e) Provide, in cooperation with other Federal agencies, the personnel and equipment needed to perform radiological monitoring and assessment activities;

(f) Request supplemental assistance and technical support from other Federal agencies as needed; and

(g) Arrange consultation and support services through appropriate Federal agencies to all other entities (e.g., private contractors) with radiological monitoring functions and capabilities, and technical and medical advice on handling radiological contamination and population monitoring.

(2) Transition of Response Coordination Responsibility. The DOE FRMAC Director will work closely with the Senior EPA representative to facilitate a smooth transition of the Federal radiological monitoring and assessment coordination responsibility to EPA at a mutually agreeable time and after consultation with the States and LFA. The following conditions are intended to be met prior to this transfer:

(a) The immediate emergency condition has been stabilized;

(b) Offsite releases of radioactive material have ceased, and there is little or no potential for further unintentional offsite releases;

(c) The offsite radiological conditions have been characterized and the immediate consequences have been assessed;

(d) An initial long-range monitoring plan has been developed in conjunction with the affected States and appropriate Federal agencies; and

(e) EPA has received adequate assurances from the other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response.

b. Role of the Environmental Protection Agency (EPA)—Prior to assuming responsibility for the FRMAC, EPA will:

(1) Provide resources, including personnel, equipment, and laboratory support (including mobile laboratories), to assist DOE in monitoring radioactivity levels in the environment;

(2) Assume coordination of Federal radiological monitoring and assessment responsibilities from DOE after the transition;

(3) Assist in the development and implementation of a long-term monitoring plan; and

(4) Provide nationwide environmental monitoring data from the Environmental Radiation Ambient Monitoring Systems for assessing the national impact of the accident.

c. Role of the Lead Federal Agency (LFA)—(1) Ensure that State's needs are addressed.

(2) Approve the release of official Federal offsite monitoring data and assessments.

(3) Provide other available radiological monitoring data to the State and to the FRMAC.

d. Role of Other Federal Agencies—Agencies carrying out responsibilities related to radiological monitoring and assessment during a Federal response also will coordinate their activities with FRMAC. This coordination will not limit the normal working relationship between a Federal agency and its State counterparts nor restrict the flow of information from that agency to the States. The radiological monitoring and assessment responsibilities of the other Federal agencies include:

(1) *Department of Agriculture (USDA)*

(a) Inspect meat and meat products, poultry and poultry products, and egg products identified for interstate and foreign commerce to assure that they are safe for human consumption.

(b) Assist, in conjunction with HHS, in monitoring the production, processing, storage, and distribution of food through the wholesale level to eliminate contaminated product or to reduce the contamination in the product to a safe level.

(c) Collect agricultural samples within the Ingestion Exposure Pathway Emergency Planning Zone. Assist in the evaluation and assessment of data to determine the impact of the emergency on agriculture.

(2) *Department of Commerce (DOC)*

(a) Prepare operational weather forecasts tailored to support emergency response activities.

(b) Prepare and disseminate predictions of plume trajectories, dispersion, and deposition.

(c) Archive, as a special collection, the meteorological data from national observing systems applicable to the monitoring and assessment of the response.

(d) Ensure that marine fishery products available to the public are not contaminated.

(e) Provide assistance and reference material for calibrating radiological instruments.

(3) *Department of Defense (DOD)*

(a) Provide radiological resources to include trained response personnel,

specialized radiation instruments, mobile instrument calibration, repair capabilities, and expertise in site restoration.

(b) Perform special sampling of airborne contamination on request.

(4) *Department of Health and Human Services (HHS)*

(a) In conjunction with USDA, inspect production, processing, storage, and distribution facilities for human food and animal feeds, which may be used in interstate commerce, to assure protection of the public health.

(b) Collect samples of agricultural products to monitor and assess the extent of contamination as a basis for recommending or implementing protective actions.

(5) *Department of the Interior (DOI)*

(a) Provide hydrologic advice and assistance, including monitoring personnel, equipment, and laboratory support.

(b) Advise and assist in evaluating processes affecting radioisotopes in soils, including personnel, equipment, and laboratory support.

(c) Advise and assist in the development of geographical information systems (GIS) databases to be used in the analysis and assessment of contaminated areas including personnel, equipment, and databases.

(6) *Nuclear Regulatory Commission (NRC)*

(a) Provide assistance in Federal radiological monitoring and assessment activities during incidents.

(b) Provide, where available, continuous measurement of ambient radiation levels around NRC licensed facilities, primarily power reactors using thermoluminescent dosimeters (TLD).

#### 4. Protective Action

Recommendations. Federal protective action recommendations provide advice to State and local governments on measures that they should take to avoid or reduce exposure of the public to radiation from a release of radioactive material. This includes advice on emergency actions such as sheltering, evacuation, and prophylactic use of stable iodine. It also includes longer term measures to avoid or minimize exposure to residual radiation or exposure through the ingestion pathway such as restriction of food, temporary relocation, and permanent resettlement.

a. *Role of the Lead Federal Agency (LFA)*. The LFA will assist State and local authorities, if requested, by advising them on protective actions for the public. The development or evaluation of protective action recommendations will be based upon the Protective Action Guides (PAGs) issued by EPA and HHS. In providing

such advice, the LFA will use advice from other Federal agencies with technical expertise on those matters whenever possible. The LFA's responsibilities for the development, evaluation, and presentation of protective action recommendations are to:

(1) Respond to requests from State and local governments for technical information and assistance;

(2) Consult with representatives from EPA, HHS, USDA, and other Federal agencies as needed to provide advice to the LFA on protective actions;

(3) Review all recommendations made by other Federal agencies exercising statutory authorities related to protective actions to ensure consistency;

(4) Prepare a coordinated Federal position on protective action recommendations whenever time permits; and

(5) Present the Federal assessment of protective action recommendations, in conjunction with FEMA and other Federal agencies when practical, to State or other offsite authorities.

b. *Role of the Advisory Team for Environment, Food, and Health*. Advice on environment, food, and health matters will be provided to the LFA through the Advisory Team for Environment, Food, and Health (Advisory Team) consisting of representatives of EPA, HHS, and USDA supported by other Federal agencies, as warranted by the circumstances of the emergency. The Advisory Team provides direct support to the LFA and has no independent authority. The Advisory Team will not release information or make recommendations to the public unless authorized to do so by the LFA. The Advisory Team will select a chair for the Team. The Advisory Team will normally collocate with the FRMAC.

For emergencies with potential for causing widespread radiological contamination where no onscene FRMAC is established, the functions of the Advisory Team may be accomplished in the LFA response facility in Washington, DC.

The primary role of the Advisory Team is to provide a mechanism for timely, interagency coordination of advice to the LFA, States, and other Federal agencies concerning matters related to the following areas:

(1) Environmental assessments (field monitoring) required for developing recommendations;

(2) PAGs and their application to the emergency;

(3) Protective action recommendations using data and assessment from the FRMAC;

(4) Protective actions to prevent or minimize contamination of milk, food, and water and to prevent or minimize exposure through ingestion;

(5) Recommendations regarding the disposition of contaminated livestock and poultry;

(6) Recommendations for minimizing losses of agricultural resources from radiation effects;

(7) Availability of food, animal feed, and water supply inspection programs to assure wholesomeness;

(8) Relocation, reentry, and other radiation protection measures prior to recovery;

(9) Recommendations for recovery, return, and cleanup issues;

(10) Health and safety advice or information for the public and for workers;

(11) Estimate effects of radioactive releases on human health and environment;

(12) Guidance on the use of radioprotective substances (e.g., thyroid blocking agents), including dosage and projected radiation doses that warrant the use of such drugs; and

(13) Other matters, as requested by the LFA.

5. *Other Federal Resource Support*. FEMA will coordinate the provision of non-radiological (i.e., not related to radiological monitoring and assessment) Federal resources and assistance to affected State and local governments. The Federal non-radiological resource and assistance coordination function will be performed at the Disaster Field Office (DFO) (or other appropriate location established by FEMA).

a. *Role of the Federal Emergency Management Agency (FEMA)*—(1) Monitor the status of the Federal response to requests for non-radiological assistance from the affected States and provide this information to the States.

(2) Keep the LFA informed of requests for assistance from the State and the status of the Federal response.

(3) Identify and inform Federal agencies of actual or apparent omissions, redundancies, or conflicts in response activity.

(4) Establish and maintain a source of integrated, coordinated information about the status of all non-radiological resource support activities.

(5) Provide other non-radiological support to Federal agencies responding to the emergency.

b. *Role of Other Federal Agencies*. In order to properly coordinate activities, Federal agencies responding to requests for non-radiological support or directly providing such support under statutory authorities will provide liaison personnel to the DFO. The following

indicates types of assistance that may be provided by Federal agencies as needed or requested:

- (1) *Department of Agriculture (USDA)*—(a) Provide emergency food coupon assistance in officially designated disaster areas, if a need is determined by officials and if the commercial food system is sufficient to accommodate the use of food coupons.
  - (b) Provide for placement of USDA donated food supplies from warehouses, local schools, and other outlets to emergency care centers. These are foods donated to various outlets through USDA food programs.
  - (c) Provide lists that identify locations of alternate sources of food and livestock feed.
  - (d) Assist in providing temporary housing for evacuees.
  - (e) Assess damage to crops, soil, livestock, poultry, and processing facilities; and incorporate findings in a damage assessment report.
  - (f) Provide emergency communications assistance to the agricultural community through the State Research, Education, and Extension Services' electronic mail system.
- (2) *Department of Commerce (DOC)*—Provide radiation shielding materials.
- (3) *Department of Defense (DOD)*—DOD may provide assistance in the form of personnel, logistics and telecommunications, advice on proper medical treatment of personnel exposed to or contaminated by radioactive materials, and assistance, including airlift services, when available, upon the request of the LFA or FEMA. Requests for assistance must be directed to the National Military Command Center or through channels established by prior agreements.
- (4) *Department of Energy (DOE)*—Provide advice on proper medical treatment of personnel exposed to or contaminated by radioactive materials.
- (5) *Department of Health and Human Services (HHS)*—(a) Ensure the availability of health and medical care and other human services (especially for the aged, poor, infirm, blind, and others most in need).
  - (b) Assist in providing crisis counseling to victims in affected geographic areas.
  - (c) Provide guidance to State and local health officials on disease control measures and epidemiological surveillance and study of exposed populations.
  - (d) Provide advice on proper medical treatment of personnel exposed to or contaminated by radioactive materials.
  - (e) Provide advice and guidance in assessing the impact of the effects of

radiological incidents on the health of persons in the affected area.

- (6) *Department of Housing and Urban Development (HUD)*—(a) Review and report on available housing for disaster victims and displaced persons.
  - (b) Assist in planning for and placing homeless victims in available housing.
  - (c) Provide staff to support emergency housing within available resources.
  - (d) Provide housing assistance and advisory personnel.
- (7) *Department of the Interior (DOI)*—Advise and assist in assessing impacts to economic, social, and political issues relating to natural resources, including fish and wildlife, subsistence uses, public lands, Indian Tribal lands, land reclamation, mining, minerals, and water resources.
- (8) *Department of Transportation (DOT)*—(a) Support State and local governments by identifying sources of civil transportation on request and when consistent with statutory responsibilities.
  - (b) Coordinate the Federal civil transportation response in support of emergency transportation plans and actions with State and local governments. (This may include provision of Federally controlled transportation assets and the controlling of airspace or transportation routes to protect commercial transportation and to facilitate the movement of response resources to the scene.)
  - (c) Provide Regional Emergency Transportation Coordinators and staff to assist State and local authorities in planning and response.
  - (d) Provide technical advice and assistance on the transportation of radiological materials and the impact of the incident on the transportation system.
- (9) *Department of Veterans Affairs (VA)*—(a) Provide medical assistance using Medical Emergency Radiological Response Teams (MERRTs).
  - (b) Provide temporary housing.
- (10) *General Services Administration (GSA)*—(a) Provide acquisition and procurement of floor space, telecommunications and automated data processing services, supplies, services, transportation, computers, contracting, equipment, and material; as well as specified logistical services that exceed the capabilities of other Federal agencies.
  - (b) Activate the Regional Emergency Communications Planner (RECP) and a Federal Emergency Communications Coordinator (FECC). RECP will provide technical support and accept guidance from the FEMA Regional Director during the pre-deployment phase of a telecommunications emergency.

(c) Upon request, will dispatch the FECC to the scene to expedite the provision of the telecommunications services.

(11) *National Communications System (NCS)*—Acting through its operational element, the National Coordinating Center for Telecommunications (NCC), the NCS will ensure the provision of adequate telecommunications support to Federal FRERP operations.

6. **Public Information Coordination.** Public information coordination is most effective when the owner/operator, Federal, State, local, and other relevant information sources participate jointly. The primary location for linking these sources is the Joint Information Center (JIC).

Prior to the establishment of Federal operations at the JIC, it may be necessary to release Federal information regarding public health and safety. In these instances, Federal agencies will coordinate with the LFA and the State in advance or as soon as possible after the information has been released.

This coordination will accomplish the following: compile information about the status of the emergency, response actions, and instructions for the affected population; coordinate all information from various sources with the other Federal, State, local, and non-governmental response organizations; allow various sources to work cooperatively, yet maintain their independence in disseminating information; disseminate timely, consistent, and accurate information to the public and the news media; and establish coordinated arrangements for dealing with citizen inquiries.

a. **Role of the Lead Federal Agency (LFA).** The LFA is responsible for information on the status of the overall Federal response, specific LFA response activities, and the status of onsite conditions.

The LFA will:

- (1) Develop joint information procedures for providing Federal information to and for obtaining information from all Federal agencies participating in the response;
- (2) Work with the owner/operator and State and local government information officers to develop timely coordinated public information releases;
- (3) Inform the media that the JIC is the primary source of onscene public information and news from facility, local, State, and Federal spokespersons;
- (4) Establish and manage Federal public information operations at the JIC; and

(5) Coordinate Federal public information among the various media centers.

b. Role of the Federal Emergency Management Agency (FEMA). FEMA will assist the LFA in coordinating non-radiological information among Federal agencies and with the State. When mutually agreeable, FEMA may assume responsibility from the LFA for coordinating Federal public information. Should this occur, it will usually be after the onsite situation has been stabilized and recovery efforts have begun.

c. Role of Other Participating Agencies. All Federal agencies with an operational response role under the FRERP will coordinate public information activities at the JIC. Each Federal agency will provide information on the status of its response and on technical information.

7. Congressional and White House Coordination. a. Congressional Coordination. Federal agencies will coordinate their responses to Congressional requests for information with the LFA. Points of contact for this function are the Congressional Liaison Officers. All Federal agency Congressional Liaison Officers and Congressional staffs seeking site-specific

information about the emergency should contact the LFA headquarters Congressional Affairs Office. Congress may request information directly from any Federal agency. Any agency responding to such requests should inform the LFA as soon as feasible.

b. White House Coordination. The LFA will report to the President and keep the White House informed on all aspects of the emergency. The White House may request information directly from any Federal agency. Any agency responding to such requests should inform the LFA as soon as feasible. The LFA will submit reports to the White House. The initial report should cover, if possible, the nature of and prognosis for the radiological situation causing the emergency and the actual or potential offsite radiological impact. Subsequent reports by the LFA should cover the status of mitigation, corrective actions, protective measures, and overall Federal response to the emergency. Federal agencies should provide information related to the technical and radiological aspects of the response directly to the LFA. FEMA will compile information related to the non-radiological resource support aspects of the response and submit to the LFA for inclusion in the report(s).

8. International Coordination. In the event of an environmental impact or potential impact upon the United States, its possessions, Territories, or territorial waters from a radiological emergency originating on foreign soil or, conversely, a domestic incident with an actual or potential foreign impact, the LFA will immediately inform DOS (which has responsibility for official interactions with foreign governments). The LFA will keep DOS informed of all Federal response activities. The DOS will coordinate notification and information gathering activities with foreign governments, except in cases where existing bilateral agreements permit direct communication. Where the LFA has existing bilateral agreements that permit direct exchange of information, those agencies should keep DOS informed of consultations with their foreign counterparts. Agency officials should take care that consultations do not exceed the scope of the relevant agreement(s). The LFA will ensure that any offers of assistance to or requests from foreign governments are coordinated with DOS.

9. Response Function Overview. Table II-2 provides an overview of the responsible Federal agencies for major response functions.

TABLE II-2.—RESPONSE FUNCTION OVERVIEW

Response action	Responsible agency
(1) Maintain cognizance of the Federal response; conduct and manage Federal onsite actions .....	LFA.
(2) Coordinate Federal offsite radiological monitoring and assessment:	
—Initial Response .....	DOE.
—Intermediate and Long-Term Response .....	EPA.
(3) Develop and evaluate recommendations for offsite protective actions for the public .....	LFA, in coordination with other agencies.
(4) Present recommendations for offsite protective actions to the appropriate State and/or local officials .....	LFA, in conjunction with FEMA and other Federal agencies when practical.
(5) Coordinate Federal offsite non-radiological resource support .....	FEMA.
(6) Coordinate release of Federal information to the public .....	LFA; FEMA after mutual agreement.
(7) Coordinate release of Federal information to Congress .....	LFA.
(8) Provide reports to the President and keep the White House informed on all aspects of the emergency	LFA.
(9) Coordinate international aspects and make required international notifications .....	DOS; LFA as appropriate.
(10) Coordinate the law enforcement aspects of a criminal act involving radioactive material .....	DOJ/FBI.

*E. Stages of the Federal Response*

The Federal response is divided into five stages: Notification, Activation and Deployment, Response Operations, Response Deactivation, and Recovery.

1. Notification. The owner or operator of the facility or radiological activity is generally the first to become aware of a radiological emergency and is responsible for notifying the State and local authorities and the LFA. The notification should include:

- Location and nature of the accident,

- An assessment of the severity of the problem,
- Potential and actual offsite consequences, and
- Initial response actions.

If any Federal agency receives notification from any source other than FEMA or the LFA, the agency will notify the LFA. See Figure II-1 for the notification process.

a. Role of the Lead Federal Agency (LFA)—(1) Verify accuracy of notification;

- (2) Notify FEMA and advisory team agencies and provide information;
- (3) Verify that other Federal agencies have been notified; and
- (4) Verify that the State has been notified.

b. Role of Federal Emergency Management Agency (FEMA)—(1) Verify that the State has been notified of the emergency; and

(2) Notify other Federal agencies as appropriate.

2. Activation and Deployment. Once notified, each agency will respond

according to its plan. The LFA will assess the technical response requirements and cause the activation and deployment of response components. FEMA, in conjunction with the LFA, will coordinate the non-radiological assistance in support of State and local governments. Initially, the LFA, FEMA, and other Federal agencies will coordinate response actions from their headquarters locations, usually from their respective headquarters EOCs.

a. Role of the Lead Federal Agency (LFA)—(1) Deploy LFA response personnel to the scene and provide liaison to the State and local authorities as appropriate;

(2) Designate a Federal Onscene Commander (OSC) at the scene of the emergency to manage onsite activities and coordinate the overall Federal response to the emergency;

(3) Establish bases of Federal operation, such as the JOC and the JIC;

(4) Coordinate the Federal response with the owner/operator; and

(5) Provide advice on the radiological hazard to the Federal responders.

b. Role of Federal Emergency Management Agency (FEMA)—(1) Activate a Regional Operations Center (ROC) to monitor the situation;

(2) Establish contact with the LFA and the affected State to determine the status of non-radiological response requirements;

(3) Designate a Senior FEMA Official (SFO) to coordinate activities with the LFA; and

(4) Coordinate the provision of non-radiological Federal resources and assistance.

c. Role of Other Federal Agencies. (1) Designate an onscene Senior Agency Official;

(2) Activate agency emergency response personnel and deploy them to the scene;

(3) Deploy FRMAC assets;

(4) Deploy Advisory Team representatives;

(5) Keep the LFA and FEMA informed of status of response activities; and

(6) Coordinate all State requests and offsite activities with the LFA and FEMA, as appropriate.

3. Response Operations. The following describes the general operational structure for meeting Federal agency roles and responsibilities in response to a radiological emergency. At the headquarters level, the LFA, FEMA, and other Federal agencies (OFAs) will generally exchange liaison personnel and maintain staffs at their EOCs to support their respective onscene operations. Federal agencies may also

activate a regional or field office EOC in support of the emergency. Figure II-2 provides a graphic depiction of the onscene structure.

a. Joint Operations Center (JOC). The JOC<sup>1</sup> is established by the LFA under the operational control of the Federal OSC as the focal point for management and direction of onsite activities, establishment of State requirements and priorities, and coordination of the overall Federal response. The JOC may be established in a separate onscene location or collocated with an existing emergency operations facility. The following elements may be represented in the JOC:

(1) LFA staff and onsite liaison;

(2) FEMA/DFO liaison;

(3) FRMAC liaison;

(4) Advisory Team liaison;

(5) Other Federal agency liaison, as needed;

(6) LFA Public information liaison;

(7) LFA Congressional liaison; and

(8) State and local liaison.

b. Disaster Field Office (DFO). The DFO is established by FEMA as the focal point for the coordination and provision of non-radiological resource support based on coordinated State requirements/priorities. The DFO is established at an onscene location in coordination with State and local authorities and other Federal agencies. The following elements may be represented in the DFO:

(1) LFA liaison;

(2) Other appropriate Federal agency personnel;

(3) State and local liaison;

(4) Public information liaison; and

(5) Congressional liaison.

c. Federal Radiological Monitoring and Assessment Center (FRMAC). The FRMAC is established by DOE (with subsequent transfer to EPA for intermediate and long-term actions) for the coordination of Federal radiological monitoring and assessment activities with that of State and local agencies. The FRMAC is established at an onscene location in coordination with State and local authorities and other Federal agencies. The following elements may be represented in the FRMAC:

(1) DOE/DOE contractor technical staff and capabilities;

(2) EPA/EPA contractor technical staff and capabilities;

(3) DOC technical staff and capabilities;

(4) LFA technical liaison;

(5) DOE public information liaison; (6) Other Federal agency liaisons, as needed;

(7) State and local liaison; and

(8) DFO liaison.

d. Advisory Team for Environment, Food, and Health. The Advisory Team is established by representatives from EPA, USDA, HHS, and other Federal agencies as needed for the provision of interagency coordinated advice and recommendations to the State and LFA concerning environmental, food, and health matters. For the ease of transfer of radiological monitoring and assessment data and coordination with Federal, State, and local representatives, the Advisory Team is normally collocated with the FRMAC.

e. Joint Information Center (JIC). The JIC<sup>2</sup> is established by the LFA, under the operational control of the LFA-designated Public Information Officer, as a focal point for the coordination and provision of information to the public and media concerning the Federal response to the emergency. The JIC is established at an onscene location in coordination with State and local agencies and other Federal agencies. The following elements should be represented at the JIC:

(1) LFA Public Information Officer and staff;

(2) FEMA Public Information Officer and staff;

(3) Other Federal agency Public Information, as needed;

(4) State and local Public Information Officers; and

(5) Owner/Operator Public Information Officers and staff.

4. Response Deactivation. a. Each agency will discontinue emergency response operations when advised that Federal assistance is no longer required from their agency or when its statutory responsibilities have been fulfilled. Prior to discontinuing its response operation, each agency should discuss its intent to do so with the LFA, FEMA, and the State.

b. The LFA will consult with participating Federal agencies and the State and local government to determine when the Federal information coordination operations at the JIC should be terminated. This will occur normally at a time when the rate of information generated and coordinated by the LFA has decreased to the point where it can be handled through the normal day-to-day coordination process. The LFA will inform the other participants of their intention to deactivate Federal information

<sup>1</sup> For NRC reactor licensees, the JOC is within the Emergency Operations Facility (EOF). The EOF would be staffed in accordance with the owner/operator's site-specific Emergency Plan.

<sup>2</sup> For NRC licensees, the Federal JIC is within the JIC established by the owner/operator.

coordination operations at the JIC and advise them of the procedures for continued coordination of information pertinent to recovery from the radiological emergency.

c. FEMA will consult with the LFA, other Federal agencies, and the State(s) as to when the onscene coordination of non-radiological assistance is no longer required. Prior to ending operations at the DFO, FEMA will inform all participating organizations of the schedule for doing so.

d. The LFA will terminate JOC operations and the Federal response after consulting with FEMA, other participating Federal agencies, and State and local officials, and after determining that onscene Federal assistance is no longer required.

e. The agency managing the FRMAC will consult with the LFA, FEMA, other participating Federal agencies, and State and local officials to determine when a formal FRMAC structure and organization is no longer required. Normally, this will occur when operations move into the recovery phase and extensive Federal multi-agency resources are no longer required to augment State and local radiological monitoring and assessment activities.

5. Recovery. a. The State or local governments have the primary responsibility for planning the recovery of the affected area. (The term recovery as used here encompasses any action dedicated to the continued protection of the public and resumption of normal activities in the affected area.) Recovery planning will be initiated at the request of the States, but it will generally not take place until after the initiating conditions of the emergency have stabilized and immediate actions to protect public health and safety and property have been accomplished. The Federal Government will, on request, assist the State and local governments in developing offsite recovery plans, prior to the deactivation of the Federal response. The LFA will coordinate the overall activity of Federal agencies involved in the recovery process.

b. The radiological monitoring and assessment activities will be terminated when the EPA, after consultation with the LFA and other participating Federal agencies, and State and local officials, determines that:

(1) There is no longer a threat to the public health and safety or to the environment,

(2) State and local resources are adequate for the situation, and

(3) There is mutual agreement of the agencies involved to terminate the response.

#### Appendix A—Acronyms

CFR	Code of Federal Regulations
DFO	Disaster Field Office
DOC	Department of Commerce
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
DOS	Department of State
DOT	Department of Transportation
EICC	Emergency Information and Coordination Center
EO	Executive Order
EOC	Emergency Operations Center
EPA	Environmental Protection Agency
ERT	Emergency Response Team
ERT-A	Emergency Response Team—Advance Element
FBI	Federal Bureau of Investigation
FCO	Federal Coordinating Officer
FECC	Federal Emergency Communications Coordinator
FEMA	Federal Emergency Management Agency
FRERP	Federal Radiological Emergency Response Plan
FRMAC	Federal Radiological Monitoring and Assessment Center
FRP	Federal Response Plan
FRPCC	Federal Radiological Preparedness Coordinating Committee
GIS	Geographical Information Systems
GSA	General Services Administration
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
JIC	Joint Information Center
JOC	Joint Operations Center
LFA	Lead Federal Agency
MERRT	Medical Emergency Radiological Response Team
NASA	National Aeronautics and Space Administration
NCC	National Coordinating Center for Telecommunications
NCS	National Communications System
NDA	National Defense Area
NOAA	National Oceanic and Atmospheric Administration (DOC)
NRC	Nuclear Regulatory Commission
NSA	National Security Area
OSC	Onscene Commander
PAG	Protective Action Guide
PIO	Public Information Officer
RAP	Radiological Assistance Program (DOE)
RECP	Regional Emergency Communications Planner
SCO	State Coordinating Officer
SFO	Senior FEMA Official
TLD	Thermoluminescent dosimeter
USDA	United States Department of Agriculture
VA	Department of Veterans Affairs

#### Appendix B—Definitions

*Advisory Team for Environment, Food, and Health*—An interagency team, consisting of representatives from EPA, HHS, USDA, and representatives from other Federal agencies as necessary, that provides advice to the LFA and States, as requested on matters associated with environment, food, and

health issues during a radiological emergency.

*Agreement State*—A State that has entered into an Agreement under the Atomic Energy Act of 1954, as amended, in which NRC has relinquished to such States the majority of its regulatory authority over source, byproduct, and special nuclear material in quantities not sufficient to form a critical mass.

*Assessment*—The evaluation and interpretation of radiological measurements and other information to provide a basis for decision-making. Assessment can include projections of offsite radiological impact.

*Coordinate*—To advance systematically an exchange of information among principals who have or may have a need to know certain information in order to carry out their role in a response.

*Disaster Field Office (DFO)*—A center established in or near the designated area from which the Federal Coordinating Officer (FCO) and representatives of Federal response agencies will interact with State and local government representatives to coordinate non-technical resource support.

*Emergency*—Any natural or man-caused situation that results in or may result in substantial injury or harm to the population or substantial damage to or loss of property.

*Emergency Response Team (ERT)*—A team of Federal interagency personnel headed by FEMA and deployed to the site of an emergency to serve as the FCO's key staff and assist with accomplishing FEMA responsibilities at the DFO.

*Federal Coordinating Officer (FCO)*—The Federal official appointed in accordance with the provisions of P.L. 93-288, as amended, to coordinate the overall response and recovery activities under a major disaster or emergency declaration. The FCO represents the President as provided by Section 302 of P.L. 93-288, as amended, for the purpose of coordinating the administration of Federal relief activities in the designated area. Additionally, the FCO is delegated responsibilities and performs those for the FEMA Director as outlined in Executive Order 12148, and those responsibilities delegated to the FEMA Regional Director in Title 44 Code of Federal Regulations, Part 206.

*Federal Radiological Monitoring and Assessment Center (FRMAC)*—An operations center usually established near the scene of a radiological emergency from which the Federal field monitoring and assessment assistance is directed and coordinated.

*Federal Radiological Preparedness Coordinating Committee (FRPCC)*—An interagency committee, created under 44 CFR Part 351, to coordinate Federal radiological planning and training.

*Federal Response Plan (FRP)*—The plan designed to address the consequences of any disaster or emergency situation in which there is a need for Federal assistance under the authorities of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.

*FRMAC Director*—The person designated by DOE or EPA to manage operations in the FRMAC.

*Joint Information Center (JIC)*—A center established to coordinate the Federal public

information activities onscene. It is the central point of contact for all news media at the scene of the incident. Public information officials from all participating Federal agencies should collocate at the JIC. Public information officials from participating State and local agencies also may collocate at the JIC.

**Joint Operations Center (JOC)**—Established by the LFA under the operational control of the OSC, as the focal point for management and direction of onsite activities, coordination/establishment of State requirements/priorities, and coordination of the overall Federal response.

**Joint U.S. Government/Foreign Government Space Venture**—Any space venture conducted jointly by the U.S. Government (DOD or NASA) with a foreign government or foreign governmental entity that is characterized by an ongoing U.S. Government interest in the successful completion of the mission, active involvement in mission operations, and uses radioactive sources and/or classified components, regardless of which country owns or provides said sources or components, within the space vehicle. For the purposes of this plan, in a situation whereby the U.S. Government simply sells or supplies radioactive material to a foreign country for use in a space vehicle and otherwise has no active mission involvement, it shall not be considered a joint venture.

**Lead Federal Agency (LFA)**—The agency that is responsible for leading and coordinating all aspects of the Federal response is referred to as the LFA and is determined by the type of emergency. In situations where a Federal agency owns, authorizes, regulates, or is otherwise deemed responsible for the facility or radiological activity causing the emergency and has authority to conduct and manage Federal actions onsite, that agency normally will be the LFA.

**License**—An authorization issued to a facility owner or operator by the NRC pursuant to the conditions of the Atomic Energy Act of 1954, as amended, or issued by an Agreement State pursuant to appropriate State laws. NRC licenses certain activities under section 170(a) of that Act.

**Local Government**—Any county, city, village, town, district, or political subdivision of any State, and Indian tribe or authorized tribal organization, or Alaska Native village or organization, including any rural community or unincorporated town or village or any other public entity.

**Monitoring**—The use of sampling and radiation detection equipment to determine the levels of radiation.

**National Defense Area (NDA)**—An area established on non-Federal lands located within the United States, its possessions or its territories, for safeguarding classified defense information or protecting DOD equipment and/or material. Establishment of a National Defense Area temporarily places such non-Federal lands under the effective control of the Department of Defense and results only from an emergency event. The senior DOD representative at the scene shall define the boundary, mark it with a physical barrier, and post warning signs. The

landowner's consent and cooperation shall be obtained whenever possible; however, military necessity shall dictate the final location, shape, and size of the NDA.

**National Security Area (NSA)**—An area established on non-Federal lands located within the United States, its possessions or territories, for safeguarding classified information, and/or restricted data or equipment and material belonging to DOE or NASA. Establishment of a National Security Area temporarily places such non-Federal lands under the effective control of DOE or NASA and results only from an emergency event. The senior DOE or NASA representative having custody of the material at the scene shall define the boundary, mark it with a physical barrier, and post warning signs. The landowner's consent and cooperation shall be obtained whenever possible; however, operational necessity shall dictate the final location, shape, and size of the NSA.

**Nuclear Facilities**—Nuclear installations that use or produce radioactive materials in their normal operations.

**Offsite**—The area outside the boundary of the onsite area. For emergencies occurring at fixed nuclear facilities, "offsite" generally refers to the area beyond the facility boundary. For emergencies that do not occur at fixed nuclear facilities and for which no physical boundary exists, the circumstances of the emergency will dictate the boundary of the offsite area. Unless a Federal agency has the authority to define and control a restricted area, the State or local government will define an area as "onsite" at the time of the emergency, based on required response activities.

**Offsite Federal Support**—Federal assistance in mitigating the offsite consequences of an emergency and protecting the public health and safety, including assistance with determining and implementing public protective action measures.

**Onscene**—The area directly affected by radiological contamination and environs. Onscene includes onsite and offsite areas.

**Onscene Commander (OSC)**—The lead official designated at the scene of the emergency to manage onsite activities and coordinate the overall Federal response to the emergency.

**Onsite**—The area within (a) the boundary established by the owner or operator of a fixed nuclear facility, or (b) the area established by the LFA as a National Defense Area or National Security Area, or (c) the area established around a downed/ditched U.S. spacecraft, or (d) the boundary established at the time of the emergency by the State or local government with jurisdiction for a transportation accident not occurring at a fixed nuclear facility and not involving nuclear weapons.

**Onsite Federal Support**—Federal assistance that is the primary responsibility of the Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the radiological facility or material being transported, i.e., the LFA. This response supports State and local efforts by supporting the owner or operator's efforts to bring the incident under control and thereby prevent or minimize offsite consequences.

**Owner or Operator**—The organization that owns or operates the nuclear facility or carrier or cargo that causes the radiological emergency. The owner or operator may be a Federal agency, a State or local government, or a private business.

**Protective Action Guide (PAG)**—A radiation exposure or contamination level or range established by appropriate Federal or State agencies at which protective actions should be considered.

**Protective Action Recommendation (Federal)**—Federal advice to State and local governments on measures that they should take to avoid or reduce exposure of the public to radiation from an accidental release of radioactive material. This includes emergency actions such as sheltering, evacuation, and prophylactic use of stable iodine. It also includes longer term measures to avoid or minimize exposure to residual radiation or exposure through the ingestion pathway such as restriction of food, temporary relocation, and permanent resettlement.

**Public Information Officer (PIO)**—Official at headquarters or in the field responsible for preparing and coordinating the dissemination of public information in cooperation with other responding Federal, State, and local agencies.

**Radiological Assistance Program (RAP) Team**—A response team dispatched to the site of a radiological incident by the U.S. Department of Energy (DOE) regional coordinating office responding to a radiological incident. RAP Teams are located at DOE operations offices and national laboratories and some area offices.

**Radiological Emergency**—A radiological incident that poses an actual, potential, or perceived hazard to public health or safety or loss of property.

**Recovery**—Recovery, in this document, includes all types of emergency actions dedicated to the continued protection of the public or to promoting the resumption of normal activities in the affected area.

**Recovery Plan**—A plan developed by each State, with assistance from the responding Federal agencies, to restore the affected area.

**Regional Operations Center (ROC)**—The temporary operations facility for the coordination of Federal response and recovery activities, located at the FEMA Regional Office (or at the Federal Regional Center) and led by the FEMA Regional Director or Deputy Regional Director until the DFO becomes operational.

**Senior FEMA Official (SFO)**—Official appointed by the Director of FEMA, or his representative, to initially direct the FEMA response at the scene of a radiological emergency. Also, acts as the Team Leader for the Advance Element of the Emergency Response Team (ERT-A).

**State Coordinating Officer (SCO)**—An official designated by the Governor of the affected State to work with the LFA's Onscene Commander and Senior FEMA Official or Federal Coordinating Officer in coordinating the response efforts of Federal, State, local, volunteer, and private agencies.

**Subcommittee on Federal Response**—A subcommittee of the Federal Radiological Preparedness Coordinating Committee

formed to develop and test the Federal Radiological Emergency Response Plan. Most agencies that will participate in the Federal radiological emergency response are represented on this subcommittee.

**Transportation Emergency**—For the purposes of this plan, any emergency that involves a transportation vehicle or shipment containing radioactive materials outside the boundaries of a facility.

**Transportation of Radioactive Materials**—The loading, unloading, movement, or temporary storage en route of radioactive materials.

### Appendix C—Federal Agency Response Missions, Capabilities and Resources, References, and Authorities

Each Federal agency develops and maintains a plan that describes a detailed concept of operations for implementing this Plan. This section contains summary information about the following Federal agencies:

Department of Agriculture (USDA)  
 Department of Commerce (DOC)  
 Department of Defense (DOD)  
 Department of Energy (DOE)  
 Department of Health and Human Services (HHS)  
 Department of Housing and Urban Development (HUD)  
 Department of the Interior (DOI)  
 Department of Justice (DOJ)  
 Department of State (DOS)  
 Department of Transportation (DOT)  
 Department of Veterans Affairs (VA)  
 Environmental Protection Agency (EPA)  
 Federal Emergency Management Agency (FEMA)  
 General Services Administration (GSA)  
 National Aeronautics and Space Administration (NASA)  
 National Communications System (NCS)  
 National Regulatory Commission (NRC)

Summary information for each agency contains: (1) a response mission statement, (2) a description of the agency's response capabilities and resources, (3) agency response plan and procedures references, and (4) sources of agency authority.

#### A. Department of Agriculture

1. Summary of Response Mission. The United States Department of Agriculture (USDA) provides assistance to State and local governments in developing agricultural protective action recommendations and in providing agricultural damage assessments. USDA will actively participate with EPA and HHS on the Advisory Team for Environment, Food, and Health when convened. USDA regulatory responsibilities for the inspection of meat, meat products, poultry, poultry products, and egg products are essential uninterrupted functions that would continue during an emergency.

2. Capabilities and Resources. USDA can provide assistance to State and local governments through emergency response personnel located at its Washington, DC, headquarters and from USDA State and County Emergency Board representatives located throughout the country. USDA Emergency Board representatives have

knowledge of local agriculture and can provide specific advice to the local agricultural community. In addition, USDA State and County Emergency Boards can assist in the collection of agricultural samples during a radiological emergency. USDA actively participates with EPA and HHS on the Advisory Team when convened.

The functions and capabilities of the USDA to provide assistance in the event of a radiological emergency include the following:

- a. Provide assistance through regular USDA programs, if legally adaptable to radiological emergencies;
  - b. Provide emergency food coupon assistance in officially designated disaster areas, if a need is determined by officials and if the commercial food system is sufficient to accommodate the use of food coupons;
  - c. Assist in reallocation of USDA-donated food supplies from warehouses, local schools, and other outlets to emergency care centers. These are foods donated to various outlets through USDA food programs;
  - d. Provide lists that identify locations of alternate sources of food and livestock feed and arrange for transportation of the food and feed if requested;
  - e. Provide advice to State and local officials regarding the disposition of livestock and poultry contaminated by radiation;
  - f. Inspect meat and meat products, poultry and poultry products, and egg products identified for interstate and foreign commerce to assure that they are safe for human consumption;
  - g. Assist State and local officials, in coordination with HHS and EPA, in the recommendation and implementation of protective actions to limit or prevent the ingestion of contaminated food;
  - h. Assist, in conjunction with HHS, in monitoring the production, processing, storage, and distribution of food through the wholesale level to eliminate contaminated product or to reduce the contamination in the product to a safe level;
  - i. Assess damage to crops, soil, livestock, poultry, and processing facilities; and incorporate findings into a damage assessment report;
  - j. Provide advice to State and local officials on minimizing losses to agricultural resources from radiation effects;
  - k. Provide information and assistance to farmers, food processors, and distributors to aid them in returning to normal after a radiological emergency;
  - l. Provide a liaison to State agricultural agencies if requested;
  - m. Assist DOE at the FRMAC in collecting agricultural samples within the Ingestion Exposure Pathway Emergency Planning Zone. Assist in the evaluation and assessment of data to determine the impact of the emergency on agriculture;
  - n. Assist in providing temporary housing for evacuees who have been displaced from their homes due to a radiological emergency; and
  - o. Provide emergency communications assistance to the agricultural community through the Cooperative Extension System, an electronic mail system.
3. USDA References. USDA Radiological Emergency Response Plan, January 1988.

4. USDA Specific Authorities.

- a. Title 7, U.S.C. § 241–273.
- b. Title 7, U.S.C. § 341–349.
- c. Title 7, U.S.C. § 612 C.
- d. Title 7, U.S.C. § 612 C Note.
- e. Title 7, U.S.C. § 1431.
- f. Title 7, U.S.C. § 1622.
- g. Title 7, U.S.C. § 2014(h).
- h. Title 7, U.S.C. § 2204.
- i. Title 16, U.S.C. § 590 a-f.
- j. Title 21, U.S.C. § 451 et seq.
- k. Title 21, U.S.C. § 601 et seq.
- l. Title 21, U.S.C. § 1031–1056.
- m. Title 42, U.S.C. § 1480.
- n. Title 42, U.S.C. §§ 3271–3274.
- o. Title 50, U.S.C. Appendix § 2251 et seq.
- p. Title 7, CFR 2.51 (a)(30).
- q. E.O. 12656, November 18, 1988.
- r. DR 1800–1, March 5, 1993.

#### B. Department of Commerce

1. Summary of Response Mission. The National Oceanic and Atmospheric Administration (NOAA) is the primary agency within the Department of Commerce (DOC) responsible for providing assistance to the Federal, State, and local organizations responding to a radiological emergency. Other assistance may be provided by the National Institute of Standards and Technology. DOC's responsibilities include:
  - a. Acquiring and disseminating weather data and providing weather forecasts in direct support of the emergency response operation;
  - b. Preparing and disseminating predictions of plume trajectories, dispersion, and deposition of radiological material released into the atmosphere;
  - c. Providing local meteorological support as needed to assure the quality of these predictions;
  - d. Organizing and maintaining a special data archive for meteorological information related to the emergency and its assessment;
  - e. Ensuring that marine fishery products available to the public are not contaminated;
  - f. Providing assistance and reference material for calibrating radiological instruments; and
  - g. Providing radiation shielding materials.
2. Capabilities and Resources. NOAA is the principal DOC participant in the response to a radiation accident. NOAA prepares both routine and special weather forecasts, and makes use of these forecasts to predict atmospheric transport and dispersion. NOAA's forecasts may be the basis for all public announcements on the movement of contamination from accidents occurring outside U.S. territory or during domestic accidents when any released radioactive material is expected to be carried offsite. NOAA has capabilities to do the following:
  - a. Provide current and forecast meteorological information as needed to guide aerial monitoring and sampling, and to predict the transport and dispersion of radioactive materials (gases, liquids, and particles).
  - b. Routinely forecast the atmospheric transport, dispersion, and deposition of the radioactive materials, and disseminate the results of these computations via automatic facsimile to all relevant parties, twice per day.

c. Produce (and archive) special high-resolution meteorological data sets for providing an improved capability to predict atmospheric transport and dispersion of radioactive materials in the atmosphere.

d. Augment routine and special upper atmosphere and surface meteorological observation systems, as required to improve the quality of these predictions.

e. Evaluate NOAA's transport and dispersion forecast products in conjunction with those of other nations' weather services responding to the emergency, to provide a more internationally consistent product.

Additionally, DOC may provide support to HHS at its request, through the National Marine Fisheries Service, in order to avoid human consumption of contaminated commercial fishery products (marine area only). The National Institute of Standards and Technology can assist in calibrating radiological instruments by comparison with national standards or by providing standard reference materials for calibration, as well as making extensive data on the physical properties of materials available. The National Institute of Standards and Technology can also supply temporary radiation shielding materials.

3. DOC References. National Plan for Radiological Emergencies at Commercial Nuclear Power Plants. Federal Coordinator for Meteorological Services and Supporting Research, National Oceanic and Atmospheric Administration, November 1982.

4. DOC Specific Authorities. Department of Commerce Organization Order 25-5B, as amended, June 18, 1987.

#### C. Department of Defense

1. Summary of Response Mission. The Department of Defense (DOD) is charged with the safe handling, storage, maintenance, assembly, and transportation of nuclear weapons and other radioactive materials in DOD custody, and with the safe operation of DOD nuclear facilities. Inherent in this responsibility is the requirement to protect life and property from any health or safety hazards that could ensue from an accident or significant incident associated with these materials or activities.

The DOD role in a Federal response will depend on the circumstances of the emergency. DOD will be the LFA if the emergency involves one of its facilities or a nuclear weapon in its custody. Within DOD, the military service or agency responsible for the facility, ship, or area is responsible for the onsite response. The military service or agency having custody of the material outside an installation boundary is responsible for the onsite response. For emergencies occurring under circumstances for which DOD is not responsible, DOD will not be the LFA, but will support and assist in the Federal response.

2. Capabilities and Resources. Offsite authority and responsibility at a nuclear accident rest with State and local officials. It is important to recognize that for nuclear weapons or weapon component accidents, land may be temporarily placed under effective Federal control by the establishment of a National Defense Area or National Security Area to protect U.S. Government

classified materials. These lands will revert to State control upon disestablishment of the National Defense Area or National Security Area.

DOD has a trained and equipped nuclear response organization to deal with accidents at its facilities or involving materials in its custody. Radiological resources include trained response personnel, specialized radiation instruments, and mobile instrument calibration and repair capabilities. DOD also may perform special sampling of airborne contamination on request. Descriptions of the capabilities and assets of DOD response teams can be found in DOD 5100.52M.

DOD may provide assistance in the form of personnel, logistics and telecommunications, assistance and expertise in site restoration, including airlift services, when available, upon the request of the LFA or FEMA. Requests for assistance must be directed to the National Military Command Center or through channels established by prior agreements.

#### 3. DOD References.

a. DOD Directive 5100.52, DOD Response to an Accident or Significant Incident Involving Radiological Materials.

b. DOD Directive 5230.16, Nuclear Accident and Incident Public Affairs Guidance.

c. DOD Directive 3025.1, Military Support to Civil Authorities.

d. DOD Directive 3025.12, Military Assistance for Civil Disturbances.

e. DOD Directive 3150.5, DOD Response to Improvised Nuclear Device (IND) Incident.

f. DOD 5100.52M, Nuclear Weapon Accident Response Procedures (NARP) Manual.

g. Joint Federal Bureau of Investigation, Department of Energy, and Department of Defense Agreement for Response to Improvised Nuclear Device Incidents.

#### 4. DOD Specific Authorities.

a. The Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011-2284.

b. Public Law 97-351, "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982."

c. Department of Defense, Department of Energy, Federal Emergency Management Agency Memorandum of Agreement on Response to Nuclear Weapon Accidents and Nuclear Weapon Significant Incidents, 1983.

#### D. Department of Energy

1. Summary of Response Mission. The Department of Energy (DOE) owns and operates a variety of radiological activities throughout the United States. These activities include: fixed nuclear sites; the use, storage, and shipment of a variety of radioactive materials; the shipment of spent reactor fuel; the production, assembly, and shipment of nuclear weapons and special nuclear materials; the production and shipment of radioactive sources for space ventures; and the storage and shipment of radioactive and mixed waste. DOE is responsible for the safe operation of these activities and should an emergency occur at one of its sites or an activity under its control, DOE will be the LFA for the Federal response.

Due to its technical capabilities and resources, the DOE may perform other roles

within the Federal response to a radiological emergency. With extensive, field-based radiological resources throughout the United States available for emergency deployment, the DOE responds to requests for offsite radiological monitoring and assessment assistance and serves as the initial coordinator of all such Federal assistance (to include initial management of the FRMAC) to State and local governments. With other specialized, deployable assets, DOE assists other Federal agencies responding to malevolent nuclear emergencies, accidents involving nuclear weapons not under DOE custody, emergencies caused by satellites containing radioactive sources, and other radiological incidents as appropriate.

2. Capabilities and Resources. DOE has trained personnel, radiological instruments, mobile laboratories, and radioanalytical facilities located at its national laboratories, production, and other facilities throughout the country. Through eight Regional Coordinating Offices, these resources form the basis for the Radiological Assistance Program, which can provide technical assistance in any radiological emergency. DOE can provide specialized radiation detection instruments and support for both its response as LFA and as initial coordinator of Federal radiological monitoring and assessment assistance. Some of the specialized resources and capabilities include:

a. Aerial monitoring capability for tracking dispersion of radioactive material and mapping ground contamination;

b. A computer-based, emergency preparedness and response predictive capability that provides rapid predictions of the transport, diffusion, and deposition of radionuclides released to the atmosphere and dose projections to people and the environment;

c. Specialized equipment and instruments and response teams for locating radioactive materials and handling damaged nuclear weapons;

d. Medical experts on radiation effects and the treatment of exposed or contaminated patients; and

e. Support facilities for DOE response, including command post supplies, communications systems, generators, and portable video and photographic capabilities.

#### 3. DOE References.

a. DOE Order 5500.1B, Emergency Management System, April 1991.

b. DOE Order 5500.2B, Emergency Categories, Classes, and Notification and Reporting Requirements, April 1991.

c. DOE Order 5500.3A, Planning and Preparedness for Operational Emergencies, April 1991.

d. DOE Order 5500.4A, Public Affairs Policy and Planning Requirements for Emergencies, June 1992.

e. DOE Order 5530.1A, Accident Response Group, September 1991.

f. DOE Order 5530.2, Nuclear Emergency Search Team, September 1991.

g. DOE Order 5530.3, Radiological Assistance Program, January 1992.

h. DOE Order 5530.4, Aerial Measuring System, September 1991.

i. DOE Order 5530.5, Federal Radiological Monitoring and Assessment Center, July 1992.

4. DOE Specific Authorities.

a. Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011-2284.

b. Energy Reorganization Act of 1974, 42 U.S.C. 5801 et seq.

c. Department of Energy Organization Act of 1977, 42 U.S.C. 7101 et seq.

d. Nuclear Waste Policy Act of 1982, 42 U.S.C. 10101 et seq.

e. Title 44, Code of Federal Regulations, Part 351, Radiological Emergency Planning and Preparedness, § 351.24, The Department of Energy.

*E. Department of Health and Human Services*

1. Summary of Response Mission. In a radiological emergency, the Department of Health and Human Services (HHS) assists with the assessment, preservation, and protection of human health and helps ensure the availability of essential health/medical and human services. Overall, the Office of Public Health and Science, Office of Emergency Preparedness, coordinates the HHS emergency response. HHS provides technical and nontechnical assistance in the form of advice, guidance, and resources to Federal, State, and local governments. The principal HHS response comes from the U.S. Public Health Service. HHS actively participates with EPA and USDA on the Advisory Team for Environment, Food, and Health when convened.

2. Capabilities and Resources. HHS has personnel located at headquarters, regional offices, and at laboratories and other facilities who can provide assistance in radiological emergencies. The agency can provide the following kinds of advice, guidance, and assistance:

a. Assist State and local government officials in making evacuation and relocation decisions;

b. Ensure the availability of health and medical care and other human services (especially for the aged, the poor, the infirm, the blind, and others most in need);

c. Provide advice and guidance in assessing the impact of the effects of radiological incidents on the health of persons in the affected area;

d. Assist in providing crisis counseling to victims in affected geographic areas;

e. Provide guidance on the use of radioprotective substances (e.g., thyroid blocking agents), including dosage, and also projected radiation doses that warrant the use of such drugs;

f. In conjunction with DOE and DOD, advise medical personnel on proper medical treatment of people exposed to or contaminated by radioactive materials;

g. Recommend Protective Action Guides for food and animal feed and assist in developing technical recommendations on protective measures for food and animal feed; and

h. Provide guidance to State and local health officials on disease control measures and epidemiological surveillance and study of exposed populations.

3. HHS References.

a. 55 FR 2879, January 29, 1990—Delegations of authority to the Assistant

Secretary for Health for department-wide emergency preparedness functions.

b. 55 FR 2885, January 29, 1990—Statement of organization, functions and delegations of authority to the Office of Emergency Preparedness.

c. Federal Response Plan, Emergency Support Functions #8 (Health and Medical Services), April 1992.

d. Disaster Response Guides, Operating Divisions, Various Dates.

4. HHS Specific Authorities.

a. Public Health Service Act, as amended, 42 U.S.C. 201 et seq.

b. Federal Food, Drug, and Cosmetic Act of 1938, as amended, 21 U.S.C. 301-392.

c. Snyder Act, 25 U.S.C. 13 (1921).

d. Transfer Act, 42 U.S.C. 2004b.

e. Indian Health Care Improvement Act, 25 U.S.C. 1601 et seq.

f. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, Title VI, 42 U.S.C. 5195 et seq.

g. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (SUPERFUND), 42 U.S.C. 9601 et seq., as amended by the SUPERFUND Amendments and Reauthorization Act of 1986 (Public Law 99-499) (1986).

h. 42 U.S.C. 3030—Section 310 of the Older Americans Act.

i. 42 U.S.C. 601 et seq.—Section 401 et seq. of the Social Security Act.

j. 45 CFR 233.120—Emergency Community Services Homeless Grant Program.

k. 45 CFR 233.120—AFDC Emergency Assistance Program.

l. 45 CFR 233.20(a)(2)(v)—AFDC Special Needs Allowance.

m. Runaway and Homeless Youth Act, as amended, Section 366(0).

n. Omnibus Budget Reconciliation Act of 1981, Title XXVI (as amended by Public Laws 98-558, 99-425, 101-501, 101-517)—Low Income Home Energy Assistance Program.

o. E.O. 12656, National Security Emergency Preparedness—Part 8.

*F. Department of Housing and Urban Development*

1. Summary of Response Mission. The Department of Housing and Urban Development (HUD) provides information on available housing for disaster victims or displaced persons. HUD assists in planning for and placing homeless victims by providing emergency housing and technical support staff within available resources.

2. Capabilities and Resources. HUD has capabilities to do the following:

a. Review and report on available housing for disaster victims and displaced persons;

b. Assist in planning for and placing homeless victims in available housing;

c. Provide staff to support emergency housing within available resources; and

d. Provide technical housing assistance and advisory personnel.

3. HUD References. HUD Handbook 3200.02, REV-3, "Disaster Response and Assistance."

4. HUD Specific Authorities. HUD housing programs provide the Department some discretion, to the extent permissible by law, in granting waivers of eligibility

requirements to disaster-displaced families. These programs provide rental housing assistance, HUD/FHA-insured loans to repair and rebuild homes, and HUD/FHA-insured loans to purchase new or existing housing, under the following authorities:

a. National Housing Act, as amended, 12 U.S.C. 1701 et seq.

b. United States Housing Act of 1977, as amended, 42 U.S.C. 1437c et seq.

c. Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5301 et seq.

d. National Affordable Housing Act of 1990 (P.L. 101-625), as amended.

*G. Department of the Interior*

1. Summary of Response Mission. The Department of the Interior (DOI) manages over 500 million acres of Federal lands and thousands of Federal natural resources facilities and is responsible for these lands and facilities, as well as other natural resources such as endangered and threatened species, migratory birds, anadromous fish, and marine mammals, when they are threatened by a radiological emergency. In addition, DOI coordinates emergency response plans for DOI-managed refuges, parks, recreation areas, monuments, public lands, and Indian trust lands with State and local authorities; operates its water resources projects to protect municipal and agricultural water supplies in cases of radiological emergencies; and provides advice and assistance concerning hydrologic and natural resources, including fish and wildlife, to Federal, State, and local governments upon request. DOI also administers the Federal Government's trust responsibility for 512 Federally recognized Indian tribes and villages, and about 50 million acres of Indian lands. The Bureau of Indian Affairs of the Department of the Interior is available to assist other agencies in consulting with these tribes about radiological emergency preparedness and responses to emergencies. DOI also has certain responsibilities for the United States insular areas.

2. Capabilities and Resources. DOI has personnel at headquarters and in regional offices with technical expertise to do the following:

a. Advise and assist in assessing the nature and extent of radioactive releases to water resources including support of monitoring personnel, equipment, and laboratory analytical capabilities.

b. Advise and assist in evaluating processes affecting radioisotopes in soils, including personnel, equipment, and laboratory support.

c. Advise and assist in the development of geographical information systems (GIS) databases to be used in the analysis and assessment of contaminated areas including personnel, equipment, and databases.

d. Provide hydrologic advice and assistance, including monitoring personnel, equipment, and laboratory support.

e. Advise and assist in assessing and minimizing offsite consequences on natural resources, including fish and wildlife, subsistence uses, land reclamation, mining, and mineral expertise.

f. Advise and assist the United States insular areas on economic, social, and political matters.

g. Coordinate and provide liaison between Federal, State, and local agencies and Federally recognized Indian tribal governments on questions of radiological emergency preparedness and responses to incidents.

3. DOI References.

a. 910 DM 5 (Draft)—Interior Emergency Operations, Federal Radiological Emergency Response Plan.

b. 296 DM 3 (Draft)—Interior Emergency Delegations, Radiological Emergencies.

4. DOI Specific Authorities.

a. Organic Act of 1879 providing for "surveys, investigations, and research covering the topography, geology, hydrology, and the mineral and water resources of the United States," 43 U.S.C. 31 (USGS).

b. Appropriations Act of 1894 providing for gaging streams and assessment of water supplies of the U.S., 28 Stat. 398 (USGS).

c. OMB Circular A-67 (1964) giving DOI (USGS) responsibility " \* \* \* for the design and operation of the national network for acquiring data on the quantity and quality of surface ground waters \* \* \* " (USGS).

d. The Reclamation Act of 1902, as amended, 43 U.S.C. 391, and project authorization acts (BuRec).

e. National Park Service Act of 1916, 16 U.S.C. 1 et seq., and park enabling acts (NPS).

f. The Snyder Act of 1921, as amended, 25 U.S.C. 13. DOI shall direct, supervise, and expend such monies appropriated by Congress for the benefit, care, and assistance of Indians throughout the United States for such purposes as the relief of distress, and conservation of health, for improvement of operation and maintenance of existing Indian irrigation and water supply systems \* \* \* etc. (BIA).

g. National Wildlife Refuge System Administration Act of 1966, as amended, 16 U.S.C. 668dd, and refuge enabling acts (FWS).

h. Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (BLM).

i. Endangered Species Act (1973), as amended, 16 U.S.C. 1531 et seq. Federal agencies may not jeopardize the continued existence of endangered or threatened species (FWS).

j. Migratory Bird Treaty Act (1918), as amended, 16 U.S.C. 703 et seq. Prohibits the taking of migratory birds without permits (FWS).

k. Anadromous Fish Conservation Act, as amended, 16 U.S.C. 757a et seq. Reestablishes anadromous fish habitat (FWS).

l. Marine Mammal Protection Act (1972), as amended, 16 U.S.C. 1361 et seq. Conserves marine mammals with management of certain species vested in DOI (FWS).

#### H. Department of Justice

1. Summary of Response Mission. The Department of Justice (DOJ) is the lead agency for coordinating the Federal response to acts of terrorism in the United States and U.S. territories. Within the DOJ, the Federal Bureau of Investigation (FBI) will manage the law enforcement aspect of the Federal response to such incidents. The FBI also is

responsible for investigating all alleged or suspected criminal violations of the Atomic Energy Act of 1954, as amended.

2. Capabilities and Resources. The FBI will coordinate all law enforcement operations including intelligence gathering, hostage negotiations, and tactical operations.

3. DOJ References.

a. Memorandum of Understanding between DOJ, DOD, and DOE for Responding to Domestic Malevolent Nuclear Weapons Emergencies.

b. Federal Bureau of Investigation Nuclear Incident Response Plan.

c. Memorandum of Understanding between DOE and the FBI for Responding to Nuclear Threat Incidents.

d. Memorandum of Understanding between the FBI and the NRC Regarding Nuclear Threat Incidents Involving NRC-Licensed Facilities, Materials, or Activities.

e. Memorandum of Understanding between DOE, FBI, White House Military Office, and the U.S. Secret Service Regarding Nuclear Incidents Concerning the Office of the President and Vice President of the United States.

f. Joint Federal Bureau of Investigation, Department of Energy, and Department of Defense Agreement for Response to Improvised Nuclear Device Incidents.

4. DOJ Specific Authorities.

a. Atomic Energy Act of 1954, 42 U.S.C. 2011-2284.

b. 18 U.S.C. § 831 (Prohibited Transactions Involving Nuclear Materials).

#### I. Department of State

1. Summary of Response Mission. The Department of State (DOS) is responsible for the conduct of relations between the U.S. Government and other governments and international organizations and for the protection of U.S. interests and citizens abroad.

In a radiological emergency outside the United States, DOS is responsible for coordinating U.S. Government actions concerning the event in the country where it occurs (including evacuation of U.S. citizens, if necessary) and internationally. Should the FRERP be invoked due to the need for domestic action, DOS will continue to hold this role within the FRPCC structure. Specifically, DOS will coordinate foreign information-gathering activities and, in particular, conduct all contacts with foreign governments except in cases where existing bilateral agreements permit direct agency-to-agency cooperation. In the latter situation, the U.S. agency will keep DOS fully informed of all communications.

In a domestic radiological emergency with potential international trans-boundary consequences, DOS will coordinate all contacts with foreign governments and agencies except where existing bilateral agreements provide for direct exchange of information. DOS is responsible for conveying the U.S. Government response to foreign offers of assistance.

2. Capabilities and Resources. The State Department maintains embassies, missions, interest sections (in countries where the United States does not have diplomatic relations), and consulates throughout the

world. The State Department Operations Center is capable of secure, immediate, around-the-clock communications with diplomatic posts. The diplomatic personnel stationed at a post are knowledgeable of local factors important to clear and concise communication, and frequently speak the local language. The Ambassador is the President's personal representative to the host government, and his country team is responsible for coordinating official contacts between the U.S. Government and the host government or international organization.

3. DOS References. Task Force Manual for Crisis Management (rev. 11 January 1990).

4. DOS Specific Authorities.

a. Presidential Directive/NSC-27 (PD-27) of January 19, 1978.

b. 22 U.S.C. 2656.

c. 22 U.S.C. 2671(a)(92)(A).

#### J. Department of Transportation

1. Summary of Response Mission. The Department of Transportation (DOT) Radiological Emergency Response Plan for Non-Defense Emergencies provides assistance to State and local governments when a radiological emergency adversely affects one or more transportation modes and the States or local jurisdictions requesting assistance have inadequate technical and logistical resources to meet the demands created by a radiological emergency.

2. Capabilities and Resources. DOT can assist Federal, State, and local governments with emergency transportation needs and contribute to the response by assisting with the control and protection of transportation near the area of the emergency. DOT has capabilities to do the following:

a. Support State and local governments by identifying sources of civil transportation on request and when consistent with statutory responsibilities.

b. Coordinate the Federal civil transportation response in support of emergency transportation plans and actions with State and local governments. (This may include provision of Federally controlled transportation assets and the controlling of transportation routes to protect commercial transportation and to facilitate the movement of response resources to the scene.)

c. Provide Regional Emergency Transportation Coordinators and staff to assist State and local authorities in planning and response.

d. Provide technical advice and assistance on the transportation of radiological materials and the impact of the incident on the transportation system.

e. Provide exemptions from normal transportation hazardous materials regulations if public interest is best served by allowing shipments to be made in variance with the regulations. Most exemptions are issued following public notice procedures, but if emergency conditions exist, DOT can issue emergency exemptions by telephone.

f. Control airspace, including the imposition of Temporary Flight Restrictions and issuance of Notices to Airmen (NOTAMS), both to give priority to emergency flights and protect aircraft from contaminated airspace.

DOT is responsible for dealing with the International Atomic Energy Agency and

foreign Competent Authorities on issues related to packaging and other standards for the international transport of radioactive materials. If a transport accident involves international shipments of radioactive materials, DOT will be the point of contact for working with the transportation authorities of the foreign country that offered the material for transport in the United States.

### 3. DOT References.

- a. Department of Transportation Radiological Emergency Response Plan for Non-Defense Emergencies, August 1985.
- b. DOT Order 1900.8, Department of Transportation Civil Emergency Preparedness Policies and Program(s).
- c. DOT Order 1900.7D, Crisis Action Plan.
- d. Transportation Annex (Emergency Support Function #1), Federal Response Plan.
4. DOT Specific Authorities.
  - a. 49 U.S.C. 301.
  - b. 44 CFR 351, Radiological Emergency Planning and Preparedness, § 351.25, The Department of Transportation.

### K. Department of Veterans Affairs

1. Summary of Response Mission. The Department of Veterans Affairs (VA) can assist other Federal agencies, State and local governments, and individuals in an emergency by providing immediate and long-term medical care, including management of radiation trauma, as well as first aid, at its facilities or elsewhere. VA can make available repossessed VA mortgaged homes to be used for housing for affected individuals. VA can manage a system of disposing of the deceased. VA can provide medical, biological, radiological, and other technical guidance for response and recovery reactions. Generally, none of these actions will be taken unilaterally but at the request of a responsible senior Federal official and with appropriate external funding.

2. Capabilities and Resources. In addition to the capabilities listed above, VA:

- a. Operates almost 200 full-facility hospitals and outpatient clinics throughout the United States;
- b. Has almost 200,000 employees with broad medical, scientific, engineering and design, fiscal, and logistical capabilities;
- c. Manages the National Cemetery System in 38 States;
- d. May have a large inventory of repossessed homes (this inventory varies according to economic trends);
- e. Is one of the Federal managers of the National Disaster Medical System;
- f. Is a participant in the VA/DOD contingency plan for Medical Backup in times of national emergency;
- g. Has the capability to manage the medical effects of radiation trauma using the VA's Medical Emergency Radiological Response Teams (MERRTs); and
- h. Has a fully equipped emergency center with multi-media communications at the Emergency Medical Preparedness Office (EMPO).

3. VA References. MP-1, Part II, Chapter 13 (Emergency Preparedness Plan), March 20, 1985, as revised.

4. VA Specific Authorities. a. The Robert T. Stafford Disaster Relief and Emergency

Assistance Act, as amended, Title VI, 42 U.S.C. 5195 et seq.

b. National Security Decision Directive Number 47 (NSDD-47), July 22, 1982, Emergency Mobilization Preparedness.

c. National Security Decision Directive Number 97 (NSDD-97), June 13, 1982, National Security Telecommunications Policy.

d. National Plan of Action for Emergency Mobilization Preparedness.

e. Veterans Administration and Department of Defense Health Resources Sharing and Emergency Operations Act, 38 U.S.C. 5001 et seq.

f. E.O. 11490, Assignment of Preparedness Functions to Federal Departments and Agencies, October 28, 1969, as amended, 3 CFR, 1966-1970 Comp., p. 820.

g. E.O. 12656, Assignment of Emergency Preparedness Responsibilities, November 18, 1988, 3 CFR, 1988 Comp., p. 585.

h. E.O. 12657, Federal Emergency Management Agency Assistance, Emergency Preparedness Planning at Commercial Nuclear Power Plants, November 23, 1988, 3 CFR, 1988 Comp., p. 611.

### L. Environmental Protection Agency

1. Summary of Response Mission. The Environmental Protection Agency (EPA) assists Federal, State, and local governments during radiological emergencies by providing environmental and water supply monitoring, recommending protective actions, and assessing the consequences of radioactivity releases to the environment. These services may be provided at the request of the Federal or State Government, or EPA may respond to an emergency unilaterally in order to fulfill its statutory responsibility. EPA actively participates with USDA and HHS on the Advisory Team when convened.

2. Capabilities and Resources. EPA can provide personnel, resources, and equipment (including mobile monitoring laboratories) from its facilities in Montgomery, AL, and Las Vegas, NV, and technical support from Headquarters and regional offices. EPA has capability to do the following:

- a. Direct environmental monitoring activities and assess the environmental consequences of radioactivity releases.
- b. Develop Protective Action Guides.
- c. Recommend protective actions and other radiation protection measures.
- d. Recommend acceptable emergency levels of radioactivity and radiation in the environment.
- e. Prepare health and safety advice and information for the public.
- f. Assist in the preparation of long-term monitoring and area restoration plans; and recommend clean-up criteria.
- g. Estimate effects of radioactive releases on human health and environment.
- h. Provide nationwide environmental monitoring data from the Environmental Radiation Ambient Monitoring Systems for assessing the national impact of the emergency.

### 3. EPA References.

a. U.S. Environmental Protection Agency Radiological Emergency Response Plan, Office of Radiation Programs, December 1986.

b. Letter of Agreement between DOE and EPA for Notification of Accidental Radioactivity Releases into the Environment from DOE Facilities, January 8, 1978.

c. Letter of Agreement between NRC and EPA for Notification of Accidental Radioactivity Releases to the Environment from NRC Licensed Facilities, July 28, 1982.

d. Manual of Protective Action Guides and Protective Actions for Nuclear Incidents, Office of Radiation Programs, January 1990.

e. Memorandum of Understanding Between the Federal Emergency Management Agency and the Environmental Protection Agency Concerning the Use of High Frequency Radio for Radiological Emergency Response 1981, Office of Radiation Programs, EPA.

### 4. EPA Specific Authorities.

a. Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. (1970), and Reorganization Plan #3 of 1970.

b. Public Health Service Act, as amended, 42 U.S.C. 241 et seq. (1970).

c. Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq. (1974).

d. Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (1977).

e. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (SUPERFUND), 42 U.S.C. 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) (1986).

f. E.O. 12656, Assignment of Emergency Preparedness Responsibilities, November 18, 1988, 3 CFR, 1988 Comp., p. 585.

### M. Federal Emergency Management Agency

1. Summary of Response Mission. The Federal Emergency Management Agency (FEMA) is responsible for coordinating offsite Federal response activities and Federal assistance to State and local governments for functions other than radiological monitoring and assessment. FEMA's coordination role is to promote an effective and efficient response by Federal agencies at both the national level and at the scene of the emergency. FEMA coordinates the activities of Federal, State, and local agencies at the national level through the use of its Emergency Support Team and at the scene of the emergency with its Emergency Response Team.

2. Capabilities and Resources. FEMA will provide personnel who are experienced in disaster assistance to establish and operate the DFO; public information officials to coordinate public information activities; personnel to coordinate reporting to the White House and liaison with the Congress; and personnel experienced in information support for the Federal response. FEMA personnel are familiar with the capabilities of other Federal agencies and can aid the States and other Federal agencies in obtaining the assistance they need. FEMA will:

- a. Coordinate assistance to State and local governments among the Federal agencies;
- b. Coordinate Federal agency response activities, except those pertaining to the FRMAC, and coordinate these with the activities of the LFA;
- c. Work with the LFA to coordinate the dissemination of public information concerning Federal emergency response

activities. Promote the coordination of public information releases with State and local governments, appropriate Federal agencies, and appropriate private sector authorities; and

d. Help obtain logistical support for Federal agencies.

### 3. FEMA References.

a. Federal Response Plan, April, 1992, and subsequent changes.

b. Emergency Response Team Plans for FEMA Regions I, II, III, IV, V, VI, VII, VIII, IX, and X, various dates.

c. NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident (NUREG-0981/FEMA-51), Rev. 1, February 1985.

d. Memorandum of Understanding for Incident Response between the Federal Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

e. Department of Defense, Department of Energy, Federal Emergency Management Agency Memorandum of Agreement for Response to Nuclear Weapon Accidents and Nuclear Weapon Significant Incidents, 1983.

f. Memorandum of Understanding, GSA and FEMA, February 1989.

### 4. FEMA Specific Authorities.

a. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended, 42 U.S.C. 5121 et seq.

b. E.O. 12148 of July 20, 1979, Federal Emergency Management, 3 CFR, 1979 Comp., p. 412.

c. E.O. 12241 of September 29, 1980, National Contingency Plan, 3 CFR, 1980 Comp., p. 282.

d. E.O. 12472 of April 3, 1984, Assignment of National Security and Emergency Preparedness Telecommunications Functions, 3 CFR, 1984 Comp., p. 193.

e. E.O. 12656 of November 18, 1988, Assignment of Emergency Preparedness Responsibilities, 3 CFR, 1988 Comp., p. 585.

f. E.O. 12657 of November 18, 1988, Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants, 3 CFR, 1988 Comp., p. 611.

g. 44 CFR 351, Radiological Emergency Planning and Preparedness.

h. 44 CFR 352, Commercial Nuclear Power Plants: Emergency Preparedness Planning.

### N. General Services Administration

1. Summary of Response Mission. The General Services Administration (GSA) is responsible to direct, coordinate, and provide logistical support of other Federal agencies. GSA, in accordance with the National Plan for Telecommunications Support During Non-Wartime Emergencies, manages the provision and operations of telecommunications and automated data processing services. A GSA employee, the Federal Emergency Communications Coordinator (FECC), in accordance with appropriate regulations and plans, is appointed to perform communications management functions.

2. Capabilities and Resources. GSA provides acquisition and procurement of floor space, telecommunications and automated data processing services,

transportation, supplies, equipment, material; it also provides specified logistical services that exceed the capabilities of other Federal agencies. GSA also provides contracted advisory and support services to Federal agencies and provides security services on Federal property leased by or under the control of GSA. GSA will identify a Regional Emergency Communications Planner (RECP) and FECC, when required, for each of the 10 standard Federal regions. GSA will authorize the RECP to provide technical support and to accept guidance from the FEMA Regional Director during the pre-deployment phase of a telecommunications emergency. The GSA Regional Emergency Coordinator will coordinate all the services provided. Upon request of the Senior FEMA Official (SFO) through the Regional Emergency Coordinator, GSA will dispatch the FECC to the disaster site to expedite the provision of the telecommunications services.

3. Funding. GSA is not funded by Congressional appropriations. All requests for support are funded by the requestor in accordance with normal procedures or existing agreements.

### 4. GSA References.

a. Memorandum of Understanding between GSA and FEMA Pertaining to Disaster Assistance Programs, Superfund Relocation Program, and Federal Radiological Emergency Response Plan Programs, February 2, 1989.

b. GSA Orders in the 2400 Series (Emergency Management).

c. National Communications System Plan for Telecommunications Support to Non-Wartime Emergencies, January 1992.

d. National Telecommunications System Telecommunication Procedures Manuals.

### 5. GSA Specific Authorities.

a. The Federal Property and Administrative Services Act of 1947, as amended, 40 U.S.C. 471 et seq.

b. The Communications Act of 1934, 47 U.S.C. 390 et seq.

c. The Defense Production Act of 1950, as amended, 50 App. 2061 et seq.

d. E.O. 12472 of April 3, 1984, Assignment of National Security and Emergency Preparedness Telecommunications Functions, 3 CFR, 1984 Comp., p. 193.

e. Federal Acquisition Regulations, 48 CFR 1.

f. The General Services Administration Acquisition Regulations, 41 CFR 5.

g. Federal Property Management Regulations, 41 CFR 101.

h. Federal Travel Regulations, 41 CFR 301-304.

### O. National Aeronautics and Space Administration

1. Summary of Response Mission. The role of the National Aeronautics and Space Administration (NASA) in a Federal response will depend on the circumstances of the emergency. NASA will be the LFA and will coordinate the initial response and support of other agencies as agreed to in specific interagency agreements when the launch vehicle or payload carrying the nuclear source is a NASA responsibility.

2. Capabilities and Resources. NASA has launch facilities and the ability to provide

launch vehicle and space craft telemetry data through its tracking and data network. NASA also has the capability to provide limited radiological monitoring and emergency response from its field centers in Florida, Alabama, Maryland, Virginia, Ohio, Texas, and California.

### 3. NASA References.

a. KHB 1860.1B KSC Ionizing Radiation Protection Program.

b. Memorandum of Understanding between the Department of Energy and the National Aeronautics and Space Administration concerning Radioisotope Power Systems for Space Missions, dated July 26, 1991, as supplemented.

### 4. NASA Specific Authorities.

a. National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2451 et seq.

b. NASA Policy Directives (NPDs), as applicable.

### P. National Communications System

1. Summary of Response Mission. Under the National Plan for Telecommunications Support in Non-Wartime Emergencies, the Manager, National Communications System (NCS), is responsible for adequate telecommunications support to the Federal response and recovery operations. The Manager, NCS, will identify, upon the request of the Senior FEMA Official, a Communications Resource Manager from the NCS/National Coordinating Center (NCC) staff when any of the following conditions exist: (1) when local telecommunications vendors are unable to satisfy all telecommunications service requirements; (2) when conflicts between multiple Federal Emergency Communications Coordinators occur; or (3) if the allocation of available resources cannot be fully accomplished at the field level. The Manager, NCC, will monitor all extraordinary situations to determine that adequate national security emergency preparedness telecommunications services are being provided to support the Federal response and recovery operations.

2. Capabilities and Resources. NCS can provide the expertise and authority to coordinate the communications for the Federal response and to assist appropriate State agencies in meeting their communications requirements.

### 3. NCS References.

a. National Plan for Telecommunications Support in Non-Wartime Emergencies, September 1987.

b. Memorandum of Understanding, GSA and FEMA, February 1989.

c. E.O. 12046 (relates to the transfer of telecommunications functions), the White House, March 27, 1978, 3 CFR, 1978 comp., p. 158.

### 4. NCS Specific Authorities.

a. E.O. 12472, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984, 3 CFR, 1984 Comp., p. 193.

b. E.O. 11490, October 30, 1969, 3 CFR, 1966-1970 Comp., p. 820.

c. E.O. 12046, March 27, 1978, 3 CFR, 1978 Comp., p. 158.

d. White House Memorandum, National Security and Emergency Preparedness: Telecommunications and Management and Coordination Responsibilities, July 5, 1978.

*Q. Nuclear Regulatory Commission*

1. Summary of Response Mission. The U.S. Nuclear Regulatory Commission (NRC) regulates the use of byproduct, source, and special nuclear material, including activities at commercial and research nuclear facilities. If an incident involving NRC-regulated activities poses a threat to the public health or safety or environmental quality, the NRC will be the LFA. In such an incident, the NRC is responsible for monitoring the activities of the licensee to ensure that appropriate actions are being taken to mitigate the consequences of the incident and to ensure that appropriate protective action recommendations are being made to offsite authorities in a timely manner. In addition, the NRC will support its licensees and offsite authorities, including confirming the licensee's recommendations to offsite authorities.

Consistent with NRC's agreement to participate in FRMAC, the NRC may also be called upon to assist in Federal radiological monitoring and assessment activities during incidents for which it is not the LFA.

## 2. Capabilities and Resources.

a. The NRC has trained personnel who can assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety and

provide advice, when requested, to the State and local agencies with jurisdiction based on this assessment.

b. The NRC can assess the facility operator's recommendations and, if needed, develop Federal recommendations on protective actions for State and local governments with jurisdiction that consider, as required, all substantive views of other Federal agencies.

c. The NRC has a system of thermoluminescent dosimeters (TLD) established around every commercial nuclear power reactor in the country. The NRC can retrieve and exchange these TLDs promptly and obtain immediate readings onscene.

## 3. NRC References.

a. NRC Incident Response Plan Revision 2 (NUREG-0728), NRC Office for Analysis and Evaluation of Operational Data, June 1987.

b. Regions I through V Supplements to NUREG-0845, 1990.

c. NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident, (NUREG-0981; FEMA-51), Rev. 1, February 1985.

d. Operational Response Procedures Developed between NRC, EPA, HHS, DOE, and USDA, January 1991.

e. Memorandum of Understanding for Incident Response between the Federal Emergency Management Agency and the

Nuclear Regulatory Commission, October 22, 1980.

f. Memorandum of Understanding Between the FBI and the NRC Regarding Nuclear Threat Incidents Involving NRC-Licensed Facilities, Materials, and Activities, March 13, 1991.

g. NUREG/BR-0150, "Response Technical Manual," November 1993.

h. NUREG-1442 (Rev. 1)/FEMA-REP-17 (Rev. 1), "Emergency Response Resources Guide," July 1992.

i. NUREG-1467, "Federal Guide for a Radiological Response: Supporting the Nuclear Regulatory Commission During the Initial Hours of a Serious Accident," November 1993.

j. NUREG-1471, "U.S. NRC Concept of Operations," February 1994.

k. NUREG-1210, "Pilot Program; NRC Severe Reactor Accident Incident Response Training Manual," February 1987.

## 4. NRC Specific Authorities.

a. Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011-2284.

b. Energy Reorganization Act of 1974, 42 U.S.C. 5841 et seq.

c. 10 CFR Parts 0 to 199.

[FR Doc. 96-11313 Filed 5-7-96; 8:45 am]

BILLING CODE 6718-02-P

**United States  
Federal Register**

---

Wednesday  
May 8, 1996

---

**Part IV**

**Environmental  
Protection Agency**

---

**40 CFR Part 123  
Amendment to Requirements for  
Authorized State Permit Programs Under  
Section 402 of the Clean Water Act; Final  
Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 123**

[FRL-5500-9]

RIN 2040-AC43

**Amendment to Requirements for Authorized State Permit Programs Under Section 402 of the Clean Water Act**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is amending the regulations concerning the minimum requirements for federally authorized State permitting programs under Section 402 of the Clean Water Act. This amendment will explicitly require that all States that administer or seek to administer a program under this part must provide an opportunity for judicial review in State Court of final permit decisions (including permit approvals and denials) that is sufficient to provide for, encourage, and assist public participation in the permitting process. A State will meet this standard where State law allows an opportunity for judicial review that is equivalent to that available to obtain judicial review in federal court of federally-issued NPDES permits. A State will not meet this standard if it narrowly restricts the class of persons who may challenge the approval or denial of State-issued permits.

This rule is being issued because EPA has become aware of instances in which citizens are barred from challenging State-issued permits because of restrictive standing requirements in State law. The current regulations setting minimum requirements for State 402 permit programs do not explicitly address this problem. EPA believes this is a gap in the regulations setting minimum requirements for State 402 programs that needs to be addressed.

Today's rule is intended to ensure effective and meaningful public participation in the permit issuance process by establishing a minimum level of public participation among State water pollution control programs. When citizens have the opportunity to challenge executive agency decisions in court, their ability to influence permitting decisions through other required elements of public participation, such as public comments and public hearings on proposed permits, is enhanced. This rule will promote effective and meaningful public participation and will minimize

the possibility of unfair and inconsistent treatment of similarly situated people potentially affected by State permit decisions.

This requirement does not apply to Indian Tribes. EPA will decide at a later time whether it should be extended to Tribes.

**EFFECTIVE DATE:** This rule is effective on June 7, 1996. Under EPA's State 402 program rules, States will have up to two years to adopt legislative changes, if necessary, to meet this requirement and maintain federal program authorization.

**FOR FURTHER INFORMATION CONTACT:** Robert Klepp, Office of Wastewater Management (OWM), Permits Division (4203), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260-5805.

**SUPPLEMENTARY INFORMATION:**

Regulated Entities

Entities potentially regulated by this action are authorized State programs.

Category	Examples of regulated entities
State Government.	State NPDES Permit Issuing Authorities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is likely to be regulated by this action, you should carefully read the applicability language of today's rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Information in this preamble is organized as follows:

- I. Summary and Explanation of Today's Action
  - 1. Background
  - 2. Rationale and Authority
    - a. Restrictive Standing Requirements In States
    - b. Policy Concerns With Restrictive Standing Provisions
    - c. Legal Authority
  - 3. Regulatory Language
  - 4. Exhaustion of Administrative Remedies
  - 5. Consideration of Alternatives
  - 6. Time Period for Compliance
- II. Summary of Response to Comments
  - 1. EPA Authority to Require Standing
  - 2. Judicial Review is Distinct from Public Participation

- 3. Rule would Impermissibly Affect State Sovereignty
- 4. Potential Conflicts with the Tenth Amendment
- 5. The Potential for Waste and Abuse of Judicial Resources
- 6. Suggested Revisions
- 7. Time Frame for Compliance
- 8. Indian Tribes
- 9. Virginia-specific Issues
- 10. Impact of the Rule
- 11. Support for the Rule
- III. Administrative Requirements
  - 1. Compliance with Executive Order 12866
  - 2. Unfunded Mandates Reform Act and Compliance with Executive Order 12875
  - 3. Paperwork Reduction Act
  - 4. Regulatory Flexibility Act

I. Summary and Explanation of Today's Action

1. Background

Congress enacted the Clean Water Act, 33 U.S.C. 1251 *et seq.* ("CWA" or "the Act"), "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a), 33 U.S.C. 1251(a). To achieve this objective, the Act authorizes EPA, or a State approved by EPA, to issue permits controlling the discharge of pollutants to navigable waters. Section 402(a)(1), 33 U.S.C. 1342(a)(1). A State that wishes to administer its own permit program for discharges of pollutants, other than dredged or fill material, to navigable waters may submit a description of the program it proposes to administer to EPA for approval according to criteria set forth in the statute. Section 402(b), 33 U.S.C. 1342(b).

EPA's regulations at 40 CFR Part 123 establish minimum requirements for federally authorized State permit programs under § 402 of the CWA. Today, EPA is adding language to Part 123 that makes it clear that States that administer or seek to administer authorized 402 permitting programs must provide an opportunity for judicial review in State court of the final approval or denial of permits by the State that is sufficient to provide for, encourage, and assist public participation in the permitting process. A State will meet this standard if State law allows an opportunity for judicial review that is the same as that available to obtain judicial review of federally-issued permits in federal court (see § 509 of the Clean Water Act.) A State will not meet this standard if it narrowly restricts the class of persons who may challenge the approval or denial of permits (for example, if only the permittee can obtain judicial review, or if persons must demonstrate injury to a pecuniary interest in order to obtain judicial review, or if persons must have

a property interest in close proximity to a discharge or surface waters in order to obtain judicial review). States are free under today's rule to impose reasonable requirements that administrative remedies be exhausted in order to preserve the opportunity to challenge final permitting actions in State court. This rule does not apply to Tribal programs. EPA will decide at a later time whether it should be extended to Tribes.

## 2. Rationale and Authority

a. Restrictive Standing Requirements In States. EPA has become aware of instances in which citizens are barred from challenging State-issued permits because of restrictive standing requirements in State law. EPA believes this is a gap in the regulations setting minimum requirements for State 402 permit programs that needs to be addressed.

In 1993, a coalition of environmental groups filed two petitions requesting that EPA withdraw the Virginia State 402 permit program, citing a limitation on citizen standing, among other alleged deficiencies. In particular, they alleged that recent changes in the law in the State of Virginia had significantly narrowed the public's opportunity to challenge State-issued 402 permits. Virginia's State Water Control Law, the State law under which Virginia's authorized program is administered, authorizes only an "owner aggrieved" to challenge permits in court. VA Code 62.1-44.29.<sup>1</sup> The petitioners alleged that in 1990, the Virginia legislature amended and narrowed the statutory definition of "owner." They also alleged that under three opinions of the Virginia Court of Appeals, only a permittee has standing to challenge the issuance or denial of a 402 permit in State court. *Environmental Defense Fund v. State Water Control Board*, 12 Va. App. 456, 404 S.E.2d 728 (1991), *reh'g en banc denied*, 1991 Va. App. LEXIS 129; *Town of Fries v. State Water Control Board*, 13 Va. App. 213, 409 S.E.2d 634 (1991). See *Citizens for Clean Air v. Commonwealth*, 13 Va. App. 430, 412 S.E.2d 715 (1991) (interpreting similar language in Virginia Air Pollution Control Law). They alleged that under these three decisions, riparian landowners, local governments that wish to draw drinking water from the waters in question, downstream permittees, local business and property

owners' associations, local civic associations, and environmental organizations whose members use the waters in question may not challenge a State-issued permit in State court.

When EPA issued the regulations that delineate the elements of an approvable program, EPA did not contemplate that State law might limit the opportunity for interested citizens to challenge final permit decisions in State court to such a degree that it is substantially narrower than the opportunity afforded under § 509 of the Clean Water Act to challenge federally-issued permits, or to the point that adequate and effective public participation in the permit issuance process would be compromised. EPA now believes that this is the case in at least a limited number of States and, thus, believes it needs to specify standing requirements in Part 123.

b. Policy Concerns With Restrictive Standing Provisions. EPA believes that the ability to judicially challenge permits is an essential element of public participation under the Clean Water Act. Permits issued under § 402 (also known as National Pollutant Discharge Elimination System or NPDES permits) fall within the broad range of processes that are subject to the Congressional directive of § 101(e) that public participation be "provided for, encouraged, and assisted by the Administrator and the States." Permits are a critical means of implementing the requirements and objectives of the Clean Water Act because they establish specific effluent limitations applicable to individual dischargers covered by the permits.

As EPA noted when it proposed today's rule on March 17, 1995 (60 FR 14588), when citizens are denied the opportunity to challenge executive agency decisions in court, their ability to influence permitting decisions through other required elements of public participation, such as public comments and public hearings on proposed permits, may be seriously compromised. If citizens perceive that a State administrative agency is not addressing their concerns about 402 permits because the citizens have no recourse to an impartial judiciary, that perception has a chilling effect on all the remaining forms of public participation in the permitting process. Without the possibility of judicial review by citizens, public participation before a State administrative agency could become a paper exercise. State officials will inevitably spend less time considering and responding to the comments of parties who have no standing to sue, but will be more

attentive to the comments of parties who can challenge the administrative decision in court.

The United States Court of Appeals for the Fourth Circuit has agreed that "broad availability of judicial review is necessary to ensure that the required public comment period serves its proper purpose. The comment of an ordinary citizen carries more weight if officials know that the citizen has the power to seek judicial review of any administrative decision harming him." *Virginia v. Browner*, No. 95-1052, slip op. at 17 (4th Cir. March 26, 1996) (upholding EPA's denial of Virginia's proposed permitting program under Title V of the Clean Air Act). The Fourth Circuit quoted from EPA's March 17, 1995 proposal to support that conclusion. Other courts also have recognized broadly that meaningful and adequate public participation is an essential part of a State program under Section 402. See e.g., *Natural Resources Defense Council v. EPA*, 859 F.2d 156, 175-78 (D.C. Cir. 1988) (approving Part 123 regulations regarding citizen intervention in State enforcement actions); *Citizens for a Better Environment v. EPA*, 596 F.2d 720, *reh'g denied*, 596 F.2d 725 (7th Cir. 1979) (invalidating EPA approval of a State program in the absence of prior promulgation of guidelines regarding citizen participation in State enforcement actions).

These points are reinforced by comments received regarding the proposed rule. As described in more detail in the response to comments document that is included in the rulemaking record, many comments received by EPA expressed concerns that a State's failure to provide standing for non-dischargers to seek judicial review of permits creates an uneven playing field that may result in:

- A failure by a State permitting agency to adequately consider comments by citizens because it is not judicially accountable to them, while at the same time giving undue deference to those of a discharger who may bring an action in court;
- A reduction in public participation in the permit process because such participation is perceived as fruitless; and
- A government that is perceived by its citizens to be distant and unaccountable.

Moreover, the lack of adequate public participation increases the likelihood that States may issue permits with limits and conditions that are inadequate to protect the environment because permit writers will not have the benefit of the valuable insights and

<sup>1</sup> EPA notes that in April 1996, the Virginia legislature passed a bill that would amend certain Virginia statutes, including the Water Control Law, with respect to the availability of judicial review. EPA is assessing the impact of the bill, which is not yet effective as law.

information provided by public participants. Finally, today's rule also effectuates EPA's strong policy interest in deferring to State administration of authorized NPDES programs. EPA firmly believes that States should implement the NPDES program in lieu of the federal government. However, EPA just as firmly believes that the opportunity for citizen participation is a vital component of a State NPDES program. In authorizing State programs to act in lieu of the federal government, EPA must ensure that the implementation of the State program will be both substantively adequate and procedurally fair. Because this rule will provide additional assurance of State program adequacy and fairness, it will allow EPA to exercise less oversight of State programs and allow more State autonomy in implementing NPDES programs.

c. Legal Authority. EPA believes it has authority under the Clean Water Act to promulgate today's rule. Section 101(e) of the CWA provides, in part:

Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.

This language explicitly directs that both the Administrator and the States must provide for, encourage, and assist public participation in the development of any "regulation, standard, effluent limitation, plan, or program" established under the Act. Section 101(e) also requires that EPA, "in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes."

As EPA noted in the preamble to the March 17, 1995 proposed rule, Congress included the provisions relating to public participation in Section 101(e) because it recognized that "[a] high degree of informed public participation in the control process is essential to the accomplishment of the objectives we seek—a restored and protected natural environment." S. Rep. 414, 92d Cong., 2d Sess. 12 (1972), reprinted in *A Legislative History of the Water Pollution Control Act Amendments of 1972*, Cong. Research Service, Comm. Print No. 1, 93d Cong., 1st Sess. (1973) (hereinafter cited as *1972 Legis. Hist.*) at 1430 (emphasis added).

The Senate Report observed further that the implementation of water pollution control measures would depend, "to a great extent, upon the pressures and persistence which an interested public can exert upon the

governmental process. The Environmental Protection Agency and the State should actively seek, encourage and assist the involvement and participation of the public in the process of setting water quality requirements and in their subsequent implementation and enforcement." *Id.* See also Senate Report at 72, *1972 Legis. Hist.* at 1490 ("The scrutiny of the public \* \* \* is extremely important in insuring \* \* \* a high level of performance by all levels of government and discharge sources.").

Similarly, the House directed EPA and the States "to encourage and assist the public so that it may fully participate in the administrative process." H. Rep. 911, 92d Cong., 2d Sess. 79, *1972 Legis. Hist.* at 766. The House also noted, "steps are necessary to restore the public's confidence and to open wide the opportunities for the public to participate in a meaningful way in the decisions of government;" therefore, public participation is "specifically required" and the Administrator is "directed to encourage this participation." *Id.* at 819. Congressman Dingell, a leading sponsor of the CWA, characterized Section 101(e) as applying "across the board." *1972 Legis. Hist.* at 108. See also *id.* at 249.

The Act reinforces the importance of the directive in § 101(e) by reiterating it repeatedly. See e.g., § 402(b)(3) (State permit programs must provide for public notice and an opportunity for hearing before a State issues an NPDES permit); § 505(a) ("any citizen" is authorized to bring enforcement suits); § 303(c)(1) (States are to hold public hearings in reviewing and revising State water quality standards); § 319 (a)(1) and (b)(1) (States are to notice and take public comment on nonpoint source management programs); § 320(f) (public review and comment required on plans for protection of estuaries).

Other provisions of the Act reinforce and confirm EPA's authority to promulgate today's rule. First, § 304(i) provides that EPA shall "promulgate guidelines establishing the minimum procedural and other elements of any State program" under § 402. Today's rule specifies such a requirement. Second, § 501(a) confers general authority on the Administrator to prescribe such regulations as are necessary to carry out her functions under the CWA. EPA believes it must heed the command of § 101(e) in carrying out the general authority provided by §§ 304(i) and 501(a). Finally, § 402(b)—the provision that establishes the statutory standards applicable to the approval of State

permitting programs by the Administrator—itsself contains an explicit requirement for public participation in the development of State permits. Section 402(b)(3) provides that EPA may disapprove a State NPDES program if adequate authority does not exist "to insure that the public \* \* \* receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application" (emphasis added). Section 402(b)(3) must be interpreted in light of the command of § 101(e) that public participation be "provided for, encouraged, and assisted by the Administrator and the States." Especially in light of § 101(e), it is inconceivable that Congress intended the public hearing required by § 402(b)(3)—and other forms of public participation in the State administrative process—to be a meaningless exercise.

Thus, EPA believes it has authority to specify reasonable State court judicial review requirements for purposes of NPDES State program approval in order to ensure that the administrative process serves its intended purpose. Today's rule will help ensure a minimum level of public participation among State water pollution control programs and minimize the possibility for unfair and inconsistent treatment of similarly situated people potentially affected by State permit decisions. It will reduce pressures on States to compete against each other in a downward spiral towards less effective and overly restrictive judicial review provisions in State permit programs. At the same time, it will help to ensure that similar pollution sources in different States will be treated fairly and consistently.

### 3. Regulatory Language

The language of today's final rule differs from the language proposed on March 17, 1995. The proposed language would have required that "[a]ll States that administer or seek to administer a program under this part must provide any interested person an opportunity for judicial review in State Court of the final approval or denial of permits by the State." The language of the proposal was based on § 509(b)(1) of the Clean Water Act, which provides that "any interested person" may obtain judicial review in the United States Court of Appeals of the Administrator's action in issuing or denying any permit under § 402 of the Clean Water Act. The intent of the proposal was to provide for meaningful public participation before the State permitting agency by ensuring that "any interested person" has the opportunity to judicially challenge final

action on State-issued permits to the same extent as if the permit were federally issued.

As is noted elsewhere in this preamble, a number of commenters (including several States) argued that the Clean Water Act does not authorize EPA to specify any standing requirement applicable to State 402 programs, or to impose the federal standing provisions contained in § 509 upon the States. Other commenters argued that EPA could provide for meaningful public participation before the State permitting agency without going so far as to prescribe that "any interested person" must be afforded standing by the States. Some of these commenters (including several States) stated that the proposed language was too rigid because a State might provide for meaningful public participation in the administrative process before the State permitting agency even though it does not precisely meet the "any interested person" test laid out in the proposal.

After considering these and related comments on the proposal, EPA decided to adopt a more flexible, functional test that is tied directly to the mandate of § 101(e). Today's rule provides that States seeking to administer an authorized program under § 402 of the Clean Water Act must provide an opportunity for judicial review in State court of the final approval or denial of permits by the State that is sufficient to provide for, encourage, and assist public participation in the permitting process.

A State will certainly meet this standard if it allows an opportunity for judicial review that is the same as that available to obtain judicial review in federal court of a federally-issued NPDES permit. As noted above and in the preamble to the proposed rule, § 509(b)(1) governs the availability of judicial review of federally-issued NPDES permits. The term "interested person" in Section 509(b) is intended to embody the injury in fact rule of the Administrative Procedure Act, as set forth by the Supreme Court in *Sierra Club v. Morton*, 405 U.S. 727 (1972). *Montgomery Environmental Coalition v. Costle*, 646 F.2d 568, 576-78 (D.C. Cir. 1980); *accord Trustees for Alaska v. EPA*, 749 F.2d 549, 554-55 (9th Cir. 1984); see also *Roosevelt Campobello Int'l Park Comm'n v. EPA*, 711 F.2d 431, 435 (1st Cir. 1983); S. Conference Rep. No. 1236, 92d Cong. 2d Sess. 146 (1972), 1972 *Legis. Hist.* at 281, 329.

The majority of decisions on standing under the Clean Water Act and other environmental statutes have held that plaintiffs must at least satisfy the requirements of Article III. See, e.g.,

*NRDC v. Texaco Ref. & Mktg., Inc.*, 2 F.3d 493, 505 (3d Cir. 1993); *NRDC v. Watkins*, 954 F.2d 974, 978 (4th Cir. 1992). As interpreted by the United States Supreme Court, the standing requirement of Article III contains three key elements:

[A]t an irreducible minimum, Art. III requires the party who invokes the court's authority to "show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant," \* \* \* and that the injury "fairly can be traced to the challenged action" and "is likely to be redressed by a favorable decision" \* \* \*

*Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 472 (1982) (citations omitted). See also *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

With respect to the nature of the injury that an "interested person" must show to obtain standing, the Supreme Court held in *Sierra Club v. Morton*, 405 U.S. at 734-35, that harm to an economic interest is not necessary to confer standing. Harm to an aesthetic, environmental, or recreational interest is sufficient, provided that the party seeking judicial review is among the injured. This holding was most recently reaffirmed by the Supreme Court in *Lujan v. Defenders of Wildlife*, 504 U.S. at 562-63 ("[o]f course, the desire to use or observe an animal species, even for purely aesthetic purposes, is undeniably a cognizable interest for purposes of standing.").

On the other hand, today's rule also provides that a State does not "provide for, encourage, and assist" public participation in the permitting process if it narrowly restricts the class of persons who may challenge the approval or denial of permits (for example, if only the permittee can obtain judicial review, or if persons must demonstrate injury to a pecuniary interest in order to obtain judicial review, or if persons must have a property interest in close proximity to a discharge or surface waters in order to obtain judicial review.) As the regulation itself makes clear, these are only examples of such deficiencies in State programs. EPA believes that if State law does not allow broad standing to judicially challenge State-issued NPDES permits—including standing based on injury to aesthetic, environmental, or recreational interests—the opportunity for judicial review will be insufficient to ensure that public participation before the State permitting agency will serve its intended purpose. See *Virginia v. Browner*, No. 95-1052, slip op. at 16-18 (4th Cir. March 26, 1996). At a

minimum, ordinary citizens should be in a position of substantial parity with permittees with respect to standing to bring judicial challenges to State permitting decisions.

EPA will examine the opportunities for judicial review of State-issued 402 permits that are provided by State law, on a case-by-case basis, to determine whether or not the State adequately "provides for, encourages, and assists" public participation in the NPDES permitting process. EPA will look to the State Attorney General to provide a statement that the laws of the State meet the requirements of today's rule. 40 CFR 123.23.

Today's rule applies to final actions with respect to modification, revocation and reissuance, and termination of permits, as well as the initial approval or denial of permits.

#### 4. Exhaustion of Administrative Remedies

Standing to judicially challenge permits should be distinguished from a requirement that potential litigants must exhaust administrative remedies in order to preserve their opportunity to bring judicial challenges. For example, federal regulations require that all persons must raise reasonably ascertainable issues during the public comment period on a draft 402 permit (40 CFR 124.13). Interested persons must request an evidentiary hearing on a permit decision they wish to challenge (40 CFR 124.74). Today's proposal does not affect the authority of States to adopt similar, reasonable requirements.

#### 5. Consideration of Alternatives

In addition to the proposed approach (which would have required that State law provide any "interested person" an opportunity to challenge the approval or denial of 402 permits issued by States in State court), EPA also considered as an alternate approach, amending Part 123 to require that State law must provide an opportunity for judicial review of a final State permit action to permit applicants and any person who participated in the public comment process. EPA solicited comments on that approach. One commenter endorsed this alternate approach as a way to ensure that access to courts is limited to those who participated in the administrative process.

After considering that and related comments, EPA decided to adopt a more flexible, functional test that is tied directly to the mandate of § 101(e). This functional test and reasons for EPA's adoption of today's rule are described in more detail above at I.3. However, this rule does not affect States' ability to

adopt reasonable requirements that interested persons exhaust available administrative remedies, including participating in the submittal of public comments, to preserve their opportunity to challenge final permitting actions in State court.

#### 6. Time Period for Compliance

Any approved State section 402 permit program which requires revision to conform to this part shall be so revised within one year of the date of promulgation of this regulation, unless a State must amend or enact a statute in order to make the required revision, in which case such revision shall take place within 2 years. New States seeking EPA authorization to operate the NPDES program must comply with this regulation at the time authorization is requested. This is consistent with current requirements for State programs found at § 123.62(e). In the March 17, 1995 proposal, EPA requested comment on whether a shorter time frame should be imposed than what is provided at § 123.62(e) to comply with this regulation.

Commenters were divided on the issue of the time frame for implementation. One commenter expressed concern that the two-year time frame is too short and does not allow enough time for a legislature to amend its rules in a reasoned and thoughtful manner. Another noted that a State would require a full two years to enact legislative changes and additional time to engage in administrative rulemaking, including providing public notice and conducting a hearing, to determine the level of participation that constitutes an "interested person" as proposed. Yet another commenter indicated that States would require a minimum of three years following promulgation to comply with the rule to have sufficient time to develop, adopt, implement, and receive EPA approval.

Other commenters stated that the two-year time frame is too long and that compliance with the rule should be undertaken immediately or, if a State needs to amend its statute, within the first legislative session. Another commenter added that a 1–2 year compliance period is unnecessary since legislation needed to comply with the rule is simple, straightforward and easily accomplished.

While EPA believes it has adequate authority under the CWA to impose a shorter time frame than that imposed under 40 CFR § 123.62(e), the Agency believes that the 1–2 year compliance period as required under its existing regulations is the most appropriate time

frame for this rule because it provides States with adequate time to make necessary changes while taking into account the need for legislative action.

#### II. Summary of Response to Comments

A number of comments were received in response to the March 17, 1995 proposal. EPA's full response to those comments is provided in the response to comments document included in the record for this rulemaking. However, EPA has summarized its response to some of the major comments below.

##### 1. EPA Authority to Require Standing

A number of commenters asserted that the Clean Water Act does not provide EPA with authority to prescribe State court judicial review requirements for NPDES permits. For the reasons set forth above, and as further detailed in the response to comments document, EPA believes that it has authority under the Clean Water Act to promulgate today's rule.

##### 2. Judicial Review is Distinct from Public Participation

Commenters also contended that judicial review and public participation are not the same and treated differently in the CWA and applicable regulations. Thus, EPA may not impose judicial standing requirements to resolve public participation concerns.

For reasons set forth above and as further detailed in the response to comments document, EPA believes broad standing to challenge permits in court to be essential to meaningful public participation in NPDES programs. See *Virginia v. Browner*, No. 95–1052, slip op. at 17 (4th Cir. March 26, 1996).

##### 3. Rule would Impermissibly Affect State Sovereignty

Commenters stated that the proposed rule would require that a State waive its sovereign immunity in a manner dictated by EPA in order to obtain approval of its NPDES program. Commenters argued that this is impermissible unless Congress has made its intent to do so unmistakably clear in the language of the Clean Water Act (the "plain statement rule"). *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991); *Will v. Michigan Dep't of State Police*, 491 U.S. 58 (1989); *Atascadero State Hospital v. Scanlon*, 473 U.S. 234, 242 (1985). They stated that the Clean Water Act does not contain such a "plain statement."

Today's rule does not impermissibly impinge on a State's sovereign immunity, nor does the "plain statement rule" have any application

here. This is because States voluntarily assume the NPDES program. Section 402 of the CWA provides that States that wish to obtain authorization from EPA to implement the NPDES program requirements may apply to EPA and, where they meet the requirements of § 402, be approved to operate a permit program in lieu of the federal program. States seek this authorization voluntarily, based on State interests; there is no mandate that they do so. However, in choosing to regulate in lieu of the federal government, a State must meet federal requirements set forth in the CWA and implementing regulations. These requirements will now include an explicit standing requirement. If a State finds any of these conditions for federal approval unacceptable, the State may decline the opportunity to implement the NPDES program and leave such implementation to the federal government. The Supreme Court has held that Congress may offer the States the choice of regulating an activity according to federal standards or having State law preempted by federal regulation (*New York v. U.S.*, 505 U.S. 144, 167 (1992) (specifically referring to the Clean Water Act); *Hodel v. Virginia Surface Mining & Reclamation Assn., Inc.*, 452 U.S. 264, 288 (1981)).

Similarly, the "plain statement rule" applied in such cases as *Gregory v. Ashcroft*, 501 U.S. 452 (1991), does not apply where Congress has provided a choice for the States. As the Court stated in *Gregory*, the requirement that Congress clearly state its intent to preempt traditional State sovereign powers "is nothing more than an acknowledgment that the States retain substantial sovereign powers under our constitutional scheme, powers with which Congress does not readily interfere." *Id.* at 461. It is a rule of interpretation designed to avoid a potential constitutional problem. Here, however, as discussed above, there is no constitutional dilemma.

Because today's rule will be imposed only on States that voluntarily seek authorization (or choose to retain authorization) for a permit program under § 402, it does not interfere with State powers. Thus, no "plain statement" of Congressional intent is necessary. In any case, this rule has a minimal effect upon State standing, because it applies only to administration of the federally authorized State NPDES program, but does not affect State standing requirements in any other respect.

#### 4. Potential Conflicts with the Tenth Amendment

Some commenters also argued that the proposal is suspect under the Tenth Amendment because it would expand the standing rights already afforded by State law, contrary to *FERC v. Mississippi*, 456 U.S. 742 (1982) (standing and appeal provisions of Public Utilities Regulatory Policies Act of 1978 upheld only because they did not expand standing rights afforded by State law).

For reasons similar to those explained in paragraph 3 above, the Agency does not believe this rule is suspect under the Tenth Amendment. The CWA is a federal program that draws on Commerce Clause authority to require nationwide adherence to federal standards protecting water quality. Section 402 of the CWA provides that States that wish to obtain authorization from EPA to implement the NPDES program requirements may apply to EPA and, where they meet the requirements of § 402, be approved to operate a permit program in lieu of the federal program. Similarly, to retain authorization, States must continue to meet federal requirements, including the new one promulgated today. States seek this authorization voluntarily. As noted above, the Supreme Court has held that Congress may offer the States the choice of regulating an activity according to federal standards or having State law preempted by federal regulation. *New York, Hodel*. Because States voluntarily choose to assume responsibility for the § 402 program, this rule does not require that States expand their standing rights.

The commenter's reliance on *FERC v. Mississippi* is misplaced. In fact, *FERC* supports the legality of today's rule. As in *New York* and *Hodel*, the *FERC* Court upheld federal conditions on State implementation of a federal program, including procedural requirements, on the grounds that the federal law in question, like the Clean Water Act, allowed States the choice to regulate according to federal requirements or leave implementation to the federal government. Recently, the U.S. Court of Appeals for the Fourth Circuit upheld a standing rule under the Clean Air Act (CAA) against similar Tenth Amendment challenges by the Commonwealth of Virginia. The Court found that the CAA did not compel States to modify their standing rules but merely induced them to do so through financial sanctions and imposition of federal requirements; this was found to not violate the Tenth Amendment.

*Virginia v. Browner*, No. 95-1052, slip op. (4th Cir. March 26, 1996).

#### 5. The Potential for Waste and Abuse of Judicial Resources

One commenter stated that Congress has expressed concern about the potential for waste and abuse involving State judicial resources (e.g., being subject to harassing lawsuits) that could result from the proposed rule. (1972 *Legis. Hist.* at 467.)

Today's rule does not encourage harassing lawsuits. Instead, it effectively balances the CWA's strong policy favoring public participation in the development of water pollution controls (see CWA § 101(e)) with the policy to recognize, preserve, and protect the primary rights and responsibilities of the States to prevent, reduce, and eliminate pollution (see CWA § 101(b)). The rule ensures that citizens will be able to influence State permitting decisions through public participation as Congress intended. In addition, States may impose reasonable requirements that prospective plaintiffs exhaust administrative remedies in order to preserve their opportunity to challenge State-issued permits in State court.

In addressing comments on the proposed rule, EPA surveyed a number of States that provide citizen standing to challenge permits in State court (Connecticut, New Jersey, Maryland, Georgia, Michigan, Iowa, Colorado, California, and Washington) concerning the frequency of judicial permit appeals as compared to the total number of permits issued by the States in the last five calendar years. EPA found the frequency of such judicial appeals to be very low particularly when compared to the total number of permits issued by those States. Four States (Iowa, Maryland, Michigan, and Connecticut) reported that they each had one permit judicially appealed within the last five years. The number of permits issued by each of those States during that time ranged from 116 (for Connecticut) to 1175 (for Iowa). Other States reported similar rates of State permit judicial appeals. EPA has also found very low rates of judicial permit appeals for NPDES permits that it issues in States that have not been authorized to issue NPDES permits. Finally, a number of commenters supported EPA's statement in the proposed rule that the Agency did not expect that any significant portion of permits would be challenged in State courts. See 60 FR at 14591. This information confirms EPA's belief that this rule will not impose a discernable burden on State judicial resources.

#### 6. Suggested Revisions

Several commenters noted that the rule must clearly reflect the proper limits of standing to sue. In response to this and other related comments, EPA has decided not to specify, as proposed, that "any interested person" must be provided an opportunity for judicial review of State-issued permits in State court. Instead, the Agency has adopted a more flexible, functional final rule that is tied directly to the statutory language of § 101(e).

The final rule provides that States that administer or seek to administer an authorized NPDES program must provide an opportunity for judicial review in State court of State permitting decisions that is sufficient to provide for, encourage, and assist public participation in the permitting process. A State will meet this standard if State law allows an opportunity for judicial review that is the same as that available to obtain judicial review in federal court of federally-issued permits. States may demonstrate to EPA that even if their standing rules are not the same as these federal standing provisions, they are nevertheless broad enough to provide for, encourage, and assist public participation in the administrative process before the State permitting agency. A State will not meet this standard if it narrowly restricts the class of persons who may challenge the approval or denial of permits (for example, if only the permittee is able to obtain judicial review, or if a person must have a property interest in close proximity to a discharge or surface waters in order to obtain judicial review, or if the State requires that persons demonstrate injury to a pecuniary interest in order to obtain judicial review). ("A plaintiff need not show 'pecuniary harm' to have Article III standing; injury to health or to aesthetic, environmental, or recreational interests will suffice." *Virginia v. Browner*, No. 95-1052, slip op. at 17 (4th Cir. March 26, 1996), citing *United States v. Students Challenging Regulatory Agency Procedures (SCRAP)*, 412 U.S. 669, 686-87 (1973); *Sierra Club v. Morton*, 405 U.S. 727, 734 (1972).)

EPA believes this approach will ensure the meaningfulness of public participation in the State permitting process, without prescribing a specific level of standing that all States must afford. Therefore, it should affect even fewer States than the proposal.

#### 7. Time Frame for Compliance

This issue is addressed above.

### 8. Indian Tribes

EPA did not propose to subject Indian permitting programs under § 402 to the requirements of today's rule. However, EPA did solicit comment on this issue. Commenters raised several concerns with regard to the treatment of Indian Tribes under the proposal. A few commenters requested that the exemption for Tribes be removed from the rule and stated that to exclude Tribes would be "outside the realm" of the CWA. These commenters stated that Tribes should be treated as States under CWA § 518(e) and should not be exempted from the rule. Others suggested that one alternative for addressing Tribal NPDES permits is to use EPA's objection authority contained in CWA § 402(d). One commenter added that the rule is unnecessary with respect to Tribes because Tribes have already provided for public participation, including authorizing judicial review of Tribal administrative actions. The Agency is not subjecting Tribal permitting programs under § 402 to the requirements of this rule for the time being, as discussed in the proposal and in more detail in the response to comments document. The Agency will make a final determination at a later time whether to extend the requirements of today's rule to Indian Tribes.

With regard to the suggestion that EPA use its objection authority to oversee Tribal permit decisions, EPA does not agree that it should use its authority to review permits prior to issuance as a substitute for public participation in the permitting process. With respect to the necessity of this rule for Tribes, EPA appreciates that some Indian Tribes already provide for the participation of interested or aggrieved parties in permitting matters. While EPA does not as a general matter feel that Tribal procedures should be less rigorous with respect to public participation than State procedures, this rule does raise special issues regarding Federal Indian policy and law which EPA is still assessing. EPA may propose regulatory action in the future with respect to judicial review of Tribally-issued NPDES permits. This rule, however, would not preclude a Tribe from voluntarily including a judicial review process as part of its program application.

### 9. Virginia-Specific Issues

Some commentators raised the issue that this rule singles out the Commonwealth of Virginia, and that EPA is proposing this rule to avoid the process of deciding on a petition to

withdraw Virginia's NPDES authorization. Based on general information, EPA believes that there may be a small number of States in addition to Virginia that have restrictive standing laws pertaining to State judicial review of State-issued NPDES permits. In addition, several other States have indicated in comments to the rule that they may have to revise their current program regulations in response to the proposal. Although today's rule provides more flexibility for State programs with respect to standing requirements than the proposal, EPA believes that a small number of States in addition to Virginia might need to revise their programs to comply with the final rule.

EPA has chosen to proceed with this rulemaking because the Agency believes that adequate public participation in authorized State NPDES permitting programs is fundamental to the effective implementation of the CWA, and that limitations or potential limitations upon such participation are best addressed through a regulation that will help ensure an appropriate opportunity for public participation in all authorized States. With respect to the Virginia withdrawal petition, it is EPA's view that the appropriate mechanism for addressing the citizen standing issues raised in that petition is to clarify the fundamental elements of effective public participation programs in a rulemaking. Other issues raised in the petition concerning the Virginia NPDES program will be resolved in a separate proceeding.

One commenter stated that Virginia citizens are given full and serious consideration when administrative decisions are made on permit conditions. This commenter added that judicial standing is granted to those who can demonstrate injury. Another stated that Virginia law does not imply a restriction on third-party private property rights; rather, third parties have a right to bring a claim before State court if their property is damaged or they are otherwise harmed by a permitted activity.

As discussed in more detail above, EPA has reason to believe that Virginia does not provide for an effective public participation program because it restricts standing to judicially contest final State-issued permits to the discharger.<sup>2</sup> Numerous commenters supported this concern, which they asserted results in a situation where citizen comments do not need to be taken seriously or can be ignored since citizens have no ability to challenge

permits in court. In any case, today's rule is not about a single State or State program; rather, the rule is intended to ensure that all authorized NPDES programs provide the judicial standing necessary to ensure effective public participation in the permitting program. Moreover, today's rule does not require that a State meet a single standing formula; rather, a State must demonstrate that its access to courts is sufficiently broad to ensure adequate public participation in the permitting process.

### 10. Impact of the Rule

Some commenters also questioned the impact of today's rule. One commenter stated that EPA must conduct a regulatory impact analysis (RIA) and request Office of Management and Budget review in accordance with E.O. 12866 or withdraw the rule. This commenter noted that the rule meets the definition of "significant regulation" and therefore must be assessed in an RIA. Another commenter stated that the rule affects small entities and EPA must prepare a Regulatory Flexibility Analysis. One commenter stated that further analysis is necessary to assess the potential impact of the rule.

EPA does not believe that the rule meets the definition of a significant regulatory action, as defined in E.O. 12866. The rule potentially impacts only very few States and is consistent with and effectuates the public participation provisions of the CWA. OMB has determined that this rule is not a "significant regulatory action" under the terms of E.O. 12866 and is therefore not subject to its review. With regard to the need for a Regulatory Flexibility Analysis, EPA notes that the rule applies to States with authorization to administer the NPDES permit program, and States are not considered small entities under the Regulatory Flexibility Act. Nor does the Agency believe that the rule will have a significant impact on small businesses due to the potential for such businesses to incur increased litigation costs. As described in more detail in responses to individual comments in the record for this rulemaking, EPA's experience with States that already provide broad standing to challenge permits indicates that ensuring appropriate criteria for standing in the few States that now unduly limit it will not result in a significant portion of permits being challenged in State court. Thus, a Regulatory Flexibility Analysis is not necessary.

Nothing in this rule or preamble should be construed as addressing the

<sup>2</sup> See footnote 1.

standing of citizen plaintiffs under §§ 309 or 505 of the Clean Water Act.

### 11. Support for the Rule

Numerous commenters supported some or all of the rule. Many of them agreed with the Agency's proposal to include language stating that "any interested person" should be able to appeal pollutant discharge permits in State court. These commenters viewed the rule as necessary to ensure meaningful public participation, in the permitting process. As described above, EPA has chosen to not require that States explicitly adopt an "interested person" standard, but instead has decided to provide flexibility in this area consistent with the need for effective public participation.

Commenters stated that the rule is necessary to ensure meaningful public participation and expressed concern that if standing is not broadened in those States that unduly restrict it, citizen comments will not be taken seriously or may be ignored since citizens have no ability to challenge permits in court. Other commenters stated that the rule is necessary for citizens to challenge permit terms that directly impact their property rights and valuable State resources. Other commenters stated that the lack of meaningful public participation has a direct adverse impact on business. Other commenters stated that the rule would bring consistency, accountability, and credibility to the permitting process and significantly improve the quality of the final permits. EPA has addressed these comments in more detail in the response to comments document but notes that promulgation of this rule should address many of the concerns raised by these commenters.

### III. Administrative Requirements

#### 1. Compliance with Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant," and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to lead to a rule that may:

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

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

(3) materially alter the budgetary impact of 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 Executive Order.

EPA believes that only a very few authorized States may be impacted by this rule. This rule is consistent with and effectuates the public participation provisions of the CWA. It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review. As a result, the Agency is not conducting a Regulatory Impact Analysis.

#### 2. Unfunded Mandates Reform Act and Compliance With Executive Order 12875

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for the proposed and final rules with "federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, § 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.

In addition, under § 203 of UMRA, before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must develop a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The specific provisions of §§ 202 and 205 of UMRA do not apply because this rule does not contain any Federal mandates. As discussed above, the rule

does not impose any enforceable duty on any State, local, or Tribal government or the private sector. Moreover, any duties arising from this rule are the result of participation in a voluntary Federal program. States are free to leave NPDES regulation to the federal government if they find the requirements in today's rule unacceptable. In any event, no mandates in this rule would result in the expenditure of \$100 million or more in any one year by governmental or private entities. With respect to § 203 of UMRA, this rule will impact State governments only; there will be no significant impact or unique effect on small governments.

EPA did consult with States and Tribes during the proposal and the public comment period. The Agency contacted each State individually, seeking its views on the proposal. With regard to Indian Tribes, EPA also worked with representatives of Tribes as well as through the Agency's American Indian Environmental Office to assure a full opportunity for review and comment on the proposal and to ensure an understanding of Tribal concerns or issues raised by this rulemaking.

#### 3. Paperwork Reduction Act

This rule does not contain information requirements subject to OMB review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### 4. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for regulations having a significant impact on a substantial number of small entities.

This rule applies only to States with authorization to administer the NPDES permit program. States are not considered small entities under the RFA. Therefore, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 40 CFR Part 123

Environmental protection,  
Administrative practice and procedure,  
Water pollution control.

Dated: May 1, 1996.  
Carol M. Browner,  
Administrator.

For the reasons set forth in this preamble, part 123, Chapter I of Title 40 of the Code of Federal Regulations is to be amended as follows:

**PART 123—[AMENDED]**

1. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.30 is added to read as follows:

**§ 123.30 Judicial review of approval or denial of permits.**

All States that administer or seek to administer a program under this part shall provide an opportunity for judicial

review in State Court of the final approval or denial of permits by the State that is sufficient to provide for, encourage, and assist public participation in the permitting process. A State will meet this standard if State law allows an opportunity for judicial review that is the same as that available to obtain judicial review in federal court of a federally-issued NPDES permit (see § 509 of the Clean Water Act). A State will not meet this standard if it narrowly restricts the class of persons

who may challenge the approval or denial of permits (for example, if only the permittee can obtain judicial review, if persons must demonstrate injury to a pecuniary interest in order to obtain judicial review, or if persons must have a property interest in close proximity to a discharge or surface waters in order to obtain judicial review.) This requirement does not apply to Indian Tribes.

[FR Doc. 96-11328 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

**Federal Register**

---

Wednesday  
May 8, 1996

---

**Part V**

**Department of  
Housing and Urban  
Development**

---

**24 CFR Part 888  
Fair Market Rents for the Section 8  
Housing Assistance Payments Program;  
Fiscal Year 1997; Proposed Rule**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**24 CFR Part 888**

[Docket No. FR-4063-N-01]

**Office of the Secretary; Fair Market  
Rents for the Section 8 Housing  
Assistance Payments Program—Fiscal  
Year 1997**

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of Proposed Fiscal Year (FY) 1997 Fair Market Rents (FMRs).

**SUMMARY:** Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate Program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use.

Today's notice provides proposed FY 1997 FMRs for all areas.

**DATES:** Comments due date: July 1, 1996.

**ADDRESSES:** Interested persons are invited to submit comments regarding HUD's estimates of the FMRs as published in this Notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title and should contain the information specified in the "Request for Comments" section. To ensure that the information is fully considered by all of the reviewers, each commenter is requested to submit two copies of its comments, one to the Rules Docket Clerk and the other to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.-5:30 p.m. Eastern Time) at the above address.

**FOR FURTHER INFORMATION CONTACT:** Gerald Benoit, Operations Division, Office of Rental Assistance, telephone (202) 708-0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Alan Fox, Economic and Market Analysis Division, Office of Economic

Affairs, telephone (202) 708-0590. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1-800-877-8339. (Other than the "800" TDD number, telephone numbers are not toll free.)

**SUPPLEMENTARY INFORMATION:** Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by FMRs established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

**Publication of FMRs**

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment and after evaluating the public comments, publish the final FMRs (see 24 CFR 888.115). The proposed FY 1997 FMR schedules at the end of this document list the FMR levels for the Rental Certificate program (Schedule B), and for the areas where the manufactured home space FMRs have had modifications approved (Schedule D).

**Method Used To Develop FMRs**

**FMR Standard:** FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market

rents of public housing units included in the data base.

**Data Sources:** HUD used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

- (1) the 1990 Census, which provides statistically reliable rent data for all FMR areas;
- (2) the Bureau of the Census' American Housing Surveys (AHSs), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and
- (3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 102 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

**State Minimum FMRs:** Starting with the FY 1996 FMRs, HUD implemented a new minimum FMR policy in response to numerous public concerns that FMRs in rural area were too low to operate the program successfully. As a result, FMRs are established at the higher of the local FMR or the Statewide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

**FY 1997 FMRs:** This document proposes revised FMRs that reflect estimated 40th percentile rent levels trended to April 1, 1997. FMRs have been calculated separately for each bedroom size category. For most FMR areas, the bedroom size ratios are based on 1990 Census data for that area. Exceptions have been made for areas with local bedroom size rent intervals below an acceptable range. For those areas the bedroom size intervals selected were the minimums determined after outliers had been excluded from the distribution of bedroom ratios for all metropolitan

areas. Higher ratios continue to be used for three-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units.

**RDD Surveys:** RDD surveys are used to obtain statistically-reliable FMR estimates for selected FMR areas. This survey technique involves drawing random samples of renter units occupied by recent movers. RDD surveys exclude public housing units, units built in the past two years, seasonal units, non-cash rental units, and those owned by relatives. A HUD analysis has shown that the slight downward RDD survey bias caused by including some rental units that are in substandard condition is almost exactly offset by the slight upward bias that results from surveying only units with telephones.

On average, about 8,000 telephone numbers need to be contacted to achieve the target survey sample level of at least 400 eligible responses. RDD surveys have a high degree of statistical accuracy; there is a 95 percent likelihood that the recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual rent value. Virtually all of the estimates will be within 5 percent of the actual value.

Today's notice proposes reduced FMRs based on RDD surveys for 7 areas. They are the Aguadilla, Arecibo, Ponce, and the nonmetropolitan areas of PR, plus the Danbury, CT, Portland, ME, and Portsmouth-Rochester, NH-ME FMR areas.

**AHS Areas:** AHSs cover the largest metropolitan areas on a four-year cycle, encompassing nearly half of the nation's rental housing stock. The 40th percentile rents for these areas are calculated from the distributions of two-bedroom units occupied by recent movers. Public housing units, newly constructed units and units that fail a housing quality test are excluded from the rental housing distributions before the FMRs are calculated. The proposed FY 1997 FMRs incorporate the results of the 1994 AHSs. Based on the 1994 survey results, the FMRs for the Orange County, CA and Riverside-San Bernardino, CA FMR areas are being proposed with decreases. No changes were necessary for 5 other AHS areas. The FMRs for Buffalo-Niagara Falls, NY, Dallas, TX, Fort Worth-Arlington, TX, Milwaukee-Waukesha, WI, and San Diego, CA, were updated in the normal manner.

#### FMR Area Definition Change

At the request of the Rural Housing and Community Development Service (RHS), HUD has reevaluated the Lafayette Louisiana FMR area definition and has decided to use the full OMB metropolitan area definition. This publication, therefore, proposes the revised definition, consisting of Acadia, Lafayette, St. Landry, and St. Martin Parishes. HUD accepts the RHS position that there is significant commuting among these four Parishes and that they should be treated as a single housing market area for FMR purposes.

The proposed FY 1997 FMRs for the Lafayette FMR area, therefore, are based on an RDD survey of the four-Parish area conducted by HUD in 1995 and updated to the as-of date of this year's FMR estimates. As a result of combining the four Parishes into one FMR area, the proposed FMRs for Lafayette and St. Martin Parishes are \$21 lower and those for Acadia and St. Landry Parishes are \$37 higher than last year's levels. HUD invites public comments on the appropriateness of the revised FMR area definition as well as the accuracy of the proposed FMRs.

#### Manufactured Home Space FMRs

Manufactured home space FMRs are 30 percent of the applicable Section 8 Rental Certificate program FMR for a two-bedroom unit. HUD accepts public comments requesting modifications of these FMRs where they are thought to be inadequate to run the program. In order to be accepted as a basis for revising the FMRs, such comments must contain statistically valid survey data that show the 40th percentile space rent (excluding the cost of utilities) for the entire FMR area. This program uses the same FMR area definitions as the Section 8 Rental Certificate program. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the Rental Certificate program FMRs.

#### Puerto Rico FMRs

RDD surveys were conducted for all Puerto Rico FMR areas during 1995. For three of them, Aguadilla, Arecibo, and Ponce, not enough sample cases were obtained in 1995 to be usable with sufficient confidence for FMR purposes. In early 1996, HUD resumed and completed the RDD surveys of these three areas, and re-evaluated the 1995 nonmetropolitan survey results, and this Federal Register notice includes

proposed reductions for all of them. This notice also corrects an erroneous statement in the February 21, 1996 Federal Register notice regarding Aguadilla and the nonmetropolitan areas that their RDD surveys had been completed. The FMRs for the nonmetropolitan areas of Puerto Rico are being proposed for reduction, using data from the 1995 RDD survey. As stated in previous Federal Register notices on this subject, the Puerto Rico surveys used an augmented questionnaire which included many questions regarding housing quality, and the survey was administered in Spanish. This completes HUD's RDD-based review of FMRs throughout Puerto Rico.

#### Technical Correction—Santa Rosa, CA

In the February 21, 1996, Federal Register publication (61 FR 6690), the FMRs for the zero-bedroom, 3-bedroom, and 4-bedroom sizes for the Santa Rosa, CA PMSA were in error. The corrected FY 1996 FMRs are as follows:

	Bedroom				
	0	1	2	3	4
Santa Rosa, CA PMSA	\$512	581	753	1047	1236

#### FMRs for Federal Disaster Areas

Under the authority granted in 24 CFR part 899, the Secretary finds good cause to waive the regulatory requirements that govern requests for geographic area FMR exceptions for areas that are declared disaster areas by the Federal Emergency Management Agency (FEMA) during FY 1996. HUD is prepared to grant disaster-related exceptions up to 10 percent above the applicable FMRs. HUD field offices are authorized to approve such exceptions for: (1) Single-county FMR areas and for individual county parts of multi-county FMR areas that qualify as disaster areas under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; if (2) the PHA certifies that damage to the rental housing stock as a result of the disaster is so substantial that it has increased the prevailing rent levels in the affected area. Such exceptions must be requested in writing by the responsible PHAs. Once approved by HUD, they will remain in effect until superseded by the publication of the final FY 1999 FMRs.

#### Request for Comments

HUD seeks public comments on FMR levels for specific areas. Comments on

FMR levels must include sufficient information (including local data and a full description of the rental housing survey methodology used) to justify any proposed changes. Changes may be proposed in all or any one or more of the bedroom-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area.

HUD recommends use of professionally-conducted Random Digit Dialing (RDD) telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of \$10,000–\$12,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if actual two-bedroom FMR rents are significantly different from the FMRs proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of \$5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. PHAs are cautioned that the resultant FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on its relationship to the combined rent of the cluster of FMR areas.

PHAs that plan to use the RDD survey technique may obtain a copy of the appropriate survey guide by calling HUD USER on 1–800–245–2691. Larger PHAs should request “Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments.” Smaller PHAs should obtain “Rental Housing Surveys; A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments.”

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the small PHA survey guide along with the simplified RDD methodology. Other survey methodologies are acceptable as long as the surveys submitted provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In

particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock.

Local rental housing surveys conducted with alternative methods must include the same type of documentation required of the RDD-type surveys. Specifically, PHA submissions must include:

- Identification of the 40th percentile gross rent (gross rent is rent including the cost of utilities) and the actual distribution (or distributions if more than one bedroom size is surveyed) of the surveyed units rank-ordered by gross rent.
- An explanation of how the rental housing sample was drawn and a copy of the survey questionnaire, transmittal letter, and any publicity materials.
- An explanation of how the contract rents of the individual units surveyed were converted to gross rents. (For RDD-type surveys HUD requires use of the Section 8 utility allowance schedule.)
- An explanation of how the survey excluded units built within two years prior to the survey date.
- The date the rent data were collected so that HUD can apply a trending factor to update the estimate. If the survey has already been trended to this date, the date the survey was conducted and a description of the trending factor used.
- Copies of all survey sheets.

Since FMRs are based on standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, HUD will accept surveys of all rental units and apply appropriate adjustments.

Most surveys cover only one- and two-bedroom units, in which case HUD will make the adjustments for other size units consistent with the differentials established on the basis of the 1990 Census data for the FMR area. When three- and four-bedroom units are surveyed separately to determine FMRs for these unit size categories, the commenter should multiply the 40th percentile survey rents by 1.087 and by 1.077, respectively, to determine the FMRs. The use of these factors will produce the same upward adjustments in the rent differentials as those used in the HUD methodology.

#### Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this Notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this Notice will not have a significant impact on family formation, maintenance, or well-being. The Notice amends Fair Market Rent schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, Federalism, has determined that this Notice will not involve the preemption of State law by Federal statute or regulation and does not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will be codified in 24 CFR Part 888, are amended as follows:

Dated: April 30, 1996.

Henry G. Cisneros,  
Secretary.

#### Fair Market Rents for the Section 8 Housing Assistance Payments Program *Schedules B and D—General Explanatory Notes*

##### 1. Geographic Coverage

a. The FMRs shown in Schedule B incorporate the Office of Management and Budget's (OMB) most current definitions of metropolitan areas (with the exceptions discussed in paragraph b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary

Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions. FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition.

b. The exceptions are counties deleted from seven large metropolitan areas whose revised OMB definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the "Metropolitan FMR Areas" listing:

**Metropolitan Area and Counties Deleted**

Atlanta, GA—Carroll, Pickens, and Walton Counties.  
 Chicago, IL—DeKalb, Grundy and Kendall Counties.  
 Cincinnati-Hamilton, OH-KY-IN—Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.  
 Dallas, TX—Henderson County.  
 Flagstaff, AZ-UT—Kane County, UT  
 New Orleans, LA—St. James Parish.  
 Washington, DC—Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia.

c. FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in

the New England states and for FMR areas in Puerto Rico, the Virgin Islands, and the Pacific Islands.

d. FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan county. The complete definitions of these areas including the independent cities are as follows:

**Virginia Nonmetropolitan County FMR Area and Independent Cities Included**

County	Cities
Allegheny .....	Clifton Forge and Covington
Augusta .....	Staunton and Waynesboro
Carroll .....	Galax
Frederick .....	Winchester
Greensville .....	Emporia
Halifax .....	South Boston
Henry .....	Martinsville
Montgomery .....	Radford
Rockbridge .....	Buena Vista and Lexington
Rockingham .....	Harrisonburg
Southampton .....	Franklin
Wise .....	Norton

e. FMRs for Section 8 manufactured home spaces are 30 percent of the two-bedroom Section 8 Rental Certificate program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been revised on the basis of public comments. Once approved, the revised

manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the Rental Certificate program FMRs. The FMR area definitions used for manufactured home spaces are the same as for the Section 8 Certificate program.

**2. Arrangement of FMR Areas and Identification of Constituent Parts**

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

BILLING CODE 4210-32-P

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Anniston, AL MSA.....	246	291	364	509	576	Calhoun
Birmingham, AL MSA.....	350	395	460	623	692	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA.....	332	370	443	580	628	Russell
Decatur, AL MSA.....	326	330	417	539	644	Lawrence, Morgan
Dothan, AL MSA.....	296	303	376	518	525	Date, Houston
Florence, AL MSA.....	277	319	410	511	573	Colbert, Lauderdale
Gadsden, AL MSA.....	246	301	348	451	555	Etowah
Huntsville, AL MSA.....	343	402	495	660	785	Limestone, Madison
Mobile, AL MSA.....	331	369	423	570	668	Baldwin, Mobile
Montgomery, AL MSA.....	375	401	473	645	776	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA.....	323	347	461	633	670	Tuscaloosa

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Barbour.....	237	281	336	435	498	Bibb.....	237	281	336	452	542
Bullock.....	237	281	336	435	498	Butler.....	237	281	336	435	498
Chambers.....	237	281	336	435	499	Cherokee.....	237	281	336	435	498
Chilton.....	245	281	336	435	498	Choctaw.....	237	281	336	435	498
Clarke.....	237	281	336	435	498	Clay.....	237	281	336	435	498
Cleburne.....	237	281	336	435	498	Coffee.....	237	333	432	601	675
Conecuh.....	237	281	336	435	498	Coosa.....	237	281	336	435	498
Covington.....	237	281	336	435	498	Crenshaw.....	237	281	336	435	498
Cullman.....	237	281	336	445	541	Dallas.....	237	281	336	435	498
Dekalb.....	237	281	336	435	498	Escambia.....	237	281	336	435	498
Fayette.....	237	281	336	435	498	Franklin.....	237	281	336	435	498
Geneva.....	237	281	336	435	498	Greene.....	237	281	336	435	498
Hale.....	237	281	336	435	498	Henry.....	237	281	336	435	498
Jackson.....	256	281	336	435	534	Lamar.....	237	281	336	435	498
Lee.....	250	349	447	582	735	Lowndes.....	237	281	336	435	498
Macon.....	258	290	387	485	542	Marengo.....	237	281	336	435	498
Marion.....	237	281	336	435	498	Marshall.....	271	281	342	474	561
Monroe.....	237	281	336	435	498	Perry.....	237	281	336	435	498
Pickers.....	237	281	336	435	498	Pike.....	242	281	336	435	506
Randolph.....	237	281	336	435	498	Sumter.....	237	281	336	435	498
Talladega.....	237	281	336	435	498	Tallapoosa.....	238	281	336	435	498
Walker.....	237	292	344	444	566	Washington.....	237	281	336	435	498
Wilcox.....	237	281	336	435	498	Winston.....	237	281	336	435	498

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN FMR AREAS

Anchorage, AK MSA.....	O BR 1	BR 2	BR 3	BR 4	BR	O BR 1	BR 2	BR 3	BR 4	BR	
	479	565	750	1043	1232	Anchorage					
NONMETROPOLITAN COUNTIES											
Aleutian East.....	503	567	639	797	1045	O BR 1	BR 2	BR 3	BR 4	BR	
Bethel.....	649	812	1028	1287	1441	NONMETROPOLITAN COUNTIES					
Dillingham.....	627	637	848	1062	1188	Aleutian West.....	431	487	546	685	767
Haines.....	467	579	660	898	924	Bristol Bay.....	521	601	676	940	1022
Kenai Peninsula.....	425	542	653	907	1071	Fairbanks North Star....	396	538	706	971	1145
Kodiak Island.....	669	735	954	1193	1548	Juneau.....	698	807	1027	1367	1421
Matanuska-Susitna.....	449	608	684	929	1097	Ketchikan Gateway.....	514	628	841	1171	1231
North Slope.....	750	769	950	1322	1540	Lake & Peninsula.....	402	650	731	912	1023
Pr. Wales Outer Ketchikan	351	558	641	890	941	Nome.....	661	818	918	1278	1442
Skagway-Yakutat-Angoon..	429	437	566	708	794	Northwest Arctic.....	794	895	1004	1397	1648
Valdez-Cordova.....	525	643	714	912	1086	Sitka.....	553	657	737	1025	1210
Wrangell-Petersburg.....	382	564	685	872	957	Southeast Fairbanks.....	441	462	558	697	783
Wade Hampton.....	375	566	637	796	893	Yukon-Koyukuk.....	501	565	636	795	921

A R I Z O N A

METROPOLITAN FMR AREAS

Flagstaff, AZ.....	O BR 1	BR 2	BR 3	BR 4	BR	O BR 1	BR 2	BR 3	BR 4	BR	
Las Vegas, NV-AZ MSA.....	409	444	575	772	927	Counties of FMR AREA within STATE					
Phoenix-Mesa, AZ MSA.....	446	529	630	877	1035	Coconino.....	352	369	470	613	728
Tucson, AZ MSA.....	377	456	572	796	938	Graham.....	352	369	470	613	728
Yuma, AZ MSA.....	354	424	564	785	926	La Paz.....	352	369	470	613	728
	354	409	545	758	763	Santa Cruz.....	352	389	482	613	728

A R K A N S A S

METROPOLITAN FMR AREAS

Apache.....	O BR 1	BR 2	BR 3	BR 4	BR	O BR 1	BR 2	BR 3	BR 4	BR	
Gila.....	352	369	470	613	728	Counties of FMR AREA within STATE					
Greenlee.....	352	369	470	613	728	Cochise.....	352	369	470	613	728
Navajo.....	352	369	470	613	728	Graham.....	352	369	470	613	728
Yavapai.....	373	389	519	724	797	La Paz.....	352	369	470	613	728
	276	327	431	544	707	Santa Cruz.....	352	389	482	613	728

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS

Texarkana, TX-Texarkana, AR MSA..... 294 360 439 579 614 Miller

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	O BR	1 BR	2 BR	3 BR	4 BR	
Arkansas.....	252	272	348	477	517	Ashley.....	229	272	348	462	547
Baxter.....	229	292	388	498	607	Boone.....	271	276	366	510	602
Bradley.....	229	272	348	462	517	Calhoun.....	229	272	348	462	517
Carroll.....	269	295	348	462	552	Chicot.....	229	272	348	462	517
Clark.....	252	272	353	462	558	Clay.....	229	272	348	462	517
Cleburne.....	259	272	348	462	524	Cleveland.....	229	272	348	462	517
Columbia.....	229	272	348	462	517	Conway.....	229	283	379	473	531
Craighead.....	297	323	380	524	554	Cross.....	238	301	348	469	553
Dallas.....	229	272	348	462	517	Desha.....	229	272	348	462	517
Drew.....	229	297	396	548	557	Franklin.....	240	272	348	462	517
Fulton.....	237	272	348	462	517	Garland.....	229	292	391	545	643
Grant.....	238	283	348	462	522	Greene.....	246	272	348	462	517
Hempstead.....	229	272	348	462	517	Hot Spring.....	229	272	348	462	517
Howard.....	229	272	348	462	517	Independence.....	241	279	348	462	517
Izard.....	229	272	348	462	517	Jackson.....	237	272	348	462	517
Johnson.....	229	272	348	462	517	Lafayette.....	240	272	348	462	517
Lawrence.....	229	272	348	462	517	Lee.....	253	272	348	462	517
Lincoln.....	248	272	354	474	517	Little River.....	229	272	354	491	579
Logan.....	240	272	348	462	517	Madison.....	261	272	354	462	517
Marion.....	229	272	348	462	517	Mississippi.....	260	283	379	499	560
Monroe.....	233	272	348	462	517	Montgomery.....	229	272	348	462	517
Nevada.....	229	272	348	478	517	Newton.....	229	272	348	462	517
Ouachita.....	267	272	348	481	568	Perry.....	229	272	348	462	517
Phillips.....	229	272	348	462	517	Pike.....	229	272	348	462	517
Poinsett.....	229	272	348	462	517	Poik.....	229	272	348	462	517
Pope.....	229	300	379	526	606	Prairie.....	229	272	348	462	517
Randolph.....	229	272	348	462	517	St. Francis.....	229	278	348	472	555
Scott.....	229	272	348	462	517	Searcy.....	229	272	348	462	517
Sevier.....	251	272	348	462	517	Sharp.....	229	272	348	462	517
Stone.....	229	272	348	462	517	Union.....	287	303	364	488	598
Van Buren.....	229	272	348	462	571	White.....	229	272	348	478	517
Woodruff.....	229	272	348	462	517	Yell.....	238	272	348	462	517

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C A L I F O R N I A

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Bakersfield, CA MSA.....	385	433	543	754	835	Kern
Chico-Paradise, CA MSA.....	320	410	546	749	896	Butte
Fresno, CA MSA.....	394	441	526	731	843	Fresno, Madera
Los Angeles-Long Beach, CA PMSA.....	563	675	854	1153	1375	Los Angeles
Merced, CA MSA.....	381	429	521	720	850	Merced
Modesto, CA MSA.....	421	454	554	772	909	Stanislaus
Oakland, CA PMSA.....	523	633	794	1089	1301	Alameda, Contra Costa
Orange County, CA PMSA.....	612	669	827	1150	1281	Orange
Redding, CA MSA.....	362	402	503	699	824	Shasta
Riverside-San Bernardino, CA PMSA.....	428	477	582	809	955	Riverside, San Bernardino
Sacramento, CA PMSA.....	453	511	639	887	1045	El Dorado, Placer, Sacramento
Salinas, CA MSA.....	513	600	723	1006	1055	Monterey
San Diego, CA MSA.....	477	545	682	947	1118	San Diego
San Francisco, CA PMSA.....	589	763	965	1323	1399	Marin, San Francisco, San Mateo
San Jose, CA PMSA.....	651	743	918	1258	1413	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA PMSA.....	491	555	704	978	1155	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA.....	597	663	840	1170	1320	Santa Barbara
Santa Cruz-Watsonville, CA PMSA.....	606	721	964	1339	1569	Santa Cruz
Santa Rosa, CA PMSA.....	505	591	766	1032	1219	Sonoma
Stockton-Lodi, CA MSA.....	423	479	614	854	1008	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA.....	501	570	696	966	1141	Napa, Solano
Ventura, CA PMSA.....	532	611	774	1029	1198	Ventura
Visalia-Tulare-Porterville, CA MSA.....	354	376	490	684	781	Tulare
Yolo, CA PMSA.....	456	520	643	892	1054	Yolo
Yuba City, CA MSA.....	315	367	472	659	761	Sutter, Yuba

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Alpine.....	298	447	505	702	757
Calaveras.....	361	417	556	773	911
Del Norte.....	305	418	556	774	913
Humboldt.....	307	426	559	779	921
Inyo.....	308	417	535	701	757
Lake.....	336	427	570	718	934
Mariposa.....	322	409	526	689	813
Modoc.....	326	365	470	655	757
Nevada.....	373	510	680	945	1095
San Benito.....	447	526	659	918	1075
Siskiyou.....	312	365	470	655	757
Trinity.....	335	365	470	655	757

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Amador.....	411	453	605	842	938
Colusa.....	326	365	470	655	757
Glenn.....	298	365	470	655	757
Imperial.....	337	421	518	722	757
Kings.....	346	401	501	697	822
Lassen.....	365	369	480	655	757
Mendocino.....	412	496	610	849	855
Mono.....	455	546	725	1008	1192
Plumas.....	329	365	470	655	757
Sierra.....	298	399	492	684	807
Tehama.....	311	365	470	655	757
Tuolumne.....	330	450	600	835	985

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Boulder-Longmont, CO PMSA.....	454	544	697	971	1145	Boulder
Colorado Springs, CO MSA.....	393	421	562	782	924	El Paso
Denver, CO PMSA.....	381	454	605	840	991	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA.....	406	501	619	859	1015	Larimer
Grand Junction, CO MSA.....	374	388	485	654	778	Mesa
Greeley, CO PMSA.....	381	421	530	735	870	Weld
Pueblo, CO MSA.....	393	408	510	686	818	Pueblo

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

O BR 1 BR 2 BR 3 BR 4 BR

Alamosa.....	368	382	477	643	766	Archuleta.....	440	482	570	768	914
Baca.....	368	382	477	643	766	Bent.....	368	382	477	643	766
Chaffee.....	368	382	477	643	766	Cheyenne.....	368	382	477	643	766
Clear Creek.....	368	429	486	676	797	Conejos.....	368	382	477	643	766
Costilla.....	368	382	477	643	766	Crowley.....	368	382	477	643	766
Custer.....	368	382	477	643	766	Delta.....	368	382	477	643	766
Dolores.....	368	382	477	643	766	Eagle.....	495	539	719	1001	1179
Elbert.....	406	451	514	643	844	Fremont.....	368	382	477	643	766
Garfield.....	427	458	578	722	946	Gilpin.....	368	489	621	820	907
Grand.....	437	441	559	699	846	Gunnison.....	368	382	477	643	766
Hinsdale.....	368	389	477	643	766	Huerfano.....	368	382	477	643	766
Jackson.....	368	382	477	643	766	Kiowa.....	368	382	477	643	766
Kit Carson.....	368	382	477	643	766	Lake.....	368	382	477	643	766
La Plata.....	481	531	701	976	1151	Las Animas.....	368	392	477	643	766
Lincoln.....	368	382	477	643	766	Logan.....	368	382	477	643	766
Mineral.....	368	382	477	643	766	Moffat.....	368	382	477	643	766
Montezuma.....	368	382	477	643	766	Montrose.....	368	382	483	669	789
Morgan.....	368	382	477	643	766	Otero.....	368	382	477	643	766
Ouray.....	368	382	483	643	781	Park.....	368	407	530	736	837
Phillips.....	368	382	477	643	766	Pitkin.....	552	755	1006	1327	1508
Prowers.....	368	382	477	643	766	Rio Blanco.....	368	382	477	643	766
Rio Grande.....	368	382	477	643	766	Routt.....	368	445	588	816	962
Saguache.....	368	382	477	643	766	San Juan.....	368	382	477	643	766
San Miguel.....	677	978	1074	1343	1732	Sedgwick.....	368	382	477	643	766
Summit.....	474	568	727	1012	1246	Teller.....	368	436	581	808	814
Washington.....	368	382	477	643	766	Yuma.....	368	382	477	643	766

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N T E N T S

METROPOLITAN FMR AREAS

Bridgeport, CT PMSA.....	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
	455	592	713	891	1112	Fairfield county towns of Bridgeport town, Easton town, Stratford town, Trumbull town
Danbury, CT PMSA.....	570	682	851	1124	1295	New Haven county towns of Ansonia town, Beacon Falls town, Derby town, Milford town, Oxford town, Seymour town
						Fairfield county towns of Bethel town, Brookfield town, Danbury town, New Fairfield town, Newtown town, Redding town, Ridgefield town, Sherman town
Hartford, CT PMSA.....	425	528	675	847	1029	Litchfield county towns of Bridgewater town, New Milford town, Roxbury town, Washington town
						Hartford county towns of Avon town, Berlin town, Bloomfield town, Bristol town, Burlington town, Canton town, East Granby town, East Hartford town, East Windsor town, Enfield town, Farmington town, Glastonbury town, Granby town, Hartford town
						Manchester town, Marlborough town, New Britain town, Newington town, Plainville town, Rocky Hill town, Simsbury town, Southington town, South Windsor town, Suffield town, West Hartford town, Wethersfield town, Windsor town, Windsor Locks town
						Litchfield county towns of Barkhamsted town, Hartington town, New Hartford town, Plymouth town, Winchester town

New Haven-Meriden, CT PMSA.....	541	664	822	1052	1219	Middlesex county towns of Cromwell town, Durham town, East Haddam town, East Hampton town, Haddam town, Middlefield town, Middletown town, Portland town
						New London county towns of Colchester town, Lebanon town, Tolland county towns of Andover town, Bolton town, Columbia town, Coventry town, Ellington town, Hebron town, Mansfield town, Somers town, Stafford town, Tolland town, Vernon town, Willington town
New London-Norwich, CT-RI MSA.....	480	580	706	884	1010	Windham county towns of Ashford town, Chaplin town, Windham town
						Middlesex county towns of Clinton town, Killingworth town, New Haven county towns of Bethany town, Branford town, Cheshire town, East Haven town, Guilford town, Hamden town, Madison town, Meriden town, New Haven town, North Branford town, North Haven town, Orange town, Wallingford town, West Haven town, Woodbridge town
						Middlesex county towns of Old Saybrook town, New London county towns of Bozrah town, East Lyme town, Franklin town, Griswold town, Groton town, Ledyard town, Lisbon town, Montville town, New London town, North Stonington t, Norwich town, Old Lyme town, Preston town, Salem town, Sprague town, Stonington town, Waterford town
						Windham county towns of Canterbury town, Plainfield town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	O BR 1 BR 2 BR 3 BR 4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA.....	728 853 1040 1394 1540	Fairfield county towns of Darien town, Greenwich town, New Canaan town, Norwalk town, Stamford town, Weston town, Westport town, Wilton town
Waterbury, CT MSA.....	413 559 691 863 966	Litchfield county towns of Bethlehem town, Thomaston town, Watertown town, Woodbury town
Worcester, MA-CT.....	468 567 709 884 991	New Haven county towns of Middlebury town, Naugatuck town, Prospect town, Southbury town, Waterbury town, Wolcott town
NONMETROPOLITAN COUNTIES	O BR 1 BR 2 BR 3 BR 4 BR	Windham county towns of Thompson town
Hartford.....	350 565 638 886 1045	Towns within non metropolitan counties
Litchfield.....	406 553 738 922 1049	Hartland town
Middlesex.....	602 682 911 1266 1493	Canaan town, Colebrook town, Cornwall town, Goshen town, Kent town, Litchfield town, Morris town, Norfolk town, North Canaan town, Salisbury town, Sharon town, Torrington town, Warren town
New London.....	510 624 709 916 1162	Chester town, Deep River town, Essex town, Westbrook town
Tolland.....	350 565 638 886 892	Lyme town, Voluntown town
Windham.....	402 492 638 798 1002	Union town
		Brooklyn town, Eastford town, Hampton town, Killingly town, Pomfret town, Putnam town, Scotland town, Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	O BR 1 BR 2 BR 3 BR 4 BR	Counties of FMR AREA within STATE
Dover, DE MSA.....	426 472 538 698 793	Kent
Wilmington-Newark, DE-MD PMSA.....	416 550 640 870 1050	New Castle
NONMETROPOLITAN COUNTIES	O BR 1 BR 2 BR 3 BR 4 BR	NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR
Sussex.....	368 390 498 654 698	

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	O BR 1 BR 2 BR 3 BR 4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA.....	595 676 794 1081 1303	District of Columbia

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

F L O R I D A

METROPOLITAN FMR AREAS

Counties of FMR AREA within STATE

	O	BR 1	BR 2	BR 3	BR 4	BR		O	BR 1	BR 2	BR 3	BR 4	BR
Daytona Beach, FL MSA.....	386	451	578	767	814	BR	Flagler, Volusia	372	407	460	571	621	621
Fort Lauderdale, FL MSA.....	483	567	702	977	1151	BR	Broward	372	407	460	571	621	621
Fort Myers-Cape Coral, FL MSA.....	429	495	597	833	870	BR	Lee	372	407	460	571	621	621
Fort Pierce-Port Lucie, FL MSA.....	441	484	637	816	880	BR	Martin, St. Lucie	372	407	460	571	621	621
Fort Walton Beach, FL MSA.....	386	421	477	648	764	BR	Okaloosa	372	407	460	571	621	621
Gainesville, FL MSA.....	386	421	512	701	828	BR	Alachua	372	407	460	571	621	621
Jacksonville, FL MSA.....	403	451	544	719	799	BR	Clay, Duval, Nassau, St. Johns	372	407	474	594	666	666
Lakeland-Winter Haven, FL MSA.....	386	421	477	606	694	BR	Polk	372	407	460	571	621	621
Melbourne-Titusville-Palm Bay, FL MSA.....	386	458	574	768	896	BR	Brevard	372	407	460	571	621	621
Miami, FL PMSA.....	471	591	737	1013	1174	BR	Dade	372	407	460	571	621	621
Naples, FL MSA.....	413	582	699	972	1084	BR	Collier	372	407	460	571	621	621
Ocala, FL MSA.....	386	421	477	627	736	BR	Marion	372	407	460	571	621	621
Orlando, FL MSA.....	478	544	648	851	1038	BR	Lake, Orange, Osceola, Seminole	372	407	460	571	621	621
Panama City, FL MSA.....	386	421	477	610	654	BR	Bay	372	407	460	571	621	621
Pensacola, FL MSA.....	386	421	477	639	754	BR	Escambia, Santa Rosa	372	407	460	571	621	621
Punta Gorda, FL MSA.....	386	442	588	817	964	BR	Charlotte	372	407	460	571	621	621
Sarasota-Bradenton, FL MSA.....	387	491	624	804	874	BR	Manatee, Sarasota	372	407	460	571	621	621
Tallahassee, FL MSA.....	395	436	576	753	907	BR	Gadsden, Leon	372	407	460	571	621	621
Tampa-St. Petersburg-Clearwater, FL MSA.....	378	450	557	741	897	BR	Hernando, Hillsborough, Pasco, Pinellas	372	407	460	571	621	621
West Palm Beach-Boca Raton, FL MSA.....	472	552	683	908	1122	BR	Palm Beach	372	407	460	571	621	621
NONMETROPOLITAN COUNTIES													
Baker.....	372	407	460	571	621	BR	Bradford.....	372	407	460	571	621	621
Calhoun.....	372	407	460	571	621	BR	Citrus.....	372	407	460	571	621	621
Columbia.....	372	407	460	571	621	BR	Desoto.....	372	407	460	571	621	621
Dixie.....	372	407	460	571	621	BR	Franklin.....	372	407	460	571	621	621
Gilchrist.....	372	407	460	571	621	BR	Glades.....	372	407	460	571	621	621
Guif.....	372	407	460	571	621	BR	Hamilton.....	372	407	460	571	621	621
Hardee.....	372	407	460	571	621	BR	Henry.....	372	407	474	594	666	666
Highlands.....	372	407	460	573	640	BR	Holmes.....	372	407	460	571	621	621
Indian River.....	372	465	598	748	837	BR	Jackson.....	372	407	460	571	621	621
Jefferson.....	372	407	460	571	621	BR	Lafayette.....	372	407	460	571	621	621
Levy.....	372	407	460	571	621	BR	Liberty.....	372	407	460	571	621	621
Madison.....	372	407	460	571	621	BR	Monroe.....	533	601	772	1064	1266	1266
Okeechobee.....	372	407	460	571	621	BR	Putnam.....	372	407	460	571	621	621
Sumter.....	372	407	460	571	621	BR	Suwannee.....	372	407	460	571	621	621
Taylor.....	372	407	460	571	621	BR	Union.....	372	407	460	571	621	621
Wakulla.....	372	407	460	571	621	BR	Walton.....	372	407	460	592	740	740
Washington.....	372	407	460	571	621	BR							

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. For example, 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Albany, GA MSA	287	337	412	562	608	608	Dougherty, Lee
Athens, GA MSA	355	382	494	674	812	812	Clarke, Madison, Oconee
Atlanta, GA	485	540	630	838	1015	1015	Barrow, Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale, Spalding
Augusta-Aiken, GA-SC MSA	341	408	480	653	772	772	Columbia, McDuffie, Richmond
Carroll County, GA	321	336	434	604	713	713	Carroll
Chattanooga, TN-GA MSA	328	384	460	594	678	678	Catoosa, Dade, Walker
Columbus, GA-AL MSA	332	370	443	580	628	628	Chattahoochee, Harris, Muscogee
Macon, GA MSA	372	415	481	664	683	683	Bibb, Houston, Jones, Peach, Twiggs
Pickens County, GA	279	336	414	575	604	604	Pickens
Savannah, GA MSA	347	430	501	675	702	702	Bryan, Chatham, Effingham
Walton County, GA	356	384	495	687	811	811	Walton

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES
Appling	270	326	398	516	586	586	Atkinson
Bacon	270	326	398	516	586	586	Baker
Baldwin	270	346	422	540	590	590	Banks
Ben Hill	270	326	398	516	594	594	Berrien
Bleckley	270	326	398	516	586	586	Brantley
Brooks	270	326	398	516	586	586	Bulloch
Burke	270	326	398	516	586	586	Butts
Calhoun	270	326	398	516	586	586	Camden
Candler	270	326	398	516	586	586	Charlton
Chattooga	270	326	398	516	586	586	Clay
Clinch	270	326	398	516	586	586	Coffee
Colquitt	270	326	398	516	586	586	Cook
Crawford	270	326	398	516	586	586	Crisp
Dawson	270	351	468	585	722	722	Decatur
Dodge	270	326	398	516	586	586	Dooly
Early	270	326	398	516	586	586	Echols
Elbert	270	326	398	516	586	586	Emanuel
Evans	270	326	398	516	586	586	Fannin
Floyd	270	326	399	527	586	586	Franklin
Gilmer	270	326	398	516	586	586	Glascock
Glynn	377	422	478	641	786	786	Gordon
Grady	275	326	398	516	586	586	Greene
Habersham	290	326	398	516	591	591	Hall
Hancock	270	326	398	516	586	586	Haralson
Hart	270	326	398	516	586	586	Heard
Irwin	270	326	398	516	586	586	Jackson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4
Jasper.....	270	326	403	547	586	Jeff Davis.....	270	326	398	516	586		
Jefferson.....	270	326	398	516	594	Jenkins.....	270	326	398	516	586		
Johnson.....	270	326	398	516	586	Lamar.....	270	335	398	516	631		
Lanier.....	270	326	398	516	586	Laurens.....	276	326	398	516	586		
Liberty.....	337	375	427	593	598	Lincoln.....	270	326	398	516	586		
Long.....	270	351	398	516	586	Lowndes.....	303	365	443	622	687		
Lumpkin.....	270	364	410	548	673	McIntosh.....	270	326	398	516	586		
Macon.....	270	326	398	516	586	Marion.....	270	326	398	516	586		
Meriwether.....	270	326	398	516	586	Miller.....	270	326	398	516	586		
Mitchell.....	270	326	398	516	586	Monroe.....	270	326	398	525	586		
Montgomery.....	270	326	398	516	586	Morgan.....	270	326	413	516	586		
Murray.....	270	326	398	516	586	Oglethorpe.....	270	326	398	516	586		
Pierce.....	270	326	398	516	586	Pike.....	314	341	431	600	604		
Poik.....	270	326	398	538	586	Putaski.....	270	326	398	516	586		
Putnam.....	270	326	398	516	594	Quitman.....	270	326	398	516	586		
Rabun.....	270	326	398	516	586	Randolph.....	270	326	398	516	586		
Schley.....	270	326	398	516	586	Screven.....	270	326	398	516	586		
Seminole.....	270	326	398	516	586	Stephens.....	270	326	398	516	586		
Stewart.....	270	326	398	516	586	Sumter.....	270	331	398	516	586		
Talbot.....	270	326	398	516	586	Taliaferro.....	270	326	398	516	586		
Tattnall.....	270	326	398	516	586	Taylor.....	270	326	398	516	586		
Telfair.....	270	326	398	516	586	Terrell.....	270	326	398	516	586		
Thomas.....	270	336	398	516	586	Tift.....	270	326	398	516	586		
Toombs.....	270	326	398	516	586	Towns.....	270	326	398	516	586		
Treutlen.....	270	326	398	516	586	Troup.....	270	368	415	518	586		
Turner.....	270	326	398	516	586	Union.....	270	326	416	521	586		
Upson.....	279	326	398	516	586	Ware.....	299	336	398	516	620		
Warren.....	270	326	398	516	586	Washington.....	270	326	398	516	586		
Wayne.....	279	326	398	516	586	Webster.....	270	326	398	516	586		
Wheeler.....	270	326	398	516	586	White.....	270	326	398	516	600		
Whitfield.....	270	354	427	545	643	Wilcox.....	270	326	398	516	586		
Wilkes.....	270	326	398	516	586	Wilkinson.....	270	326	398	516	586		
Worth.....	270	326	398	516	586								

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Honolulu, HI MSA..... 697 834 982 1327 1436 Honolulu

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Hawaii..... 466 607 697 927 1142  
Maui..... 752 932 1137 1469 1663  
Kauai..... 594 889 1082 1430 1547

I D A H O

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Boise City, ID MSA..... 378 432 524 728 861 Ada, Canyon

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Adams..... 270 313 404 534 632  
Bear Lake..... 270 313 404 534 632  
Bingham..... 287 313 404 534 632  
Boise..... 270 348 404 534 632  
Bonneville..... 275 346 475 639 780  
Butte..... 270 313 404 534 632  
Caribou..... 270 313 404 534 632  
Clark..... 270 313 404 534 632  
Custer..... 270 313 404 534 632  
Franklin..... 270 313 404 534 632  
Gem..... 270 313 404 534 632  
Idaho..... 270 313 404 534 632  
Jerome..... 270 313 404 534 632  
Latah..... 270 313 404 534 641  
Lewis..... 270 313 404 534 632  
Madison..... 270 313 404 534 632  
Nez Perce..... 275 313 404 534 632  
Owyhee..... 270 313 404 534 632  
Power..... 270 313 404 534 632  
Teton..... 294 313 404 546 646  
Valley..... 281 313 404 534 632

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Bannock..... 270 313 404 552 651  
Benewah..... 270 313 404 534 632  
Blaine..... 417 459 612 853 1005  
Bonner..... 310 384 475 659 758  
Boundary..... 270 313 404 534 632  
Camas..... 270 313 404 534 632  
Cassia..... 270 313 404 534 632  
Clearwater..... 270 313 404 534 632  
Elmore..... 270 313 404 534 632  
Fremont..... 270 313 404 534 632  
Gooding..... 270 313 404 534 632  
Jefferson..... 278 313 404 534 632  
Kootenai..... 343 404 528 735 868  
Lemhi..... 270 313 404 534 632  
Lincoln..... 270 313 404 534 632  
Minidoka..... 270 313 404 534 632  
Oneida..... 271 313 404 534 632  
Payette..... 270 313 404 534 632  
Shoshone..... 270 313 404 534 632  
Twin Falls..... 270 313 409 538 632  
Washington..... 270 313 404 534 632

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	308	376	504	699	739		McLean
Champaign-Urbana, IL MSA	331	406	525	720	862		Champaign
Chicago, IL	512	615	732	916	1025		Cook, Dupage, Kane, Lake, McHenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	270	373	461	597	646		Henry, Rock Island
Decatur, IL MSA	257	333	428	578	600		Macon
De Kalb County, IL	396	462	585	812	942		Dekalb
Grundy County, IL	346	399	531	701	745		Grundy
Kankakee, IL PMSA	314	380	507	647	710		Kankakee
Kendall County, IL	478	545	657	915	920		Kendall
Peoria-Pekin, IL MSA	317	350	469	624	766		Peoria, Tazewell, Woodford
Rockford, IL MSA	308	394	480	604	704		Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	302	368	478	621	687		Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	297	367	489	651	740		Menard, Sangamon

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Adams	249	280	360	472	573	Alexander	249	280	360	472	530
Bond	249	280	360	472	530	Brown	249	280	360	472	530
Bureau	249	314	369	472	530	Calhoun	249	280	360	472	530
Carroll	249	280	360	472	530	Cass	250	280	360	472	530
Christian	268	280	362	474	530	Clark	249	280	360	472	530
Clay	249	280	360	472	530	Coles	263	313	417	553	654
Crawford	249	280	360	472	530	Cumberland	249	280	360	472	530
De Witt	253	280	360	476	530	Douglas	266	280	360	472	530
Edgar	249	280	360	472	530	Edwards	249	280	360	472	530
Effingham	249	288	360	472	530	Fayette	249	280	360	472	530
Ford	237	332	432	554	606	Franklin	249	280	360	472	530
Fulton	249	280	360	472	530	Gallatin	249	280	360	472	530
Greene	249	280	360	472	530	Hamilton	249	281	360	472	530
Hancock	249	280	360	472	530	Hardin	249	280	360	472	530
Henderson	249	280	360	472	530	Iroquois	249	280	360	472	530
Jackson	302	303	382	543	607	Jasper	249	282	360	472	530
Jefferson	250	293	367	500	530	Jo Daviess	276	298	360	472	530
Johnson	249	280	360	472	530	Knox	249	280	360	472	547
La Salle	249	291	389	526	590	Lawrence	249	280	360	472	530
Lee	278	286	381	477	536	Livingston	249	307	410	528	576
Logan	279	296	394	494	619	McDonough	249	285	360	472	567
Macoupin	249	280	360	472	530	Marion	254	280	360	472	530
Marshall	249	280	360	472	530	Mason	249	280	360	472	537
Massac	250	280	360	472	530	Mercer	249	280	360	472	530
Montgomery	249	280	360	472	530	Morgan	249	315	420	558	589

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Moultrie.....	249	280	360	485	530		Perry.....	250	280	360	472	530	
Platt.....	249	303	393	537	551		Pike.....	249	280	360	472	530	
Pope.....	249	280	360	472	530		Pulaski.....	249	280	360	472	530	
Putnam.....	249	280	360	472	530		Randolph.....	249	280	360	472	530	
Richland.....	249	280	360	472	530		Saline.....	249	280	360	472	530	
Schuyler.....	249	280	360	472	530		Scott.....	249	280	360	472	530	
Shelby.....	249	280	360	472	530		Stark.....	249	280	360	472	530	
Stephenson.....	263	301	380	476	534		Union.....	249	280	360	472	530	
Vermillion.....	249	317	396	496	554		Wabash.....	249	280	360	472	559	
Warren.....	263	280	360	472	530		Washington.....	249	298	397	498	646	
Wayne.....	249	280	360	472	530		White.....	249	280	360	472	530	
Whiteside.....	263	299	398	499	561		Williamson.....	249	280	362	503	530	

I N D I A N A

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Bloomington, IN MSA.....	309	400	532	739	873		Monroe
Cincinnati, OH-KY-IN.....	297	382	511	685	740		Dearborn
Elkhart-Goshen, IN MSA.....	354	404	511	654	750		Elkhart
Evansville-Henderson, IN-KY MSA.....	261	319	414	518	579		Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA.....	303	387	480	619	673		Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA.....	325	428	533	669	748		Lake, Porter
Indianapolis, IN MSA.....	346	434	522	654	733		Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA.....	284	336	438	564	613		Howard, Tipton
Lafayette, IN MSA.....	303	384	513	713	842		Clinton, Tippecanoe
Louisville, KY-IN MSA.....	302	388	475	657	693		Clark, Floyd, Harrison, Scott
Muncie, IN MSA.....	282	351	416	564	666		Delaware
Ohio County, IN.....	275	310	396	510	561		Ohio
South Bend, IN MSA.....	304	405	533	665	746		St. Joseph
Terre Haute, IN MSA.....	274	321	409	511	570		Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Bartholomew.....	381	411	496	619	815		Benton.....	269	303	387	499	548	
Blackford.....	269	303	399	500	559		Brown.....	269	357	470	653	676	
Carrroll.....	269	303	387	499	548		Cass.....	269	303	387	499	548	
Crawford.....	269	303	387	499	548		Daviess.....	269	303	387	499	548	
Decatur.....	269	328	420	543	591		Dubois.....	269	303	387	499	565	
Fayette.....	269	303	388	499	588		Fountain.....	269	303	387	499	548	
Franklin.....	269	303	387	499	613		Fulton.....	296	310	387	521	548	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I N D I A N A continued

NONMETROPOLITAN COUNTIES	O B R				NONMETROPOLITAN COUNTIES				O B R			
	1	2	3	4	1	2	3	4	1	2	3	4
Gibson.....	269	303	387	499	548	Grant.....	284	303	387	501	548	
Greene.....	269	303	387	499	548	Henry.....	269	303	387	499	548	
Jackson.....	330	345	427	564	606	Jasper.....	269	326	387	499	548	
Jay.....	269	303	387	499	548	Jefferson.....	269	303	387	499	548	
Jennings.....	281	303	387	499	548	Knox.....	274	303	392	499	549	
Kosciusko.....	269	356	429	556	601	Lagrange.....	274	315	402	523	608	
La Porte.....	274	331	443	567	620	Lawrence.....	269	303	387	503	548	
Marshall.....	318	323	429	541	601	Martin.....	269	303	387	499	548	
Miami.....	269	303	387	499	548	Montgomery.....	314	330	412	522	578	
Newton.....	281	303	387	499	548	Noble.....	310	316	393	508	561	
Orange.....	269	303	387	499	548	Owen.....	269	303	387	499	574	
Parke.....	269	303	387	499	573	Perry.....	269	303	387	499	548	
Pike.....	269	303	387	499	548	Pulaski.....	269	303	387	499	548	
Putnam.....	292	340	419	561	566	Randolph.....	269	303	387	499	548	
Ripley.....	269	303	387	507	574	Rush.....	277	303	387	499	574	
Spencer.....	269	303	387	499	548	Starke.....	269	303	387	499	548	
Steuben.....	329	372	444	554	620	Sullivan.....	269	303	387	499	548	
Switzerland.....	269	303	387	499	548	Union.....	269	303	387	499	548	
Wabash.....	269	303	387	499	548	Warren.....	269	303	387	499	548	
Washington.....	269	303	387	499	548	Wayne.....	269	303	387	499	548	
White.....	269	303	387	499	605							

I O W A

METROPOLITAN FMR AREAS

Counties of FMR AREA within STATE

METROPOLITAN FMR AREAS	O B R				Counties of FMR AREA within STATE			
	1	2	3	4	1	2	3	4
Cedar Rapids, IA MSA.....	264	372	478	666	714	Linn		
Davenport-Moline-Rock Island, IA-IL MSA.....	270	373	461	597	646	Scott		
Des Moines, IA MSA.....	359	455	559	725	762	Dallas, Polk, Warren		
Dubuque, IA MSA.....	280	342	441	563	686	Dubuque		
Iowa City, IA MSA.....	319	411	528	733	866	Johnson		
Omaha, NE-IA MSA.....	286	392	495	649	728	Pottawattamie		
Sioux City, IA-NE MSA.....	297	357	445	556	634	Woodbury		
Waterloo-Cedar Falls, IA MSA.....	261	333	416	555	651	Black Hawk		

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES		O	BR	1	BR	2	BR	3	BR	4	BR
Adair.....	255	315	396	502	554						
Allamakee.....	255	315	396	507	581						
Audubon.....	255	315	396	502	554						
Boone.....	255	335	396	507	601						
Buchanan.....	269	315	396	502	554						
Butler.....	272	315	396	502	554						
Carrroll.....	255	319	396	502	554						
Cedar.....	255	315	396	502	554						
Cherokee.....	262	315	396	502	554						
Clarke.....	255	315	396	502	554						
Clayton.....	255	315	396	502	554						
Crawford.....	255	315	396	502	554						
Decatur.....	255	315	396	502	554						
Des Moines.....	255	325	418	524	585						
Emmet.....	255	315	396	502	585						
Floyd.....	278	315	396	502	554						
Fremont.....	281	315	396	502	583						
Grundy.....	255	315	396	502	569						
Hamilton.....	291	330	400	502	560						
Hardin.....	255	315	396	502	554						
Henry.....	255	323	410	513	581						
Humboldt.....	255	315	396	502	554						
Iowa.....	255	315	396	502	554						
Jasper.....	255	323	409	511	573						
Jones.....	264	315	396	502	554						
Kossuth.....	255	315	396	502	554						
Louisa.....	255	315	396	502	554						
Lyon.....	255	315	396	502	554						
Mahaska.....	255	315	396	502	554						
Marshall.....	255	315	396	502	554						
Mitchell.....	255	315	396	502	554						
Monroe.....	255	332	396	502	583						
Muscatine.....	255	315	418	556	585						
Osceola.....	255	315	396	502	554						
Palo Alto.....	255	315	396	502	554						
Pocahontas.....	255	315	396	502	554						
Ringgold.....	255	315	396	502	554						
Shelby.....	255	315	396	502	554						
Story.....	332	403	475	659	754						
Taylor.....	255	315	396	502	555						

  

NONMETROPOLITAN COUNTIES		O	BR	1	BR	2	BR	3	BR	4	BR
Adams.....	255	315	396	502	554						
Appanoose.....	255	315	396	502	557						
Benton.....	262	315	396	502	554						
Bremer.....	255	315	396	502	589						
Buena Vista.....	270	315	396	502	554						
Calhoun.....	255	315	396	502	554						
Cass.....	255	315	396	502	554						
Carro Gordo.....	255	334	413	551	578						
Chickasaw.....	255	315	396	502	554						
Clay.....	255	315	396	502	554						
Clinton.....	255	315	401	502	561						
Davis.....	255	315	396	502	554						
Delaware.....	255	315	396	502	554						
Dickinson.....	255	315	396	502	554						
Fayette.....	255	315	396	502	554						
Franklin.....	262	315	396	502	554						
Greene.....	255	315	396	502	554						
Guthrie.....	255	315	396	502	582						
Hancock.....	255	315	396	502	554						
Harrison.....	255	315	396	502	554						
Howard.....	255	315	396	502	578						
Ida.....	262	315	396	502	554						
Jackson.....	255	315	398	502	557						
Jefferson.....	255	322	429	558	705						
Keokuk.....	255	315	396	502	554						
Lee.....	255	315	408	510	572						
Lucas.....	255	315	396	502	554						
Madison.....	255	315	411	527	577						
Marion.....	255	349	429	536	601						
Mills.....	255	341	402	504	563						
Monona.....	255	315	396	502	554						
Montgomery.....	281	316	396	502	554						
O'Brien.....	255	315	396	502	554						
Page.....	255	315	396	502	554						
Plymouth.....	255	315	413	516	578						
Poweshiek.....	270	335	429	536	601						
Sac.....	255	315	396	502	554						
Sioux.....	255	315	396	502	554						
Tama.....	255	315	396	502	554						
Taylor.....	255	315	396	502	583						

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Van Buren.....	255	315	396	502	554		Wapello.....	255	315	399	502	558	
Washington.....	255	315	396	502	583		Wayne.....	255	315	396	502	554	
Webster.....	255	315	401	504	562		Winnebago.....	255	320	396	502	554	
Winneshek.....	255	315	396	502	554		Worth.....	255	315	396	502	562	
Wright.....	255	315	396	502	554								

K A N S A S

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA.....	328	413	496	687	761	Johnson, Leavenworth, Miami, Wyandotte	
Lawrence, KS MSA.....	340	407	523	728	838	Douglas	
Topeka, KS MSA.....	320	368	478	646	729	Shawnee	
Wichita, KS MSA.....	314	377	505	682	737	Butler, Harvey, Sedgwick	

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Allen.....	260	294	378	487	542		Anderson.....	260	294	378	487	542	
Atchison.....	260	294	378	487	581		Barber.....	260	294	378	487	542	
Barton.....	260	294	378	487	542		Bourbon.....	260	294	378	487	542	
Brown.....	260	294	378	487	542		Chase.....	260	294	378	487	542	
Chautauqua.....	260	294	378	487	542		Cherokee.....	260	294	378	487	542	
Cheyenne.....	260	294	378	487	542		Clark.....	260	294	378	487	542	
Clay.....	260	294	378	487	542		Cloud.....	260	294	378	487	542	
Coffey.....	269	294	378	487	566		Comanche.....	260	294	378	487	542	
Cowley.....	278	294	378	499	542		Crawford.....	260	294	385	487	542	
Decatur.....	260	294	378	487	542		Dickinson.....	260	294	378	487	542	
Doniphan.....	260	294	378	487	542		Edwards.....	260	294	378	487	542	
Elk.....	260	294	378	487	542		Ellis.....	260	294	378	487	542	
Ellsworth.....	260	294	378	487	542		Finney.....	320	343	439	571	722	
Ford.....	279	329	410	516	582		Franklin.....	282	294	381	487	595	
Geary.....	319	336	420	542	588		Gove.....	260	294	378	487	542	
Graham.....	260	294	378	487	542		Grant.....	260	330	378	517	563	
Gray.....	260	294	378	487	542		Greeley.....	260	294	378	487	542	
Greenwood.....	260	294	378	487	542		Hamilton.....	260	294	378	487	542	
Harper.....	260	294	378	487	542		Haskell.....	260	301	378	487	542	
Hodgeman.....	260	294	378	487	542		Jackson.....	260	294	378	487	542	
Jefferson.....	260	294	385	510	542		Jewell.....	260	294	378	487	542	
Kearny.....	289	294	389	523	574		Kingman.....	260	294	378	487	542	
Kiowa.....	260	294	378	487	542		Labette.....	260	294	378	487	542	
Lane.....	260	294	378	487	542		Lincoln.....	260	294	378	487	542	
Linn.....	260	294	378	487	542		Logan.....	260	294	378	487	542	
Lyon.....	260	294	378	487	578		Mpgherson.....	262	294	378	487	542	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Marion.....	260	294	378	487	542	260
Meade.....	260	294	378	487	542	260
Montgomery.....	260	294	378	487	542	260
Norton.....	260	294	378	487	542	260
Osborne.....	260	294	378	487	542	260
Pawnee.....	260	294	378	487	542	260
Pottawatomie.....	260	294	378	487	555	260
Rawlins.....	260	294	378	487	542	260
Republic.....	260	294	378	487	542	260
Riley.....	322	354	472	590	716	260
Rush.....	260	294	378	487	542	260
Saline.....	285	294	389	537	544	260
Seward.....	292	318	424	531	593	260
Sherman.....	260	294	378	487	542	260
Stafford.....	260	294	378	487	542	260
Stevens.....	260	295	378	487	557	260
Thomas.....	260	294	378	487	542	260
Wabunsee.....	260	294	378	487	542	260
Washington.....	260	294	378	487	542	260
Wilson.....	260	294	378	487	542	260

K E N T U C K Y

METROPOLITAN FMR AREAS

Counties of FMR AREA within STATE	O	BR 1	BR 2	BR 3	BR 4	BR
Cincinnati, OH-KY-IN.....	297	382	511	685	740	260
Clarksville-Hopkinsville, TN-KY MSA.....	322	361	423	578	593	260
Evansville-Henderson, IN-KY MSA.....	261	319	414	518	579	260
Gallatin County, KY.....	247	337	412	516	675	260
Grant County, KY.....	246	293	388	542	640	260
Huntington-Ashland, WV-KY-OH MSA.....	268	314	387	493	543	260
Lexington, KY MSA.....	326	407	498	679	767	260
Louisville, KY-IN MSA.....	302	388	475	657	693	260
Owensboro, KY MSA.....	284	295	388	521	545	260
Pendleton County, KY.....	248	287	383	481	538	260

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4
Adair.....	241	294	347	459	504	Allen.....	241	280	347	448	504		
Anderson.....	265	280	363	453	509	Ballard.....	241	280	347	448	504		
Barren.....	241	291	347	448	504	Bath.....	241	280	347	448	504		
Bell.....	241	280	350	448	504	Boyle.....	286	290	387	485	542		
Bracken.....	241	280	347	448	504	Breathitt.....	241	280	347	448	504		
Breckinridge.....	241	280	347	448	504	Butler.....	241	280	347	448	504		
Callowell.....	241	280	347	448	504	Calloway.....	241	280	347	448	504		
Carlisle.....	241	280	347	448	504	Carroll.....	241	280	347	448	504		
Casey.....	241	280	347	448	504	Clay.....	241	280	347	448	504		
Clinton.....	241	280	347	448	504	Crittenden.....	241	280	347	448	504		
Cumberland.....	241	280	347	448	504	Edmonson.....	241	280	347	448	504		
Elliot.....	241	280	347	448	504	Estill.....	241	280	347	448	504		
Fleming.....	241	280	347	448	504	Floyd.....	254	308	347	482	553		
Franklin.....	241	353	434	560	708	Fulton.....	241	280	347	448	504		
Garrard.....	241	280	347	448	504	Graves.....	241	280	347	448	504		
Grayson.....	241	280	347	448	504	Green.....	241	280	347	448	504		
Hancock.....	241	280	347	452	537	Hardin.....	299	307	384	517	613		
Hartan.....	241	365	417	543	641	Harrison.....	241	281	355	448	549		
Hart.....	241	280	347	448	504	Henry.....	241	280	347	448	504		
Hickman.....	241	280	347	448	504	Hopkins.....	241	280	347	448	504		
Jackson.....	241	280	347	448	504	Johnson.....	241	280	347	448	504		
Knott.....	241	280	347	448	504	Knox.....	241	333	426	534	655		
Larue.....	241	280	347	448	504	Laurel.....	314	354	421	568	588		
Lawrence.....	241	280	347	448	504	Lee.....	241	280	347	448	504		
Leslie.....	241	280	347	448	504	Letcher.....	241	280	347	448	504		
Lewis.....	241	280	347	448	504	Lincoln.....	241	280	347	448	504		
Livingston.....	277	280	374	520	524	Logan.....	241	280	347	457	504		
Lyon.....	241	280	347	448	504	Mccracken.....	272	293	366	469	602		
Mccreary.....	241	280	347	448	504	McLean.....	241	280	347	448	504		
Magoffin.....	241	280	347	448	504	Marion.....	241	280	347	448	504		
Marshall.....	241	286	347	448	539	Martin.....	241	280	347	448	504		
Mason.....	241	280	347	448	504	Meade.....	249	309	355	470	585		
Menifee.....	241	280	347	448	504	Mercer.....	241	280	347	457	504		
Metcalfe.....	241	280	347	448	504	Monroe.....	241	280	347	448	504		
Montgomery.....	241	280	347	448	504	Morgan.....	241	280	347	448	504		
Muhlenberg.....	241	280	347	448	504	Nelson.....	264	280	357	448	504		
Nicholas.....	241	280	347	448	504	Ohio.....	241	280	347	448	504		
Owen.....	241	280	347	448	517	Owsley.....	241	280	347	448	504		
Perry.....	269	280	361	451	506	Pike.....	258	295	357	448	530		
Powell.....	241	280	347	448	504	Pulaski.....	264	280	355	449	504		

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Robertson.....	241	280	347	448	504		Rockcastle.....	241	280	347	448	504	
Rowan.....	241	280	347	448	504		Russell.....	241	280	347	448	504	
Shelby.....	242	318	355	436	504		Simpson.....	241	301	351	449	504	
Spencer.....	241	286	347	448	504		Taylor.....	290	343	384	514	581	
Todd.....	241	280	347	448	504		Trigg.....	241	280	347	448	504	
Trimble.....	241	280	347	448	504		Union.....	241	280	347	448	504	
Warren.....	241	311	416	519	600		Washington.....	241	284	347	448	504	
Wayne.....	241	280	347	448	504		Webster.....	241	280	347	448	504	
Whitley.....	241	280	347	448	504		Wolfe.....	241	280	347	448	504	

L O U I S I A N A

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Alexandria, LA MSA.....	267	334	420	582	592		Rapides
Baton Rouge, LA MSA.....	290	361	447	621	733		Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA.....	263	309	396	550	651		Lafourche, Terrebonne
Lafayette, LA MSA.....	277	319	380	523	619		Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA.....	360	418	530	695	870		Calcasieu
Monroe, LA MSA.....	289	324	432	583	605		Ouachita
New Orleans, LA.....	337	386	482	656	793		Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles
St. James Parish, LA.....	255	288	384	479	537		St. John the Baptist, St. Tammany
Shreveport-Bossier City, LA MSA.....	326	370	466	623	764		Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES

	O	BR 1	BR 2	BR 3	BR 4	BR
Allen.....	258	281	346	453	505	
Avoyelles.....	258	281	346	453	507	
Bienvenue.....	258	281	346	459	543	
Cameron.....	258	281	346	453	505	
Claiborne.....	258	281	346	453	505	
De Soto.....	258	281	346	453	509	
East Feliciana.....	258	281	346	453	505	
Franklin.....	258	281	346	453	509	
Iberia.....	273	285	353	453	505	
Jackson.....	258	281	346	453	505	
La Salle.....	258	281	346	453	509	
Madison.....	258	281	346	453	505	
Natchitoches.....	276	283	365	506	509	
Red River.....	258	281	346	453	509	
Sabine.....	258	288	346	453	533	
St. Mary.....	283	303	381	519	541	

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Tensas.....	258	281	346	453	505		Union.....	258	281	346	453	505	
Vermilion.....	258	281	346	453	505		Vernon.....	297	331	377	487	576	
Washington.....	258	281	346	453	505		West Carroll.....	258	281	346	453	505	
West Feliciana.....	258	336	450	563	631		Winn.....	258	281	346	453	505	

M A I N E

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Components of FMR AREA within STATE
Bangor, ME MSA.....	339	414	530	692	743		Penobscot county towns of Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian I. Veazie town
Lewiston-Auburn, ME MSA.....	305	376	484	605	678		Waldo county towns of Wintertown town, Androscoggin county towns of Auburn city, Greene town, Lewiston city, Lisbon town, Mechanic Falls town, Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA.....	364	469	617	772	865		Cumberland county towns of Cape Elizabeth tow, Casco town, Cumberland town, Falmouth town, Freeport town, Gorham town, Gray town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland cit, Standish town, Westbrook city, Windham town, Yarmouth town

Portsmouth-Rochester, NH-ME PMSA.....

	O	BR 1	BR 2	BR 3	BR 4	BR	
Portsmouth-Rochester, NH-ME PMSA.....	424	508	653	836	1026		Limington town, Old Orchard Beach, York county towns of Berwick town, Eliot town, Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES

	O	BR 1	BR 2	BR 3	BR 4	BR	Towns within non metropolitan counties
Androscoggin.....	310	382	508	635	711		Durham town, Leeds town, Livermore town, Livermore Falls to, Minot town
Aroostook.....	310	363	466	594	683		Baldwin town, Bridgton town, Brunswick town, Harpswell town, Harrison town, Naples town, New Gloucester tow, Pownal town, Sebago town
Cumberland.....	453	462	615	837	960		
Franklin.....	316	363	466	594	683		
Hancock.....	334	409	506	638	708		
Kennebec.....	322	402	484	606	683		
Knox.....	310	399	518	690	727		
Lincoln.....	403	448	510	709	837		
Oxford.....	310	363	466	594	683		
Penobscot.....	310	363	466	594	683		Alton town, Argyle unorg., Bradford town, Bradley town, Burlington town, Carmel town, Carroll plantation, Charleston town, Chester town, Clifton town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES

O BR 1 BR 2 BR 3 BR 4 BR

Towns within non metropolitan counties

Corinna town, Corinth town, Dexter town, Dixmont town  
 Drew plantation, East Central Penob. East Millinocket t  
 Edinburg town, Enfield town, Etna town, Exeter town  
 Garland town, Greenbush town, Greenfield town  
 Howland town, Hudson town, Kingman unorg., Lagrange town  
 Lakeville town, Lee town, Levant town, Lincoln town  
 Lowell town, Mattawamkeag town, Maxfield town  
 Medway town, Millinocket town, Mount Chase town  
 Newburgh town, Newport town, North Penobscot un  
 Passadumkeag town, Patten town, Plymouth town  
 Prentiss plantatio, Seboeis plantation, Springfield town  
 Stacyville town, Stetson town, Twombly unorg.  
 Webster plantation, Whitney unorg., Winn town  
 Woodville town

Piscataquis.....	310	363	466	594	683
Sagadahoc.....	436	499	615	819	1010
Somerset.....	324	370	466	594	700
Waldo.....	310	363	466	594	683

Washington.....	310	363	466	594	683
York.....	382	438	587	734	821

Belfast city, Belmont town, Brooks town, Burnham town  
 Frankfort town, Freedom town, Islesboro town  
 Jackson town, Knox town, Liberty town, Lincolnville town  
 Monroe town, Montville town, Morrill town  
 Northport town, Palermo town, Prospect town  
 Searsport town, Searsport town, Stockton Springs t  
 Swanville town, Thorndike town, Troy town, Unity town  
 Waldo town

Acton town, Alfred town, Arundel town, Biddeford city  
 Cornish town, Dayton town, Kennebunk town  
 Kennebunkport town, Lebanon town, Limerick town  
 Lyman town, Newfield town, North Berwick town  
 Ogunquit town, Parsonsfield town, Saco city  
 Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR

Counties of FMR AREA within STATE

Baltimore, MD.....	404	495	604	799	914
Columbia, MD.....	546	733	853	1128	1410
Cumberland, MD-WV MSA.....	322	388	476	633	723
Hagerstown, MD PMSA.....	319	384	472	627	716
Washington, DC-MD-VA.....	595	676	794	1081	1303
Wilmington-Newark, DE-MD PMSA.....	416	550	640	870	1050

Anne Arundel, Baltimore, Carroll, Harford, Howard  
 Queen Anne's, Baltimore city  
 Columbia  
 Allegany  
 Washington  
 Calvert, Charles, Frederick, Montgomery, Prince George's  
 Cecil

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A R Y L A N D continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Caroline.....	354	381	477	626	710	
Garrett.....	316	424	477	622	783	
St. Mary's.....	483	573	661	921	1053	
Talbot.....	418	443	591	740	969	
Worcester.....	316	381	478	664	710	

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS	O	BR 1	BR 2	BR 3	BR 4	BR
Barnstable-Yarmouth, MA MSA.....	454	608	812	1016	1137	
Boston, MA-NH PMSA.....	590	664	832	1040	1221	

Components of FMR AREA within STATE

Barnstable county towns of Barnstable town, Brewster town, Chatham town, Dennis town, Eastham town, Harwich town, Mashpee town, Orleans town, Sandwich town, Yarmouth town	316	409	477	622	710
Bristol county towns of Berkley town, Dighton town, Mansfield town, Norton town, Taunton city	320	394	526	657	792
Essex county towns of Amesbury town, Beverly city, Danvers town, Essex town, Gloucester city, Hamilton town, Ipswich town, Lynn city, Lynnfield town, Manchester town, Marblehead town, Middleton town, Nahant town, Newbury town, Newburyport city, Peabody city	376	423	477	662	782
Rockport town, Rowley town, Salem city, Salisbury town, Saugus town, Swampscott town, Topsfield town, Wenham town	356	412	531	675	743
Middlesex county towns of Acton town, Arlington town, Ashland town, Ayer town, Bedford town, Belmont town, Boxborough town, Burlington town, Cambridge city, Carlisle town, Concord town, Everett city, Framingham town, Holliston town, Hopkinton town, Hudson town, Lexington town, Lincoln town, Littleton town, Malden city, Marlborough city, Maynard town, Medford city, Melrose city, Natick town, Newton city, North Reading town, Reading town, Sherborn town, Shirley town, Somerville city, Stoneham town, Stow town, Sudbury town, Townsend town, Wakefield town, Waltham city, Watertown town, Wayland town, Weston town, Wilmington town, Winchester town, Woburn city					
Norfolk county towns of Bellingham town, Braintree town, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin town, Millis town, Holbrook town, Medfield town, Medway town, Millis town, Milton town, Needham town, Norfolk town, Norwood town, Plainville town, Quincy city, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth town, Wrentham town, Plymouth county towns of Carver town, Duxbury town, Hanover town, Hingham town, Hull town, Kingston town					

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S A C H U S E T T S continued

METROPOLITAN FMR AREAS

	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Brockton, MA PMSA.....	432	570	699	870	991	Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town, Templeton town, Westminster town, Winchendon town Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town
Fitchburg-Leominster, MA MSA.....	312	438	568	732	795	
Lawrence, MA-NH PMSA.....	445	537	675	843	1039	
Lowell, MA-NH PMSA.....	437	565	683	855	957	
New Bedford, MA MSA.....	419	512	582	727	816	
Pittsfield, MA MSA.....	330	468	578	724	897	
Providence-Fall River-Warwick, RI-MA PMSA.....	396	538	647	812	1000	
Springfield, MA MSA.....	389	480	607	758	931	

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Components of FMR AREA within STATE
Worcester, MA-CT.....	468	567	709	884	991		Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamshburg town Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES

	O	BR 1	BR 2	BR 3	BR 4	BR	Towns within non metropolitan counties
Barnstable.....	436	599	797	957	1115		Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire.....	367	446	526	722	865		Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes.....	590	600	798	998	1118		Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town
Franklin.....	396	491	628	786	949		Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden.....	400	544	727	967	1193		Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire.....	560	567	758	948	1062		Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket.....	708	948	1265	1581	1771		Athol town, Hardwick town, Hubbardston town
Worcester.....	445	465	619	775	867		New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	441	534	659	864	969	669	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	359	363	476	596	669	669	Berrien
Detroit, MI PMSA	345	470	567	709	795	795	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	333	379	474	606	663	663	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	376	439	536	672	751	751	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	283	380	481	602	675	675	Jackson
Kalamazoo-Battle Creek, MI MSA	334	403	508	636	710	710	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	357	419	541	706	816	816	Clinton, Eaton, Ingham
Saginaw-Bay City-Midland, MI MSA	328	362	481	602	675	675	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Alcona	278	316	401	521	595	595	Alger	278	316	401	521	595	
Alpena	278	316	401	521	595	595	Antrim	278	332	401	521	595	
Arenac	278	316	401	521	595	595	Baraga	278	316	401	521	595	
Barry	278	342	456	571	640	640	Benzie	290	316	401	539	595	
Branch	321	329	404	552	595	595	Cass	278	316	403	550	595	
Charlevoix	337	341	432	588	608	608	Cheboygan	292	316	401	521	609	
Chippewa	278	316	401	521	595	595	Citrus	288	316	401	521	595	
Crawford	304	316	410	559	595	595	Delta	278	316	401	521	595	
Dickinson	278	341	421	526	595	595	Emmet	310	372	439	576	613	
Gladwin	278	316	401	521	595	595	Gogebic	278	316	401	521	595	
Grand Traverse	368	393	525	657	736	736	Gratiot	290	316	401	521	595	
Hillsdale	278	316	401	521	595	595	Houghton	278	316	401	521	595	
Huron	278	316	401	521	595	595	Ionia	340	344	431	538	604	
Iosco	278	316	401	521	629	629	Iron	278	316	401	521	595	
Isabella	310	331	443	598	726	726	Kalkaska	278	316	402	523	661	
Keweenaw	278	316	401	521	595	595	Lake	281	316	401	521	595	
Leelanau	376	407	476	622	780	780	Luce	278	316	401	521	595	
Mackinac	278	316	401	521	595	595	Manistee	278	316	401	521	595	
Marquette	278	316	401	521	595	595	Mason	278	316	401	521	595	
Mecosta	278	316	401	543	644	644	Menominee	278	316	401	521	595	
Missaukee	292	316	401	521	595	595	Montcalm	282	316	401	521	595	
Montmorency	278	316	401	521	595	595	Newaygo	319	342	402	521	595	
Oceana	296	316	401	521	595	595	Ogemaw	289	317	401	521	595	
Ontonagon	278	316	401	521	595	595	Osceola	278	316	401	521	595	
Oscoda	278	316	401	521	595	595	Otsego	285	344	434	603	700	
Presque Isle	278	316	401	521	595	595	Roscommon	307	316	401	521	595	
St. Joseph	278	323	401	523	595	595	Sanilac	278	326	401	523	595	
Schoolcraft	278	316	401	521	595	595	Shiawassee	278	348	420	584	625	
Tuscola	302	329	439	548	613	613	Wexford	278	320	416	544	644	

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA	within STATE
Duluth-Superior, MN-WI MSA	260	342	440	587	684		St. Louis	
Fargo-Moorhead, ND-MN MSA	312	430	519	720	771		Clay	
Grand Forks, ND-MN MSA	323	385	506	698	778		Polk	
La Crosse, WI-MN MSA	269	347	442	591	716		Houston	
Minneapolis-St. Paul, MN-WI MSA	378	486	621	841	952		Anoka, Carver, Chisago, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright	
Rochester, MN MSA	298	417	545	755	847		Olmsted	
St. Cloud, MN MSA	324	418	494	625	796		Benton, Stearns	

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Aitkin	258	334	446	558	624		Becker	255	366	411	513	576	
Beltrami	255	326	436	571	610		Big Stone	255	310	393	493	563	
Blue Earth	313	378	471	603	766		Brown	255	329	393	493	563	
Carlton	255	310	393	493	563		Cass	255	310	393	493	563	
Chippewa	255	310	393	493	563		Clearwater	255	310	393	493	563	
Cook	302	310	405	553	576		Cottonwood	255	310	393	493	563	
Crow Wing	255	310	414	517	650		Dodge	255	310	393	493	563	
Douglas	255	310	393	493	563		Faribault	255	310	393	493	563	
Fillmore	255	310	393	493	563		Freeborn	255	310	401	528	565	
Goodhue	255	328	438	558	613		Grant	255	310	393	493	563	
Hubbard	260	310	393	493	563		Itasca	326	330	430	538	602	
Jackson	255	310	393	493	563		Kanabec	255	320	416	519	582	
Kandiyohi	255	323	393	493	593		Kittson	255	310	393	493	563	
Koochiching	308	314	418	521	684		Lac qui Parle	255	310	393	493	563	
Lake	255	310	393	493	563		Lake of the Woods	255	310	393	493	563	
Le Sueur	255	310	393	493	607		Lincoln	255	310	393	493	563	
Lyon	255	310	393	493	584		McLeod	255	329	438	545	611	
Mahnomen	255	310	393	493	563		Marshall	255	310	393	493	563	
Martin	255	310	393	493	563		Meeker	264	310	393	493	563	
Mille Lacs	271	310	394	549	647		Morrison	283	310	393	493	563	
Mower	255	310	393	493	563		Murray	255	310	393	493	563	
Nicollet	319	341	455	602	638		Nobles	255	310	393	493	563	
Norman	255	310	393	493	563		Otter Tail	255	310	393	493	563	
Pennington	255	310	393	526	563		Pine	282	310	393	496	563	
Pipestone	255	310	393	493	563		Pope	255	310	393	493	563	
Red Lake	255	321	393	493	563		Redwood	255	310	393	493	563	
Renville	255	310	393	493	563		Rice	267	365	486	607	680	
Rock	255	310	393	493	563		Roseau	308	314	412	531	578	
Sibley	255	310	393	493	563		Steele	275	318	424	530	594	
Stevens	290	367	414	517	580		Swift	255	310	393	493	563	
Todd	255	310	393	493	563		Traverse	255	310	393	493	563	

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wabasha.....	255	310	393	493	563	Watona.....	255	310	393	493	563
Waseca.....	282	310	393	493	563	Watsonwan.....	255	310	393	493	563
Wilkin.....	255	310	393	493	563	Winona.....	260	338	429	536	601
Yellow Medicine.....	255	310	393	493	563						

M I S S I S S I P P I

METROPOLITAN FMR AREAS O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Biloxi-Gulfport-Pascagoula, MS MSA.....	339	398	458	638	753	Hancock, Harrison, Jackson					
Hattiesburg, MS MSA.....	251	309	377	508	605	Forrest, Lamar					
Jackson, MS MSA.....	345	394	481	640	675	Hinds, Madison, Rankin					
Memphis, TN-AR-MS MSA.....	331	385	453	629	661	Desoto					

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Adams.....	240	284	353	452	577	Aicorn.....	240	284	351	452	509
Amite.....	240	284	351	452	509	Attala.....	240	284	351	452	509
Benton.....	240	284	351	452	509	Bolivar.....	272	284	366	457	523
Calhoun.....	240	284	351	452	509	Carroll.....	240	284	351	452	509
Chickasaw.....	240	284	351	452	509	Choctaw.....	240	284	351	452	509
Claiborne.....	240	284	351	452	509	Clarke.....	240	284	351	452	509
Clay.....	240	284	351	452	514	Coahoma.....	278	284	375	471	527
Copiah.....	240	284	351	452	509	Covington.....	240	284	351	452	509
Franklin.....	243	284	351	452	509	George.....	240	284	351	452	509
Greene.....	240	284	351	452	509	Grenada.....	240	285	351	481	509
Holmes.....	240	284	351	452	509	Humphreys.....	240	284	351	452	509
Issaquena.....	252	346	459	575	644	Itawamba.....	240	284	351	452	509
Jasper.....	240	284	351	452	509	Jefferson.....	240	284	351	452	509
Jefferson Davis.....	240	284	351	452	509	Jones.....	240	284	351	452	509
Kemper.....	242	284	351	452	509	Lafayette.....	243	333	443	555	621
Lauderdale.....	240	309	389	504	545	Lawrence.....	240	284	351	452	509
Leake.....	240	284	351	452	509	Lee.....	300	323	389	487	545
Leflore.....	240	284	351	453	544	Lincoln.....	240	284	351	452	509
Lowndes.....	296	319	378	474	535	Marion.....	240	284	351	452	509
Marshall.....	240	284	351	452	517	Monroe.....	240	284	351	452	509
Montgomery.....	240	284	351	452	509	Neshoba.....	240	284	351	452	509
Newton.....	240	284	351	452	509	Noxubee.....	244	284	351	452	509
Oktibbeha.....	294	306	374	520	614	Panola.....	248	284	351	452	509
Pearl River.....	252	284	351	454	509	Perry.....	240	284	351	452	509
Pike.....	244	284	351	452	509	Pontotoc.....	240	284	351	452	509
Prentiss.....	243	284	351	452	509	Quitman.....	240	284	351	452	509

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4		
Scott.....	240	284	351	452	509	Sharkey.....	244	284	351	452	509
Simpson.....	243	284	351	452	509	Smith.....	240	284	351	452	509
Stone.....	240	284	351	452	509	Sunflower.....	265	288	351	452	540
Tallahatchie.....	240	284	351	452	509	Tate.....	240	324	374	469	616
Tippah.....	240	284	351	452	509	Tishomingo.....	240	284	351	452	509
Tunica.....	240	284	351	452	509	Union.....	240	284	351	452	509
Walthall.....	240	284	351	452	509	Warren.....	240	313	391	539	646
Washington.....	259	308	412	532	585	Wayne.....	240	284	351	452	509
Webster.....	242	284	351	452	509	Wilkinson.....	240	284	351	452	509
Winston.....	240	284	351	452	509	Yalobusha.....	242	284	351	452	509
Yazoo.....	244	284	351	452	509						

M I S S O U R I

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS	O BR 1	BR 2	BR 3	BR 4	Counties of FMR AREA within STATE
Columbia, MO MSA.....	251	353	459	639	Boone
Joplin, MO MSA.....	245	283	376	495	Jasper, Newton
Kansas City, MO-KS MSA.....	328	413	496	687	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA.....	235	285	381	480	Andrew, Buchanan
St. Louis, MO-IL MSA.....	302	368	478	621	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln
Springfield, MO MSA.....	257	326	421	581	St. Charles, St. Louis, Warren, St. Louis City
					Christian, Greene, Webster

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4		
Adair.....	230	287	381	479	575	Atchison.....	230	265	341	443	507
Audrain.....	245	265	341	460	532	Barry.....	230	274	341	443	507
Barton.....	230	265	341	443	507	Bates.....	230	265	341	443	517
Benton.....	259	265	351	443	507	Bollinger.....	230	265	341	443	507
Butler.....	230	265	341	443	507	Caldwell.....	230	267	358	449	507
Callaway.....	272	276	366	465	602	Camden.....	302	305	408	566	665
Cape Girardeau.....	237	291	387	515	632	Carroll.....	230	265	341	443	507
Carter.....	230	265	341	443	507	Cedar.....	230	265	341	443	507
Chariton.....	230	265	341	443	507	Clark.....	230	265	341	443	507
Cole.....	230	303	404	539	565	Cooper.....	230	265	341	443	507
Crawford.....	252	303	342	450	507	Dade.....	230	265	341	443	507
Dallas.....	230	265	341	443	507	Daviess.....	230	265	341	443	507
Dekalb.....	238	265	341	448	507	Dent.....	230	265	341	443	507
Douglas.....	230	265	341	443	507	Dunklin.....	230	265	341	443	507
Gasconade.....	230	265	341	443	507	Gentry.....	230	265	341	443	507
Grundy.....	230	265	341	443	507	Harrison.....	230	265	341	443	507

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Henry.....	262	267	355	446	585	
Holt.....	230	265	341	443	507	
Howell.....	230	265	341	443	507	
Johnson.....	277	308	402	533	630	
Laclede.....	230	265	341	446	507	
Lewis.....	230	265	341	443	507	
Livingston.....	230	265	342	443	507	
Macon.....	230	265	341	443	507	
Marion.....	230	265	341	443	507	
Mercer.....	230	265	341	443	507	
Mississippi.....	230	265	341	443	507	
Monroe.....	230	265	341	443	507	
Morgan.....	230	265	341	443	507	
Nodaway.....	242	293	361	459	554	
Osage.....	230	265	341	443	507	
Pemiscot.....	230	265	341	443	507	
Pettis.....	246	289	387	486	582	
Pike.....	230	265	341	443	534	
Pulaski.....	230	322	361	478	534	
Ralls.....	230	265	341	443	507	
Reynolds.....	230	265	341	443	507	
St. Clair.....	230	265	341	443	507	
St. Francois.....	242	305	387	485	636	
Schuyler.....	230	265	341	443	507	
Scott.....	277	279	372	502	578	
Shelby.....	230	265	341	443	507	
Stone.....	267	284	352	450	507	
Taney.....	260	287	376	507	597	
Vernon.....	230	265	341	453	507	
Wayne.....	230	265	341	443	507	
Wright.....	230	265	341	443	507	

  

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Hickory.....	230	265	341	443	507	
Howard.....	230	265	341	443	509	
Iron.....	230	265	341	443	507	
Knox.....	230	265	341	443	507	
Lawrence.....	243	272	341	443	507	
Linn.....	230	265	341	443	507	
Mcdonald.....	230	265	341	443	507	
Madison.....	230	265	341	443	507	
Marion.....	230	265	341	443	507	
Miller.....	252	303	341	446	527	
Moniteau.....	230	265	341	443	507	
Montgomery.....	230	265	341	443	507	
New Madrid.....	230	265	341	443	507	
Oregon.....	230	265	341	443	507	
Ozark.....	230	265	341	443	507	
Perry.....	267	272	362	482	507	
Phelps.....	238	285	365	496	538	
Polk.....	230	266	341	443	532	
Putnam.....	230	265	341	443	507	
Randolph.....	230	265	341	443	507	
Ripley.....	230	265	341	443	507	
Ste. Genevieve.....	230	274	351	450	570	
Saline.....	230	265	349	443	507	
Scotland.....	230	265	341	443	507	
Shannon.....	230	265	341	443	507	
Stoddard.....	230	265	341	443	507	
Sullivan.....	230	265	341	443	507	
Texas.....	230	265	341	443	507	
Washington.....	269	325	364	455	510	
Worth.....	230	265	341	443	507	

  

METROPOLITAN FMR AREAS	O	BR 1	BR 2	BR 3	BR 4	BR
Billings, MT MSA.....	304	353	473	635	770	Yellowstone
Great Falls, MT MSA.....	304	351	463	603	718	Cascade

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M O N T A N A continued

NONMETROPOLITAN COUNTIES		O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES				O BR	1 BR	2 BR	3 BR	4 BR
Beaverhead.....	284	329	434	564	659		Big Horn.....	284	329	434	564	659			
Blaine.....	284	329	434	564	659		Broadwater.....	284	329	434	564	703			
Carbon.....	284	333	434	564	659		Carter.....	284	349	434	564	659			
Chouteau.....	284	329	434	564	659		Custer.....	284	329	434	564	659			
Daniels.....	284	349	434	564	659		Dawson.....	284	329	434	564	659			
Deer Lodge.....	284	329	434	564	659		Fallon.....	284	329	434	564	659			
Fergus.....	284	329	434	564	659		Flathead.....	284	330	441	614	723			
Gallatin.....	351	409	549	705	902		Garfield.....	284	329	434	564	659			
Glacier.....	284	329	434	564	659		Golden Valley.....	284	348	434	564	659			
Granite.....	284	329	434	564	659		Hill.....	293	329	434	564	659			
Jefferson.....	300	329	434	564	659		Judith Basin.....	284	349	434	564	659			
Lake.....	310	329	434	564	659		Lewis and Clark.....	317	371	493	686	812			
Liberty.....	284	329	434	564	659		Lincoln.....	310	329	434	564	659			
McCone.....	284	347	434	564	659		Madison.....	290	329	434	564	659			
Meagher.....	284	349	434	564	659		Mineral.....	284	329	434	564	673			
Missoula.....	311	365	486	626	796		Musselshell.....	289	329	434	564	659			
Park.....	284	329	434	564	666		Petroleum.....	284	329	434	564	659			
Phillips.....	284	329	434	564	659		Pondera.....	284	348	434	564	659			
Powder River.....	284	333	434	564	659		Powell.....	289	329	434	564	659			
Prairie.....	284	329	434	564	659		Ravalli.....	284	329	434	564	659			
Richland.....	284	356	434	564	659		Roosevelt.....	297	329	434	564	659			
Rosebud.....	284	329	434	564	659		Sanders.....	284	329	434	564	659			
Sheridan.....	292	329	434	564	659		Silver Bow.....	284	329	434	564	659			
Stillwater.....	290	329	434	564	659		Sweet Grass.....	307	329	434	564	659			
Teton.....	284	329	434	564	659		Toole.....	290	329	434	564	659			
Treasure.....	284	329	434	564	659		Valley.....	284	329	434	564	659			
Wheatland.....	284	329	434	564	659		Wibaux.....	284	349	434	564	659			

N E B R A S K A

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS		O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE				
Lincoln, NE MSA.....	300	386	508	675	787	Lancaster					
Omaha, NE-IA MSA.....	286	392	495	649	728	Cass, Douglas, Sarpy, Washington					
Sioux City, IA-NE MSA.....	297	357	445	556	634	Dakota					

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES				
Adams.....	229	307	406	509	610	Antelope.....	229	309	376	483	547
Arthur.....	229	294	376	480	547	Banner.....	229	294	376	481	547
Blaine.....	229	294	376	480	547	Boone.....	229	294	376	480	569
Box Butte.....	248	294	376	481	568	Boyd.....	229	307	376	480	547
Brown.....	229	294	376	480	558	Buffalo.....	233	337	423	528	637
Burt.....	229	294	376	480	547	Butler.....	229	294	376	480	547
Cedar.....	229	294	376	480	547	Chase.....	229	310	376	480	573
Cherry.....	229	309	376	483	569	Cheyenne.....	256	294	376	480	547
Clay.....	229	294	376	480	547	Colfax.....	249	306	376	480	547
Cuming.....	229	310	376	480	547	Custer.....	256	296	376	480	568
Dawes.....	244	294	376	484	571	Dawson.....	251	306	376	484	547
Deuel.....	229	294	376	480	547	Dixon.....	255	294	376	480	547
Dodge.....	229	294	388	510	547	Dundy.....	229	294	376	480	547
Fillmore.....	229	294	376	480	547	Franklin.....	229	294	376	485	547
Frontier.....	257	294	376	480	547	Furnas.....	229	294	376	480	569
Gage.....	229	295	383	487	547	Garden.....	229	306	376	483	571
Garfield.....	229	294	376	480	547	Gosper.....	229	294	376	480	554
Grant.....	229	294	376	480	547	Greeley.....	229	294	376	480	556
Hall.....	229	301	401	528	592	Hamilton.....	229	294	376	484	547
Harlan.....	229	294	376	481	547	Hayes.....	229	308	376	480	569
Hitchcock.....	229	294	376	480	547	Holt.....	229	294	376	480	547
Hooker.....	229	308	376	481	547	Howard.....	229	294	376	480	547
Jefferson.....	229	294	376	480	547	Johnson.....	229	298	376	480	547
Kearney.....	229	294	376	480	571	Keith.....	229	294	376	480	547
Keya Paha.....	229	294	376	480	547	Kimball.....	229	294	376	481	571
Knox.....	229	305	376	480	547	Lincoln.....	235	306	376	480	547
Logan.....	229	294	376	480	572	Loup.....	229	294	376	480	570
McPherson.....	229	294	376	481	547	Madison.....	235	308	408	528	644
Merrick.....	229	294	376	480	547	Morrill.....	229	296	376	480	569
Nance.....	229	294	376	480	547	Nemaha.....	229	294	376	480	547
Nuckolls.....	229	294	376	480	547	Otoe.....	229	294	376	480	572
Pawnee.....	229	294	376	484	547	Perkins.....	229	294	376	480	547
Phelps.....	256	294	376	481	571	Pierce.....	229	294	376	480	547
Platte.....	229	294	376	525	547	Polk.....	229	294	376	480	547
Red Willow.....	229	294	376	480	556	Richardson.....	229	294	376	480	547
Rock.....	229	301	376	480	547	Saline.....	229	307	376	480	547
Saunders.....	229	294	376	480	547	Scotts Bluff.....	233	305	388	480	569
Seward.....	284	294	384	480	547	Sheridan.....	229	294	376	480	548
Sherman.....	229	296	376	480	572	Sioux.....	229	294	376	480	571
Stanton.....	229	294	376	480	547	Thayer.....	229	309	376	480	547

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Thomas.....	229	294	376	480	547		Thurston.....	229	294	376	480	547	
Valley.....	229	294	376	480	547		Wayne.....	262	294	376	480	569	
Webster.....	229	294	376	480	547		Wheeler.....	229	294	376	481	547	
York.....	229	294	381	480	547								

N E V A D A

METROPOLITAN FMR AREAS	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA.....	446	529	630	877	1035		Clark, Nye
Reno, NV MSA.....	457	530	680	947	1119		Washoe

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
--------------------------	---	------	------	------	------	----	--------------------------	---	------	------	------	------	----

Churchill.....	428	434	580	800	950		Douglas.....	384	561	702	975	1086	
Elko.....	389	444	592	782	973		Esmeralda.....	412	514	579	722	810	
Eureka.....	315	514	579	721	807		Humoldt.....	464	486	586	769	823	
Lander.....	318	493	579	724	949		Lincoln.....	316	475	579	725	811	
Lyon.....	377	451	579	806	950		Mineral.....	320	437	582	763	955	
Pershing.....	438	444	592	741	847		Storey.....	444	450	592	825	973	
White Pine.....	316	435	579	782	822		Carson City.....	333	455	608	845	998	

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	O	BR 1	BR 2	BR 3	BR 4	BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA.....	590	664	832	1040	1221		Rockingham county towns of Seabrook town
Lawrence, MA-NH PMSA.....	445	537	675	843	1039		South Hampton town
Lowell, MA-NH PMSA.....	437	565	683	855	957		Rockingham county towns of Atkinson town, Chester town
Manchester, NH PMSA.....	352	502	627	783	878		Danville town, Derry town, Fremont town, Hampstead town
Nashua, NH PMSA.....	415	578	717	975	1161		Kingston town, Newton town, Plaistow town, Raymond town
Portsmouth-Rochester, NH-ME PMSA.....	424	508	653	836	1026		Salem town, Sandown town, Windham town
							Hillsborough county towns of Pelham town
							Hillsborough county towns of Bedford town, Goffstown town
							Manchester city, Weare town
							Merrimack county towns of Allenstown town, Hooksett town
							Rockingham county towns of Auburn town, Candia town
							Londonderry town
							Hillsborough county towns of Amherst town, Brookline town
							Greenville town, Hollis town, Hudson town
							Litchfield town, Mason town, Merrimack town
							Milford town, Mont Vernon town, Nashua city
							New Ipswich town, Wilton town
							Rockingham county towns of Brentwood town
							East Kingston town, Epping town, Exeter town
							Greenland town, Hampton town, Hampton Falls town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Components of FMR AREA within STATE

Kensington town, New Castle town, Newfields town  
 Newington town, Newmarket town, North Hampton town  
 Portsmouth city, Rye town, Stratham town  
 Strafford county towns of Barrington town, Dover city  
 Durham town, Farmington town, Lee town, Madbury town  
 Milton town, Rochester city, Rollinsford town  
 Somersworth city

Towns within non metropolitan counties

	O BR	1 BR	2 BR	3 BR	4 BR
Belknap.....	416	481	632	853	1038
Carroll.....	348	477	635	795	993
Cheshire.....	431	512	655	852	1010
Cooks.....	297	363	466	607	719
Grafton.....	382	462	615	795	1005
Hillsborough.....	408	510	680	899	1082

NONMETROPOLITAN COUNTIES

Merrimack.....	429	513	640	820	916
Rockingham.....	445	522	698	968	1117
Strafford.....	394	535	714	895	1003
Sullivan.....	415	422	546	718	766

N E W J E R S E Y

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Atlantic-Cape May, NJ PMSA.....	466	529	706	884	1010
Bergen-Passaic, NJ PMSA.....	619	754	885	1179	1454
Jersey City, NJ PMSA.....	566	668	778	988	1088
Middlesex-Somerset-Hunterdon, NJ PMSA.....	660	723	903	1227	1416
Monmouth-Ocean, NJ PMSA.....	544	652	827	1099	1289
Newark, NJ PMSA.....	524	669	806	1015	1283
Philadelphia, PA-NJ PMSA.....	453	558	689	862	1080
Trenton, NJ PMSA.....	449	626	762	1032	1246
Vineland-Millville-Bridgeton, NJ PMSA.....	449	547	660	823	924

Atlantic, Cape May  
 Bergen, Passaic  
 Hudson  
 Hunterdon, Middlesex, Somerset  
 Monmouth, Ocean  
 Essex, Morris, Sussex, Union, Warren  
 Burlington, Camden, Gloucester, Salem  
 Mercer  
 Cumberland

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W M E X I C O

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA.....	375	447	559	771	910	910	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA.....	280	352	418	573	675	675	Dona Ana
Santa Fe, NM MSA.....	404	574	709	951	1077	1077	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Catron.....	261	306	380	510	576	576	Chaves.....	261	298	393	540	576	
Cibola.....	272	298	380	510	576	576	Colfax.....	261	304	380	510	576	
Curry.....	261	304	398	510	576	576	DeBaca.....	261	298	380	510	576	
Eddy.....	268	297	380	510	593	593	Grant.....	261	297	380	510	576	
Guadalupe.....	261	297	380	510	579	579	Harding.....	261	297	380	510	576	
Hidalgo.....	261	297	380	510	576	576	Lea.....	261	297	380	510	576	
Lincoln.....	297	304	401	529	661	661	Luna.....	270	297	380	510	576	
Mckinley.....	261	329	418	521	583	583	Mora.....	261	297	380	510	576	
Otero.....	261	297	380	530	576	576	Quay.....	261	379	427	534	597	
Rio Arriba.....	306	313	385	510	576	576	Roosevelt.....	261	297	380	510	576	
San Juan.....	296	317	395	549	650	650	San Miguel.....	290	297	392	510	576	
Sierra.....	261	297	380	510	576	576	Socorro.....	261	297	380	510	591	
Taos.....	358	363	484	605	796	796	Torrance.....	287	310	380	510	576	
Union.....	261	319	380	510	576	576							

N E W Y O R K

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA.....	387	475	586	734	821	821	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA.....	344	388	485	617	690	690	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA.....	348	424	510	638	714	714	Erie, Niagara
Dutchess County, NY PMSA.....	526	668	825	1072	1253	1253	Dutchess
Elmira, NY MSA.....	344	388	477	602	721	721	Chemung
Glens Falls, NY MSA.....	344	452	550	689	771	771	Warren, Washington
Jamestown, NY MSA.....	344	388	465	602	690	690	Chautauqua
Nassau-Suffolk, NY PMSA.....	708	852	1040	1446	1549	1549	Nassau, Suffolk
New York, NY PMSA.....	662	738	838	1048	1174	1174	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY.....	636	828	1009	1313	1566	1566	Westchester
Newburgh, NY-PA PMSA.....	518	674	824	1045	1193	1193	Orange
Rochester, NY MSA.....	373	485	591	757	827	827	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA.....	371	448	554	708	786	786	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA.....	344	388	476	602	690	690	Herkimer, Oneida

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

NEW YORK continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Allegany.....	346	390	467	605	692	
Chenango.....	369	390	467	605	692	
Columbia.....	433	455	584	765	818	
Delaware.....	346	390	467	605	743	
Franklin.....	346	390	467	605	692	
Greene.....	346	449	539	696	848	
Jefferson.....	373	440	518	649	725	
Otsego.....	346	410	471	609	774	
Schuyler.....	375	400	474	661	778	
Steuben.....	358	408	467	612	692	
Tompkins.....	452	487	626	873	1029	
Wyoming.....	346	390	467	605	692	

NORTH CAROLINA

METROPOLITAN FMR AREAS

Counties of FMR AREA within STATE	O	BR 1	BR 2	BR 3	BR 4	BR
Asheville, NC MSA.....	292	354	461	600	648	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA.....	415	468	526	694	831	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA.....	358	406	455	629	749	Cumberland
Greensboro, NC MSA.....	292	337	410	527	616	Wayne
Greensboro--Winston-Salem--High Point, NC MSA....	368	419	500	689	700	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph
Greenville, NC MSA.....	353	357	464	624	764	Stokes, Yadkin
Hickory-Morganton, NC MSA.....	369	402	467	587	698	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA.....	333	389	439	610	721	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA..	417	469	536	775	910	Currituck
Raleigh-Durham-Chapel Hill, NC MSA.....	433	525	617	827	975	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA.....	312	337	410	543	598	Edgecombe, Nash
Wilmington, NC MSA.....	380	418	512	700	835	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Allegany.....	282	331	396	509	603	
Ashe.....	282	326	396	509	578	
Beaufort.....	282	326	396	509	578	
Bladen.....	282	326	396	509	578	
Carteret.....	320	350	427	593	660	
Cherokee.....	282	326	396	509	578	
Clay.....	282	326	396	509	578	
Columbus.....	282	326	396	509	578	
Dare.....	293	464	535	732	749	
Gates.....	282	326	396	509	578	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H C A R O L I N A continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Granville.....	298	326	396	524	592	578
Halifax.....	282	326	396	509	578	578
Haywood.....	286	326	396	531	578	578
Hertford.....	282	326	396	509	578	578
Hyde.....	282	326	396	509	578	644
Jackson.....	282	326	396	553	723	578
Lee.....	282	360	427	553	599	578
Mcdowell.....	282	344	413	564	668	578
Martin.....	282	326	396	509	578	605
Montgomery.....	282	326	396	509	578	666
Northampton.....	282	326	396	509	578	578
Pasquotank.....	326	348	434	603	609	623
Perquimans.....	282	326	396	509	578	647
Polk.....	282	357	401	509	578	578
Robeson.....	282	333	396	509	578	578
Rutherford.....	285	326	396	509	578	578
Scotland.....	282	326	396	509	578	578
Surry.....	282	326	396	509	578	578
Transylvania.....	313	334	423	561	600	578
Vance.....	299	339	396	509	578	578
Washington.....	282	326	396	509	578	917
Wilkes.....	321	361	407	563	632	578
Yancey.....	282	332	396	509	596	578

N O R T H D A K O T A

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR
Bismarck, ND MSA.....	318	356	475	661	781	578
Fargo-Moorhead, ND-MN MSA.....	312	430	519	720	771	578
Grand Forks, ND-MN MSA.....	323	385	506	698	778	578

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Adams.....	219	274	355	461	538	538
Benson.....	249	274	355	461	538	538
Bottineau.....	219	274	355	461	538	538
Burke.....	238	274	355	461	538	579
Dickey.....	238	274	355	461	538	538
Dunn.....	219	274	355	461	538	538
Emmons.....	219	274	355	461	538	538
Golden Valley.....	219	281	375	468	538	538

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Greene.....	282	326	396	509	578	578
Harnett.....	282	326	396	511	578	578
Henderson.....	328	338	418	556	641	578
Hoke.....	282	326	396	509	578	578
Iredell.....	340	349	460	575	644	578
Jones.....	282	326	396	509	578	578
Lenoir.....	282	326	396	509	578	578
Macon.....	282	338	396	509	578	578
Mitchell.....	282	369	424	579	605	578
Moore.....	282	341	406	555	666	578
Pamlico.....	282	326	396	509	578	578
Pender.....	282	342	396	509	623	578
Person.....	282	326	424	553	647	578
Richmond.....	282	326	396	509	578	578
Rockingham.....	282	326	396	509	578	578
Sampson.....	282	326	396	509	578	578
Stanly.....	282	326	401	541	578	578
Swain.....	282	326	396	509	578	578
Tyrrell.....	282	326	396	509	578	578
Warren.....	282	326	396	509	578	578
Watauga.....	368	442	559	761	917	578
Wilson.....	295	326	400	509	578	578

Counties of FMR AREA within STATE

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Barnes.....	219	276	367	479	538	538
Billings.....	238	274	355	461	538	538
Bowman.....	219	274	355	461	538	538
Cavalier.....	219	282	377	469	579	538
Divide.....	219	274	355	461	538	538
Eddy.....	219	274	355	461	538	538
Foster.....	219	274	357	461	538	538
Grant.....	219	274	355	461	538	538

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Griggs.....	219	274	355	461	538	538
Kioster.....	219	274	355	461	538	538
Logan.....	219	274	355	461	538	538
McIntosh.....	219	274	355	461	538	538
McLean.....	232	274	355	461	538	538
Mountrail.....	242	274	355	461	538	538
Oliver.....	219	274	355	461	538	538
Pierce.....	219	274	355	475	538	538
Ransom.....	223	274	355	461	538	538
Richland.....	230	274	362	461	538	538
Sargent.....	219	274	355	461	538	538
Sioux.....	219	274	355	461	538	538
Stark.....	219	274	355	461	538	538
Stutsman.....	263	274	359	500	589	589
Trail.....	230	292	355	461	538	538
Ward.....	219	301	401	543	647	647
Williams.....	219	274	355	461	538	538

O H I O

METROPOLITAN FMR AREAS

Counties of FMR AREA within STATE	O	BR 1	BR 2	BR 3	BR 4	BR
Akron, OH PMSA.....	334	406	521	651	730	730
Brown County, OH.....	274	322	403	521	575	575
Canton-Massillon, OH MSA.....	272	354	453	566	635	635
Cincinnati, OH-KY-IN.....	297	382	511	685	740	740
Cleveland-Lorain-Elyria, OH PMSA.....	335	422	522	663	748	748
Columbus, OH MSA.....	325	385	494	627	721	721
Dayton-Springfield, OH MSA.....	336	376	480	619	696	696
Hamilton-Middletown, OH PMSA.....	299	425	545	681	763	763
Huntington-Ashland, WV-KY-OH MSA.....	268	314	387	493	543	543
Lima, OH MSA.....	272	326	429	547	601	601
Mansfield, OH MSA.....	272	326	415	518	580	580
Parkersburg-Marietta, WV-OH MSA.....	294	351	402	521	536	536
Steubenville-Weirton, OH-WV MSA.....	272	321	402	513	572	572
Toledo, OH MSA.....	340	414	506	652	707	707
Wheeling, WV-OH MSA.....	298	325	402	513	572	572
Youngstown-Warren, OH MSA.....	285	336	420	529	602	602

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O H I O continued

NONMETROPOLITAN COUNTIES		O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES							
Adams.....	267	316	394	504	563					267	316	417	520	583
Athens.....	315	357	420	549	675					267	325	423	528	592
Canton.....	267	342	412	573	578					267	316	394	504	563
Darke.....	293	316	397	504	563					279	316	418	526	585
Erie.....	267	356	444	599	726					290	316	394	504	563
Gallia.....	267	316	394	504	563					267	316	394	504	563
Hancock.....	338	342	433	553	605					267	316	394	504	563
Harrison.....	267	316	394	504	563					288	319	398	513	585
HIGHLAND.....	267	316	394	504	563					267	316	394	504	563
Holmes.....	267	316	394	504	563					309	336	420	533	589
Jackson.....	267	316	394	504	563					292	321	412	532	589
Logan.....	313	317	410	551	574					267	316	394	504	563
Meigs.....	267	316	394	504	563					267	316	394	504	580
Monroe.....	267	316	394	504	563					267	321	394	504	563
Morrow.....	267	316	394	504	563					267	316	394	504	563
Noble.....	267	316	394	504	571					267	394	454	617	659
Paulding.....	267	316	394	504	563					267	316	394	504	563
Pike.....	267	316	394	504	563					267	316	394	504	563
Putnam.....	277	316	394	504	563					309	322	394	504	563
Sandusky.....	267	346	444	559	619					267	316	394	504	563
Seneca.....	268	316	394	508	563					267	325	434	542	607
Tuscarawas.....	267	316	414	517	580					267	370	487	609	706
Van Wert.....	267	320	394	504	563					267	316	394	504	563
Wayne.....	267	353	434	551	607					284	316	394	504	563
Wyandot.....	267	316	394	504	563									

O K L A H O M A

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS		O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE				
Enid, OK MSA.....	284	288	381	531	607	Garfield					
Fort Smith, AR-OK MSA.....	290	294	387	518	543	Sequoyah					
Lawton, OK MSA.....	351	353	449	624	683	Comanche					
Oklahoma City, OK MSA.....	301	328	426	593	663	Canadian, Cleveland, Logan, McClain, Oklahoma					
Tulsa, OK MSA.....	318	380	498	694	818	Pottawatomie Creek, Osage, Rogers, Tulsa, Wagoner					

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. For example 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O K L A H O M A continued

NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES				O	BR 1	BR 2	BR 3	BR 4	BR	
Adair.....	239	274	342	455	522	522	Alfalfa.....	239	274	342	455	522	239	274	342	455	522
Atoka.....	239	274	342	455	522	522	Beaver.....	239	274	342	455	522	239	274	342	455	522
Breckham.....	243	274	342	455	522	522	Blaine.....	239	274	342	455	522	239	274	342	455	522
Bryan.....	239	274	342	455	522	522	Caddo.....	239	274	342	455	522	239	274	342	455	522
Carter.....	239	276	345	480	522	522	Cherokee.....	251	283	342	455	530	251	283	342	455	530
Choctaw.....	239	274	342	455	522	522	Cimarron.....	239	274	342	455	522	239	274	342	455	522
Coal.....	239	274	342	455	522	522	Cotton.....	239	274	342	455	522	239	274	342	455	522
Craig.....	239	274	342	467	552	552	Custer.....	239	274	350	487	563	239	274	350	487	563
Delaware.....	239	274	342	455	532	532	Dewey.....	239	274	342	455	522	239	274	342	455	522
Ellis.....	239	274	342	455	522	522	Garvin.....	239	274	342	455	526	239	274	342	455	526
Grady.....	261	274	354	482	581	581	Grant.....	239	274	342	455	522	239	274	342	455	522
Greer.....	239	274	342	455	522	522	Harmon.....	239	274	342	455	522	239	274	342	455	522
Harper.....	239	274	342	455	522	522	Haskell.....	239	274	342	455	522	239	274	342	455	522
Hughes.....	239	274	342	455	522	522	Jackson.....	239	310	378	496	560	239	310	378	496	560
Jefferson.....	239	274	342	455	522	522	Johnston.....	239	274	342	455	522	239	274	342	455	522
Kay.....	264	280	368	513	601	601	Kingfisher.....	239	282	349	458	522	239	282	349	458	522
Kiowa.....	239	274	342	455	522	522	Latimer.....	239	274	342	455	522	239	274	342	455	522
Le Flore.....	239	274	342	455	522	522	Lincoln.....	256	274	342	455	522	256	274	342	455	522
Love.....	239	274	346	455	522	522	McCurtain.....	239	274	342	455	522	239	274	342	455	522
McIntosh.....	239	274	342	455	522	522	Major.....	239	287	342	475	522	239	287	342	475	522
Marshall.....	239	274	342	455	522	522	Maves.....	239	278	370	467	522	239	278	370	467	522
Murray.....	239	274	342	455	522	522	Muskogee.....	258	291	342	473	522	258	291	342	473	522
Noble.....	239	274	342	455	522	522	Nowata.....	239	274	342	455	522	239	274	342	455	522
Okfuskee.....	239	274	342	455	522	522	Okmulgee.....	243	274	342	455	522	243	274	342	455	522
Ottawa.....	257	274	342	455	522	522	Pawnee.....	269	274	354	456	522	269	274	354	456	522
Payne.....	276	326	417	576	646	646	Pittsburg.....	239	274	342	455	522	239	274	342	455	522
Pontotoc.....	239	274	342	455	522	522	Pushmataha.....	239	274	342	455	522	239	274	342	455	522
Roger Mills.....	239	274	342	455	522	522	Seminole.....	239	274	342	455	522	239	274	342	455	522
Stephens.....	243	274	342	455	543	543	Texas.....	239	284	342	456	522	239	284	342	456	522
Tillman.....	239	274	342	455	522	522	Washington.....	239	328	399	530	619	239	328	399	530	619
Washita.....	239	274	342	455	522	522	Woods.....	239	274	342	455	522	239	274	342	455	522
Woodward.....	239	274	342	455	522	522											

O R E G O N

METROPOLITAN FMR AREAS

METROPOLITAN FMR AREAS		O	BR 1	BR 2	BR 3	BR 4	Counties of FMR AREA within STATE				O	BR 1	BR 2	BR 3	BR 4	BR	
Eugene-Springfield, OR MSA.....	324	444	579	809	935	935	Lane	324	444	579	809	935	324	444	579	809	935
Medford-Ashtland, OR MSA.....	333	437	583	811	904	904	Jackson	333	437	583	811	904	333	437	583	811	904
Portland-Vancouver, OR-WA PMSA.....	398	490	604	841	913	913	Clackamas, Columbia, Multnomah, Washington, Yamhill	398	490	604	841	913	398	490	604	841	913

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O R E G O N continued

METROPOLITAN FMR AREAS

	O BR 1	BR 2	BR 3	BR 4	BR 4 BR	Counties of FMR AREA within STATE	O BR 1	BR 2	BR 3	BR 4	BR
Salem, OR PMSA.....	367	432	554	762	799	Marion, Polk					
NONMETROPOLITAN COUNTIES											
Baker.....	301	357	463	637	710	Benton.....	318	412	523	787	835
Clatsop.....	301	357	467	637	715	Coos.....	301	368	488	681	710
Cook.....	301	357	463	637	710	Curry.....	301	410	544	696	857
Deschutes.....	372	428	573	797	923	Douglas.....	301	357	463	637	759
Gilliam.....	301	380	463	637	710	Grant.....	301	357	463	637	710
Harney.....	301	357	463	637	710	Hood River.....	332	373	508	660	780
Jefferson.....	301	357	463	637	710	Josephine.....	301	366	470	637	743
Klamath.....	301	357	463	637	754	Lake.....	301	357	463	637	710
Lincoln.....	366	371	495	689	748	Linn.....	301	357	463	637	710
Malheur.....	301	357	463	637	710	Morrow.....	301	357	463	637	710
Sherman.....	301	357	463	637	710	Tillamook.....	301	357	463	637	710
Umatilla.....	301	357	463	637	710	Union.....	301	357	463	637	710
Wallowa.....	301	357	463	637	710	Wasco.....	367	454	509	693	778
Wheeler.....	301	357	463	637	710						

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS

	O BR 1	BR 2	BR 3	BR 4	BR 4 BR	Counties of FMR AREA within STATE	O BR 1	BR 2	BR 3	BR 4	BR
Allentown-Bethlehem-Easton, PA MSA.....	400	542	645	840	944	Carbon, Lehigh, Northampton					
Altoona, PA MSA.....	278	351	423	549	614	Blair					
Erie, PA MSA.....	277	360	425	549	614	Erie					
Harrisburg-Lebanon-Carlisle, PA MSA.....	338	433	555	700	778	Cumberland, Dauphin, Lebanon, Perry					
Johnstown, PA MSA.....	277	351	423	549	614	Cambria, Somerset					
Lancaster, PA MSA.....	363	446	556	725	780	Lancaster					
Newburgh, NY-PA PMSA.....	518	674	824	1045	1193	Pike					
Philadelphia, PA-NJ PMSA.....	453	558	689	862	1080	Bucks, Chester, Delaware, Montgomery, Philadelphia					
Pittsburgh, PA PMSA.....	323	397	479	600	669	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland					
Reading, PA MSA.....	288	425	524	655	739	Berks					
Scranton-Wilkes-Barre-Hazleton, PA MSA.....	277	387	463	577	698	Columbia, Lackawanna, Luzerne, Wyoming					
Sharon, PA MSA.....	303	351	423	549	614	Mercer					
State College, PA MSA.....	398	486	602	789	844	Centre					
Williamsport, PA MSA.....	277	353	425	549	614	Lycoming					
York, PA MSA.....	308	423	524	654	732	York					

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

P E N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES				O	BR 1	BR 2	BR 3	BR 4
Adams.....	272	365	485	628	795		Armstrong.....	276	364	414	540	679			
Bedford.....	272	345	414	540	603		Bradford.....	272	345	421	550	603			
Cameron.....	272	345	414	540	603		Clarion.....	272	345	414	540	603			
Clearfield.....	272	345	414	540	603		Clinton.....	272	345	414	540	603			
Crawford.....	272	345	414	540	603		Elk.....	272	345	414	540	603			
Forest.....	272	345	414	540	603		Franklin.....	272	345	419	577	603			
Fulton.....	272	345	414	540	603		Greene.....	272	345	414	540	603			
Huntingdon.....	272	345	414	540	603		Indiana.....	311	347	414	540	603			
Jefferson.....	272	345	414	540	603		Juniata.....	272	345	414	540	603			
Lawrence.....	272	345	414	540	603		Mc Kean.....	272	347	414	540	603			
Mifflin.....	301	345	414	540	603		Monroe.....	434	517	639	874	976			
Montour.....	321	345	434	603	712		Northumberland.....	287	363	443	589	655			
Potter.....	272	345	414	540	603		Schuylkill.....	272	345	430	540	603			
Snyder.....	327	345	415	540	603		Sullivan.....	272	345	414	540	603			
Susquehanna.....	325	345	414	540	640		Tioga.....	272	345	414	540	603			
Union.....	328	435	544	680	760		Venango.....	272	345	414	540	603			
Warren.....	272	345	414	540	603		Wayne.....	273	421	496	632	812			

R H O D E I S L A N D

METROPOLITAN FMR AREAS

New London-Norwich, CT-RI MSA.....		O	BR 1	BR 2	BR 3	BR 4	Components of FMR AREA within STATE							
Providence-Fall River-Warwick, RI-MA PMSA.....	480	580	706	884	1010		Washington county towns of Hopkinton town, Westerly town							
	396	538	647	812	1000		Bristol county towns of Barrington town, Bristol town							
							Warren town							
							Kent county towns of Coventry town, East Greenwich town							
							Warwick city, West Greenwich tow, West Warwick town							
							Newport county towns of Jamestown town							
							Little Compton tow, Tiverton town							
							Providence county towns of Burrillville town							
							Central Falls city, Cranston city, Cumberland town							
							East Providence ci, Foster town, Gloucester town							
							Johnston town, Lincoln town, North Providence t							
							North Smithfield t, Pawtucket city, Providence city							
							Scituate town, Smithfield town, Woonsocket city							
							Washington county towns of Charlestown town, Exeter town							
							Narragansett town, North Kingstown to, Richmond town							
							South Kingstown to							

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES

	O BR 1	BR 2	BR 3	BR 4	BR	Towns within non metropolitan counties
Newport.....	538	627	805	1007	1127	Middletown town, Newport city, Portsmouth town
Washington.....	636	715	804	1038	1143	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS

	O BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA.....	341	408	480	653	772	Aiken, Edgefield
Charleston-North Charleston, SC MSA.....	383	444	510	678	790	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA.....	415	468	526	694	831	York
Columbia, SC MSA.....	411	452	520	687	790	Lexington, Richland
Florence, SC MSA.....	311	346	449	561	628	Florence
Greenville-Spartanburg-Anderson, SC MSA.....	338	409	462	582	684	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA.....	403	410	524	656	735	Horry
Sumter, SC MSA.....	328	364	414	566	671	Sumter

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Abbeville.....	277	324	394	505	578	Allendale.....	277	324	394	505	578
Bamberg.....	277	324	394	505	578	Barnwell.....	292	324	396	505	578
Beaufort.....	397	487	560	699	783	Calhoun.....	277	324	394	505	578
Chester.....	277	324	394	505	578	Chesterfield.....	277	324	394	505	578
Clarendon.....	277	324	394	505	578	Colleton.....	277	324	394	505	578
Darlington.....	277	324	394	505	578	Dillon.....	277	324	394	505	578
Fairfield.....	277	372	424	529	592	Georgetown.....	277	352	397	505	602
Greenwood.....	278	324	394	505	578	Hampton.....	277	324	394	505	578
Jasper.....	277	324	394	505	578	Kershaw.....	277	324	394	505	578
Lancaster.....	291	325	394	505	578	Laurens.....	277	324	394	505	578
Lee.....	277	324	394	505	578	Mccormick.....	277	324	394	505	616
Marion.....	277	324	394	505	578	Marlboro.....	277	324	394	505	578
Newberry.....	277	324	394	505	578	Oconee.....	277	324	394	505	578
Orangeburg.....	277	324	394	505	578	Saluda.....	277	324	394	505	578
Union.....	277	324	394	505	578	Williamsburg.....	277	324	394	505	578

S O U T H D A K O T A

METROPOLITAN FMR AREAS

	O BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Rapid City, SD MSA.....	329	391	521	709	857	Pennington
Sioux Falls, SD MSA.....	318	440	557	705	810	Lincoln, Minnehaha

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES		O	BR 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES				O	BR 1	BR 2	BR 3	BR 4
Aurora.....	243	325	404	535	619		Beadle.....	243	322	404	535	619			
Bennett.....	243	322	404	535	619		Bon Homme.....	270	322	404	535	619			
Brookings.....	261	412	457	617	728		Brown.....	243	322	404	535	619			
Brule.....	243	322	404	535	619		Buffalo.....	243	322	404	535	625			
Butte.....	279	382	508	663	782		Campbell.....	243	322	404	535	619			
Charles Mix.....	243	322	404	535	619		Clark.....	243	322	404	535	619			
Clay.....	243	322	404	535	664		Codington.....	243	322	404	535	619			
Corson.....	243	322	404	535	619		Custer.....	243	322	404	535	619			
Davison.....	255	322	404	542	619		Day.....	271	322	404	535	619			
Deuel.....	243	322	404	535	619		Dewey.....	243	322	404	535	619			
Douglas.....	270	322	404	535	619		Edmunds.....	243	322	404	535	619			
Fall River.....	276	322	404	535	619		Faulk.....	243	322	426	535	619			
Grant.....	243	322	404	535	619		Gregory.....	244	322	404	535	619			
Haakon.....	243	330	404	535	619		Hamiin.....	243	322	404	535	619			
Hand.....	243	322	404	535	619		Hanson.....	247	337	450	565	632			
Harding.....	243	330	404	535	619		Hughes.....	268	322	426	562	664			
Hutchinson.....	243	322	404	535	619		Hyde.....	243	328	404	535	619			
Jackson.....	243	327	404	535	619		Jerauld.....	243	325	404	535	619			
Jones.....	243	322	404	535	619		Kingsbury.....	266	322	404	535	619			
Lake.....	243	327	404	535	619		Lawrence.....	277	400	504	691	781			
Lyman.....	243	322	404	535	619		Mccook.....	243	322	404	535	619			
Mcperson.....	243	322	404	535	619		Marshall.....	286	322	404	535	619			
Meade.....	341	385	513	672	794		Mellette.....	289	327	404	535	619			
Miner.....	243	327	404	535	619		Moody.....	243	322	404	535	619			
Perkins.....	243	322	404	535	619		Potter.....	243	322	404	535	619			
Roberts.....	243	322	404	535	619		Sanborn.....	243	322	404	535	619			
Shannon.....	243	327	404	535	619		Spink.....	265	322	411	535	619			
Stanley.....	243	330	404	535	619		Sully.....	243	322	404	535	619			
Todd.....	269	322	404	535	619		Tripp.....	243	322	404	535	619			
Turner.....	243	322	404	535	619		Union.....	256	322	404	535	619			
Walworth.....	243	330	404	535	619		Yankton.....	243	322	404	535	619			
Ziebach.....	243	322	404	535	619										

T E N E S S E E

METROPOLITAN FMR AREAS O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Chattanooga, TN-GA MSA.....	328	384	460	594	678	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA.....	322	361	423	578	593	Montgomery
Jackson, TN MSA.....	250	329	441	611	615	Madison

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E N E S S E E continued

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA.....	289	335	427	555	630	630	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA.....	289	357	447	596	717	717	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA.....	331	385	453	629	661	661	Fayette, Shelby, Tipton
Nashville, TN MSA.....	368	439	542	738	830	830	Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Bedford.....	230	296	361	455	506	506	Benton.....	248	282	341	447	501	501
Bledsoe.....	230	269	341	447	501	501	Bradley.....	230	290	387	524	636	636
Campbell.....	232	269	341	447	501	501	Cannon.....	230	269	341	447	501	501
Carroll.....	230	279	341	447	501	501	Chester.....	230	269	341	447	501	501
Claiborne.....	230	269	341	447	501	501	Clay.....	234	269	341	447	501	501
Cocke.....	230	269	341	447	501	501	Coffee.....	230	321	360	501	571	571
Crockett.....	230	269	341	447	501	501	Cumberland.....	243	269	352	492	501	501
Decatur.....	230	269	341	447	501	501	Dekalb.....	230	269	341	447	501	501
Dyer.....	287	291	388	486	605	605	Fentress.....	230	269	341	447	501	501
Franklin.....	241	269	341	468	550	550	Gibson.....	230	269	341	447	501	501
Giles.....	230	293	362	453	507	507	Grainger.....	234	269	341	447	501	501
Greene.....	230	269	341	447	501	501	Grundy.....	230	269	341	447	501	501
Hamblen.....	230	270	354	472	501	501	Hancock.....	230	269	341	447	501	501
Hamblen.....	230	269	341	447	501	501	Hardin.....	230	269	341	447	501	501
Hardeman.....	230	269	341	447	501	501	Henderson.....	230	269	341	447	501	501
Haywood.....	242	280	374	468	524	524	Hickman.....	271	275	365	482	511	511
Henry.....	230	269	341	447	501	501	Humphreys.....	230	280	341	447	501	501
Houston.....	230	269	341	447	501	501	Jefferson.....	251	269	349	447	555	555
Jackson.....	230	269	341	447	501	501	Lake.....	230	269	341	447	501	501
Johnson.....	230	269	341	447	501	501	Lawrence.....	230	269	341	447	501	501
Lauderdale.....	230	269	343	447	501	501	Lincoln.....	230	269	344	447	501	501
Lewis.....	230	269	341	447	501	501	McNairy.....	230	269	341	447	501	501
McMinn.....	230	269	341	449	501	501	Marshall.....	270	295	384	486	539	539
Macon.....	230	269	341	447	501	501	Meigs.....	230	269	341	447	501	501
Maury.....	330	337	447	561	626	626	Moore.....	230	269	341	447	501	501
Monroe.....	230	269	341	447	501	501	Obion.....	266	270	346	458	501	501
Morgan.....	230	269	341	447	501	501	Perry.....	230	271	341	447	501	501
Overton.....	230	269	341	447	501	501	Polk.....	230	269	341	447	501	501
Pickett.....	230	269	341	447	501	501	Rhea.....	230	287	341	452	501	501
Putnam.....	279	282	362	498	537	537	Scott.....	230	269	341	447	501	501
Roane.....	248	269	341	457	550	550	Smith.....	230	269	341	447	501	501
Sequatchie.....	230	269	341	447	501	501	Trousdale.....	230	282	375	471	617	617
Stewart.....	230	269	341	447	501	501	Warren.....	256	269	348	447	501	501
Van Buren.....	230	269	341	447	501	501							

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E N E S E E continued

NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O	BR 1	BR 2	BR 3	BR 4	BR
Wayne.....	230	269	341	447	501		Weakley.....	249	269	341	447	501	
White.....	234	269	341	447	501								

T E X A S

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Abitene, TX MSA.....	281	313	404	545	662		Taylor
Amarillo, TX MSA.....	270	341	425	593	699		Potter, Randall
Austin-San Marcos, TX MSA.....	416	503	670	930	1099		Bastrop, Catdwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA.....	308	372	454	601	637		Hardin, Jefferson, Orange
Brazoria, TX PMSA.....	423	471	589	821	966		Brazoria
Brownsville-Harlingen-San Benito, TX MSA.....	324	408	510	638	796		Cameron
Bryan-College Station, TX MSA.....	361	419	530	739	871		Brazos
Corpus Christi, TX MSA.....	337	414	529	720	851		Nueces, San Patricio
Dallas, TX.....	411	472	606	839	992		Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA.....	380	426	505	700	828		El Paso
Fort Worth-Arlington, TX PMSA.....	393	427	555	773	912		Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA.....	415	426	535	743	876		Galveston
Henderson County, TX.....	280	332	406	555	666		Henderson
Houston, TX PMSA.....	394	442	573	797	939		Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA.....	379	395	500	696	764		Bell, Coryell
Laredo, TX MSA.....	307	354	465	581	653		Webb
Longview-Marshall, TX MSA.....	304	343	421	574	637		Gregg, Harrison, Upshur
Lubbock, TX MSA.....	291	368	479	666	738		Lubbock
Mc Allen-Edinburg-Mission, TX MSA.....	270	369	423	528	593		Hidalgo
Odessa-Midland, TX MSA.....	291	336	449	625	724		Ector, Midland
San Angelo, TX MSA.....	270	345	419	575	678		Tom Green
San Antonio, TX MSA.....	356	410	531	739	873		Bexar, Comal, Guadalupe, Willson
Sherman-Denison, TX MSA.....	270	369	446	570	662		Grayson
Texasarkana, TX-Texarkana, AR MSA.....	294	360	439	579	614		Bowie
Tyler, TX MSA.....	338	373	456	633	669		Smith
Victoria, TX MSA.....	334	338	427	594	669		Victoria
Waco, TX MSA.....	294	361	475	632	665		McLennan
Wichita Falls, TX MSA.....	324	363	437	582	686		Archer, Wichita

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES		O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES		O BR	1 BR	2 BR	3 BR	4 BR
Anderson.....	319	359	403	561	567		Andrews.....	265	307	370	496	567	
Angelina.....	290	336	379	526	620		Arapahoe.....	265	307	436	606	610	
Armstrong.....	265	307	401	503	567		Atascosa.....	265	307	370	496	567	
Austin.....	265	307	370	507	567		Bailey.....	265	307	370	496	567	
Bandera.....	285	307	370	503	567		Baylor.....	265	307	370	496	567	
Bee.....	265	307	370	496	567		Blanco.....	265	307	392	546	575	
Borden.....	265	307	370	496	567		Bosque.....	265	307	370	496	567	
Brewster.....	265	307	370	500	599		Briscoe.....	265	307	370	496	567	
Brooks.....	265	307	370	496	567		Brown.....	265	307	371	498	609	
Burleson.....	265	307	389	526	640		Burnet.....	265	307	378	525	614	
Calhoun.....	284	307	370	512	606		Callahan.....	265	307	370	496	567	
Camp.....	359	364	455	570	636		Carson.....	265	307	370	496	567	
Cass.....	265	307	370	496	567		Castro.....	267	307	370	496	567	
Cherokee.....	297	308	377	496	567		Childress.....	265	307	370	496	567	
Clay.....	265	313	370	496	578		Cochran.....	265	307	370	496	567	
Coke.....	265	307	370	496	567		Coleman.....	265	307	370	496	567	
Collingsworth.....	265	307	370	496	567		Colorado.....	265	307	370	496	567	
Comanche.....	265	307	370	496	567		Concho.....	265	307	370	496	567	
Cooke.....	288	307	390	530	587		Cottle.....	265	307	370	496	567	
Crane.....	265	307	370	496	567		Crockett.....	265	307	370	496	567	
Crosby.....	265	307	370	496	567		Culberson.....	265	307	370	496	567	
Dallam.....	265	307	370	496	567		Dawson.....	265	307	370	496	567	
Deaf Smith.....	265	307	370	496	576		Delta.....	265	318	370	496	567	
Dewitt.....	265	307	370	496	567		Dickens.....	265	307	370	496	567	
Dimmit.....	265	307	370	496	567		Donley.....	265	307	370	496	567	
Duval.....	265	307	370	496	567		Eastland.....	265	307	370	496	567	
Edwards.....	265	307	370	496	567		Erath.....	275	312	403	522	567	
Falls.....	265	307	370	496	567		Fannin.....	269	307	370	498	567	
Fayette.....	265	307	370	496	567		Fisher.....	265	307	370	496	567	
Floyd.....	265	307	370	496	567		Foard.....	265	307	370	496	567	
Franklin.....	265	307	370	512	567		Freestone.....	265	307	370	496	567	
Frio.....	265	307	370	496	567		Gaines.....	271	307	370	496	567	
Garza.....	265	307	370	496	567		Gillespie.....	265	334	434	596	608	
Glasscock.....	265	307	370	496	567		Goliad.....	265	307	370	496	567	
Gonzales.....	265	307	370	496	567		Gray.....	291	307	394	496	585	
Grimes.....	265	307	370	500	590		Hale.....	265	307	370	496	567	
Hall.....	265	307	370	496	567		Hamilton.....	265	307	370	496	567	
Hansford.....	265	307	370	496	581		Hardeman.....	265	307	370	496	567	
Hartley.....	265	307	370	496	567		Haskell.....	265	307	370	496	567	
Hemphill.....	265	342	383	534	567		Hill.....	265	307	370	496	567	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. For example, O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES		O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES		O BR	1 BR	2 BR	3 BR	4 BR
Hockley.....	271	317	370	501	567		Hopkins.....	310	333	392	546	587	
Houston.....	265	307	370	496	567		Howard.....	283	307	370	500	567	
Hudspeth.....	320	361	403	506	665		Hutchinson.....	265	307	383	534	630	
Irion.....	265	307	370	496	567		Jack.....	265	307	370	496	567	
Jackson.....	265	308	370	496	567		Jasper.....	265	307	378	503	618	
Jeff Davis.....	265	307	370	496	567		Jim Hogg.....	265	307	370	496	567	
Jim Wells.....	265	307	370	496	574		Jones.....	265	307	370	496	567	
Karnes.....	265	307	370	496	567		Kendall.....	265	388	436	606	716	
Kenedy.....	265	307	370	496	567		Kent.....	265	307	370	496	567	
Kerr.....	265	344	430	598	705		Kimble.....	265	307	403	505	567	
King.....	265	307	370	496	567		Kinney.....	265	307	370	496	567	
Kleberg.....	323	334	407	570	671		Knox.....	265	307	370	496	567	
Lamar.....	265	330	388	542	640		Lamb.....	265	307	370	496	567	
Lampasas.....	265	307	370	503	594		La Salle.....	265	307	370	496	567	
Lavaca.....	265	307	370	496	567		Lee.....	301	338	380	531	595	
Leon.....	265	341	382	496	628		Limestone.....	265	307	370	496	567	
Lipscomb.....	265	307	370	496	567		Live Oak.....	265	307	370	496	567	
Llano.....	265	342	455	571	748		Loving.....	265	307	370	496	567	
Lynn.....	265	307	370	496	567		Mcculloch.....	273	307	370	496	567	
McMullen.....	265	307	370	496	567		Madison.....	265	316	370	496	583	
Marion.....	265	307	370	496	587		Martin.....	265	307	370	496	567	
Mason.....	265	307	370	496	567		Matagorda.....	307	335	416	577	581	
Maverick.....	265	307	370	496	567		Medina.....	265	307	370	496	567	
Menard.....	265	307	370	496	567		Millam.....	265	307	370	496	567	
Mills.....	265	307	370	496	567		Mitchell.....	265	307	370	496	567	
Montague.....	265	307	370	496	567		Moore.....	265	312	370	496	576	
Morris.....	265	307	370	496	567		Motley.....	265	307	370	496	567	
Nacogdoches.....	280	338	439	548	647		Navarro.....	318	334	402	510	567	
Newton.....	265	307	370	496	567		Nolan.....	273	307	370	496	567	
Ochiltree.....	265	307	370	496	567		Oldham.....	265	307	401	503	588	
Palo Pinto.....	265	307	370	496	589		Panola.....	265	313	370	496	567	
Parmer.....	265	307	370	496	567		Pecos.....	265	307	370	500	590	
Polk.....	297	324	377	507	616		Presidio.....	265	307	370	496	567	
Rains.....	265	344	416	577	581		Reagan.....	338	344	457	574	751	
Real.....	265	307	370	496	567		Red River.....	265	342	383	496	567	
Reeves.....	265	307	370	496	567		Refugio.....	265	307	370	496	567	
Roberts.....	265	310	370	496	567		Robertson.....	265	351	393	496	567	
Runnels.....	265	307	370	496	567		Rusk.....	277	307	370	496	567	
Sabine.....	265	307	370	496	567		San Augustine.....	265	307	370	496	567	
San Jacinto.....	278	314	370	496	579		San Saba.....	265	307	370	496	567	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

	NONMETROPOLITAN COUNTIES				METROPOLITAN COUNTIES					
	O	BR 1	BR 2	BR 3	BR 4	O	BR 1	BR 2	BR 3	BR 4
Schleicher.....	265	307	370	496	567	265	307	370	496	567
Shackelford.....	265	307	370	496	567	265	307	370	496	567
Sherman.....	265	307	370	496	567	304	342	383	526	567
Starr.....	265	307	370	496	567	265	307	370	496	567
Sterling.....	265	307	370	496	567	265	307	370	496	567
Sutton.....	265	307	370	496	567	265	307	370	496	567
Terrell.....	265	307	370	496	567	265	307	370	496	567
Throckmorton.....	265	307	370	496	567	282	350	397	549	567
Trinity.....	276	312	370	496	567	265	307	395	496	651
Upton.....	265	307	370	496	567	265	307	370	496	567
Val Verde.....	265	352	415	518	611	284	307	384	524	632
Walker.....	358	381	466	619	653	265	307	370	496	567
Washington.....	330	336	449	561	737	265	307	370	496	567
Wheeler.....	265	307	370	496	567	265	307	370	496	584
Willacy.....	265	307	370	496	567	265	307	370	496	567
Wise.....	265	310	372	519	567	265	307	383	534	630
Yoakum.....	265	349	430	537	705	265	307	370	496	574
Zapata.....	265	307	370	496	567	265	307	370	496	567

U T A H

METROPOLITAN FMR AREAS

	COUNTIES OF FMR AREA WITHIN STATE				
	O	BR 1	BR 2	BR 3	BR 4
Kane County, UT.....	289	355	444	594	716
Provo-Orem, UT MSA.....	399	421	521	723	855
Salt Lake City-Ogden, UT MSA.....	347	402	510	709	831

  

	NONMETROPOLITAN COUNTIES				
	O	BR 1	BR 2	BR 3	BR 4
Beaver.....	284	349	437	585	704
Cache.....	284	349	437	585	704
Daggett.....	310	423	563	705	790
Emery.....	284	349	437	585	704
Grand.....	284	349	437	585	704
Juab.....	284	349	437	585	704
Morgan.....	284	349	437	585	704
Rich.....	284	349	437	585	704
Sanpete.....	284	349	437	585	704
Summit.....	421	519	649	875	1064
Uintah.....	284	349	437	585	704
Washington.....	351	432	573	766	938

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O42696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V E R M O N T

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR
Burlington, VT MSA.....	393	482	642	876	1056	

Components of FMR AREA within STATE  
 Chittenden county towns of Burlington city  
 Charlotte town, Colchester town, Essex town  
 Hinesburg town, Jericho town, Milton town, Richmond town  
 St. George town, Shelburne town, South Burlington c  
 Williston town, Winooski city  
 Franklin county towns of Fairfax town, Georgia town  
 St. Albans city, St. Albans town, Swanton town  
 Grand Isle county towns of Grand Isle town  
 South Hero town

NONMETROPOLITAN COUNTIES

	O	BR 1	BR 2	BR 3	BR 4	BR
Addison.....	378	457	532	741	831	
Bennington.....	352	442	570	724	843	
Caledonia.....	319	381	466	588	674	
Chittenden.....	326	529	596	827	974	
Essex.....	313	375	466	588	674	
Franklin.....	336	379	466	592	680	
Grand Isle.....	313	375	466	588	674	
Lamoille.....	313	433	517	710	814	
Orange.....	313	410	504	666	747	
Orleans.....	313	375	466	588	674	
Rutland.....	351	457	558	700	783	
Washington.....	336	420	562	703	788	
Windham.....	377	437	580	736	810	
Windsor.....	404	456	571	732	869	

Towns within non metropolitan counties  
 Bolton town, Buels gore, Huntington town, Underhill town  
 Westford town  
 Bakersfield town, Berkshire town, Enosburg town  
 Fairfield town, Fletchertown, Franklin town  
 Highgate town, Montgomery town, Richford town  
 Sheldon town  
 Aiburg town, Isle La Motte town, North Hero town

V I R G I N I A

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR
Charlottesville, VA MSA.....	397	469	600	798	895	
Clarke County, VA.....	295	415	538	738	754	
Culpeper County, VA.....	363	530	616	814	974	
Danville, VA MSA.....	281	353	415	558	672	
Johnson City-Kingsport-Bristol, TN-VA MSA.....	289	335	427	555	630	
King George County, VA.....	357	474	533	740	746	
Lynchburg, VA MSA.....	334	367	424	558	672	
Norfolk-Virginia Beach-Newport News, VA-NC MSA..	417	469	556	775	910	

Counties of FMR AREA within STATE  
 Albemarle, Fluvanna, Greene, Charlottesville city  
 Clarke  
 Culpeper  
 Pittsylvania, Danville city  
 Scott, Washington, Bristol city  
 King George  
 Amherst, Bedford, Campbell, Bedford city, Lynchburg city  
 Gloucester, Isle of Wight, James City, Mathews, York  
 Chesapeake city, Hampton city, Newport News city  
 Norfolk city, Poquoson city, Portsmouth city

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN FMR AREAS

	O BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	419	475	552	768	907	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	283	353	458	588	733	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	288	394	526	689	861	Warren
Washington, DC-MD-VA	595	676	794	1081	1303	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Accomack	327	353	413	548	660	Alleghany	287	347	408	548	660
Amelia	276	347	408	548	660	Appomattox	276	347	408	548	660
Augusta	276	357	433	570	694	Bath	276	347	408	548	660
Bland	276	347	408	548	660	Brunswick	276	347	408	548	660
Buchanan	276	347	408	548	660	Buckingham	276	347	408	548	660
Caroline	390	395	528	701	739	Carroll	276	347	408	548	660
Charlotte	276	347	408	548	660	Craig	276	347	408	548	660
Cumberland	276	377	438	548	660	Dickenson	276	347	408	548	660
Essex	276	387	458	636	751	Floyd	276	347	408	548	660
Franklin	276	347	408	548	660	Frederick	373	431	518	710	851
Giles	276	347	408	548	660	Grayson	276	347	408	548	660
Greensville	276	357	408	548	660	Hallifax	276	347	408	548	660
Henry	276	347	408	548	660	Highland	276	347	408	548	660
King and Queen	276	395	445	556	660	King William	276	377	423	548	660
Lancaster	344	386	436	581	707	Lee	276	347	408	548	660
Louisa	276	359	442	614	660	Lunenburg	276	347	408	548	660
Madison	277	411	482	579	758	Mecklenburg	276	347	408	548	660
Middlesex	276	349	408	548	660	Montgomery	284	372	437	607	718
Nelson	276	347	408	548	660	Northampton	276	347	408	548	660
Northumberland	276	347	408	548	660	Nottoway	276	347	408	548	660
Orange	305	416	556	773	907	Page	320	361	408	548	660
Patrick	276	347	408	548	660	Prince Edward	308	349	408	548	660
Pulaski	276	347	408	548	660	Rappahannock	280	453	508	706	833
Richmond	276	367	412	548	677	Rockbridge	276	347	408	548	660
Rockingham	276	381	483	662	775	Russell	276	347	408	548	660
Shenandoah	363	372	459	635	721	Smyth	276	347	408	548	660
Southampton	276	347	408	548	660	Surry	286	347	408	548	660
Sussex	276	347	408	548	660	Tazewell	276	347	408	548	660

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4	BR
Westmoreland.....	276	372	495	622	805	Wise.....	276	347	408	548	660
Wythe.....	288	347	408	548	660						

W A S H I N G T O N

METROPOLITAN FMR AREAS

	O BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE					
Bellingham, WA MSA.....	383	497	662	914	1085	Whatcom					
Bremerton, WA MSA.....	390	449	582	786	956	Kitsap					
Olympia, WA MSA.....	400	492	614	846	996	Thurston					
Portland-Vancouver, OR-WA PMSA.....	398	490	604	841	913	Clark					
Richland-Kennewick-Pasco, WA MSA.....	478	548	655	912	1071	Benton, Franklin					
Seattle-Bellevue-Everett, WA PMSA.....	448	545	690	959	1133	Island, King, Snohomish					
Spokane, WA MSA.....	322	444	536	728	815	Spokane					
Tacoma, WA PMSA.....	362	432	575	800	903	Pierce					
Yakima, WA MSA.....	346	426	527	707	738	Yakima					

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES	O BR 1	BR 2	BR 3	BR 4	BR
Adams.....	305	366	475	628	696	Asotin.....	305	366	475	628	696
Chelan.....	305	366	475	628	696	Clallam.....	356	441	561	721	788
Columbia.....	305	366	475	628	696	Cowlitz.....	343	383	494	686	696
Douglas.....	357	377	475	628	696	Ferry.....	305	366	475	628	696
Garfield.....	305	366	475	628	696	Grant.....	328	366	475	628	696
Grays Harbor.....	312	366	480	648	747	Jefferson.....	305	395	485	658	696
Kittitas.....	305	366	475	628	696	Klickitat.....	305	366	475	628	696
Lewis.....	305	366	475	628	696	Lincoln.....	305	366	475	628	696
Mason.....	347	430	529	695	747	Okanogan.....	305	366	475	628	696
Pacific.....	305	366	475	628	696	Pend Oreille.....	305	366	475	628	836
San Juan.....	377	516	687	905	1077	Skagit.....	416	509	600	749	838
Skamania.....	305	366	475	628	696	Stevens.....	305	366	475	628	696
Wahitakum.....	305	366	475	628	696	Walla Walla.....	305	366	475	636	752
Whitman.....	329	374	499	693	820						

W E S T V I R G I N I A

METROPOLITAN FMR AREAS

	O BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE					
Berkeley County, WV.....	354	377	449	561	628	Berkeley					
Charleston, WV MSA.....	247	336	426	585	640	Kanawha, Putnam					
Cumberland, MD-WV MSA.....	322	388	476	633	723	Mineral					
Huntington-Ashland, WV-KY-OH MSA.....	268	314	387	493	543	Cabell, Wayne					
Jefferson County, WV.....	358	396	490	636	721	Jefferson					

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

WEST VIRGINIA continued

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE	O	BR 1	BR 2	BR 3	BR 4	BR
Parkensburg-Marietta, WV-OH MSA.....	294	351	402	521	536	Wood							
Steubenville-Weirton, OH-WV MSA.....	272	321	402	513	572	Brooke, Hancock							
Wheeling, WV-OH MSA.....	298	325	402	513	572	Marshall, Ohio							
NONMETROPOLITAN COUNTIES													
Barbour.....	244	310	347	447	519	Boone.....	244	298	347	447	519		
Braxton.....	244	298	347	447	519	Calhoun.....	244	298	347	447	519		
Clay.....	244	298	347	447	519	DoddrIDGE.....	253	298	347	447	519		
Fayette.....	244	298	347	447	519	Gilmer.....	269	298	347	447	519		
Grant.....	244	298	347	447	519	Greenbrier.....	244	337	360	449	519		
Hampshire.....	244	298	349	460	519	Hardy.....	244	298	347	447	519		
Harrison.....	269	330	381	476	571	Jackson.....	244	305	347	475	519		
Lewis.....	244	327	347	447	519	Lincoln.....	244	298	347	447	519		
Logan.....	250	298	347	450	532	Mcdowell.....	244	298	347	447	519		
Marion.....	244	308	380	488	562	Mason.....	244	298	347	447	534		
Mercer.....	244	298	347	447	519	Mingo.....	244	298	347	447	526		
Monongalia.....	307	340	415	571	676	Monroe.....	244	298	347	447	519		
Morgan.....	301	339	381	478	534	Nicholas.....	244	298	347	447	519		
Pendleton.....	244	298	347	447	519	Pleasants.....	252	298	347	447	533		
Pocahontas.....	244	298	347	447	519	Preston.....	244	313	347	447	519		
Raleigh.....	253	298	347	447	523	Randolph.....	244	298	347	447	519		
Ritchie.....	244	298	347	447	519	Roane.....	244	298	347	447	519		
Summers.....	244	298	347	447	519	Taylor.....	299	323	353	447	519		
Tucker.....	244	298	347	447	519	Tyler.....	244	298	365	458	519		
Upshur.....	244	298	349	447	519	Webster.....	244	298	347	447	519		
Wetzel.....	277	298	374	468	591	Wirt.....	244	298	347	447	519		
Wyoming.....	244	298	347	447	519								

WISCONSIN

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE	O	BR 1	BR 2	BR 3	BR 4	BR
Appleton-Oshkosh-Neenah, WI MSA.....	303	374	474	599	690	Calumet, Outagamie, Winnebago							
Duluth-Superior, MN-WI MSA.....	265	342	440	587	684	Douglas							
Eau Claire, WI MSA.....	327	356	467	600	676	Chippewa, Eau Claire							
Green Bay, WI MSA.....	332	366	469	652	656	Brown							
Janesville-Beloit, WI MSA.....	334	421	522	654	733	Rock							
Kenosha, WI PMSA.....	352	437	537	738	830	Kenosha							
La Crosse, WI-MN MSA.....	269	347	442	591	716	La Crosse							
Madison, WI MSA.....	415	522	630	876	1033	Dane							

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. For example, 042696

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

METROPOLITAN FMR AREAS

	O	BR 1	BR 2	BR 3	BR 4	BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA.....	356	466	585	733	819		Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA.....	378	486	621	841	952		Pierce, St. Croix
Racine, WI PMSA.....	316	392	517	668	731		Racine
Sheboygan, WI MSA.....	290	373	456	569	705		Sheboygan
Wausau, WI MSA.....	355	368	460	626	695		Marathon

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

Adams.....	264	308	392	501	564	288	319	392	501	564
Barron.....	264	308	392	501	564	264	308	392	501	564
Buffalo.....	264	308	392	501	564	264	308	392	501	564
Clark.....	264	308	392	501	564	264	314	413	541	606
Crawford.....	264	308	392	501	564	334	339	446	558	624
Door.....	264	327	406	522	634	264	308	403	539	665
Florence.....	264	308	392	501	564	267	362	429	582	601
Forest.....	264	308	392	501	564	268	308	392	501	564
Green.....	269	308	392	528	564	264	308	392	501	564
Iowa.....	274	308	392	515	564	264	308	392	501	564
Jackson.....	264	308	392	501	564	264	350	455	588	642
Juneau.....	270	308	392	501	564	264	308	392	501	564
Lafayette.....	269	308	392	501	564	264	308	392	501	564
Lincoln.....	264	308	392	501	564	267	308	392	501	564
Marinette.....	264	308	392	501	564	264	308	392	501	564
Menominee.....	264	308	392	501	564	264	308	392	523	564
Oconto.....	264	308	392	501	564	264	309	392	505	604
Pepin.....	264	308	392	501	564	264	308	399	501	564
Portage.....	321	339	440	549	680	264	308	392	501	564
Richland.....	264	308	392	501	564	264	308	392	501	564
Sauk.....	309	319	426	531	596	264	308	392	501	564
Shawano.....	269	308	392	501	564	264	308	392	501	564
Trempealeau.....	264	308	392	501	564	264	308	392	501	564
Vilas.....	264	308	392	501	564	276	387	504	656	736
Washburn.....	264	308	392	501	564	264	308	392	501	594
Waushara.....	264	308	392	501	564	287	328	407	510	573

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696



SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

P U B L I C continued

METROPOLITAN FMR AREAS

O BR 1 BR 2 BR 3 BR 4 BR Counties of FMR AREA within STATE

Naguabo Municipio, Naranjito Municipio  
 Rio Grande Municipio, San Juan Municipio  
 Toa Alta Municipio, Toa Baja Municipio  
 Trujillo Alto Municipio, Vega Alta Municipio  
 Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	193	239	279	352	391
Arroyo Municipio.....	193	239	279	352	391
Ciales Municipio.....	193	239	279	352	391
Culebra Municipio.....	193	239	279	352	391
Guayama Municipio.....	193	239	279	352	391
Jayuya Municipio.....	193	239	279	352	391
Lares Municipio.....	193	239	279	352	391
Maricao Municipio.....	193	239	279	352	391
Orocovis Municipio.....	193	239	279	352	391
Quebradillas Municipio..	193	239	279	352	391
Salinas Municipio.....	193	239	279	352	391
Santa Isabel Municipio..	193	239	279	352	391
Vieques Municipio.....	193	239	279	352	391

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Croix.....	461	560	660	824	924

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio.....	193	239	279	352	391
Barranquitas Municipio..	193	239	279	352	391
Coamo Municipio.....	193	239	279	352	391
Guánica Municipio.....	193	239	279	352	391
Isabela Municipio.....	193	239	279	352	391
Lajas Municipio.....	193	239	279	352	391
Las Marias Municipio....	193	239	279	352	391
Maunabo Municipio.....	193	239	279	352	391
Patillas Municipio.....	193	239	279	352	391
Rincon Municipio.....	193	239	279	352	391
San Sebastian Municipio..	193	239	279	352	391
Utua Municipio.....	193	239	279	352	391

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Johns/St. Thomas....	592	719	846	1057	1184

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 042696

SCHEDULE D - FY 1996 40th PERCENTILE FAIR MARKET RENTS FOR  
MANUFACTURED HOME SPACES

<u>STATE/FMR AREA</u>	<u>SPACE RENT</u>
CALIFORNIA	
Orange County, CA PMSA	\$449
San Diego, CA MSA	388
Vallejo-Fairfield-Napa, CA PMSA	288
COLORADO	
Boulder-Longmont, CO PMSA	282
Denver, CO PMSA	268
DELAWARE	
Dover, DE MSA	163
Sussex County	115
MARYLAND	
Hagerstown, MD MSA	204
St. Marys County	251
MINNESOTA	
Minneapolis-St. Paul, MN-WI MSA	243
NEW YORK	
Dutchess, NY PMSA	329
Jamestown, NY MSA	172
Newburgh, NY MSA	309
Tompkins County, NY	196
OREGON	
Salem, OR PMSA	205
Benton County, OR	198
Linn County, OR	179
UTAH	
Provo-Orem, UT MSA	196
VERMONT	
Washington County	196
WEST VIRGINIA	
Berkeley County	132
Jefferson County	135
Morgan County	133

# Federal Register

---

Wednesday  
May 8, 1996

---

Part VI

## The President

---

Proclamation 6892—Asian/Pacific  
American Heritage Month, 1996



---

**Presidential Documents**

---

Title 3—

Proclamation 6892 of May 6, 1996

The President

Asian/Pacific American Heritage Month, 1996

By the President of the United States of America

## A Proclamation

Our national character has been enhanced by citizens who maintain and honor cultural values and customs brought from other lands. Americans of Asian and Pacific Islander ancestry have long been a part of that tradition, enriching the fabric of our society with their unique talents and abilities. This month provides a welcome opportunity to recognize these gifts and to celebrate the daily contributions that Asian and Pacific Americans make to our country's progress.

Every sector of American life has benefited from the extraordinary leadership of those who trace their roots back to Asia and the Pacific Island region. In the arts and sciences, the business world, law, academia, and government, these remarkable individuals have expanded our horizons, achieving exceptional success and demonstrating a dedicated belief in equal opportunity. Asian and Pacific Americans have worked to overcome challenges, often in the face of discrimination and prejudice, and have successfully embraced the opportunities of the American Dream.

As we stand on the threshold of the 21st century, ready to compete in the global marketplace and strengthen our partnerships with the nations of the Pacific Rim, let us draw on the strengths added by Asian and Pacific Americans and applaud their proud legacy of service and dedication to this country.

To honor the accomplishments of Asian and Pacific Americans and to recognize their many contributions to our Nation, the Congress, by Public Law 102-450, has designated the month of May as "Asian/Pacific American Heritage Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 1996 as Asian/Pacific American Heritage Month. I call upon the people of the United States to observe this occasion with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of May, 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.



# Reader Aids

Federal Register

Vol. 61, No. 90

Wednesday, May 8, 1996

## CUSTOMER SERVICE AND INFORMATION

<b>Federal Register/Code of Federal Regulations</b>	
General Information, indexes and other finding aids	<b>202-523-5227</b>
Public inspection announcement line	<b>523-5215</b>
<b>Laws</b>	
Public Laws Update Services (numbers, dates, etc.)	<b>523-6641</b>
For additional information	<b>523-5227</b>
<b>Presidential Documents</b>	
Executive orders and proclamations	<b>523-5227</b>
<b>The United States Government Manual</b>	<b>523-5227</b>
<b>Other Services</b>	
Electronic and on-line services (voice)	<b>523-4534</b>
Privacy Act Compilation	<b>523-3187</b>
TDD for the hearing impaired	<b>523-5229</b>

## ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202-275-0920**

## FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301-713-6905**

## FEDERAL REGISTER PAGES AND DATES, MAY

19155-19502.....	1
19503-19804.....	2
19805-20116.....	3
20117-20418.....	6
20419-20700.....	7
20701-21046.....	8

## CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

<b>3 CFR</b>	95.....	20190
	96.....	20190
	98.....	20190
<b>Proclamations:</b>		
6889.....	19503	
6890.....	19803	
6891.....	20419	
6892.....	21045	
<b>Administrative Orders:</b>		
<b>Memorandums:</b>		
April 26, 1996.....	19505	
April 28, 1996.....	19507	
<b>4 CFR</b>		
<b>Proposed Rules:</b>		
21.....	19205	
<b>5 CFR</b>		
300.....	19509	
532.....	20701	
Ch. LXIX.....	20117	
<b>7 CFR</b>		
28.....	19511	
51.....	20702	
53.....	19155	
54.....	19155	
272.....	19155	
273.....	19155	
301.....	20877	
900.....	20717	
915.....	19512	
916.....	19160	
917.....	19160	
946.....	20119	
956.....	20121	
979.....	20718	
985.....	20122	
1002.....	20719	
1004.....	20719	
1007.....	20124	
1280.....	19514	
<b>Proposed Rules:</b>		
911.....	20754	
924.....	20756	
944.....	20754, 20756	
958.....	20188	
1005.....	19861	
1007.....	19861	
1011.....	19861	
1046.....	19861	
1160.....	20759	
<b>8 CFR</b>		
3.....	19976	
242.....	19976	
<b>9 CFR</b>		
78.....	19976	
130.....	20421	
<b>Proposed Rules:</b>		
92.....	20189, 20190	
93.....	20190	
94.....	20190	
<b>12 CFR</b>		
5.....	19524	
19.....	20330	
20.....	19524	
28.....	19524	
205.....	19662, 19678	
220.....	20386	
250.....	19805	
263.....	20338	
308.....	20344	
509.....	20350	
614.....	20125	
<b>Proposed Rules:</b>		
207.....	20399	
215.....	19863	
220.....	20399	
221.....	20399	
<b>13 CFR</b>		
<b>Proposed Rules:</b>		
121.....	20191	
<b>14 CFR</b>		
21.....	20696	
31.....	20877	
39.....	19540, 19807, 19808, 19809, 19811, 19813, 19815, 20125, 20127, 20616, 20636, 20638, 20639, 20641, 20643, 20644, 20646, 20668, 20669, 20671, 20672, 20674, 20676, 20677, 20679, 20681, 20682	
43.....	19498	
71.....	19541, 19542, 19816, 19817	
73.....	20127	
159.....	19784	
205.....	19164	
323.....	19164	
385.....	19166	
<b>Proposed Rules:</b>		
29.....	20760	
39.....	20192, 20194, 20762, 20764	
71.....	19590, 19591, 19592, 19593	
<b>15 CFR</b>		
902.....	19171	
<b>Proposed Rules:</b>		
946.....	19594	

<b>16 CFR</b>	<b>22 CFR</b>	1910.....19547	52 .....19233, 19601, 20199,
1500.....19818	126.....19841	1978.....19982	20200, 20201, 20504
<b>Proposed Rules:</b>	514.....20437	<b>Proposed Rules:</b>	61 .....20775
254.....19869	<b>24 CFR</b>	4.....19770	63.....19887
1210.....20503	0.....19187	Ch. XIV.....20768	70.....20202
<b>17 CFR</b>	201.....19788	<b>30 CFR</b>	80.....20779
1.....19177, 19830	290.....19188	75.....20877	81.....19233
3.....20127	941.....19708	<b>Proposed Rules:</b>	89.....20738
5.....19830	970.....19708	901.....20768	90.....20738
31.....19830	<b>Proposed Rules:</b>	902.....20768	170.....19889
200.....20721	888.....20982	904.....19881, 20768	180.....19233, 20780, 20781
<b>Proposed Rules:</b>	901.....20358	913.....20768	185.....20780
1.....19869	<b>25 CFR</b>	914.....20768	186.....10780, 20781
156.....19869	<b>Proposed Rules:</b>	915.....20768	300.....19889, 20202, 20785
<b>18 CFR</b>	250.....19600	916.....20768	Ch. I.....19432
1300.....20117	<b>26 CFR</b>	917.....20768	<b>41 CFR</b>
<b>Proposed Rules:</b>	1.....19188, 19189, 19544,	918.....20768	50-203.....19982
161.....19211	19546	920.....20768	60-1.....19982
250.....19211	301.....19189	946.....19885	60-30.....19982
284.....19211, 19832	602.....19189	950.....20773	60-250.....19366, 19982
346.....19878	<b>Proposed Rules:</b>	<b>31 CFR</b>	60-741.....19336, 19982
<b>19 CFR</b>	1.....20503, 20766, 20767	361.....20437	<b>42 CFR</b>
10.....19834	31.....20767	<b>33 CFR</b>	405.....19722
103.....19835	32.....20767	100.....19192, 20132	486.....19722
<b>Proposed Rules:</b>	35a.....20767	165.....19192, 19841	<b>43 CFR</b>
101.....19834	301.....20503	401.....19548	11.....20560
<b>20 CFR</b>	<b>27 CFR</b>	<b>Proposed Rules:</b>	<b>44 CFR</b>
345.....20070	1.....20721	100.....20196	61.....19197
601.....19982	4.....20721	154.....20084	64.....19857
617.....19982	7.....20721	155.....20084	206.....19197
626.....19982	16.....20721	<b>36 CFR</b>	<b>46 CFR</b>
658.....19982	19.....20721	292.....20726	10.....19858
702.....19982	20.....20721	1228.....19552	15.....19858
<b>21 CFR</b>	21.....20721	<b>Proposed Rules:</b>	114.....20556
101.....20096	22.....20721	7.....20775	116.....20556
201.....20096	24.....20721	100.....19220	117.....20556
369.....20096	25.....20721	117.....19223	118.....20556
500.....19542	53.....20721	<b>37 CFR</b>	119.....20556
501.....20096	55.....20721	<b>Proposed Rules:</b>	120.....20556
582.....19542	71.....20721	1.....19224, 20877	121.....20556
589.....19542	170.....20721	Ch. II.....20197	122.....20556
740.....20096	178.....20721	<b>38 CFR</b>	170.....20556
801.....20096	179.....20721	2.....20133, 20437	173.....20556
<b>Proposed Rules:</b>	194.....20721	3.....20438, 20726	175.....20556
25.....19476	197.....20721	4.....20438, 20440	176.....20556
102.....19220	200.....20721	9.....20134	177.....20556
130.....19220	250.....20721	19.....20447	178.....20556
131.....19220	251.....20721	20.....20447	179.....20556
133.....19220	252.....20721	21.....20727	180.....20556
135.....19220	270.....20721	<b>40 CFR</b>	181.....20556
136.....19220	275.....20721	52 .....19193, 19555, 20136,	182.....20556
137.....19220	285.....20721	20139, 20142, 20145, 20147,	183.....20556
139.....19220	290.....20721	20453, 20455, 20458, 20730,	185.....20556
145.....19220	296.....20721	20732	<b>47 CFR</b>
146.....19220	<b>29 CFR</b>	60.....20734	3.....20155
150.....19220	1.....19982	70.....20150	64.....20746
152.....19220	2.....19982	80.....20736	73.....20490, 20747
155.....19220	4.....19982	81.....20458	<b>Proposed Rules:</b>
156.....19220	5.....19982	89.....20738	1.....19236, 20505
158.....19220	6.....19982	90.....20738	2.....19236
160.....19220	7.....19982	123.....20972	21.....19236
161.....19220	8.....19982	131.....20686	73 .....19601, 20206, 20207,
163.....19220	22.....19982	180 .....19842, 19845, 19847,	20505, 20789
164.....19220	24.....19982	19849, 19850, 19852, 19854,	94.....19236
165.....19220	32.....19982	19855, 20742, 20743, 20745	<b>48 CFR</b>
166.....19220	96.....19982	300.....20473	801.....20491
168.....19220	504.....19982	355.....20473	803.....20491
169.....19220	507.....19982	<b>Proposed Rules:</b>	804.....20491
210.....20104	508.....19982	51.....19231	
211.....20104	530.....19982		

805.....	20491	2452.....	19468	1101.....	19236	1141.....	19236
806.....	20491	2453.....	19468	1102.....	19236	1142.....	19236
808.....	20491	<b>Proposed Rules:</b>		1103.....	19236	1143.....	19236
810.....	20491	901.....	19891	1104.....	19236	1144.....	19236
812.....	20491	905.....	19891	1105.....	19236	1145.....	19236
813.....	20491	906.....	19891	1106.....	19236	1146.....	19236
815.....	20491	908.....	19891	1107.....	19236	1147.....	19236
816.....	20491	915.....	19891	1108.....	19236	1148.....	19236
820.....	20491	916.....	19891	1109.....	19236	1149.....	19236
822.....	20491	917.....	19891	1110.....	19236	1312.....	19902
828.....	20491	922.....	19891	1111.....	19236		
833.....	20491	928.....	19891	1112.....	19236	<b>50 CFR</b>	
834.....	20491	932.....	19891	1113.....	19236	253.....	19171
836.....	20491	933.....	19891	1114.....	19236	255.....	19171
837.....	20491	935.....	19891	1115.....	19236	620.....	20175
846.....	20491	936.....	19891	1116.....	19236	661.....	20175
871.....	20493	942.....	19891	1117.....	19236	672.....	19976
2401.....	19468	945.....	19891	1118.....	19236	675.....	19976
2402.....	19468	952.....	19891	1119.....	19236	<b>Proposed Rules:</b>	
2404.....	19468	971.....	19891	1120.....	19236	17.....	19237
2405.....	19468	<b>49 CFR</b>		1121.....	19236	600.....	19390
2406.....	19468	172.....	20747	1122.....	19236	601.....	19390
2409.....	19468	173.....	20747	1123.....	19236	602.....	19390
2411.....	19468	174.....	20747	1124.....	19236	603.....	19390
2412.....	19468	176.....	20747	1125.....	19236	605.....	19390
2413.....	19468	228.....	20494	1126.....	19236	611.....	19390
2414.....	19468	397.....	20496	1127.....	19236	619.....	19390
2415.....	19468	564.....	20497	1128.....	19236	620.....	19390
2416.....	19468	571.....	19201, 19202, 19560, 19561, 20170, 20172, 20497	1129.....	19236	621.....	19390
2417.....	19468	604.....	19562	1130.....	19236	625.....	20506
2419.....	19468	609.....	19562	1131.....	19236	628.....	20789
2420.....	19468	1051.....	19859	1132.....	19236	649.....	20207
2426.....	19468	1053.....	19859	1133.....	19236	650.....	20207
2428.....	19468	1312.....	19859	1134.....	19236	651.....	20207
2429.....	19468	<b>Proposed Rules:</b>		1135.....	19236	652.....	19604
2432.....	19468	571.....	19602	1136.....	19236	673.....	19902
2434.....	19468	1002.....	20877	1137.....	19236		
2436.....	19468	1100.....	19236	1138.....	19236		
2437.....	19468			1139.....	19236		
2442.....	19468			1140.....	19236		

**REMINDERS**

The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

**RULES GOING INTO EFFECT TODAY****AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Phytosanitary export certification regulations; revision; published 4-8-96

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollution; standards of performance for new stationary sources:

Small industrial-commercial-institutional steam generating units; published 5-8-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Avermectin B1 and delta-8,9-isomer; published 5-8-96

Clomazone; published 5-8-96

Lactofen; published 5-8-96

**FEDERAL COMMUNICATIONS COMMISSION**

Radio services, special:

Amateur services--  
219-220 MHz band; use allocation; published 4-8-96

Radio stations; table of assignments:  
California; published 5-8-96

Television broadcasting:  
Cable Television Consumer Protection and Competition Act of 1992--  
Rate regulation; published 4-8-96

**INTERIOR DEPARTMENT**

Acquisition regulations:  
Foreign acquisition, etc.;  
Federal regulatory reform; published 4-8-96

**SECURITIES AND EXCHANGE COMMISSION**

Organization, functions, and authority delegations:  
Enforcement Division  
Director; published 5-8-96

**TREASURY DEPARTMENT****Alcohol, Tobacco and Firearms Bureau**

Technical amendments; published 5-8-96

**VETERANS AFFAIRS DEPARTMENT**

Adjudication; pensions, compensation, dependency, etc.:

Miscellaneous amendments; published 5-8-96

Vocational rehabilitation and education:

Educational assistance; technical amendments; published 5-8-96

**COMMENTS DUE NEXT WEEK****AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Fluid milk promotion order; comments due by 5-15-96; published 5-8-96

**AGRICULTURE DEPARTMENT****Rural Utilities Service**

Rural development:

Distance learning and telemedicine grant program; comments due by 5-16-96; published 4-16-96

**AGRICULTURE DEPARTMENT**

Administrative regulations:

Claims based on negligence, wrongful act, or omission; Federal regulatory review; comments due by 5-13-96; published 4-12-96

**ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD**

Americans with Disabilities Act; implementation:

Accessibility guidelines--  
Detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools; comments due by 5-13-96; published 4-12-96

**COMMERCE DEPARTMENT National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Atlantic bluefish; comments due by 5-13-96; published 3-28-96

Limited access management of Federal fisheries in and off of Alaska

Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; comments due by 5-14-96; published 3-20-96

Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; comments due by 5-17-96; published 4-2-96

Northeast multispecies; comments due by 5-15-96; published 4-18-96

Summer flounder; comments due by 5-17-96; published 4-22-96

**DEFENSE DEPARTMENT**

Acquisition regulations:

Ball and roller bearings; comments due by 5-17-96; published 3-18-96

**EDUCATION DEPARTMENT**

Family educational rights and privacy:

Regulatory burden reduction; comments due by 5-13-96; published 3-14-96

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollution control:

Federal regulatory review; comments due by 5-13-96; published 4-11-96

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Kentucky; comments due by 5-17-96; published 4-17-96

Michigan; comment period extension; comments due by 5-16-96; published 5-1-96

Clean Air Act:

Accidental release prevention; regulated substances and thresholds list; comments due by 5-15-96; published 4-15-96

Proposed stay of effectiveness; comments due by 5-15-96; published 4-15-96

Fuel and fuel additives--  
Federal gasoline Reid Vapor Pressure volatility standard (1996 and 1997); relaxation; comments due by 5-15-96; published 4-15-96

Hazardous waste program authorizations:

Louisiana; comments due by 5-13-96; published 3-28-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Diflubenzuron; comments due by 5-17-96; published 4-17-96

Pentaerythritol stearates; comments due by 5-17-96; published 4-17-96

Prosulfuron; comments due by 5-17-96; published 4-17-96

Sodium salt of acifluorfen; comments due by 5-17-96; published 4-17-96

Superfund program:

National oil and hazardous substances contingency plan--

National priorities list update; comments due by 5-13-96; published 4-11-96

National priorities list update; comments due by 5-13-96; published 4-12-96

Water pollution; effluent guidelines for point source categories:

Ore mining and dressing; comment period extension; comments due by 5-13-96; published 4-10-96

**FARM CREDIT ADMINISTRATION**

Farm credit system:

Loan policies and operations--

Loan underwriting; Federal regulatory review; comments due by 5-15-96; published 4-15-96

**FEDERAL COMMUNICATIONS COMMISSION**

Personal communications services:

Mobile-satellite services; allocation of 70 MHz range satellites operation use; comment period reopening; comments due by 5-17-96; published 4-25-96

Radio broadcasting:

Broadcast facilities; minor changes without construction permit; comments due by 5-16-96; published 4-8-96

Radio stations; table of assignments:

Alaska; comments due by 5-13-96; published 3-29-96

Colorado; comments due by 5-13-96; published 3-29-96

Hawaii; comments due by 5-13-96; published 3-29-96

New Mexico; comments due by 5-13-96; published 3-29-96

Telecommunications Act of 1996; implementation:

Local competition provisions; comments due by 5-16-96; published 4-25-96

Television broadcasting:  
Cable Television Consumer Protection and Competition Act of 1992--  
Leased commercial access; comments due by 5-15-96; published 4-15-96

Television stations; table of assignments:  
Wisconsin; comments due by 5-13-96; published 3-29-96

**HEALTH AND HUMAN SERVICES DEPARTMENT**  
**Food and Drug Administration**

Human drugs:  
Investigational new drugs; clinical investigator disqualification; comments due by 5-16-96; published 2-16-96

Labeling of drug products (OTC)--  
Phenylpropanolamine preparation drug products; warning label; comments due by 5-14-96; published 2-14-96

Topical antimicrobial drug products for over-the-counter human use--  
OTC first aid antibiotic drug products; final monograph; comments due by 5-14-96; published 2-14-96

**INTERIOR DEPARTMENT**  
**Surface Mining Reclamation and Enforcement Office**

Permanent program and abandoned mine land reclamation plan submissions:  
Ohio; comments due by 5-17-96; published 4-17-96

**JUSTICE DEPARTMENT**  
Americans with Disabilities Act; implementation:  
Accessibility guidelines--  
Detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools; comments due by 5-13-96; published 4-12-96

**TRANSPORTATION DEPARTMENT**

**Coast Guard**  
Federal regulatory reform:  
Regattas and marine parades; comments due by 5-17-96; published 4-17-96  
Regattas and marine parades:  
Miami Super Boat Race; comments due by 5-15-96; published 3-26-96  
River Race Augusta; comments due by 5-15-96; published 3-26-96

**TRANSPORTATION DEPARTMENT**

Americans with Disabilities Act; implementation:  
Accessibility guidelines--  
Detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools; comments due by 5-13-96; published 4-12-96  
Omnibus Transportation Employee Testing Act of 1991:  
Drug and alcohol testing requirements for foreign-based drivers operating in U.S.; participation by Canadian and Mexican laboratories; comments due by 5-13-96; published 3-28-96

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**  
Airports:  
Passenger facility charges; comments due by 5-16-96; published 4-16-96  
Airworthiness directives:  
Boeing; comments due by 5-14-96; published 3-21-96  
Dornier; comments due by 5-15-96; published 4-4-96  
JanAero Devices; comments due by 5-17-96; published 3-15-96  
McDonnell Douglas; comments due by 5-13-96; published 3-18-96  
Airworthiness standards:  
Transport category airplanes--  
Reference stall speed; comments due by 5-17-96; published 1-18-96  
Class E airspace; comments due by 5-13-96; published 4-8-96

**TRANSPORTATION DEPARTMENT**

**Federal Highway Administration**  
Motor carrier safety standards:  
New drivers; safety performance history; comments due by 5-13-96; published 3-14-96

**TRANSPORTATION DEPARTMENT**

**Federal Railroad Administration**  
Railroad workplace safety:  
Roadway worker protection; comments due by 5-13-96; published 3-14-96

**TRANSPORTATION DEPARTMENT**

**National Highway Traffic Safety Administration**  
Motor vehicle safety standards:  
Lamps, reflective devices, and associated equipment--  
Signal lamps geometric visibility requirements, and rear side marker color; harmonization; comments due by 5-16-96; published 12-27-95

**LIST OF PUBLIC LAWS**

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

**H.R. 3055/P.L. 104-141**

To amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section. (May 6, 1996; 110 Stat. 1328)

Last List May 6, 1996