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Monday
June 3, 1996

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CHICAGO, IL

WHEN: June 11, 1996 at 9:00 am

WHERE: Metcalfe Federal Building, Conference Room 328, 77 West Jackson, Chicago, Illinois 60604

RESERVATIONS: 1–800–688–9889

WASHINGTON, DC

[Two Sessions]

WHEN: June 18, 1996 at 9:00 am, and June 25, 1996 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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

Federal Register
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Presidential Documents

Title 3—

The President

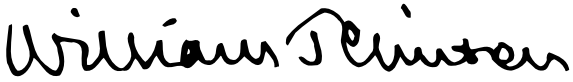
Presidential Determination No. 96–26 of May 22, 1996

Use of International Organizations and Programs Account Funds for the U.S. Contribution to the Korean Peninsula Energy Development Organization (KEDO)

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(1) (the ''Act''), I hereby determine that it is important to the security interests of the United States to furnish up to $22 million in funds made available under heading ''International Organizations and Programs'' in title IV of the Foreign Operations Appropriations Act, 1996 (Public Law 104–107) for the United States contribution to the Korean Peninsula Energy Development Organization without regard to any provision of law within the scope of section 614(a)(1). I hereby authorize this contribution.

You are hereby authorized and directed to transmit this determination to the Congress and to arrange for its publication in the Federal Register.



THE WHITE HOUSE,
Washington, May 22, 1996.

[FR Doc. 96–14002
Filed 5–31–96; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 61, No. 107
Monday, June 3, 1996

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 28587; Amdt. No. 396]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on May 24, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC,

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, and; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 396 Effective Date, June 20, 1996]

From	To	MEA
§ 95.1001 Direct Routes-U.S.		
Puerto Rico Routes		
H100		
Is Deleted		
Borinquen, PR VORTAC	Limon, PR FIX	4000
Bahama Routes		
2 Lima		
Is Deleted		
Nassau, BF NDB	Netta, BF FIX	*2000
*1500–MOCA		MAA–45000
Netta, BR FIX	Marsh Harbour, BF NDB	*2000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 396 Effective Date, June 20, 1996]

From	To	MEA
*1200–MOCA		MAA–45000
3 Lima		
	Is Deleted	
Bimini/DCMSND, BF NDB *1300–MOCA	Exter, BF	*2000
4 Lima		
	Is Deleted	
Rubin, FL NDB	Mrlin, FL FIX	2000
Mrlin, FL FIX	Thong, BF FIX	2000
Thong, BF FIX	Bimini/DCMSND, BF NDB	2000
Bimini/DCMSND, BF NDB	Nassau, BF NDB	2000
Nassau, BF NDB *1400–MOCA	Resin, BF FIX	*2000
5 Lima		
	Is Deleted	
Nassau, BF NDB *1400–MOCA	Cosmo, BF FIX	*2000
6 Lima		
	Is Deleted	
Bimini/DCMSND, BF NDB *1400–MOCA	INT ZBB NDB 088 & GBN NDB 125	*2000
INT ZBB NDB 088 & GBN NDB 125	Cosmo, BF FIX	2000
Cosmo, BF FIX	Rock Sound, BF NDB	2000
8 Lima		
	Is Deleted	
Freeport, BF NDB *1400–MOCA	Marsh Harbour, BF NDB	*2000
9 Lima		
	Is Amended To Read in Part	
Great Inagua, BF NDB	Tomas, BI FIX	3000
Tomas, BI FIX	Grand Turk, BI NDB	2000
12 Lima		
	Is Deleted	
Nassau, BF NDB *1400–MOCA #3800 Required Without HF Communication Equipment.	Rock Sound, BF NDB	#*2000
22V		
	Is Amended To Delete	
Nassau, BF VOR/DME *1500–MOCA	Eleuthera, BF VOR/DME	*2000
49V		
	Is Amended To Read in Part	
Fowee, FL FIX *8000–MRA	*Tinky, BF FIX	1000
*Tinky, BF FIX *8000–MRA	Nicko, BF FIX	5000
Nicko, BF FIX	Nassau, BF VOR/DME	5000
	Is Amended To Delete	
Looks, BF FIX	Nassau, BF VOR/DME	2000
55V		
	Is Amended by Adding	
Seaan, BF FIX	Burgo, BF FIX	1000
	Is Amended To Read in Part	
Nassau, BF VOR/DME *1200–MOCA	Seaan, BF FIX	*3000
		MAA–45000
56V		
	Is Deleted	
Nassau, BF VOR/DME *6000–MRA **1400–MOCA	*Bayru, BF FIX	**2000
*Bayru, BF FIX *6000–MRA **1200–MOCA	Peakk, BF FIX	**8000
Peakk, BF FIX *1300–MOCA	ABACO, BF FIX	*10000
68V		
	Is Amended To Delete	
Freeport, BF VOR/DME *1200–MOCA	Deers, BF FIX	*2000
		MAA–45000
Deers, BF FIX	Treasure Cay, BF VOR/DME	*2000
*1200–MOCA		MAA–45000
Treasure Cay, BF VOR/DME	Marsh Harbour, BF NDB	*2000
*1200–MOCA		MAA–45000
Marsh Harbour, BF NDB	Netta, BF FIX	*2000
*1200–MOCA		MAA–45000
Netta, BF FIX	Nassau, BF VOR/DME	*4000
*1500–MOCA		MAA–45000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 396 Effective Date, June 20, 1996]

From	To	MEA
Atlantic Routes		
AR 7		
Is Amended To Delete		
Bimini/DCMSND, BF NDB	Vally, FL FIX	2000
A301		
Is Amended To Read in Part		
Bimini, BF VORTAC	Bkene, BF FIX	4000
Bkene, BF FIX	Fowee, FL FIX	4000
Fowee, FL FIX	Zolla, OA FIX	8000
Zolla, OA FIX	Ursus, OA FIX	10000
A555		
Is Amended by Adding		
Bimini, BF VORTAC *11000–MRA	*Rajay, BF FIX	4000
Rajay, BF FIX	Nassau, BF VOR/DME	4000
Nassau, BF VOR/DME	Victs, BF FIX	3000
Victs, BF FIX	Gerot, OA FIX	3000
Is Amended To Read in Part		
Gerot, OA FIX	Stella Maris, BF NDB	3000
A636		
Is Amended by Adding		
Great Inagua, BF NDB	Albee, BF FIX	4000
§ 95.6003 VOR Federal Airway 3 Is Amended To Read in Part		
Palm Beach, FL VORTAC *2000–MOCA	Vero Beach, FL VORTAC	*3000
§ 95.6055 VOR Federal Airway 55 Is Amended To Read in Part		
Siren, WI VOR/DME	Brainerd, MN VORTAC	3000 MAA–1400
§ 95.6082 VOR Federal Airway 82 Is Amended To Read in Part		
Brainerd, MN VORTAC	Gopher, MN VORTAC	3000
§ 95.6133 VOR Federal Airway 133 Is Amended To Read in Part		
Marquette, MI VOR/DME *3000–MOCA	Bride, MI FIX	*3600
§ 95.6161 VOR Federal Airway 161 Is Amended To Read in Part		
Gopher, MN VORTAC	Brainerd, MN VORTAC	3000
§ 95.6210 VOR Federal Airway 210 Is Amended To Read in Part		
Mingg, OK FIX *4200–MRA **2500–MOCA	*Loboe, OK FIX	**4000
§ 95.6218 VOR Federal Airway 218 Is Amended To Read in Part		
Grand Rapids, MN VOR/DME *3000–MOCA	Gopher, MN VORTAC	*5500
§ 95.6266 VOR Federal Airway 266 Is Amended To Read in Part		
Mazon, VA FIX *1500–MOCA	Sunns, NC FIX	*2000
Sunns, NC FIX	Elizabeth City, NC VOR/DME	*5000
§ 95.6492 VOR Federal Airway 492 Is Amended To Read in Part		
La Belle, FL VORTAC *1500–MOCA	Palm Beach, FL VORTAC	*2000

[FR Doc. 96–13776 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 100, 101, 103, 104, 105, 109, 137, 161, 163, 172, 182, 186, 197, and 700

[Docket No. 95N–310F]

Revocation of Certain Regulations Affecting Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking certain regulations that it has determined are obsolete, no longer in use, or in conflict with applicable law. These regulations have been identified for revocation as the result of a page-by-page review of the agency's regulations that cover food and cosmetics. This regulatory review is in response to the administration's ''Reinventing Government'' initiative that seeks to streamline Government to ease the burden on regulated industry and consumers. This document also is amending the food additive listing for folic acid (folicin) to reflect the fact that grits are now a nonstandardized food.

DATES: Effective July 3, 1996, except for the amendment to § 172.345 which is

effective June 3, 1996. Written objections and requests for a hearing for part 105 and § 172.345(d) by July 3, 1996. Any labels or labeling that require revision as a result of these revocations shall comply no later than January 1, 1998.

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

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1995, President Clinton announced plans for the reform of the Federal regulatory system as part of his ''Reinventing Government'' initiative. Part of this reform effort is aimed at deleting prescriptive regulations which can sometimes undermine their stated purpose. In his March 4, 1995, directive, entitled ''Regulatory Reinvention Initiative,'' the President ordered all Federal agencies to conduct a page-by-page review of all of their regulations and to ''eliminate or revise those that are outdated or otherwise in need of reform.''

In response to this directive, FDA issued proposals to revoke a number of regulations (60 FR 53480, October 13, 1995 (hereinafter referred to as the October 1995 proposal); 60 FR 56513 and 56541, November 9, 1995) and an advance notice of proposed rulemaking (ANPRM) to review standards of identity, quality, and fill of container (60 FR 67492, December 29, 1995) (hereinafter referred to as the December 1995 ANPRM). This document is a final rule that responds to that portion of the agency's October 1995 proposal that described the agency's intent to revoke certain regulations that pertain to food and cosmetics.

II. The Proposal

In the October 1995 proposal, FDA proposed to eliminate a number of regulations on various grounds, including that they were either obsolete, redundant, of no public interest, or statements of policy that did not need to be in the Code of Federal Regulations (CFR). The agency stated that any revocation would become effective 30 days after date of publication of a final rule in the Federal Register. Interested persons were given until January 11, 1996, to comment on the proposal.

III. Summary of and Response to Comments to Proposal

FDA received 12 letters from industry and affected trade associations containing one or more comments on the October 1995 proposal. The majority of comments supported the administration's reinventing Government initiative. Several comments agreed that certain regulations are obsolete, unnecessary, or duplicative and should be revoked. Some comments agreed with the proposal in general terms but did not specifically refer to individual sections of the CFR, or did not elaborate on why certain sections should be revoked beyond the reasons given by the agency in its October 1995 proposal. A few comments contained concerns about, or requested clarification on, the agency's proposal to revoke certain sections. A summary of the comments and the agency's responses follows:

A. General Agreement with Proposal to Revoke

All comments supported, either generally or specifically, revocation of the following sections:

1. Section 100.120 *Artificially red-dyed yellow varieties of sweet potatoes* (21 CFR 100.120).

2. Section 100.130 *Combinations of nutritive and nonnutritive sweeteners in ''diet beverages''* (21 CFR 100.130).

3. Section 100.135 *Disposition of incubator reject eggs* (21 CFR 100.135).

4. Section 100.140 *Label declaration of salt in frozen vegetables* (21 CFR 100.140).

5. Section 100.145 *Notice to packers of comminuted tomato products* (21 CFR 100.145).

6. Section 100.150 *Notice to packers and shippers of shelled peanuts* (21 CFR 100.150).

7. Section 101.33 *Label declaration of D-erythroascorbic acid when it is an ingredient of a fabricated food* (21 CFR 101.33).

8. Section 101.103 *Petitions requesting exemptions from or special requirements for label declaration of ingredients* (21 CFR 101.103).

9. Part 103—Quality Standards for Foods With No Identity Standards (21 CFR part 103).

10. Section 104.19 *Petitions* (21 CFR 104.19).

11. Section 105.69 *Foods used to regulate sodium intake*.

12. Section 109.5 *Petitions* (21 CFR 109.5).

13. Section 161.131 *Extra large oysters* (21 CFR 161.131).

14. Section 161.132 *Large oysters* (21 CFR 161.132).

15. Section 161.133 *Medium oysters* (21 CFR 161.133).

16. Section 161.134 *Small oysters* (21 CFR 161.134).

17. Section 161.135 *Very small oysters* (21 CFR 161.135).

18. Section 161.137 *Large Pacific oysters* (21 CFR 161.137).

19. Section 161.138 *Medium Pacific oysters* (21 CFR 161.138).

20. Section 161.139 *Small Pacific oysters* (21 CFR 161.139).

21. Section 161.140 *Extra small Pacific oysters* (21 CFR 161.140).

22. Subpart F—Dietary Supplements of part 182 (21 CFR part 182).

23. Section 186.1025 *Caprylic acid* (21 CFR 186.1025).

24. Part 197—Seafood Inspection Program (21 CFR part 197).

25. Section 700.10 *Shampoo preparations containing eggs as one of the ingredients* (21 CFR 700.10).

Thus, in view of the support expressed by comments on the October 1995 proposal, and given the Government's resolve to eliminate obsolete, redundant, or conflicting regulations, FDA is revoking these sections. The agency concludes that this action will benefit consumers and industry by eliminating regulations that are unnecessary and that, therefore, have the potential to be confusing and, as a result, burdensome.

FDA advises that where the agency has determined a section is obsolete, unnecessary, or duplicative (e.g., §§ 100.130 and 100.140), once the section is revoked, generally, no further action is required. Where the section being revoked is a statement of policy (e.g., § 100.135), the agency may decide that it is in the public interest to develop a Compliance Policy Guide (CPG), or other appropriate means, to make the public aware of this policy. FDA will publish a notice in the Federal Register of the availability of any policy statements that it develops.

B. Sections About Which Comments Expressed Concern or Requested Clarification About the Impact of Revocation

One or more comments objected to, expressed concern about, or requested clarification on, FDA's proposal to revoke the following sections:

Section 100.160 *Tolerances for moldy and insect-infested cocoa beans* (21 CFR 100.160)

1. FDA received one letter from a trade association commenting that the tolerances set out in § 100.160 are useful because they have been universally adopted. This comment expressed concern that any change in the

tolerances for defective cocoa beans could have a serious impact on the market value of warehoused cocoa beans and on the value of cocoa futures contracts. The comment maintained that, because of the value of this market, any change in the tolerances should be subject to public scrutiny at open hearings. Finally, the comment stressed the need for the tolerances to be widely known.

In response to this comment, FDA advises that it did not propose to change the action levels for defective cocoa beans set out in § 100.160. Rather, the agency tentatively concluded that, because this section is a statement of policy, it need not appear in the CFR. Further, the agency cannot envision any situation where it would be compelled to change these levels without seeking input from interested parties. FDA concludes, therefore, that, because it is not altering the defect action levels in the policy statement, the comment's concern in this regard is without merit.

In addition, as mentioned in section III.A. of this document, where the agency concludes that the policy statements covered by this review need not appear in the CFR, but where it remains necessary to communicate the policy to interested parties, FDA intends to set out the policy in a CPG or by other appropriate means. FDA advises that the CPG system for assembling and maintaining statements of policy has been in place since 1969. The agency notes that CPG's have a history of including statements that contain regulatory action guidance information of the type set out in § 100.160 (e.g., CPG number 7101.06 ''Green Coffee Beans—Adulteration with Insects; Mold''). In fact, CPG 7105.12 ''Cacao Beans—Adulteration by Mold, Insect Infestation, and Mammalian Excreta'' sets out, among other things, the same defect action levels for moldy or insect damaged cacao beans as § 100.160.

On June 20, 1995 (60 FR 32159), the agency published a notice of availability for a new, reorganized, and bound edition of the FDA Compliance Policy Guides (CPG manual). The purpose of the CPG manual is to provide to FDA personnel and to other interested parties a more convenient and user friendly system for statements of FDA compliance policy. In addition, the agency provides notice in the Federal Register of the availability of new or revised CPG's. Such notices are also widely reported in trade association newsletters, other newsletters, and professional journals.

Accordingly, FDA concludes that removing § 100.160 from the CFR will change the location of the information that it contained, but not the effective communication of that information. The agency further concludes that reducing the number of nonregulatory sections that appear in the CFR, which, by definition, is a compendium of Federal regulations, is consistent with the administration's goal of streamlining the regulatory process. Therefore, FDA is revoking § 100.160, as proposed.

Section 105.67 *Label statement relating to food for use in the diet of diabetics*

In the October 1995 proposal, FDA noted that this section is not in accordance with current dietary advice for persons with diabetes. The agency tentatively concluded that the regulations that it had adopted in response to the Nutrition Labeling and Education Act of 1990 (the 1990 amendments) (Pub. L. 101–535), including the new ingredient labeling regulations, should ensure that food labels contain sufficient information to assist diabetics in making educated food choices.

2. FDA received five letters, from trade associations, a manufacturer, health professionals, and a health professional association, commenting on its proposal to delete this section. Some of the comments agreed with the agency's tentative conclusion that § 105.67 is not consistent with current dietary advice for persons with diabetes and should, therefore, be revoked. One comment noted that healthy eating is the cornerstone of diabetes self management, and that it is essential that persons with diabetes have access to accurate nutrition information regarding the foods they eat. Other comments supported the agency's conclusion that nutrition labeling and ingredient declaration requirements ensure that consumers have access to the information necessary to plan a healthy diet. These comments also maintained that, because current dietary advice is based on the premise that no specific food is either good or bad for persons with diabetes, label statements identifying specific foods as being useful to diabetics would be misleading. One comment argued that § 105.67 continues the myth that persons with diabetes should have a restricted diet insofar as the variety of foods they eat. The comment noted that this view is contrary to current evidence and practice. The comment stated that, for example, there is no scientific basis for unnecessarily restricting sucrose and other sugars in the diet of persons with diabetes. However, according to the comment, the predominant use of § 105.67 is to make certain foods more appealing to diabetics relative to sucrose and sucrose replacements.

Conversely, one comment maintained that label statements identifying foods for diabetic use may be useful. The comment argued that there is no clear consensus that some foods and beverages are not better for people with diabetes, and that, therefore, labeling to identify foods for diabetic use should be allowed. The comment maintained that the conclusion of a health professional association that polyols (i.e., sugar alcohols) have no significant advantage over other nutritive sweeteners is in error because, according to the comment, that association's conclusion is based on the assumption that polyols have the same energy value as other nutritive sweeteners (i.e., 4 calories per gram). The comment cited the article entitled ''Helpful Hints: Using the 1995 Exchange Lists for Meal Planning'' in *Diabetes Spectrum* that acknowledges the reduced caloric values for polyols and instructs people with diabetes on how to factor this reduction into meal planning. The comment also maintained that products sweetened with polyols and other low calorie sweeteners cause a lower glycemic response, and, consequently, that identifying these products as, ''useful to diabetics on the advice of a physician,'' would assist persons with diabetes in formulating meal plans. The comment concluded, therefore, that such labeling would not be false or misleading.

The fact that there is not universal agreement that a statement that a specific food would be particularly useful in the diets of diabetics is false does not mean that it is appropriate for such a statement to appear in food labeling. The weight of evidence and current recommendations by recognized authorities is that no specific food is, or is not, more useful than others in the diets of diabetics. Rather, current recommendations promote a varied diet (Ref. 1).

In addition, § 101.9(c)(1)(i)(D) on nutrition labeling allows manufacturers to use specific FDA approved food factors to calculate the energy value of ingredients such as polyols. Therefore, the calorie declaration within nutrition labeling reflects the reduced energy value of polyols. Accordingly, nutrition labeling and ingredient declarations provide persons with diabetes with the information that they need to determine how a food fits into their meal plan.

Therefore, consistent with current dietary advice, FDA concludes that the provisions for diabetic labeling in § 105.67 are outdated and misleading. Consequently, the agency is deleting section § 105.67 as proposed.

Because § 105.67 was adopted under authority of section 403(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(j)) (the act), this revocation must be made in accordance with the formal rulemaking procedures in section 701(e) of the act (21 U.S.C. 371(e)). Under these procedures, there is an opportunity to object to a final rule and to request a public hearing based upon such objection.

3. One comment, while supporting revocation of § 105.67, expressed concern that deleting § 105.67(c) (which contains requirements for how the term ''diabetic'' is to appear in labeling) may be seen by some manufacturers as license to label products as ''diabetic'' without restriction. The comment urged FDA to make clear in any final rule revoking § 105.67 that label statements such as ''diabetic'' or ''for diabetics'' are no longer allowed.

FDA points out that § 105.67(c) pertained only to the prominence of terms such as ''diabetic.'' Based on FDA's conclusion that § 105.67 is contrary to current dietary recommendations, and that use of label statements identifying specific foods as particularly useful for diabetics is misleading, the prominence of such terms is a moot issue. FDA has no evidence that removal of the specific restrictions in § 105.67(c), or in any other paragraph of that section, would be misinterpreted by manufacturers to mean that the terms covered therein could be used without limitation. The nutrient content and health claim provisions in section 403(r) of the act along with section 403(a) should provide an adequate regulatory framework to prevent any use of the term ''diabetic'' that is not scientifically valid or that is misleading.

C. Standards of Identity Issues

FDA proposed to revoke several standards of identity because it tentatively concluded that they were obsolete, unnecessary, or no longer in the public interest. After it published the October 1995 proposal, but before the close of the comment period in this rulemaking, FDA published the December 1995 ANPRM (60 FR 67492 at 67493) that announced the agency's intent to begin a broader review of its regulations that set out standards of identity, quality, and fill of container (hereinafter referred to as the ''reinventing standards initiative''). In that document, FDA asked for comments on the benefit of such regulations in facilitating domestic and international commerce and their value to consumers. The agency also solicited comment on alternative means of accomplishing the statutory objectives of food standards, i.e., to promote honesty and fair dealing in the interest of consumers.

Sections 137.230 *Corn grits* (21 CFR 137.230), 137.235 *Enriched corn grits* (21 CFR 137.235), 137.240 *Quick grits* (21 CFR 137.240), and 137.245 *Yellow grits* (21 CFR 137.245)

The standards for grits describe the foods as corn (white corn or yellow corn) that is ground to a particular fineness. They provide maximum content requirements for moisture, fat, and crude fiber. In addition, the standard for enriched corn grits specifies minimum and maximum content requirements for thiamin, riboflavin, niacin, and iron and optional levels of vitamin D and calcium. In a final rule published in the Federal Register of March 5, 1996 (61 FR 8781) (hereinafter referred to as the March 1996 final rule), FDA added folate to the list of nutrients that must be added to enriched corn grits. The standard for quick grits specifies that the food is grits that have been lightly steamed and compressed to reduce cooking time for the consumer.

4. FDA received two letters specifically commenting on its proposal to revoke the standards of identity for corn grits, enriched corn grits, quick grits, and yellow grits (hereinafter referred to as ''the standards for grits''). One comment supported the administration's efforts to streamline Government to ease the burden on consumers and regulated industries. The comment argued that the standards for grits are unneeded and unnecessary, serve no public health benefit, and should be revoked. The comment stated that revoking obsolete and unnecessary food standards that serve no public interest, including the standards for grits, is a positive step towards achieving the administration's goals. According to the comment, the standards for grits inhibit the development of new products that may have benefits for consumers.

Conversely, the second comment maintained that the need for the standards for grits is current and ongoing. The comment expressed concern about the potential characteristics of products manufactured and labeled as ''grits'' in the absence of a standard of identity. The comment noted, for example, that particle size or other parameters may change, slowly migrating from the original, the migration dictated by economic or other commercial forces. In addition, the comment stated that the standard of identity for yellow grits should be maintained since consumers have preferences between cereal products made from white or yellow corn. The comment argued that consumers should not be forced to wait until they get home and open the package to find out whether the grits they purchased are white or yellow grits.

The comment also hypothesized that, in the absence of a standard of identity, in a short yellow corn crop, products labeled as ''yellow grits'' might be made from a blend of white and yellow corn. The comment further suggested that products labeled as ''yellow grits'' could even be white grits made to appear yellow. According to the comment, yellow colorant could be added to products made from white corn but identified as ''yellow grits'' so long as the colorant's use is listed in the ingredient declaration.

The comment argued that it is in the best interest of consumers that products they have come to trust as a specific product not be allowed to change according to economic or market pressures. In support of maintaining the standards for enriched corn grits and for quick grits, the comment cited consumer reliance on enriched cereal products and consumer benefit from quick preparation.

FDA acknowledges the comment's concerns that products that have long enjoyed the protection of standards of identity may change in the absence of those standards. They are similar to concerns raised by some of the early comments the agency has received in response to its reinventing standards initiative.

However, the agency disagrees with the comment's contention that the absence of standards will allow the proliferation of adulterated or misbranded products. The names ''grits'' and ''yellow grits'' were widely accepted as the common or usual names of the corn products to which these names apply before FDA adopted standards of identity. In the preamble to its proposed rule on these standards (12 FR 69 at 70; January 4, 1947) (hereinafter referred to as the 1947 standards proposal), FDA noted that the common or usual name of grits milled from white corn was, as it remains, the unqualified term ''grits,'' and that the names ''hominy grits'' and ''corn grits'' were synonyms for ''grits.'' The agency further noted that the common name of the corresponding food made from yellow corn is ''yellow grits,'' ''yellow hominy grits,'' or ''yellow corn grits.'' Thus, there is a longstanding common understanding of what foods can appropriately be called ''grits.'' Because

of this understanding, if the term ''grits'' is inappropriately applied to a food, that food will be misbranded under both section 403(i)(1) of the act (a food shall be deemed to be misbranded ''Unless its label bears * * * the common or usual name of the food, if any there be * * *'') and section 403(b) (a food is deemed to be misbranded ''If it is offered for sale under the name of another food.'') Thus, the comment's suggestion that consumers will be left unprotected if the standard is revoked is without merit.

FDA also disagrees with the comment's suggestion that, in the absence of a standard of identity, consumers will be unable to tell from labeling what type of grits they have purchased. The general principles for common or usual names in § 102.5 (21 CFR 102.5) require that the common or usual name of a food accurately describe the basic nature of a food or its characterizing properties or ingredients. Thus, if the food is from yellow corn, the name must reflect that fact. If the food is colored to appear yellow, the name must reflect that fact. If the food is a mixture of yellow and white corn but also contains a sufficient amount of white corn grits to be characterizing, it must be labeled using an appropriately descriptive phrase, e.g., ''Mixed grits, a blend of white and yellow corn grits.''

In response to the comment's concern about changes in particle size, FDA points out that grits, as evidenced by the record in the 1947 standard setting proceeding, are generally understood to be the coarsest of the products prepared by grinding corn, which also include corn meal and corn flour. FDA finds that migration in particle size will be limited by two factors. First, corn meal and corn flour will continue, at least pending the outcome of FDA's broader rulemaking on food standards, to be subject to standards of identity. Thus, any attempt to call a too finely ground product ''grits'' would misbrand the food under sections 403(b) and (g) of the act. Second, grits is a unique food in that its name directly reflects its characterizing property, i.e., that it consists of coarsely ground yet small particles of corn. As noted in the 1947 standards proposal and recognized by the comment itself, particle size affects the eating and cooking properties of the food. Thus, a product with particles that are too large will simply not have the gritty mouth feel that characterizes this food. Given the well established character of grits, drift towards a larger particle size will create a significant possibility of consumer rejection of the product. This strong possibility should serve as a disincentive to migration towards larger particle size.

Finally, even though FDA is revoking these standards, manufacturers remain free to make, and, to the extent they do, consumers remain free to purchase, products such as ''quick grits'' and ''enriched grits.'' For all these reasons, FDA has not been convinced by the comment to retain the standards of identity for grits. Accordingly, FDA is revoking the standards for corn grits (§ 137.230), enriched corn grits (§ 137.235), quick grits (§ 137.240), and yellow grits (§ 137.245).

5. One comment expressed concern about the impact of deleting the standard for enriched grits on other enriched products. While the comment did not specifically agree or disagree with the proposed revocation of the standards for grits, it urged the agency to consider the contribution from all cereal flour enrichment to the health and well-being of consumers.

FDA advises that a copy of this comment has been placed in the docket for the reinventing standards initiative (Docket No. 95N–0294) and will be considered in that rulemaking. FDA also advises that its decision to revoke the standard of identity for enriched grits should have no effect on the health and well-being of consumers. In the March 1996 final rule on folic acid, the agency foresaw the possibility that it would revoke the standard for enriched grits. In that document, FDA recognized the dietary significance of enriched cereal grain products, including grits. FDA stated that should the enriched grits standard be revoked, it would amend the food additive regulation on folic acid (§ 172.345) to include grits in the list of nonstandardized foods to which folic acid may be added. FDA is making that conforming change in this document. Therefore, the total amount of folate available from the diet should not be affected by the decision to revoke the standard of identity for enriched grits.

Removing the standard of identity for enriched grits does not affect the agency's finding that the use of folic acid in this food is safe. Consequently, FDA is amending the food additive regulation in § 172.345(d) to continue authorization of this use at the level permitted by the former standard for enriched grits. Specifically, the agency is amending § 172.345(d) by adding at the end of that paragraph '', and to corn grits at a level such that each pound of the corn grits contains not more than 1.0 milligram of folic acid.'' The agency advises that, because this amendment does not change the currently approved uses of folic acid, it has no effect on the safe use of folic acid. For this reason, and because this change was foreshadowed in the final rule establishing a folic acid fortification level for standardized, enriched grain products, FDA is issuing this amendment as a final rule.

Section 163.150 *Sweet cocoa and vegetable fat coating,* Section 163.153 *Sweet chocolate and vegetable fat coating,* and Section 163.155 *Milk chocolate and vegetable fat coating.*

The standards for sweet cocoa and vegetable fat coating, sweet chocolate and vegetable fat coating, and milk chocolate and vegetable fat coating (hereinafter referred to as ''coatings made with vegetable fat'') describe foods that resemble traditional milk chocolate and sweet chocolate products except for specified deviations to achieve certain performance characteristics. The primary deviation from traditional chocolate products is that a vegetable fat, having a higher or lower melting point than cacao fat, replaces part of the cacao fat in the food. In addition, the standards for coatings made with vegetable fat are somewhat more flexible in permitting the use of optional ingredients compared to the standards of identity for traditional chocolate products. For example, any safe and suitable dairy-derived ingredient may be used in sweet chocolate and vegetable fat coating (§ 163.153(b)(2)), while the standard for sweet chocolate (§ 163.123(b)(4)) provides a list of specific dairy ingredients (e.g., milk, cream, or skim milk) that may be used in the food. Conversely, the standards of identity for both the traditional chocolate products and for coatings made with vegetable fat require that the foods meet minimum and maximum milk solids content requirements based on those dairy ingredients referred to in § 163.123(b)(4). Sweet cocoa and vegetable fat coating resembles sweet chocolate and vegetable fat coating except that cocoa may replace all, or part, of the chocolate liquor in the sweet chocolate and vegetable fat coating. The standards of identity for coatings made with vegetable fat also contain labeling requirements for the name of the food and for ingredient declaration.

6. FDA received five letters specifically commenting on the agency's proposal to revoke the standards for sweet cocoa and vegetable fat coating, sweet chocolate and vegetable fat coating, and milk chocolate and vegetable fat coating. Three comments supported the proposal, maintaining that the standards for coatings made with vegetable fat are unnecessary and serve no useful function or public interest. One comment argued that the standards are not necessary because the

ingredient declaration would sufficiently inform consumers about the nature of these products. Another comment noted that the current nomenclature for the products covered by these standards is so unwieldy and confusing that inherent marketplace value normally associated with a standard of identity is severely undermined. In fact, most of the comments on this issue, regardless of whether or not they supported revocation, acknowledged that industry typically uses the term ''chocolate flavor coating'' to identify these products rather than the names provided for in the standards.

One comment acknowledged that, technically, this terminology constitutes misbranding under section 403 of the act. Another comment maintained that because of the long history of use of the term ''chocolate flavor coating'' to describe these products, they would be adequately covered by the common or usual name regulations in § 101.3 if the standards were revoked. Finally, these comments argued that deleting the standards for coatings made with vegetable fat would increase flexibility and innovation, thereby encouraging the introduction of new products in the market place. One comment maintained that, despite the increased flexibility afforded by 21 CFR 130.10 *Requirements for foods named by use of a nutrient content claim and a standardized term*, eliminating the standards for coatings made with vegetable fat would allow greater flexibility in the use of new technologies that could result in new product introductions (e.g., lower fat or lower calorie products) than is possible under the constraints of the standards.

On the other hand, two comments maintained that the standards of identity for coatings made with vegetable fat are not obsolete, unnecessary, or no longer serving the public interest. One comment argued that limiting the deviations in these products has guaranteed that the products have the same general sensory and quality characteristics (e.g., meet the same minimum dairy or cacao solids content requirements) as traditional chocolate products. One comment maintained that the standards for coatings made with vegetable fat are every bit as necessary as the standards for the traditional chocolate products to prevent the historical economic adulteration of products labeled ''chocolate.'' These comments supported maintaining the standards for coatings made with vegetable fat but suggested certain amendments, e.g., revising nomenclature, simplifying provisions, and combining the standards for sweet cocoa and vegetable fat coating with sweet chocolate and vegetable fat coating. One comment noted the complexity of the nomenclature issue and stated that FDA and the industry should work together to resolve this issue rather than revoking the standards for coatings made with vegetable fat.

FDA notes that its proposal to revoke the standards for coatings made with vegetable fat was probably the most contentious issue in this rulemaking. The agency admits that it was somewhat surprised by the relatively large number of comments on this issue and by the diversity of viewpoints expressed therein. The proposal to remove these standards was based, in part, on findings during the recent rulemaking to update the standards for cacao products in part 163 (58 FR 29523 at 29529, May 21, 1993) that the standardized nomenclature was not being used for these products. In that rulemaking, FDA shortened the names from, e.g., ''Sweet chocolate and vegetable fat other than cacao fat coating'' to ''Sweet chocolate and vegetable fat coating.'' However, it was not able to change the names of these foods to ''chocolate flavor coating,'' as requested, because codifying the term would place manufacturers of nonstandardized confectionery products at a serious disadvantage.

Since that rulemaking, informal communications with manufacturers have revealed that at least some manufacturers would rather see the standards of identity for coatings made with vegetable fat eliminated than be required to label products with the nomenclature provided for in the standards (Ref. 2). Thus, in the course of its page-by-page review of regulations, the agency questioned whether there was a need to retain these standards. The validity of raising the question was borne out by the comments that agreed with the agency's proposal to revoke the standards.

As noted at the beginning of this section, a number of comments stated that revoking these standards would increase flexibility and foster innovation. Several comments expressed frustration about issues that the agency had not been able to resolve to the commenters' satisfaction in the 1993 final rule updating the cacao standards and suggested that, absent a resolution of those issues, the standards were of little benefit and should be revoked.

Conversely, as noted previously, a number of comments, particularly a comment from a trade association representing chocolate manufacturers, raised substantive objections to the agency's proposal to revoke the standards for coatings made with vegetable fat. According to these comments, the standards for coatings made with vegetable fat are necessary for the continued accurate and truthful labeling of chocolate and chocolate-coated products. As such, the standards are useful to the industry and to consumers.

FDA notes that it is not dismissing the comments that supported revocation. The agency is committed to increasing flexibility while continuing to promote honesty and fair dealing in the interest of consumers. Although the standards for coatings made with vegetable fat were recently updated to keep pace with advances in technology, to increase flexibility for manufacturers, and to improve consumers' product choices, some limitations remain. At the same time, because of the nature of these foods (i.e., chocolate coatings made with vegetable fat and cocoa coatings made with vegetable fat are highly formulated products, the composition of which consumers are not likely to be aware), the standards of identity are a way, above and beyond other label information, to ensure that consumers receive a product with the expected characteristics.

Because of the complexity of the issues and because of indications that a significant proportion of the confectionery industry favors retaining these standards in some form, FDA concludes that it would be premature to revoke the standards for coatings made with vegetable fat. To do so at this time would not be in the best interest of consumers or of the regulated industry. Rather, the comment suggesting that the agency defer any action on these standards to the broader reinventing standards initiative has merit.

FDA notes that it proposed to revoke the standards for coatings made with vegetable fat before it published the ANPRM announcing its reinventing standards initiative. The standards for the other cacao products in part 163, including the sweet chocolate and milk chocolate products that the coatings made with vegetable fat resemble, are being reviewed as part of the reinventing standards initiative. It makes sense from a resource standpoint to review all these standards at that time. Further, it may be possible, under a revised system of standards, to resolve some of the issues that the agency was not able to resolve at the time of the 1993 cacao final rule. If that is the case, the agency may be able to eliminate or modify those aspects of the standards

that comments perceive to be burdensome. Alternatively, it may be that under a new standards system, some or all of these standards will no longer be necessary, and they could therefore be revoked.

Consequently, contrary to its proposal, FDA is not revoking the standards for coatings made with vegetable fat.

IV. Filing of Objections and Request for a Hearing

Any person who will be adversely affected by the amendments to part 105 or to § 172.345(d) may at any time on or before July 3, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets at the heading of this document. Any objections received in response to the revocation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. If the removal or amendment of any provisions stayed by, or as a result of, the filing of proper objections, FDA will publish timely notice in the Federal Register.

V. Economic Impact

FDA has examined the impact of this final rule under Executive Order 12866 and the Regulatory Flexibility Act. Executive Order 12866 directs Federal agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is ''economically significant'' if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs. A regulation is considered ''significant'' under Executive Order 12866 if it raises novel legal or policy issues. The Regulatory Flexibility Act (Pub. L. 96–354) requires Federal agencies to minimize the economic impact of their regulations on small businesses. FDA finds that this final rule is neither an economically significant nor significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act and the Regulatory Fairness Act of 1996, FDA certifies that this final rule will not have a significant impact on a substantial number of small businesses.

Comments raised a number of issues relevant to the analysis of the costs and benefits of this action that were not addressed in the economic analysis that accompanied the notice of proposed rulemaking.

One comment objected to the revocation of § 100.160, which sets tolerances for defective cocoa beans at the time of import. This comment claimed that this defect action level is featured in standard contracts for cocoa beans, and that the value of these contracts will change if this section is revoked.

As previously pointed out, FDA is not revoking the defect action level that is reflected in § 100.160. However, even if the agency were to take such an action, any change in the value of contracts linked to this provision could not properly be considered a cost of revocation because the value of a contract linked to anything subject to change during the life of the contract, such as a Federal regulation, already reflects the fact that such change may occur.

One comment objected to the revocation of the standards of identity for corn grits, enriched corn grits, quick grits, and yellow grits. This comment suggested that the combination of these product names and the associated standards of identity convey information about product characteristics to consumers, that consumers are interested in the information conveyed, and that consumers might experience difficulty obtaining this information in the absence of these standards.

The issues discussed in this comment involve legitimate potential costs of eliminating this standard of identity which were not discussed in the economic analysis of the proposed rule. However, these costs are attenuated to some degree by the fact that the labeling of nonstandardized products cannot be false or misleading, and that the name of the product itself, which can still be used even if the product is not standardized, defines its characteristics.

In addition, the elimination of these standards of identity is associated with countervailing benefits that were also not discussed in the economic analysis of the proposed rule. Eliminating these standards eliminates the costs that would be associated with revising these standards in response to industry petitions and the costs associated with preparing and submitting those petitions. In addition, eliminating these standards may increase the variety of grits products offered to consumers and reduce the costs associated with adopting new methods of producing these products. Although the comment suggested that costs are associated with the elimination of these standards, the comment provided no way of determining the magnitude of these costs or to compare these costs with the potential benefits of eliminating these standards. A more thorough discussion of the societal benefits and costs is contained in the December 1995 ANPRM (60 FR 67492 at 67499).

Finally, one comment objected to the revocation of § 105.67 (label statement relating to food for use in the diet of diabetics). This comment did not dispute the contention that there is no scientific consensus that the relevant claims are true but suggested, instead, that there is also no scientific consensus that the relevant claims are false. The point of this comment was probably that the current scientific consensus is that these claims are neither clearly true nor clearly false, but in some third category, such as possibly but not proven true, or possibly but not proven false.

If this comment were correct about the state of the scientific consensus on these claims, then the phenomena discussed in this comment would represent potentially legitimate costs of this action that were not discussed in the economic analysis of the proposed rule. In that case, the deletion of § 105.67 would prevent a claim from appearing on food labels that scientific consensus did not hold to have been proven false, and that some consumers might have wished to use to make food consumption choices. However, these costs would be attenuated by the fact that this type of label claim is not the only means by which consumers may identify foods with desired characteristics. As previously pointed out, the regulations adopted in response to the 1990 amendments, including the new ingredient labeling regulations,

provide information on a wide variety of product characteristics.

In addition, deletion of § 105.67, even under the conditions suggested in the comment, would be associated with a countervailing benefit that was also not discussed in the economic analysis of the notice of proposed rulemaking. This benefit is the maintenance of the relatively high informational content of label claims made possible by restricting such claims to those that current scientific consensus finds to be true rather than restricting such claims to those that current scientific consensus does not find to have been conclusively proven false. This restriction of allowable claims reduces the need for consumers to investigate the basis and relative credibility of label claims on their own.

Estimating the benefits and costs of allowing label claims having various degrees of scientific plausibility is quite difficult. However, in general, the availability of other means of identifying food with desired characteristics suggests that the benefit of maintaining a relatively high standard for information presented in label claims probably outweighs the costs of restricting these claims to those supported by scientific consensus. These issues are discussed in more detail in the regulatory impact analysis for the final rule to amend the food labeling regulations in the Federal Register of January 6, 1993 (58 FR 2927).

In addition, FDA does not agree that there is no scientific consensus that the relevant claims are false. Not only is there no scientific consensus that such claims are true, but the current scientific consensus is that such claims are false. The comment provided no information on the current state of scientific consensus to support its contention that there is no consensus that such claims are false.

Finally, the cost of the associated label changes was not addressed in the economic analysis of the notice of proposed rulemaking. Affected firms will have a minimum of 1 year to make the required label changes because any required label changes need not be made until the next uniform effective date after publication of the final rule in the Federal Register. In general, the average cost of changing a label under a compliance period of 1 year is estimated to be $1,000 per label, if the claim is on the principal display panel, and $425 per label, if the claim is located elsewhere on the label. FDA has no information on the number of labels affected or on the location of the relevant claims on those labels. However, the specificity of the relevant claims suggests the number of affected labels is probably small.

VI. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. References

The following references has been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. American Diabetes Association, Position Statement—Food Labeling, *Diabetes Care*, 19:543–544, 1996.

2. Smith, M. A., Communications regarding standards for coatings made with vegetable fat, memorandum to file, May 29, 1996.

List of Subjects

21 CFR Part 100

Administrative practice and procedure, Food labeling, Food packaging, Foods, Intergovernmental relations.

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 103

Beverages, Bottled water, Food grades and standards.

21 CFR Part 104

Food grades and standards, Frozen foods, Nutrition.

21 CFR Part 105

Dietary Foods, Food grades and standards, Food labeling, Infants and children.

21 CFR Part 109

Food packaging, Foods, Polychlorinated biphenyls (PCB's).

21 CFR Part 137

Cereal(s) (food), Food grades and standards.

21 CFR Part 161

Food grades and standards, Frozen foods, Seafood.

21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

21 CFR Part 182

Food ingredients, Food packaging, Spices and flavorings.

21 CFR Part 186

Food ingredients, Food packaging.

21 CFR Part 197

Food grades and standards, Reporting and recordkeeping requirements, Seafood.

21 CFR Part 700

Cosmetics, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 100, 101, 103, 104, 105, 109, 137, 161, 172, 182, 186, 197, and 700 are amended as follows:

PART 100—GENERAL

1. The authority citation for 21 CFR part 100 continues to read as follows:

Authority: Secs. 201, 301, 307, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 337, 342, 343, 348, 371).

§ 100.120 [Removed]

2. Section 100.120 *Artificially red-dyed yellow varieties of sweet potatoes* is removed.

§ 100.130 [Removed]

3. Section 100.130 *Combinations of nutritive and nonnutritive sweeteners in ''diet beverages''* is removed.

§ 100.135 [Removed]

4. Section 100.135 *Disposition of incubator reject eggs* is removed.

§ 100.140 [Removed]

5. Section 100.140 *Label declaration of salt in frozen vegetables* is removed.

§ 100.145 [Removed]

6. Section 100.145 *Notice to packers of comminuted tomato products* is removed.

§ 100.150 [Removed]

7. Section 100.150 *Notice to packers and shippers of shelled peanuts* is removed.

§ 100.160 [Removed]

8. Section 100.160 *Tolerances for moldy and insect-infested cocoa-beans* is removed.

PART 101—FOOD LABELING

9. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409,

701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.33 [Removed]

10. Section 101.33 *Label declaration of D-erythroascorbic acid when it is an ingredient of a fabricated food* is removed.

§ 101.103 [Removed]

11. Section 101.103 *Petitions requesting exemptions from or special requirements for label declaration of ingredients* is removed.

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

PART 103 [REMOVED]

12. Part 103 is removed.

PART 104—NUTRITIONAL QUALITY GUIDELINES FOR FOODS

13. The authority citation for 21 CFR part 104 continues to read as follows:

Authority: Secs. 201, 403, 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 343, 371(a)).

§ 104.19 [Removed]

14. Section 104.19 *Petitions* is removed.

PART 105—FOODS FOR SPECIAL DIETARY USE

15. The authority citation for 21 CFR part 105 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 411, 701, 721 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 350, 371, 379e).

§ 105.67 [Removed]

16. Section 105.67 *Label statement relating to food for use in the diet of diabetics* is removed.

§ 105.69 [Removed]

17. Section 105.69 *Foods used to regulate sodium intake* is removed.

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

18. The authority citation for 21 CFR part 109 continues to read as follows:

Authority: Secs. 201, 306, 402, 406, 408, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 336, 342, 346, 346a, 348, 371).

§ 109.5 [Removed]

19. Section 109.5 *Petitions* is removed.

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

20. The authority citation for 21 CFR part 137 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

§ 137.230 [Removed]

21. Section 137.230 *Corn grits* is removed.

§ 137.235 [Removed]

22. Section 137.235 *Enriched corn grits* is removed.

§ 137.240 [Removed]

23. Section 137.240 *Quick grits* is removed.

§ 137.245 [Removed]

24. Section 137.245 *Yellow grits* is removed.

PART 161—FISH AND SHELLFISH

25. The authority citation for 21 CFR part 161 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

§ 161.131 [Removed]

26. Section 161.131 *Extra large oysters* is removed.

§ 161.132 [Removed]

27. Section 161.132 *Large oysters* is removed.

§ 161.133 [Removed]

28. Section 161.133 *Medium oysters* is removed.

§ 161.134 [Removed]

29. Section 161.134 *Small oysters* is removed.

§ 161.135 [Removed]

30. Section 161.135 *Very small oysters* is removed.

§ 161.137 [Removed]

31. Section 161.137 *Large Pacific oysters* is removed.

§ 161.138 [Removed]

32. Section 161.138 *Medium Pacific oysters* is removed.

§ 161.139 [Removed]

33. Section 161.139 *Small Pacific oysters* is removed.

§ 161.140 [Removed]

34. Section 161.140 *Extra small Pacific oysters* is removed.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

35. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 379e).

36. Section 172.345 is amended by revising paragraph (d) to read as follows:

§ 172.345 Folic acid (folacin).

* * * * *

(d) Folic acid may be added, at levels not to exceed 400 micrograms (µg) per serving, to breakfast cereals, as defined under § 170.3(n)(4) of this chapter, and to corn grits at a level such that each pound of the corn grits contains not more than 1.0 milligram of folic acid.

* * * * *

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

37. The authority citation for 21 CFR part 182 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

Subpart F [Removed]

38. Subpart F, consisting of §§ 182.5013 through 182.5997, is removed and reserved.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

39. The authority citation for 21 CFR part 186 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

§ 186.1025 [Removed]

40. Section 186.1025 *Caprylic acid* is removed.

PART 197—SEAFOOD INSPECTION PROGRAM

Part 197 [Removed]

41. Part 197 is removed.

PART 700—GENERAL

42. The authority citation for 21 CFR Part 700 continues to read as follows:

Authority: Secs. 201, 301, 502, 505, 601, 602, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 352, 355, 361, 362, 371, 374).

§ 700.10 [Removed]

43. Section 700.10 *Shampoo preparations containing eggs as one of the ingredients* is removed.

Dated: May 29, 1996.
William B. Schultz,
Deputy Commissioner for Policy.
[FR Doc. 96–13829 Filed 5–30–96; 1:06 pm]
BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 65, 66, and 76

RIN 1076 AD31

Enrollment of Indians; Removal of Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is eliminating 25 CFR Parts 65, 66, and 76 as mandated by Executive Order 12866 to streamline the regulatory process and enhance the planning and coordination of new and existing regulations. The necessity for these rules no longer exists.

EFFECTIVE DATE: July 3, 1996.

FOR FURTHER INFORMATION CONTACT: Bettie Rushing, (202) 208–3463.

SUPPLEMENTARY INFORMATION:

Background

The purpose for which these rules were promulgated has been fulfilled and the rules are no longer required. Members of the San Pasqual Band have been enrolled as required in satisfaction of judgments of the United States Claims Court docket 80–A. Members of the Delaware Tribe of Indiana and the Absentee Delaware Tribe of Western Oklahoma have been enrolled as the basis for distribution of judgment funds awarded in Indian Claims Commission dockets 27–A, and 241, 289, 27–B and 338, and 27 E and 202, 27.

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes, 25 U.S.C. 2 and 9.

Executive Order 12778: The Department has certified to the Office of Management and Budget (OMB) that this rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

Executive Order 12866: This rule is not a significant regulatory action under Executive Order 12866 and does not require review by the Office of Management and Budget.

Regulatory Flexibility Act: 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.*).

Executive Order 12630: The Department has determined that this rule does not have ''significant'' takings implications. This rule does not pertain to ''taking'' of private property interests, nor does it impact private property.

Executive Order 12612: The Department has determined that this rule does not have significant federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of states.

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

Unfunded Mandates Act of 1995: This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Paperwork Reduction Act of 1995: This rule contains no information collection requirement the elimination of which would require notification to the Office of Management and Budget.

Drafting Information: The primary author of this document is Bettie Rushing, Bureau of Indian Affairs.

List of Subjects in 25 CFR Parts 65, 66 CFR 76.

Indians—enrollment, Indians—claims.

PARTS 65, 66, 76—[REMOVED]

Under the authority of Executive Order 12866, and for the reasons stated above, 25 CFR Parts 65, 66, and 76 are removed.

Dated: May 22, 1996.
Ada E. Deer,
Assistant Secretary—Indian Affairs.
[FR Doc. 96–13730 Filed 5–31–96; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 62

[CGD–94–091]

RIN 2115–AF14

Conformance of the Western Rivers Marking System With the United States Aids to Navigation System

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: As part of the President's Regulatory Reinvention Initiative, the Coast Guard will replace the solid-color crossing dayboards in the Western Rivers Marking System (WRMS) with checkered non-lateral dayboards used in the United States Aids to Navigation System (USATONS); the latter dayboards would have the same meaning and be the same size and shape as the former, but would be easier to see. These changes would help mariners to better see the crossing dayboards, making the Western Rivers safer.

DATES: This rule is effective June 3, 1996. The first checkered non-lateral dayboards will appear on the Western Rivers no sooner than September 3. The last solid-color crossing dayboards will disappear from the Western Rivers not later than June 3, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–091), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: LTJG Chad Asplund, Short Range Aids to Navigation Division, Telephone: (202) 267–1386.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principle persons involved in drafting this document are LTJG Chad Asplund, Project Manager, Short Range Aids to Navigation Division, and Patrick J. Murray, Project Counsel, Office of Chief Counsel.

Regulatory History

On March 27, 1996, the Coast Guard published an NPRM entitled Conformance of the Uniform State Waterway Marking System and the Western Rivers Marking System with

the United States Aids to Navigation System in the Federal Register (61 FR 13472). The Coast Guard received twenty letters commenting on the proposal. No public hearing was requested, and none was held.

The comments received regarding elimination of the Uniform State Waterway Marking System (USWMS) showed that this portion of the regulations was more complex and more controversial than previously thought. Therefore the Coast Guard will withdraw this portion of the rulemaking and may address it in a future rulemaking.

Background and Purpose

The WRMS was created to adequately mark the dynamic waterways of the Mississippi River and its Western counterparts. Some deviations from the USATONS were necessary for this. One of these is the use of crossing dayboards. These dayboards indicate where the river channel (''sailing line'') crosses from one bank to the other. The dayboards currently used in the WRMS are either solid green or solid red. They are important aids, but can be difficult to see, especially the green dayboards against the overgrowth of trees that line the Western Rivers. The Coast Guard will replace the (red or green) solid-color crossing dayboards used in the WRMS with the checkered (green-and-white or red-and-white) non-lateral dayboards used in the USATONS. The checkered non-lateral dayboards will retain the same meaning as the solid-color crossing dayboards, yet will be easier to see.

Discussion of Comments and Changes

The Coast Guard received twenty letters commenting on our March 27, 1996 NPRM (61 FR 13472). Eighteen of the letters concerned elimination of the USWMS. The three remaining letters concerned the change to the WRMS.

The letters which came from State Boating Law Administrators expressed concern about losing the regulatory markers from the USWMS. The Coast Guard never planned to eliminate these markers from state waters. Regulatory markers are a vital part of the USATONS; and by eliminating the USWMS and mandating the USATONS the regulatory markers will still be available.

One State was also concerned with the replacement of the red-and-white striped danger mark of the USWMS. There is a fundamental difference with the red-and-white striped buoy. In the USATONS it represents a safe-water mark, and in the USWMS it identifies a hazard. This is contradictory and very confusing to the mariner who navigates between both systems.

One State also brought up many issues regarding total conformance of the USWMS and the USATONS after the merger. It was brought to the attention of the Coast Guard that many sections of 33 CFR Part 62 will have to be revised to ensure total conformance. Many administrators stated that this was a significant and complex issue that required further study. Therefore, the Coast Guard is postponing the portion of the rulemaking concerning the USWMS for a future project so that the Coast Guard may work with the States on this rule.

A national trade organization representing the inland and coastal barge and towing industry concurred with the Coast Guard's proposal to replace the solid-color crossing dayboards with the non-lateral checkered green-and-white or red-and-white dayboards of the USATONS. They believe that the checkered design will significantly improve visibility, particularly on the right descending bank.

An independent consultant was concerned about replacing the crossing dayboards with checkered non-lateral marks. The consultant noted that the checkered dayboards would be harder to see because they would be smaller in size. Although the colored portion of the dayboards will be smaller, the total dayboard will be the same size and shape as the solid-color marks that they are replacing. The fact that the dayboards will be in part white will increase the contrast against the typical riverine foliage background, thus providing equal or greater detection distance. Therefore the Coast Guard does not see this as a significant issue.

The consultant was also concerned that the Coast Guard is replacing lateral marks with non-lateral marks. Crossing dayboards in their proper use are non-lateral. They do not mark a specific side of the river or channel, but simply inform the mariner which side of the river to move to when approaching a bend or change in the geography of the river. Therefore the Coast Guard believes this is an appropriate change.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11010; February 26, 1979).

The Coast Guard expects the economic impact of this regulation to be minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Replacing the solid-color crossing dayboards of the WRMS will cost the Federal government little additional money, since new ones would cost essentially the same as the current ones. The Coast Guard will replace the current ones with the new ones when it would otherwise replace them in kind, so the cost will be similar to that of regular maintenance.

Small Entities

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

This proposal would have minimal impact on small entities. Replacing the crossing dayboards on the WRMS would only affect the Federal government. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e(34)(a) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. Replacing the solid-color crossing dayboards in the WRMS will have no environmental implications. A Categorical Exclusion Determination is

available in the rulemaking docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 62

Navigation (water).

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 62 as follows:

PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

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

Authority: 14 U.S.C. 85; 33 U.S.C. 1233; 43 U.S.C. 1333; 49 CFR 1.46.

§ 62.51 [Amended]

2. In § 62.51, paragraph (b)(3) is revised to read as follows:

§ 62.51 Western rivers marking system.

* * * * *

(b) * * *

(3) Diamond-shaped non-lateral dayboards, checkered red-and-white or green-and-white, similar to those used in the USATONS, as appropriate, are used as crossing dayboards where the river channel crosses from one bank to the other.

* * * * *

Dated: May 23, 1996.

J.A. Creech,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 96–13725 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD07–96–018]

RIN 2115–AE46

Special Local Regulations; Miami Super Boat Race; Miami Beach, FL

AGENCY: Goast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent special local regulations for the Miami Super Boat Race. This event will be held annually on the second Sunday of June, between 12:30 p.m. and 3:30 p.m. Eastern Daylight Time. Historically, there have been approximately 35 participant and 200 spectator craft. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters. These regulations are necessary to provide for the safety of life on navigable waters during the event.

DATES: June 18, 1996.

FOR FURTHER INFORMATION CONTACT:

QMC T.E. Kjerulff, project officer, Coast Guard Group Miami, FL at (305) 535–4448.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, the final rule will be made effective in less than 30 days from the date of publication in the Federal Register. Following normal rulemaking procedures will be impracticable, unnecessary, and contrary to the public interest. A notice of proposed rulemaking for this rule was published in the Federal Register (61 FR 13122) with a 50 day comment period. Due to the extended comment period, which expired on May 15, 1996, the final rule will be made effective in less than 30 days from the date of publication in the Federal Register in order to hold the event. During the extended comment period, no comments were received regarding this rulemaking, and this final rule does not change the provisions of the NPRM.

Regulatory History

On March 26, 1996, the Coast Guard published a notice of proposed rulemaking entitled ''Miami Super Boat Race; Miami Beach, FL'' (CGD07–96–018) in the Federal Register (61 FR 13122). The comment period ended May 15, 1996. The Coast Guard received no comments during the proposed rulemaking comment period. A public hearing was not requested and one was not held.

Discussion of Regulations

These regulations are needed to provide for the safety of life during the Miami Super Boat Race. This event will be held annually on the second Sunday of June, between 12:30 p.m. and 3:30 p.m. EDT. These regulations are intended to promote safe navigation on the waters off Miami Beach during the race by restricting vessels from entering the race area described below and permit anchoring only in the designated spectator area. Historically, there have been approximately 35 participant and 200 spectator craft during the race. The anticipated concentration of spectator and participant vessels associated with the Miami Super Boat Race poses a safety concern, which is addressed in these special local regulations. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters.

The race area will be formed by a line joining the following points:

25°46.3′N, 080°07.85′W; thence to,
25°46.3′N, 080°06.82′W; thence to,
25°51.3′N, 080°06.2′W; thence to,
25°51.3′N, 080°07.18′W; thence along the shoreline to the starting point. All coordinates referenced use datum: NAD 1983. A spectator area will be established in the regulated area for spectator traffic and will be defined by a line joining the following points, beginning from:

25°51.3′N, 080°06.15′W; thence to,
25°51.3′N, 080°05.85′W; thence to,
25°46.3′N, 080°06.55′W; thence to,
25°46.3′N, 080°06.77′W; and back to the starting point. All coordinates referenced use datum: NAD 1983. These regulations will also include a buffer zone of 300 feet between the race course and the spectator area defined above.

Entry into the regulated area by other than event participants will be prohibited unless otherwise authorized by the Coast Guard Patrol Commander. However, the Coast Guard Patrol Commander may at his discretion permit traffic to resume normal operations between scheduled racing events.

The regulations will also established safety measures of 5 short whistle or horn blasts from a patrol vessel to signal any and all vessels to take immediate steps to avoid collision. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately. All spectators not in the designated spectator areas above will be required to remain clear of the race at all times.

Regulatory Evaluation

This rule is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6 (a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. These regulations will last for only 4 hours each day of the event. No public comments were received during the notice of proposed rulemaking comment period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this action will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small

business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies that this action will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and Finding of No Significant Impact are available in the docket for inspection or copying. The Coast Guard has concluded that this action will not significantly affect the quality of the human environment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for Part 100 continues to read as follows:

PART 100—[AMENDED]

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.714 is added to read as follows:

§ 100.714 Annual Miami Super Boat Race; Miami Beach, FL.

(a) *Definitions.* (1) *Regulated Areas.* The regulated area includes the race course area, the spectator area, and a buffer zone.

(i) The race course area is formed by a line joining the following points:

25°46.3′ N, 080°07.85′ W; thence to,

25°46.3′ N, 080°06.82′ W; thence to,

25°51.3′ N, 080°06.2′ W; thence to,

25°51.3′ N, 080°07.18′ W; thence along the shoreline to the starting point. All coordinates referenced use datum: NAD 1983.

(ii) A spectator area is established in the regulated area for spectator traffic and is defined by a line joining the following points, beginning from:

25°51.3′ N, 080°06.15′ W; thence to,

25°51.3′ N, 080°05.85′ W; thence to,

25°46.3′ N, 080°06.55′ W; thence to,

25°46.3′ N, 080°06.77′ W; and back to the starting point. All coordinates referenced use datum: NAD 1983.

(iii) A buffer zone of 300 feet is established between the race course and the spectator area.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Miami, Miami Beach, Florida.

(b) *Special local regulations.* (1) Entry into the race course area by other than event participants is prohibited unless otherwise authorized by the Coast Guard Patrol Commander. At the completion of scheduled races and departure of participants from the regulated area, traffic may resume normal operations. At the discretion of the Coast Guard Patrol Commander, between scheduled racing events, traffic may be permitted to resume normal operations.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any and all vessels to take immediate steps to avoid collision. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) Spectators not in the designated spectator areas, as defined above, are required to keep clear of the race course area at all times.

(c) *Effective Dates.* This section is effective at 12 p.m. and terminates at 4 p.m. EDT annually during the second Sunday of June.

Dated: May 16, 1996.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 96–13726 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 2 and 14

RIN 2900–AI13

Delegations of Authority; Tort Claims and Debt Collection

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) regulations captioned ''DELEGATIONS OF AUTHORITY'' and ''LEGAL SERVICES, GENERAL COUNSEL.'' The delegation of authority to Regional Counsels to settle certain claims (Federal Medical Care Recovery Act claims, debt collection claims, and other claims) without approval from the Office of General Counsel is raised to a limit of $100,000. Further, this document updates statutory references and organizational titles, eliminates references to repealed statutes, eliminates redundant delegations of authority, corrects titles of VA forms, eliminates references to obsolete VA forms, reflects that the Baltimore Regional Counsel will have certain jurisdiction over incidents occurring in the Department of Veterans Affairs Central Office, eliminates restatements of Department of Justice regulations, eliminates references to internal VA matters not required to be published in the Federal Register, and makes changes for purposes of clarification.

EFFECTIVE DATE: This final rule is effective June 3, 1996.

FOR FURTHER INFORMATION CONTACT: E. Douglas Bradshaw, Jr., Assistant General Counsel (021), Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 273–6481.

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

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 (RFA), 5 U.S.C., 601–602. This final rule would not cause a significant effect on any entities since it consists of delegations of authority, VA policies, and nonsubstantive changes. Therefore, pursuant to U.S.C. 605(b), this amendment is exempt from the initial

and final regulatory-flexibility analysis requirements of sections 603 and 604.

There are no Catalog of Federal Domestic Assistance numbers associated with these amendments.

List of Subjects

38 CFR Part 2

Authority delegations (Government agencies).

38 CFR Part 14

Administrative practice and procedure, Claims, Government employees, Lawyers, Legal services, Organization and functions (Government agencies).

Approved: May 22, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR parts 2 and 14 are amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 302; 38 U.S.C. 501, 512; 44 U.S.C. 3702.

§ 2.6 [Amended]

2. In § 2.6, paragraph (e)(3) is amended by adding ''(Professional Staff Group I)'' immediately following ''Assistant General Counsel''; by adding ''of said staff group'' immediately following ''Deputy Assistant General Counsel''; by removing ''Director of Debt Management,''; by removing ''$40,000'' and adding, in its place, ''$100,000''; and by removing ''of the Office of the General Counsel, and further provided that claims in excess of $100,000 may be compromised, settled, or waived only with the prior approval''.

3. In § 2.6, paragraph (e)(4)(iii) is amended by removing ''a third party'' and adding, in its place, ''an individual''.

4. In § 2.6, paragraph (e)(7) is amended by removing ''4116'' and adding, in its place, ''7316''; by removing ''Veterans Health Services and Research Administration'' and adding, in its place, ''Veterans Health Administration''.

5. In § 2.6, paragraphs (e)(10), (e)(11), and (e)(12) are redesignated as paragraphs (e)(12), (e)(10), and (e)(11), respectively; and the newly redesignated paragraph (e)(10) is further amended by removing ''$40,000'' and adding, in its place, ''$100,000''.

§§ 2.9 through 2.57, 2.66, 2.66a, 2.67 through 2.71, 2.75 through 2.87, 2.90, 2.92, 2.95 through 2.101 [Removed]

6. Sections 2.9 through 2.57, 2.66, 2.66a, 2.67 through 2.71, 2.75 through 2.87, 2.90, 2.92, 2.95 through 2.101 are removed.

PART 14—LEGAL SERVICES, GENERAL COUNSEL

7. The authority citation for part 14 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 5502, 5902–5905, unless otherwise noted.

§ 14.600 [Amended]

8. In § 14.600, paragraph (b) is removed, the paragraph designation (a) is removed, and the section is amended by removing ''1504,'' and ''2110,''.

§§ 14.601, 14.602, 14.603 [Removed]

9. The undesignated center heading preceding § 14.601, and §§ 14.601, 14.602, and 14.603 are removed.

§ 14.604 [Amended]

10. Section 14.604 is amended in paragraph (a) by removing ''§ 14.607'' and adding, in its place, ''28 CFR 14.4''.

§ 14.605 [Redesignated as § 14.601]

§ 14.601 [Amended]

11. Section 14.605 is redesignated as § 14.601 immediately following the undesignated center heading ''ADMINISTRATIVE CLAIMS'', paragraph (a)(1) of the newly redesignated § 14.601 is amended by removing ''Injury, Occupational Illness, or Fire, and of VA Form 2162b, Report of Accident, Injury Occupational Illness, or Fire (Continued),''; paragraph (a)(2)(i) is amended by removing ''on SF 92–A, Report of Accident Other Than Motor Vehicle''; paragraph (a)(3) is amended by removing ''Manager, Administrative Services'' and adding, in its place, ''Director of Support Service, Office of the Assistant Secretary for Human Resources and Administration''; and paragraph (a)(4) is amended by removing ''The Regional Counsel, Department of Veterans Affairs Regional Office, Washington, DC'' and adding, in its place, ''The Baltimore Regional Counsel''.

12. In the newly redesignated § 14.601, paragraph (b) is revised to read as follows:

§ 14.601 Investigation and development.

* * * * *

(b) In medical malpractice cases, the Regional Counsel may refer a claim to the Under Secretary for Health via the Director, Medical-Legal Affairs for review and for professional opinion or guidance. In the consideration of claims involving a medical question, the responsible Regional Counsel involved and the General Counsel will be guided by the views of the Under Secretary for Health as to the standard of medical care and treatment, the nature and extent of the injuries, the degree of temporary or permanent disability, the prognosis, the necessity for future treatment or physical rehabilitation, and any other pertinent medical aspects of a claim.

§ 14.606 [Redesignated as § 14.602]

13. Section 14.606 is redesignated as § 14.602.

§ 14.607 [Removed]

14. Section 14.607 is removed.

§ 14.608 [Redesignated as § 14.603]

§ 14.603 [Amended]

15. Section 14.608 is redesignated as § 14.603; paragraphs (a) through (d), and the paragraph designation (e) are removed.

§ 14.609 [Removed]

16. Section 14.609 is removed.

§ 14.610 [Redesignated as § 14.605]

17. Section 14.610 is redesignated as § 14.605 immediately following the undesignated center heading ''LITIGATED CLAIMS''; the newly redesignated § 14.605, paragraph (a)(1) is amended by removing ''7316'' and adding, in its place, ''2679''; and by removing ''operation of a motor vehicle'' and adding, in its place, ''wrongful act or omission''; paragraph (a)(2) is amended by removing ''Health Services and Research Administration'' and adding, in its place, ''Health Administration''; paragraph (b) is amended by removing ''the employee's operation of a motor vehicle incident to'' and adding, in its place, ''a wrongful act or omission arising out of'' and in the second sentence by removing the designations (1) and (2); and the section heading for the newly redesignated § 14.605 is revised to read as follows:

§ 14.605 Suits against Department of Veterans Affairs employees arising out of a wrongful act or omission or based upon medical care and treatment furnished in or for the Veterans Health Administration.

* * * * *

§ 14.618 [Amended]

18. In § 14.618, paragraphs (b) and (c) are amended by removing ''$20,000'' each time it appears and adding, in its place, ''$100,000''; and paragraph (b) is further amended by removing ''14.605(a)(2)(i)'' and adding, in its place, ''14.601(a)(2)(i)''.

§ 14.619 [Amended]

19. In § 14.619, paragraphs (b) and (c) are amended by removing ''$40,000'' each time it appears and adding, in its place, ''$100,000''; and paragraph (b) is further amended by removing ''the General Counsel and claims in excess of $100,000 may be compromised, settled, or waived only with the prior approval of''.

[FR Doc. 96–13476 Filed 5–31–96; 8:45 am]
BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5512–6]

National Emission Standards for Hazardous Air Pollutants for: Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; Ethylene Oxide Commercial Sterilization and Fumigation Operations; Perchloroethylene Dry Cleaning Facilities; and Secondary Lead Smelting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates final action to amend certain sections of the following promulgated standards: ''National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; Final Rule'' (subpart N); ''National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations'' (subpart O); ''National Emission Standards for Hazardous Air Pollutants for Source Categories: Perchloroethylene Dry Cleaning Facilities'' (subpart M); and ''National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting'' (subpart X). Today's action amends the Final Rules' requirement that nonmajor sources (emitting or having the potential to emit less than 10 tons per year of any hazardous air pollutant or 25 tons per year of any combination of hazardous air pollutants) obtain title V operating permits. The action being taken today will substantially reduce the unnecessary and undue regulatory burden for States and local agencies, the EPA Regional Offices, and the industry during a time when all available resources are necessary for the initial implementation of the title V permit program for major sources. Sources are still required to meet all applicable emission control requirements established by the respective maximum achievable control technology (MACT) standards. The only change from proposal to promulgation is that the 5-year deferral option, as with the other rules, is also being provided for nonmajor sources in the secondary lead smelters (subpart X) source category.

DATES: Effective Date: June 3, 1996.

Judicial Review: Under section 307(b)(1) of the Act, judicial review of national emission standards for hazardous air pollutants (NESHAP) is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A–88–02, containing the supporting information for the original subpart N NESHAP and this action, Docket No. A–88–03, containing the supporting information for the original subpart O NESHAP, Docket No. A–88–11, containing the supporting information for the original subpart M NESHAP, and Docket No. A–92–43, containing the supporting information for the original subpart X NESHAP, are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA Air and Radiation Docket and Information Center, Waterside Mall, room M–1500, first floor, 401 M Street S.W., Washington, D.C. 20460, or by calling (202) 260–7548. These dockets also contain information considered by the EPA in developing this final rule. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5420.

SUPPLEMENTARY INFORMATION:

I. Background

The proposal notice was published in the Federal Register on December 13, 1995 (60 FR 64002). No public hearing was requested. Seventeen letters commenting on the proposed rule were received during the public comment period.

II. Summary

A. Summary of Changes Since Proposal

The proposed rule offered title V permitting authorities the option to defer permitting of nonmajor sources in the following source categories: chromium electroplating and chromium anodizing tanks; ethylene oxide commercial sterilization and fumigation operations; and perchloroethylene dry cleaning facilities. The rule proposed permitting nonmajor secondary lead smelters on schedule. In response to public comments received and additional analyses performed by the EPA, one change has been made to the rule since proposal. The permitting authorities will be allowed the option to defer the nonmajor sources in the secondary lead smelters source category for 5 years from title V permit requirements similar to the option for nonmajor sources in the other source categories described in the proposal. Comments were also received on possible additional permanent exemptions for any of the source categories for which temporary exemptions were being considered. Although a majority of the comments supported permanent exemptions for these nonmajor sources, the EPA has decided not to grant permanent exemptions to any additional source categories at this time. However, the EPA will make a decision regarding additional permanent exemptions by the time the temporary exemptions expire. During the permit deferral period, the EPA will continue to evaluate the State/local agencies implementation and enforcement of the standards for nonmajor sources outside of a title V permit, the likely benefit of permitting such sources, and the costs and other burdens on such sources associated with obtaining a title V permit.

B. Significant Comments and Responses

Comments on the proposed rule were received from the industry and State and local regulatory agencies. Except for one State agency, all commenters concurred with the EPA option to allow states to defer title V permit requirements for nonmajor sources. The representative for the State of Florida disagreed with this recommendation by contending that permitting the subject nonmajor sources through the use of title V general permits would not constitute an undue regulatory burden for a permitting agency, nor would such a mechanism be considered exceptionally onerous for small

businesses covered by the section 112 standards. The State of Florida maintains that a general permit is the most efficient and cost-effective process by which States can implement emission standard requirements.

The commenter articulated that the deferral of permitting requirements for area sources is problematic for the following reasons. First, the deferral will create unnecessary confusion for affected sources that will still be subject to the NESHAP requirements. Second, permits are needed to practically verify emission limitations and work practices to which a source is subject. Third, the commenter questions whether the enforcement of NESHAP requirements can be accomplished by means other than a permit. The commenters experience has been that small businesses support a general permit that states the applicable NESHAP requirements. Lastly, the commenter believes that the lack of a permit requirement will result in unequal enforcement of emission limitations by individual States or local air pollution control agencies.

The EPA believes that the rationale described in the proposal for the temporary exemption option, as well as supportive public comments, strongly support the deferral of permitting for nonmajor sources; therefore, the EPA has not made any changes to this option. Nevertheless, the issues which the above commenter raises will be examined during the process of determining whether to permit or allow the exemption of nonmajor sources at the conclusion of the 5 year deferral. It should be noted that todays action does not preclude any State/local permitting authority from proceeding to permit the nonmajor sources discussed in this notice at their discretion during the deferral period.

Two commenters specifically questioned the EPA's justification in not allowing the deferral of nonmajor secondary lead smelters. The EPA had proposed that requiring nonmajor secondary lead smelters to obtain Part 70 permits without delay would not be impracticable or infeasible for the State or local permitting authorities involved and would not unnecessarily burden these companies since, in contrast to the hundreds or thousands of sources in the four other source categories, there are only a few secondary lead smelters which are nonmajor sources. The commenters contend that requiring nonmajor secondary lead smelters to obtain a title V permit is also unnecessary and could cause undue burden both to the industry as well as to the State agencies and will not enhance any environmental benefits.

Upon consideration of these comments and further evaluation, the EPA believes that the relatively few number of sources in a category is not an important distinction, and that States should, therefore, also be allowed to temporarily exempt nonmajor secondary lead smelters from permitting requirements, along with sources in the other source categories. This change from proposal is consistent with the EPA's decision for deferral for the other area source categories. As explained previously, comments were received on the other nonmajor source categories requesting an option for permanent permit exemptions. The EPA will continue to evaluate factors related to this issue and make a decision regarding permanent exemptions by the time the temporary exemptions expire. This ongoing evaluation reinforced the advisability of also providing the opportunity for the deferral of permits to secondary lead smelters, so that the permit requirements for all nonmajor sources can be addressed as a package. These nonmajor sources are still required to comply with the requirements of the promulgated standard for secondary lead smelters regardless of whether they will be permitted in the near term. While the EPA disagrees with the assertion that permitting under title V does not yield an environmental benefit, the EPA does agree that to require the immediate permitting of nonmajor secondary lead smelters is unnecessarily burdensome during the initial years of the title V program.

III. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) were submitted to and approved by the Office of Management and Budget (OMB). Today's changes to the NESHAP would not increase the information collection burden estimates made previously. In fact, they are expected to reduce the required paperwork by providing the opportunity for delays for some sources and exemptions for others from requirements to obtain a title V permit.

B. Executive Order 12866

Under Executive Order 12866, the Agency 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 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.

Pursuant to the terms of the Executive Order, the OMB has notified the EPA that it does not consider this to be a ''significant regulatory action'' within the meaning of the Executive Order. Therefore, the EPA did not submit this action to the OMB for review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires the EPA to consider potential impacts of regulations on small entities. A regulatory flexibility analysis (RFA) is required if preliminary analysis indicates ''a significant economic impact on a substantial number of small entities''. As explained earlier in this rule, these amendments would reduce the impacts on small entities (specifically small businesses) by allowing States to delay some and exempt others from the requirement to obtain a title V permit.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Subtitle E of SBREFA establishes opportunity for Congress to review and potentially disapprove nonmajor rules promulgated on or after March 29, 1996 or major rules promulgated after March 1, 1996. With limited exceptions, it provides that no rule promulgated on or after March 29, 1996, may take effect until it is submitted to Congress and the Comptroller General along with specified supporting documentation. Different requirements apply to major rules. This rule, which is nonmajor, is

being submitted to Congress in accordance with these requirements.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''unfunded Mandates Act''), (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal Mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

As explained earlier in this notice, these amendments would reduce the cost to State, local, and tribal governments and the private sector by allowing States to delay some and exempt others from the requirement to obtain a title V permit. Therefore, the EPA has not prepared a budgetary impact statement for these amendments.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 22, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as set forth below:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart N—[Amended]

2. Section 63.340 is amended by revising paragraph (e) to read as follows:

§ 63.340 Applicability and designation of sources.

* * * * *

(e)(1) The Administrator has determined, pursuant to the criteria under section 502(a) of the Act, that an owner or operator of the following types of operations that are not by themselves major sources and that are not located at major sources, as defined under 40 CFR 70.2, is permanently exempt from title V permitting requirements for that operation:

(i) Any decorative chromium electroplating operation or chromium anodizing operation that uses fume suppressants as an emission reduction technology; and

(ii) Any decorative chromium electroplating operation that uses a trivalent chromium bath that incorporates a wetting agent as a bath ingredient.

(2) An owner or operator of any other affected source subject to the provisions of this subpart is subject to title V permitting requirements. These affected sources, if not major or located at major sources as defined under 40 CFR 70.2, may be deferred by the applicable title V permitting authority from title V permitting requirements for 5 years after the date on which the EPA first approves a part 70 program (i.e., until December 9,1999). All sources receiving deferrals shall submit title V permit applications within 12 months of such date (by December 9, 2000). All sources receiving deferrals still must meet the compliance schedule as stated in § 63.343.

3. Section 63.342 is amended by revising the first sentence of paragraph (c)(2)(i)(B) and introductory text of paragraph (f)(3)(i) to read as follows:

§ 63.342 Standards.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(B) By accepting a Federally-enforceable limit on the maximum cumulative potential rectifier capacity of a hard chromium electroplating facility and by maintaining monthly records in accordance with § 63.346(b)(12) to demonstrate that the limit has not been exceeded. * * *

* * * * *

(f) * * *

(3) * * *

(i) The owner or operator of an affected source subject to the work practices of this paragraph (f) shall prepare an operation and maintenance plan to be implemented no later than the compliance date. The plan shall be incorporated by reference into the source's title V permit, if and when a title V permit is required. The plan shall include the following elements:

* * * * *

§ 63.344 [Amended]

4. In § 63.344, paragraphs (e)(3)(v) and (e)(4)(iv) are amended by revising the word ''less'' to read ''more''.

5. Section 63.347 is amended by revising the introductory text in paragraph (e)(2) and paragraph (f)(1) to read as follows:

§ 63.347 Reporting requirements.

* * * * *

(e) * * *

(2) If the State in which the source is located has not been delegated the authority to implement the rule, each time a notification of compliance status is required under this part, the owner or operator of an affected source shall submit to the Administrator a notification of compliance status, signed by the responsible official (as defined in § 63.2) who shall certify its accuracy, attesting to whether the affected source has complied with this subpart. If the State has been delegated the authority, the notification of compliance status shall be submitted to the appropriate authority. The notification shall list for each affected source:

* * * * *

(f) * * *

(1) If the State in which the source is located has not been delegated the authority to implement the rule, the owner or operator of an affected source shall report to the Administrator the results of any performance test conducted as required by § 63.7 or § 63.343(b). If the State has been delegated the authority, the owner or operator of an affected source should report performance test results to the appropriate authority.

* * * * *

6. Table 1 to subpart N of Part 63 is amended by revising the entry for ''63.5(a)'' to read as follows:

TABLE 1 TO SUBPART N OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART N

General provisions reference	Applies to subpart N	Comment
*	*	* * * * *
63.5(a)	Yes	Except replace the term ''source'' and ''stationary source'' in § 63.5(a) (1) and (2) of subpart A with ''affected sources.''

TABLE 1 TO SUBPART N OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART N—Continued

General provisions reference	Applies to subpart N	Comment				
*	*	*	*	*	*	*

Subpart O—[Amended]

7. Section 63.360 is amended by revising paragraph (f) to read as follows:

§ 63.360 Applicability.

* * * * *

(f) The owner or operator of a source, subject to the provisions of the title 40, chapter I, part 63 subpart O, using 1 ton (see definition) is subject to title V permitting requirements. These affected sources, if not major or located at major sources as defined under 40 CFR 70.2, may be deferred by the applicable title V permitting authority from title V permitting requirements for 5 years after the date on which the EPA first approves a part 70 program (i.e., until December 9, 1999). All sources receiving deferrals shall submit title V permit applications within 12 months of such date (by December 9, 2000). All sources receiving deferrals still must meet compliance schedule as stated in this § 63.360.

* * * * *

Subpart M—[Amended]

8. Section 63.320 is amended by adding paragraph (k) to read as follows:

§ 63.320 Applicability.

* * * * *

(k) The owner or operator of any source subject to the provisions of this subpart M is subject to title V permitting requirements. These affected sources, if not major or located at major sources as defined under 40 CFR 70.2, may be deferred by the applicable title V permitting authority from title V permitting requirements for 5 years after the date on which the EPA first approves a part 70 program (i.e., until December 9, 1999). All sources receiving deferrals shall submit title V permit applications within 12 months of such date (by December 9, 2000). All sources receiving deferrals still must meet compliance schedule as stated in this § 63.320.

Subpart X—[Amended]

9. Section 63.541 is amended by adding paragraph (c) to read as follows:

§ 63.541 Applicability.

* * * * *

(c) The owner or operator of any source subject to the provisions of this subpart X is subject to title V permitting requirements. These affected sources, if not major or located at major sources as defined under 40 CFR 70.2, may be deferred by the applicable title V permitting authority from title V permitting requirements for 5 years after the date on which the EPA first approves a part 70 program (i.e., until December 9, 1999). All sources receiving deferrals shall submit title V permit applications within 12 months of such date (by December 9, 2000). All sources receiving deferrals still must meet compliance schedule as stated in § 63.546.

[FR Doc. 96–13825 Filed 6–3–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5512–1]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of Newport Dump Superfund Site, Wilder, Kentucky, from the National Priorities List

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces the deletion of the Newport Dump Superfund Site in Wilder, Kentucky, from the National Priorities List (NPL), {Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP)}. EPA and the Commonwealth of Kentucky have determined that all appropriate Fund-financed responses under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, have been implemented and that no further cleanup is appropriate. Moreover, EPA and the Commonwealth of Kentucky determined that response actions conducted at the site to date have been protective of public health, welfare, and the environment. This deletion does not preclude future action under Superfund.

EFFECTIVE DATE: May 31, 1996.

FOR FURTHER INFORMATION CONTACT: Liza Montalvo, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Superfund Remedial Branch, 345 Courtland Street NE., Atlanta, GA 30365, (404) 347–7791, extension 2030.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Newport Dump Superfund Site, Wilder, Kentucky.

A Notice of Intent To Delete for this site was published on May 16, 1988 (SW–FRL–3380–7). A Revised Notice of Intent To Delete was published on March 8, 1996 (FRL–5436–5). The closing date for comments on the Revised Notice of Intent To Delete was April 17, 1996. EPA received no comments.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental Protection, Air Pollution Control, Chemicals, Hazardous Waste, Hazardous Substances, Intergovernmental Relations, Penalties, Reporting and Recordkeeping Requirements, Superfund, Water Pollution Control, and Water Supply.

Dated: May 21, 1996.

A. Stanley Meiburg,

Deputy Regional Administrator, U.S. EPA Region 4.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757; 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site Newport Dump, Newport, Kentucky.

[FR Doc. 96–13826 Filed 5–31–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 191, 192 and 193

[Docket PS–125; Notice 2]

RIN 2137–AC28

Regulatory Reinvention Initiative: Pipeline Safety Program Procedures; Reporting Requirements; Gas Pipeline Standards; and Liquefied Natural Gas Facilities Standards

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule changes various administrative practices in the pipeline safety program and makes minor modifications to requirements for gas detection, protective enclosures, and pipeline testing temperatures. These changes will eliminate unnecessary or overly burdensome requirements, and reduce costs in the pipeline industries without compromising safety.

EFFECTIVE DATE: The effective date of this final rule is July 3, 1996. However, affected parties will not have to comply with the information collection requirements in 49 CFR 193. 2819(f) and 193.2907 (a) and (b) until the DOT publishes in the Federal Register the Control Numbers assigned by the Office of Management and Budget (OMB) to these collection of information requirements. Publication of the Control Numbers notifies the public that OMB has approved these requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick, (202) 366–5523 or online at herrickl@rspa.dot.gov regarding the subject matter of this final rule, or the Dockets Unit, (202) 366–5046, regarding copies of this final rule or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

In a memorandum dated March 4, 1995, the President provided direction to the heads of Departments and agencies on carrying out his Regulatory Reform Initiative for reinventing the government. As part of this initiative, RSPA established a program to review existing pipeline safety regulations in order to identify those that were outdated or in need of reform.

On April 5, 1995, RSPA published a notice in the Federal Register soliciting comments from the pipeline industry as well as other interested parties (60 FR 17295, April 5, 1995). RSPA also conducted three outreach meetings in 1995 in Dallas, TX, Lakewood CO, and Houston, TX. Many comments were received both at the outreach meetings and in response to the Federal Register notice.

As a result of these comments, RSPA revisited this rulemaking which began in 1992. On November 6, 1992, RSPA published a notice of proposed rulemaking (NPRM) (57 FR 53085, November 6, 1992) proposing changes to parts 190, 191, 192 and 193. The comment period closed on December 7, 1992. RSPA received comments from 22 regulated pipeline companies, three pipeline trade associations, one consultant, one technical committee, and two state agencies (29 total comments received).

RSPA also requested a review of the proposal affecting natural gas facilities by mail balloting from the Technical Pipeline Safety Standards Committee (TPSSC). This 15-member committee was established by statute to consider the feasibility, reasonableness, and practicability of all proposed pipeline safety regulations.

After initial balloting, each TPSSC member reviewed the ballots and comments of each of the other members, and had the option to change his or her initial vote or comment if desired. Although some TPSSC members did not vote on every proposed change, a majority of TPSSC members found all the changes adopted by this rule to be technically feasible, reasonable, and practicable.

Changes to Part 190 Requirements

Section 190.203 Inspections

Section 190.203(c) currently requires that, after an Office of Pipeline Safety (OPS) inspection, an operator must respond to a ''Request for Specific Information within 30 days.'' RSPA proposed amending this section to increase the time to 45 days. The increase would enable the operator to provide RSPA with more complete information to use in evaluating inspection results.

RSPA received 19 comments from operators, State regulatory agencies and trade groups in response to this proposal. All commenters agreed that the time period should be extended. In addition, one commenter suggested that a further extension be granted to cases involving detailed ''specific information'' that may require longer than 45 days to gather.

RSPA Response

RSPA believes that 45 days will usually be adequate. In situations where more time is required the Regional Director has the authority to extend the time allowed for a response. Therefore, the revision is adopted as proposed.

Section 190.209 Response Options

RSPA proposed deleting section 190.209(c). Section 190.209(c) currently allows a respondent to offer a compromise to a Notice of Probable Violation and Proposed Civil Penalty by submitting a check or money order for the amount offered to the Regional Director who forwards the offer to the Associate Administrator, OPS for action. If the Associate Administrator, OPS, accepts the offer in compromise, the respondent is notified in writing that the acceptance is in full settlement of the civil penalty action. If an offer in compromise is rejected, it is returned to the respondent with written notification.

RSPA received 19 comments from operators, State regulatory agencies and trade groups on the proposed deletion of § 190.209(c). Most commenters agreed with the proposed deletion. Two commenters disagree with the proposed deletion, preferring to retain the option and stating that § 190.209(c) does not place an undue regulatory burden upon industry.

All commenters observed that the deletion also affects § 190.209(a)(2) and §§ 190.227 (a), (b), and (d) and that these sections should also be revised for consistency.

RSPA Response

Under current Federal policy, assessment of a penalty is not contemplated until after a finding of violation. As a result, RSPA has not routinely resolved cases without such findings. The submission of a check prior to establishing a finding of violation unnecessarily restricts a company's cash flow during the pendency of the enforcement case. Therefore, RSPA is adopting this provision as proposed. In addition, RSPA is adopting the commenters' suggestions concerning §§ 190.209(a)(2); 190.227(a); 190.227(b); and 190.227(d).

Section 190.211(b)

Section 190.211(b) currently provides that in circumstances deemed

appropriate by the Regional Director, and only if the respondent concurs, a telephone conference may be held in lieu of a hearing. RSPA proposed to require a telephone hearing for all probable violations involving penalty amounts under $10,000 in which a hearing is requested.

Five commenters responded to this proposal stating that they believe the respondent should have the option of dealing with any probable violation in person. These commenters argue that the dollar amount of the assessment for an alleged violation may not be indicative of the complexity of the case.

RSPA Response

RSPA beleives that the current practice of conducting telephone hearings where the amount is less than $10,000 is cost effective. However, based upon the comments received, RSPA will allow respondents to request in-person hearings. Therefore, the section is amended to establish telephone hearings as the preferred rather than required method for amounts less than $10,000.

Section 190.211(c)

Section 190.211(c) currently states that a hearing may, under limited circumstances, be conducted by a representative of the OPS region in which the facility is located. RSPA proposed in the NPRM that all hearings be conducted by an attorney from the Office of the Chief Counsel of RSPA. All commenters agree with this proposal.

RSPA Response

The section is amended as proposed.

Section 190.211(e)

Section 190.211(e) currently states that at the outset of a hearing in response to a Notice of Probable Violation, the material in the case file pertinent to the issues to be determined is presented by the presiding official of the hearing. The respondent may examine and respond to or rebut this material. RSPA proposed to revise this regulation to provide the respondent the opportunity to review material in the case file pertinent to the issues prior to any hearing.

RSPA received 20 comments in response to the proposed amendments to § 190.211. The comments were provided by an array of trade organizations, state regulatory agencies and operators. All commenters agree with the proposed language. However, two commenters recommend that the case file be automatically provided to all respondents at least 30 days before the hearing. They conclude that any respondent requesting a hearing will want to review all material in the case file and that automatically providing the material would eliminate unnecessary correspondence between the respondent and the agency.

RSPA Response

RSPA agrees that a copy of the case file should be provided to a respondent prior to a hearing. However, this practice should not include automatic mailing of a case file when a request for a hearing is submitted to the agency. The respondent may wish to address only some of the issues in the Notice of Probable Violation in the hearing; thus mailing the entire file may in some instances result in unnecessary expense. Therefore, § 190.211 is amended as proposed in the NPRM. Section 190.211(f) is also amended to clarify that the respondent will continue to have the opportunity to offer any relevant information during the hearing.

Section 190.215 Petitions for Reconsideration

Section 190.215(d) currently states that the filing of a petition for reconsideration does not stay the effectiveness of the final order. The proposed revision would automatically stay payment of any civil penalty assessed if a petition for reconsideration is filed. This will result in cost savings to the pipeline operator by delaying civil penalty payments until a decision is made on the petition for reconsideration.

RSPA received 20 comments on the proposed rule from operators, State regulatory agencies and trade groups. All commenters support the proposed amendment. Two commenters suggested that all requirements or actions contained in a final order be stayed because the final order may require the respondent to make significant facility or operational modifications that may exceed the cost of any civil penalty and these expenses should be delayed, until final resolution of the case, unless a clear public safety risk exists.

RSPA Response

RSPA agrees that final orders requiring significant facility or operational modifications should sometimes be delayed until final resolution of the case. However, because an automatic stay could delay corrective actions related to safety without an evaluation of any potential impact of the delay, the rule does not provide for an automatic stay in the case of orders requiring action other than the payment of money. Stays in cases involving corrective action will be considered on a case-by-case basis.

Section 190.227 Payment of Penalty

Section 190.227(a) currently states that payment of a civil penalty must be made by certified check or money order payable to the ''Department of Transportation.'' RSPA proposed to continue to allow this method for a civil penalty of less than $10,000. Under new § 190.227(b), RSPA proposed to require that payments of $10,000 or more be made by wire transfer through the Federal Reserve Communications System to the account of the U.S. Treasury.

In response to the proposed amendment of § 190.227, RSPA received 20 comments from operators, State regulatory agencies, and trade groups. Most commenters agree with the proposed amendment. One commenter recommends that the proposed language in § 190.227(b) be modified to read ''twenty business days or thirty calendar days.'' This, he suggests, would aid smaller companies.

Four commenters disagree with the proposed changes to the regulation. They question RSPA's need to require wire transfers of civil penalties of $10,000 or more. They argue that this restriction serves no purpose and unnecessarily limits the options of payees.

RSPA Response

RSPA is required by Departmental regulations (49 CFR 89.21(b)(3)) to collect amounts over $10,000 through wire transfer. Therefore, the proposed amendment to § 190.227 will be adopted.

Changes to Part 191 Requirements

The following discussion explains the changes in part 191:

Section 191.1 Scope

Currently § 191.1(b)(1) contains the phrase ''on the Outer Continental Shelf (OCS)''. RSPA proposed to delete this phrase because the regulation does not clearly specify where the applicability of part 191 begins on offshore gathering lines in state waters. An operator recommended a similar change in comments responding to an NPRM proposing to clarify the definition of gathering lines (56 FR 48505; September 25, 1991; Docket PS–122).

RSPA's revision will clarify that part 191 does not apply to field production lines; i.e., flow lines in state offshore waters, similar to the present exception on the OCS. No substantive comments were received in response to this proposal.

RSPA Response

Therefore, RSPA is amending § 191.1 as proposed.

Changes to Part 192 Requirements

The following discussion explains the change to part 192:

Section 192.513 Test Requirements for Plastic Pipelines

This regulation prescribes minimum test requirements for plastic pipelines to ensure discovery of all potentially hazardous leaks. RSPA proposed to amend paragraph (c) of the rule to clarify that, at elevated temperatures, the test pressure is limited by the reduced hydrostatic strength of the thermoplastic material. RSPA also proposed to amend paragraph (d) of the rule which would benefit pipeline operators who during hot summer days are unable to pressure test newly constructed pipelines because the temperature of the thermoplastic material exceeds 38 °C (100N F). The proposal would permit field pressure testing up to the same temperature used to determine hydrostatic design strength as defined by the design pressure formula in § 192.121.

In response to the proposal, RSPA received 21 comments from operators, State regulatory agencies, and trade groups. Most commenters supported the intent of the proposed rule. However, a few commenters said that the wording of the proposed rule would undermine the intent. They were concerned that although the proposed rule would raise the temperature limit for testing of some pipelines (those with a long-term hydrostatic strength based on a temperature above 38 °C (100 °F)), it would lower the currently allowable temperature limit for other pipelines (those whose long-term hydrostatic strength is based on a design temperature of less than 38 °C (100 °F).

One commenter stated that many operators base their pressure ratings for plastic pipe on a standard temperature of 23NC (73N F). For many parts of the United States, this design standard is adequate because it exceeds the operating temperature of buried plastic piping in those geographical regions. However, temperatures above ground often exceed 23NC (73N F). The proposed rule would prohibit operators for whom this applies from conducting pressure tests on hotter days until temperatures fall below 23NC (73N F). The commenters suggested a better approach would be to limit test temperatures to the temperature at which the long-term hydrostatic design basis was determined only if the temperatures of the plastic piping material exceed 38 °C (100N F).

RSPA Response

RSPA recognizes the difficulties associated with the language of the proposed rule. To better express the intent of this rule, the maximum temperature limit for testing of plastic pipelines will be set at either 38 °C (100N F) or the temperature at which the long-term hydrostatic test was determined, whichever is greater.

In the discussion of the NPRM, it was stated that the Gas Piping Technology Committee (GPTC) proposed modified language in §§ 192.513 (c) and (d). The GPTC has notified RSPA that although the GPTC Plastic Task Group is considering a similar proposal, the GPTC has not proposed any modified language.

Changes to Part 193 Requirements

The following discussion explains the changes to part 193: *§ 193.2819 Gas detection.* Operators at LNG plants must continuously monitor all enclosed buildings for hazardous concentrations of flammable gases and vapors, using permanent detection systems that provide visible or audible alarms (§ 193.2819(f)). All enclosed buildings must be monitored, even if the building is not connected to a source of flammable fluid. For example, a tool shed that does not house a flammable fluid and is not connected to a source of flammable fluid must have a fixed gas detection and alarm system. Because RSPA's review concluded that the risk of flammable gas or vapor accumulating inside such buildings is negligible, we proposed to apply § 193.2819(f) only to buildings ''that house a flammable fluid or are connected by piping or conduit to a source of flammable fluid.''

Twelve TPSSC members supported the proposal completely, one member supported it but recommended deletion of ''or conduit,'' and two members abstained. The reason given for deleting ''or conduit'' was that the National Electrical Code (NEC), referenced in part 193, requires conduits between hazardous and non-hazardous areas to be sealed to prevent accidental migration of flammable gas or vapor.

RSPA received comments on the proposed rule from 15 operators, two pipeline-related associations, and one consultant. None of these commenters objected to the proposal. However, two commenters suggested we delete ''or conduit'' because of the NEC safeguard mentioned above, while two others suggested that ''conduit'' be modified by ''uninterrupted.''

Two commenters recommended that RSPA expand the proposed exception to include buildings whose only source of flammable fluid is fuel for heating or cooking. When these sources were low pressure and odorized, it was concluded that they posed minimal risk.

RSPA Response

Deleting the words ''or conduit'' would not be appropriate because all existing conduits may not have been installed under current NEC standards and thus may not be sealed against possible intrusion of gas. However, in the final rule, RSPA has added the word ''uninterrupted'' between ''or'' and ''conduit''. This will relieve an operator from the need to protect a building which is sealed pursuant to the NEC against accidental migration of gas or vapor. We did not adopt the comment to expand the proposed exception to buildings whose only source of flammable fluid is fuel. The risk is not minimal in the context of an LNG plant. When LNG is piped into a building for heating or cooking, there is an opportunity for gas to escape undetected inside the building and ignite. However slight this opportunity, the potential consequences of any building fire or explosion are magnified by the LNG plant setting. Thus, we do not believe the existing rule should be relaxed further to exclude buildings whose only source of flammable fluid is gas for heating or cooking.

Section 193.2907 Protective Enclosure Construction

Paragraphs (b) (1) through (3) and (c) of this rule dictate specific material and design features of protective enclosures (i.e., fences and walls) that surround certain LNG facilities. For example, fences must be chainlink of at least No. 11 American wire gauge. RSPA's review concluded that such prescriptive requirements are unnecessary and overly burdensome in view of the performance standard under § 193.2907(a) governing the design and construction of protective enclosures. That standard provides that each protective enclosure must have sufficient strength and configuration to obstruct unauthorized access to the facilities enclosed. RSPA, therefore, proposed to repeal the prescriptive requirements and rely solely on the performance standard.

Twelve TPSSC members fully supported the proposal, one member supported it but recommended an editorial change, and two members abstained. The editorial change was not explained and has not been adopted.

RSPA received comments on the proposed rule from 12 operators and one pipeline-related association. Each of these commenters supported the proposal.

RSPA Response

Therefore, § 193.2907 is amended as proposed.

Rulemaking Analyses:

Paperwork Reduction Act

Documentation for the information collection requirements for parts 191 and 193 was submitted to the Office of Management and Budget (OMB) during the original rulemaking processes. Currently, regulations in part 191 are covered by OMB Control Numbers 2137–0522 and 2137–0578. The Control Numbers for regulations in part 193 have expired and are currently in the process of renewal through review by OMB. Under the Paperwork Reduction Act, no persons are required to respond to a collection of information unless it displays a valid OMB control number. Therefore the information collection requirements of part 193 will not be effective until the renewal process is complete and is announced in a subsequent Federal Register notice. The applicable Control Number will remain 2137–0048. Part 190 imposes no paperwork requirements on the pipeline industry. Regulations in part 192 are covered by OMB Control Numbers 2137–0049 and 2137–0583. The notice proposed no additional information collection requirements. Accordingly, there is no need to repeat those submissions in this final rule.

E. O. 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 therefore was not subject to review by the Office of Management and Budget. The rule is not significant under the Regulatory Policies and Procedures of the DOT (44 FR 11034, February 26, 1979). A Regulatory Evaluation has been prepared and is available in the Docket. RSPA estimates the changes to existing rules will result in an estimated savings of $1,200,000 for the pipeline industry, without associated costs and with no adverse affect on safety. As discussed above, these savings will come largely from the elimination of unnecessary requirements.

Regulatory Flexibility Act

Few of the companies subject to this rulemaking meet the criteria for small companies. However, RSPA sought such impact information in response to this rulemaking. Accordingly, based on the facts available concerning the impact of the proposal and the response received, I certify under Section 605 of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities.

E. O. 12612

RSPA has analyzed the rule changes under the criteria of Executive Order 12612 (52 FR 41685; October 30,1987). We find it does not warrant preparation of a Federalism Assessment.

List of Subjects

49 CFR Part 190

Administrative practice and procedure, Penalties, and Pipeline safety.

49 CFR Part 191

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Fire prevention, Pipeline safety, Reporting and recordkeeping requirements, and Security measures.

In consideration of the foregoing, RSPA is amending 49 CFR parts 190, 191, 192, and 193 as follows:

PART 190—[AMENDED]

1. The authority citation for part 190 continues to read as follows:

Authority: 49 U.S.C. 5123, 60108, 60112, 60117, 60118, 60120, 60122, and 60123; and 49 CFR 1.53.

2. Section 190.203 is amended by revising paragraph (c) to read as follows:

§ 190.203 Inspections.

* * * * *

(c) If, after an inspection, the Associate Administrator, OPS believes that further information is needed to determine appropriate action, the Associate Administrator, OPS may send the owner or operator a ''Request for Specific Information'' to be answered within 45 days after receipt of the letter.

* * * * *

3. Section 190.209 is amended by removing paragraph (a)(2); by redesignating paragraph (a)(3) as paragraph(a)(2); by redesignating paragraph (a)(4) as (a)(3); and by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

4. Section 190.211 is amended by revising paragraphs (b), (c), (e), and (f) to read as follows:

§ 190.211 Hearing.

* * * * *

(b) A telephone hearing will be held if the amount of the proposed civil penalty or the cost of the proposed corrective action is less than $10,000,unless the respondent submits a written request for an in-person hearing. Hearings are held in a location agreed upon by the presiding official, OPS and the respondent.

(c) An attorney from the Office of the Chief Counsel, Research and Special Programs Administration, serves as the presiding official at the hearing.

* * * * *

(e) Upon request by respondent, and whenever practicable, the material in the case file pertinent to the issues to be determined is provided to the respondent 30 days before the hearing. The respondent may respond to or rebut this material at the hearing.

(f) During the hearing, the respondent may offer any facts, statements, explanations, documents, testimony or other items which are relevant to the issues under consideration.

* * * * *

5. Section 190.215 is amended by revising paragraph (d) to read as follows:

§ 190.215 Petitions for reconsideration.

* * * * *

(d) The filing of a petition under this section stays the payment of any civil penalty assessed. However, unless the Associate Administrator, OPS otherwise provides, the order, including any required corrective action, is not stayed.

* * * * *

6. Section 190.227 is revised to read as follows:

§ 190.227 Payment of penalty.

(a) Except for payments exceeding $10,000, payment of a civil penalty proposed or assessed under this subpart may be made by certified check or money order (containing the CPF Number for this case) payable to ''U.S. Department of Transportation'' to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ–320), P.O. Box 25770, Oklahoma City, OK 73125, or by wire transfer through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Payments exceeding $10,000 must be made by wire transfer. Payments, or in the case of wire transfers, notices of payment, must be sent to the Chief, General Accounting

Branch (M–86.2), Accounting Operations Division, Office of the Secretary, room 2228, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

(b) Payment of a civil penalty assessed in a final order issued under § 190.213 or affirmed in a decision on a petition for reconsideration must be made within 20 days after receipt of the final order or decision. Failure to do so will result in the initiation of collection action, including the accrual of interest and penalties, in accordance with 31 U.S.C. 3717 and 49 CFR part 89.

PART 191—[AMENDED]

1. The authority citation for Part 191 continues to read as follows:

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124; and 49 CFR 1.53.

2. Section 191.1 is amended by revising paragraph (b)(1) to read as follows:

§ 191.1 Scope.

* * * * *

(b) * * *

(1) Offshore gathering of gas upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; or

* * * * *

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

2. Section 192.513 is amended by revising paragraphs (c) and (d) to read as follows:

§ 192.513 Test requirements for plastic pipelines.

* * * * *

(c) The test pressure must be at least 150 percent of the maximum operating pressure or 50 psig, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under § 192.121, at a temperature not less than the pipe temperature during the test.

(d) During the test, the temperature of thermoplastic material may not be more than 38 °C (100N F), or the temperature at which the material's long-term hydrostatic strength has been determined under the listed specification, whichever is greater.

PART 193—[AMENDED]

1. The authority citation for part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, and 60113; 60118; and 49 CFR 1.53.

2. Section 193.2819 is amended by revising paragraph (f) to read as follows:

§ 193.2819 Gas detection.

* * * * *

(f) All enclosed buildings that house a flammable fluid or are connected by piping or uninterrupted conduit to a source of flammable fluid must be continuously monitored for the presence of flammable gases and vapors with a fixed flammable gas detection system that provides a visible or audible alarm outside the enclosed building. The systems must be provided and maintained according to the applicable requirements of ANSI/NFPA 59A.

3. Section 193.2907 is amended by revising paragraphs (a) and (b) to read as follows:

§ 193.2907 Protective enclosure construction.

(a) Each protective enclosure must have sufficient strength and configuration to obstruct unauthorized access to the facilities enclosed.

(b) Openings in or under protective enclosures must be secured by grates, doors or covers of construction and fastening of sufficient strength such that the integrity of the protective enclosure is not reduced by any opening.

* * * * *

Issued in Washington DC, on May 23, 1996.

Kelley S. Coyner,

Acting Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 96–13770 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 247

[Docket No. 960516135–6135–01; I.D. 051096A]

RIN 0648–AF08

Taking and Importing of Marine Mammals; Dolphin Safe Tuna Labeling; Regulation Consolidation

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

ACTION: Final rule.

SUMMARY: This rule consolidates existing regulations regarding dolphin safe tuna labeling and corrects an address in the regulations. This action is part of the President's regulatory reform initiative.

EFFECTIVE DATE: June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Wanda L. Cain, Office of Protected Resources, NMFS, 301–713–2055.

SUPPLEMENTARY INFORMATION:

On September 19, 1991 (56 FR 47424), NMFS published an interim final rule implementing dolphin safe tuna labeling requirements of the Dolphin Protection Consumer Information Act, 16 U.S.C. 1385. To consolidate regulations under the President's regulatory reform initiative, NMFS is recodifying regulations governing the requirements for the dolphin safe labeling of tuna as subpart H of part 216. In addition, a new paragraph is added to § 216.24 to reference subpart H in order to make importers aware of dolphin safe tuna labeling requirements.

In this rule, NMFS also removes the address of the Director, Southwest Region, from the footnote to § 261.24 (e)(3)(iii).

Classification

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

The Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(b)(B) and (d)(3), for good cause finds that because this rule makes only nonsubstantive changes to existing regulations that were issued pursuant to notice-and-comment procedures, it is not necessary to provide advance notice and opportunity for public comment or to delay its effectiveness for 30 days.

List of Subjects

50 CFR Part 216

Administrative practice and procedure, Exports, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 247

Exports, Fish, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 216 and, under authority of 16 U.S.C. 1385 *et seq.*, 247 are amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.3, the definition for ''Assistant Administrator'' is revised, the definition of ''Regional Director'' is removed, and definitions for ''Fisheries Certificate of Origin'', ''Label'', ''Director, Southwest Region'', and ''Tuna product'' are added alphabetically to read as follows:

§ 216.3 Definitions.

* * * * *

Assistant Administrator means the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910, or his/her designee.

* * * * *

Director, Southwest Region means the Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90802, or his/her designee.

* * * * *

Fisheries Certificate of Origin means NOAA Form 370, as described in 50 CFR 216.24(e)(3)(iii).

* * * * *

Label means a display of written, printed, or graphic matter on or affixed to the immediate container of any article.

* * * * *

Tuna product means any food product processed for retail sale and intended for human or animal consumption that contains an item listed in § 216.24(e)(2)(i) or (ii), but does not include perishable items with a shelf life of less than 3 days.

* * * * *

3. In § 216.24, the terms ''NMFS Southwest Regional Director'', ''Regional Director'', ''Regional Director of the Southwest Region'', ''Regional Director, National Marine Fisheries Service'', ''Regional Director, Southwest Region'', ''Regional Director, Southwest Region, NMFS'', and ''Southwest Regional Director'' are removed and the words ''Director, Southwest Region'' are added in its place, each place it occurs.

4. In § 216.24(e)(3)(i), paragraph (E) is added to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(e) * * *

(3) * * *

(i) * * *

(E) Tuna or tuna products sold in or exported from the United States that suggest the tuna was harvested in a manner not injurious to dolphins are subject to the requirements of subpart H.

* * * * *

5. In § 216.24(e)(3)(iii), the footnote is revised to read as follows:

[1] Copies of the form are available from the Director, Southwest Region (see § 216.3).

6. Subpart H is added to read as follows:

SUBPART H—DOLPHIN SAFE TUNA LABELING

Sec.

Authority: 16 U.S.C. 1385.

§ 216.90 Purpose.

This subpart governs the requirements for labeling of tuna or tuna products sold in or exported from the United States that suggest the tuna was harvested in a manner not injurious to dolphins.

§ 216.91 Labeling requirements.

It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any person subject to U.S. jurisdiction, including any producer, exporter, importer, distributor, or seller of any tuna product exported from the United States or offered for sale in the United States to include on the label of that product the term ''dolphin safe'' or any other term, phrase, or symbol that claims or suggests that the tuna contained in the product was harvested using a fishing method that is not harmful to dolphins, if the product:

(a) Contains tuna harvested with a large-scale driftnet; or

(b) Contains tuna harvested in the ETP by a purse seine vessel 400 short tons (362.8 metric tons) carrying capacity or greater and is labeled in a manner that violates the standards set forth in § 216.92 or § 216.93.

§ 216.92 Purse seine vessels greater than 400 short tons (362.8 metric tons).

For purposes of § 216.91(b), any tuna product containing tuna that were harvested in the ETP by a purse seine vessel 400 short tons (362.8 metric tons) carrying capacity or greater, must be accompanied by:

(a) A completed Fisheries Certificate of Origin;

(b) A written statement by the captain of each vessel that harvested the tuna, certifying that the vessel did not intentionally deploy a purse seine net on or to encircle dolphins at any time during the trip;

(c) A written statement certifying that an observer, employed by or working under contract with the Inter-American Tropical Tuna Commission or the Secretary, was on board the vessel during the entire trip and that the vessel did not intentionally deploy a purse seine net on or to encircle dolphin at any time during the trip. The statement must be signed by either:

(1) The Secretary; or

(2) A representative of the Inter-American Tropical Tuna Commission; and

(d) An endorsement on the Fisheries Certificate of Origin by each exporter, importer, and processor certifying that, to the best of his or her knowledge and belief, the Fisheries Certificate of Origin and attached documentation, accurately describe the tuna products.

§ 216.93 Submission of documentation.

The documents required by § 216.92 must accompany the tuna product whenever it is offered for sale or export, except that these documents need not accompany the product when offered for sale if:

(a) The documents do not require further endorsement by any importer or processor, and are submitted to officials of the U.S. Customs Service at the time of import; or

(b) The documents are endorsed as required by § 216.92(d) and delivered to the Director, Southwest Region, or to the U.S. Customs Service at the time of exportation.

§ 216.94 Requests to review documents.

At any time, the Assistant Administrator may request, in writing, any exporter, importer, processor, distributor, or seller of any tuna or tuna product labeled in a manner subject to the requirements of § 216.91, to produce, within a specified time period, all documentary evidence concerning the origin of any product that is offered for sale as ''dolphin safe,'' including the original invoice.

§ 216.95 False statements or endorsements.

Any person who knowingly and willfully makes a false statement or false endorsement required by § 216.92 is liable for a civil penalty not to exceed $100,000, that may be assessed in an action brought in any appropriate District Court of the United States on behalf of the Secretary.

PART 247—DOLPHIN SAFE TUNA LABELING

7. Under the authority of 16 U.S.C. 1385, part 247 is removed.

[FR Doc. 96–13743 Filed 5–31–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 620

[Docket No. 960126016–6149–05; I.D. 052196G]

General Provisions for Domestic Fisheries; Amendment to Closure for American Lobster in Block Island Sound

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

ACTION: Emergency interim rule; amendment.

SUMMARY: In response to a request from the State of Rhode Island, NMFS is amending the emergency interim rule that closed a portion of Federal waters off the coast of the State of Rhode Island in Block Island Sound to fishing and possession of lobsters subsequent to an oil spill. This amendment reduces further the area in which fishing for or possessing lobsters is prohibited.

EFFECTIVE DATE: May 29, 1996 through July 23, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel Morris at (508) 281–9388.

SUPPLEMENTARY INFORMATION: On January 19, 1996, an oil barge grounded and spilled more than 800,000 gallons (3.0 million liters) of heating oil into the waters of Block Island Sound, RI. On January 26, 1996, NMFS, at the request of and in conjunction with the State of Rhode Island, prohibited the harvest of seafood from an area of approximately 250 square miles (647 square km) in Block Island Sound. The original area of closure was announced and defined in an emergency interim rule published in the Federal Register on February 1, 1996 (61 FR 3602).

On March 13, 1996, NMFS opened the entire area to fishing for and landing finfish and squid by gear types other than bottom trawl gear. This same action, published in the Federal Register on March 19, 1996 (61 FR 11164), expanded by approximately 28 square miles (72 square km) the area in which fishing for and landing lobsters, clams, and crabs were prohibited. Throughout the expanded closed area the use of lobster traps, bottom trawl or dredge gear was prohibited.

On April 9, 1996, the closure was amended further to allow all fishing to resume, with the exception of lobstering in an area of approximately 42 square miles (109 square km) to the east and north of Block Island, RI. This action was published in the Federal Register on April 15, 1996 (61 FR 16401).

On April 24, 1996, testing of lobsters from the closed Federal area determined that evidence of oil adulteration persists in some of the samples. Therefore, the State requested that the Federal closure, which was due to expire on May 1, 1996, be extended. NMFS complied with the State's request and extended the closure's effective date from May 1, 1996, through July 23, 1996 (61 FR 20175, May 6, 1996).

Following the oil spill, State officials, in consultation with Federal agencies and the responsible party, developed a protocol for reopening fisheries in the affected area. The protocol sets sampling, inspection, and analysis standards, which, if met, would ensure that seafood is wholesome and would provide a basis for reopening fisheries.

In accordance with the protocol, State and Federal agencies have been testing the water and marine life in and around the closed area since the closure began. Seafood species have been subjected to inspection by sensory experts and chemical analysis. Though all seafood from the area has been determined to be safe for consumption, certain lobsters from one particular sector still show some evidence of oil adulteration. Therefore, NMFS, at the request of the State, is opening all areas to all fishing with the exception of the one sector (described below) where oil adulteration has been detected in lobsters. No person may fish for, possess, or land American lobsters from the closed area.

In order to avoid conflict with other amendments to § 620.7, the text of former paragraph (i) of that section is now placed in paragraph (m) of that section.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

Testing has determined that consumption of seafood from a portion of the area closed prior to this action does not pose a threat to human health. Fishermen who operate in the area would suffer severe economic hardship unnecessarily if the current prohibition were to remain in effect. Hence, the AA finds that the foregoing constitutes good cause to waive the requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Further, as this provision relieves a restriction, it is made effective immediately pursuant to authority at 5 U.S.C. 553(d)(1).

This emergency rule has been determined to be not significant for the purposes of E.O. 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because this rule is not required to be issued with prior notice and opportunity for public comment.

List of Subjects in 50 CFR Part 620

Fisheries, Fishing.

Dated: May 28, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 620 is amended as follows:

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

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

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

2. In § 620.7, paragraph (i) revised at 61 FR 16401, April 15, 1996, effective from April 19, 1996 through May 1, 1996, and extended at 61 FR 20175, May 6, 1996 from May 1, 1996 through July 23, 1996 is removed and paragraph (m) is added to read as follows:

§ 620.7 General prohibitions.

* * * * *

(m) Fish for American lobsters in, or possess or land American lobsters from, the Federal waters of Block Island Sound bounded as follows: From the point where LORAN line 14470 intersects with the 3-nautical mile (6-km) line south of Point Judith, RI, proceeding south-southeasterly to its intersection with the 43920 line, thence southwesterly along the 43920 line to its intersection with the 3-nautical mile (6-km) line northeast of Block Island, RI, thence northerly along said 3-nautical mile (6-km) line to the northern intersection of the 3-nautical mile (6-km) line and the 14530 line, thence northwesterly along the 14530 line to the intersection of the 3-nautical mile (6-km) line, thence northeasterly along the 3-nautical mile (6-km) line to the starting point.

[FR Doc. 96–13702 Filed 5–29–96; 11:32 pm]

BILLING CODE 3510–22–M

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 052896G]

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

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific ocean perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catches of Pacific ocean perch in the Eastern Aleutian District be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the Pacific ocean perch total allowable catch (TAC) in the Eastern Aleutian District has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 29, 1996, until 12 midnight A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the Pacific ocean perch TAC for the Eastern Aleutian District was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996), and increased by an apportionment from the reserve (61 FR 16085, April 11, 1996) to 3,025 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.20(a)(9), that the TAC for Pacific ocean perch in the Eastern Aleutian District has been reached. Therefore, NMFS is requiring that further catches of Pacific ocean perch in the Eastern Aleutian District be treated as prohibited species in accordance with § 675.20(c)(3).

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

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

Dated: May 28, 1996.

Richard W. Surdi,

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

[FR Doc. 96–13809 Filed 5–29–96; 1:02 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 107
Monday, June 3, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 95–044–1]

The Importation of Ratites and Hatching Eggs of Ratites

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the animal import regulations to relieve certain restrictions on the importation of ratites and hatching eggs of ratites into the United States from Canada. We believe that these proposed actions can be taken without increasing the risk of introducing poultry or livestock diseases into the United States. Additionally, we propose to allow adult ostriches from any country to be imported, in accordance with the regulations, through the New York Animal Import Center, based on space availability. Currently, with certain exceptions, ostriches may not be imported into the United States if they exceed either 36 inches in height or 30 pounds in weight. We are proposing this change after determining that the New York Animal Import Center has the facilities and trained personnel to handle adult ostriches. We believe that these proposed amendments would facilitate the importation into the United States of ratites and hatching eggs of ratites while ensuring the continued protection of the health of livestock and poultry in the United States.

DATES: Consideration will be given only to comments received on or before August 2, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–044–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–044–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Tracye Butler, Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–5097.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as ''the regulations'') govern the importation into the United States of certain animals and birds, including ostriches and other flightless birds known as ratites, and their hatching eggs, to prevent the introduction of communicable diseases of livestock and poultry.

Section 92.101 of the regulations, among other things, imposes general restrictions on the importation of ratites and hatching eggs of ratites. Paragraph (b)(3)(i) of § 92.101 requires that all ratites, except ratites imported as zoological birds, and all hatching eggs of ratites entering the United States must originate from certified pen-raised flocks and must be identified. Ratites must be identified by means of a microchip implant, hatching eggs of ratites by marking on the shell. Paragraph (b)(3)(i) also requires certain recordkeeping, reporting, and inspections related to the flock and premises of origin. Paragraph (b)(3)(ii) of § 92.101 prohibits, with certain exceptions, the importation of ostriches more than 36 inches in height or 30 pounds in weight at the time of arrival in the United States.

Section 92.103 of the regulations, among other things, requires that an importer submit a completed import permit application to import ratites or hatching eggs of ratites into the United States. The import permit application provides, among other things, information on the name and location of the quarantine facility in the United States that will maintain the ratites or hatching eggs of ratites during the mandatory quarantine period.

Section 92.104 of the regulations, among other things, requires that ratites and their hatching eggs offered for importation from any part of the world be accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the exporting country or issued by a veterinarian authorized or accredited by the national government of the exporting country and endorsed by a full-time salaried veterinary officer of the national government of that country. The certificate must state, among other things, that ratites and their hatching eggs offered for importation have been inspected and found free of evidence of communicable diseases and are identified in accordance with the provisions in § 92.101.

Section 92.105 of the regulations, among other things, specifies requirements for the inspection of ratites and hatching eggs of ratites at the port of entry in the United States. Paragraph (a) of § 92.105, among other things, allows hatching eggs of ratites to be offered for importation into the United States at any international airport, or any land-border port within 20 miles of an international airport, serviced by Customs. In addition, hatching eggs of ratites may be shipped, in bond, from the port of first arrival to the Customs port of entry where the eggs will be inspected and quarantined. Paragraph (c) of § 92.105 provides that ratites, other than hatching eggs of ratites, imported from any part of the world must be inspected by a veterinary inspector of the Animal and Plant Health Inspection Service (APHIS) at a listed port of entry. The ports of entry listed for ostriches are New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL. The ports of entry listed for ratites other than ostriches are New York, NY; Stewart Airport, Newburgh, NY; Miami, FL; and Honolulu, HI.

Section 92.106 of the regulations, among other things, imposes quarantine requirements on ratites and hatching eggs of ratites. Paragraph (b)(1) of § 92.106, among other things, requires ratites imported from any part of the world to be quarantined upon arrival for a minimum of 30 days to determine the ratites' freedom from ectoparasites and communicable diseases. Paragraph (b)(3) of § 92.106 requires that ratites be

treated for ectoparasites during the quarantine by an inspector until the inspector determines that the ratites are free of ectoparasites. Paragraph (b)(2) of § 92.106, among other things, requires hatching eggs of ratites imported from any part of the world to be quarantined upon arrival, incubated for approximately 42 days, and held in quarantine for a minimum of 30 days following the hatch of the last chick in the lot, to determine the ratites' freedom from communicable diseases. Additionally, the ratites and hatching eggs of ratites must be tested for and found free of viral diseases of poultry, including exotic Newcastle disease.

Ratites and Hatching Eggs of Ratites From Canada

We are proposing to exempt certain ratites and hatching eggs of ratites from Canada from quarantine requirements upon arrival in the United States. We are proposing this relief for ratites that meet the following conditions: (1) They were hatched and raised in Canada; or (2) if imported into Canada, they were quarantined upon arrival in Canada for a minimum of 28 days at a Canadian quarantine facility and remained in Canada for an additional 60 days following quarantine. We are also proposing to exempt ratite hatching eggs that were laid in Canada from U.S. quarantine requirements. We would continue to require that these ratites and hatching eggs of ratites be accompanied by a health certificate, in accordance with current § 92.104(a), (c), and (d), and that they meet the other applicable requirements of the regulations.

We are proposing this change to the regulations because we believe that ratites and their hatching eggs from Canada present a minimal risk of introducing animal and poultry diseases into the United States, as explained below.

Currently, Canada's import regulations allow ratites to be imported into Canada only from Germany, The Netherlands, and the United Kingdom. We have determined that Canadian requirements for importing ratites and their hatching eggs into Canada are similar to U.S. requirements for importing ratites and their hatching eggs into the United States. Specifically, ratites imported into Canada must meet the following conditions to be eligible for entry into a Canadian quarantine station: (1) They were hatched in and have never been outside the country of origin, or they have been quarantined in the country of origin for at least 60 days; (2) they were inspected within 30 days immediately prior to the date of export and were found to be free from evidence of viral diseases of poultry, including Newcastle disease, and as far as could be determined have not been exposed to disease within the preceding 60 days; (3) they tested negative for viral diseases; and (4) they were inspected and declared healthy by a Canadian veterinary inspector upon arrival in Canada. Upon arrival in Canada, the imported ratites must enter a Canadian quarantine station and remain in quarantine for a minimum of 28 days. During that time, they are thoroughly checked for ticks and other external parasites. Fecal samples are taken and checked for internal parasites. The detection of internal or external parasites necessitates treatment; however, no vaccine against Newcastle disease or laryngotracheitis is administered. The detection of viral diseases may necessitate slaughter and disposal of the carcass.

Hatching eggs of ratites that are imported into Canada also undergo quarantine to ensure the hatched chicks are free from disease. Hatching eggs of ratites imported into Canada must enter a Canadian quarantine station and remain in Canadian quarantine for a minimum of 45 days following the hatch of the last chick in the lot in order for the chicks to be eligible for an Agriculture Canada health certificate for importation into the United States.

Ratites imported into Canada under the conditions described above would present a negligible disease risk if allowed to enter the United States without undergoing quarantine. The quarantine period in Canada would offer sufficient opportunity for the diagnosis of communicable diseases. Upon release from quarantine, the imported ratites would join Canadian flocks for a minimum of 60 days. Additionally, ratites do not live in the wild in Canada, and, therefore, ratites of unknown disease history could not be trapped in the wild and then added to Canadian flocks for subsequent importation into the United States. Because of these factors, neither ratites imported into Canada, nor any Canadian-origin ratites, would have occasion to be exposed to any communicable disease of concern to the United States.

We therefore believe that removing the quarantine requirement for certain ratites and hatching eggs of ratites from Canada is warranted to eliminate duplications in Canadian and U.S. disease-prevention measures and relieve an unnecessary regulatory burden.

We are also proposing to exempt ratites imported from Canada for consignment directly to slaughter in the United States from the requirement in § 92.104(c)(8) that the ratites be treated for ectoparasites within 3 to 14 days before they are exported from Canada. We are proposing this change to minimize potential pesticide residue problems in ratite meat and to acknowledge that ratites from Canada that are consigned directly to slaughter in the United States would have little, if any, opportunity to come into contact with and transfer ticks to other animals. It is also unlikely that any ticks that could be on the ratites would be ticks exotic to the United States because there are no known ticks in Canada that are exotic to the United States.

In addition, we are proposing to exempt Canadian ratite flocks from the pen-raised requirement and the identification and recordkeeping requirements in § 92.101(b)(3). These requirements were established to prevent wild-caught ratites from being added to a ''pen-raised'' flock and then imported into the United States as ratites produced and maintained in a pen-raised flock. Because there are no wild ratites in Canada and because Canadian import restrictions make it unlikely that any wild-caught ratites would be imported into Canada, it does not appear that it is necessary to require Canadian flocks to meet the pen-raised requirement and the identification and recordkeeping requirements in § 92.101(b)(3).

We are also proposing to allow ratites from Canada that are exempt from quarantine upon arrival to be offered for importation at the following ports, in addition to the ports listed in § 92.105(c): Anchorage, AK; Fairbanks, AK; Los Angeles, CA; San Diego, CA; Denver, CO; Jacksonville, FL; Port Canaveral, FL; St.Petersburg-Clearwater, FL; Tampa, FL; Atlanta, GA; Eastport, ID; Chicago, IL; New Orleans, LA; Houlton, ME; Jackman, ME; Portland, ME; Detriot, MI; Baltimore, MD; Boston, MA; Port Huron, MI; Sault Ste. Marie, MI; Minneapolis, MN; Great Falls, MT; Opheim, MT; Raymond, MT; Sweetgrass, MT; Alexandria Bay, NY; Buffalo, NY; Champlain, NY; Dunseith, ND; Pembina, ND; Portal, ND; Portland, OR; San Juan, PR; Galveston, TX; Houston, TX; Highgate Springs, VT; Blaine, WA; Lynden, WA; Oroville, WA; Seattle, WA; Spokane, WA; Sumas, WA; and Tacoma, WA.

We are proposing this change because, as explained above, ratites hatched and maintained in Canada, or legally imported into Canada, would present little, if any, risk of carrying an exotic animal or poultry disease, or of harboring ectoparasites that could transmit exotic diseases to animals or poultry in the United States.

Consequently, we do not believe that these ratites need to be individually handled and inspected at the port of arrival. Under these circumstances, it appears that ratites from Canada that would not require quarantine upon arrival in the United States could be offered for importation at ports other than those currently allowed, including small, limited ports that lack restraint and holding facilities.

Canadian-origin hatching eggs of ratites would also be allowed to be offered for importation at the ports listed above and could continue to be offered for importation at any international airport, or at any land-border port within 20 miles of an international airport, serviced by Customs, in accordance with § 92.105(a).

We believe that increasing the number of ports through which ratites and their hatching eggs may enter the United States from Canada would facilitate trade between the United States and Canada, in accordance with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade.

We are proposing to exempt ratites and hatching eggs of ratites from Canada from the import permit requirements found in § 92.103 if the ratites and hatching eggs qualify for exemption from quarantine upon arrival in the United States and enter the United States at a Canadian land border port, as listed in § 92.203(b). This exemption would apply only to those ratites and hatching eggs that are imported from Canada through a land border port. If Canadian ratites or hatching eggs of ratites enter the United States through an airport or ocean port, then the ratites or hatching eggs must be accompanied by an import permit so that port inspectors will have prior notification of the arrival of the shipment of ratites or hatching eggs and be available to check the shipment.

The exemptions discussed above for ratites and hatching eggs imported into the United States from Canada would be set forth in § 92.107 in new paragraphs (b) and (c). Sections 92.101, 92.103, 92.104, 92.105, and 92.106 would be amended to indicate that § 92.107 contains exemptions for ratites and hatching eggs of ratites imported into the United States from Canada.

Adult Ostriches

We are also proposing to allow ostriches greater than 36 inches in height or 30 pounds in weight to be imported into the United States from any country through the port of New York, NY, or through Stewart Airport, Newburgh, NY, and be quarantined at the New York Animal Import Center (NYAIC), based on space availability. As a result of our experience enforcing the regulations, we believe the NYAIC now has the facilities and trained personnel to handle adult ostriches. Additionally, if an ostrich greater than 36 inches in height or 30 pounds in weight were imported into the United States from Canada without requiring quarantine, in accordance with the requirements proposed in this document, then that adult ostrich would be permitted entry into the United States through any of the ports proposed for the importation of Canadian ratites.

Miscellaneous

We are proposing to make a correction to § 92.103(a)(1) to remove a reference to § 92.214. When part 92 was divided into seven subparts in 1990, some references within paragraphs no longer applied. We corrected most of these references, but we inadvertently overlooked the reference to § 92.214 in § 92.103(a)(1). Section 92.103(a)(1) provides import permit requirements and exceptions to those requirements for birds; whereas § 92.214 explains import permit requirements for poultry. Therefore, we are proposing to remove the reference to § 92.214 from § 92.103(a)(1).

We are also proposing to make minor editorial changes for clarity and consistency, and we are proposing to amend §§ 92.103 and 92.104 by adding a reference to the end of each section for the Office of Management and Budget control number assigned to approved information collection and recordkeeping requirements.

Executive Order 12866 and Regulatory Flexibility Act

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

This proposed rule would relieve some restrictions on the importation into the United States of ratites and hatching eggs of ratites from Canada and on the importation into the United States of adult ostriches. We anticipate that this proposed rule would affect only the ostrich industry because very few ratites other than ostriches have been imported into the United States since first being allowed in 1986.

Ostrich production in the United States has been growing rapidly over the last few years. According to a recent estimate, there are approximately 6,000 to 7,000 ostrich owners and more than 70,000 breeding ostriches in the United States. Each farm owns an average of 8 to 10 adult ostriches, but each farm's holdings can range anywhere from 2 to 200 adult ostriches. All of these farms are considered small entities by Small Business Administration standards (annual gross receipts of less than $500,000). The American Ostrich Association reports its membership at 3,650 as of September 1995.

Over the last 2 to 3 years, the supply of ostriches in the United States has steadily increased, which has greatly reduced domestic prices. For example, in 1992, market prices for ostriches of different ages ranged as follows: 3-month-old chicks sold for approximately $6,000 a pair; 6-month-old chicks sold for $8,000 to $15,000 a pair; yearlings sold for $12,000 to $25,000 a pair; 2-year-olds sold for $25,000 to $40,000 a pair; and adults (breeding pairs) sold for $40,000 up to $100,000 a pair, depending upon proven breeding capabilities. Recent market prices for ostriches of different ages show a dramatic decrease from the market prices of 1992; estimates of 1995 market prices for ostriches of different ages are as follows: 3-month-old chicks sell for approximately $1,300 a pair; 6-month-old chicks sell for approximately $2,150 a pair; yearlings sell for approximately $4,300 a pair; 2-year-olds sell for approximately $8,600 a pair; and adults (breeding pairs) sell for approximately $14,700 a pair, depending upon proven breeding capabilities. Further, when compared to the market prices listed above for 1995, the estimated market prices for the first quarter of 1996 show approximately a fifty percent decrease in the market prices for ostriches in all age categories.

No live ratites have been imported into the United States from any country since April of 1994. Removing the quarantine and other requirements for Canadian ratites and their hatching eggs could encourage imports by decreasing the cost of importing these ratites and hatching eggs. However, because of the decrease in market prices described above, we do not expect a heavy volume of ostriches or other ratites from Canada to be imported into the United States as a result of this rule.

In addition, though the hatching eggs of ratites are more readily available, are cheaper to transport, and can be quarantined at private facilities, historically only about 26 percent of the imported eggs (this includes fertile and infertile eggs) have hatched chicks that survived beyond 30 days. Despite being a financially dangerous option, importers continue to import hatching eggs and are trying to improve their rate

of hatch and chick survival. However, because of the relatively low hatch and survival rate and the reduced market prices of ostriches of different ages, we do not expect a heavy volume of the hatching eggs of ratites from Canada to be imported into the United States as a result of this rule.

Any imports from Canada that might result from this rule could cause a further decline in the domestic prices of ratites in the United States. However, we expect that domestic ratite importers would benefit by having fewer restrictions on Canadian imports. Over the short term, the proposed changes in the regulations might have a minor adverse economic impact on domestic ostrich producers. Over the long term, we expect the domestic ratite industry to benefit from any imports that may occur because reduced ostrich prices could lead to larger domestic populations of ostriches, benefiting consumers of ostriches and ostrich products. A larger domestic ratite population could further enhance the economic viability of commercial ratite breeding, slaughter, feather, and leather markets.

We expect that the economic effect of allowing the importation of adult ostriches from all countries into the United States through the New York Animal Import Center would be insignificant because of the drastic decrease in the market prices of ostriches.

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

Executive Order 12778

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

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping.

Accordingly, 9 CFR part 92 would be amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 92.101 would be amended as follows:

a. By removing paragraph (b)(3)(ii).

b. By redesignating paragraphs as follows:

Old designation	New designation
(b)(3)(i)	(b)(3).
(b)(3)(i)(A)	(b)(3)(i).
(b)(3)(i)(B)	(b)(3)(ii).
(b)(3)(i)(C)	(b)(3)(iii).
(b)(3)(i)(D)	(b)(3)(iv).
(b)(3)(i)(D)(*1*)	(b)(3)(iv)(A).
(b)(3)(i)(D)(*2*)	(b)(3)(iv)(B).
(b)(3)(i)(D)(*3*)	(b)(3)(iv)(C).
(b)(3)(i)(E)	(b)(3)(v).
(b)(3)(i)(F)	(b)(3)(vi).
(b)(3)(i)(G)	(b)(3)(vii).
(b)(3)(i)(H)	(b)(3)(viii).
(b)(3)(i)(I)	(b)(3)(ix).
(b)(3)(i)(J)	(b)(3)(x).
(b)(3)(i)(K)	(b)(3)(xi).
(b)(3)(i)(L)	(b)(3)(xii).

c. By revising newly redesignated paragraph (b)(3) introductory text, to read as set forth below.

d. In newly designated paragraph (b)(3)(vi), by removing the reference ''(b)(3)(i)(D)'' and adding ''(b)(3)(iv)'' in its place.

e. In newly designated paragraph (b)(3)(vii), by removing the reference ''(b)(3)(i)(B)'' and adding ''(b)(3)(ii)'' in its place, and by removing the reference ''(b)(3)(i)(C)'' and adding ''(b)(3)(iii)'' in its place.

f. In newly designated paragraph (b)(3)(x), the first sentence, by removing the reference ''(b)(3)(i)(B)'' and adding ''(b)(3)(ii)'' in its place, and by removing the reference ''(b)(3)(i)(C)'' and adding ''(b)(3)(iii)'' in its place.

g. In newly designated paragraph (b)(3)(x), the fourth sentence, by removing the reference ''(b)(3)(i)(E)'' and adding ''(b)(3)(v)'' in its place.

§ 92.101 General prohibitions; exceptions.

* * * * *

(b) * * *

(3) Except for ratites imported as zoological birds, and ratites and ratite hatching eggs imported from Canada in accordance with § 92.107, ratites and hatching eggs of ratites may not be imported into the United States unless the following conditions are met:

* * * * *

§ 92.102 [Amended]

3. Section 92.102(c) would be amended by removing the reference ''§ 92.105(a)'' and adding ''§ 92.105'' in its place.

4. Section 92.103 would be amended as follows:

a. In paragraph (a)(1), the first sentence, by removing the reference ''92.214'' and adding ''92.107(b)'' in its place.

b. By revising paragraphs (a)(1)(xiii), (a)(2)(iii), and (a)(2)(iv) to read as set forth below.

c. In paragraph (a)(2)(v), by removing ''§ 92.101 (b)(3)(i)(G) and (b)(3)(i)(J)'' and adding ''§ 92.101 (b)(3)'' in its place; and by removing ''§ 92.101 (b)(3)(i)(B) and (b)(3)(i)(C)'' and adding ''§ 92.101(b)(3)'' in its place.

d. At the end of the section, by adding an OMB control number to read as set forth below.

§ 92.103 Import permits for birds; and reservation fees for spaces at quarantine facilities maintained by APHIS.

(a) * * *

(1) * * *

(xiii) In addition, the application for a permit to import ratites or hatching eggs of ratites, except for ratites and hatching eggs of ratites imported from Canada in accordance with § 92.107, shall specify the number of ratites or hatching eggs intended for importation, the size of the flock of origin, and the location of the premises where the flock of origin is kept; and shall state that, from the date of application through the date of export, APHIS representatives shall be granted access to the premises where the flock of origin is kept. (For ratites intended for importation as zoological birds, the flock of origin shall be the ratites intended for importation.)

(2) * * *

(iii) In addition, a permit to import ratites or hatching eggs of ratites, except for ratites or hatching eggs of ratites imported from Canada in accordance with § 92.107, will be denied or withdrawn unless APHIS representatives are granted access to the premises where the flock of origin is kept (or, in the case of zoological birds, to the premises where the birds are kept), from the date of the application for the permit through the date of export;

(iv) Except for ratites intended for importation as zoological birds and

ratites and hatching eggs of ratites imported from Canada in accordance with § 92.107, a permit to import ratites or hatching eggs of ratites will be denied or withdrawn unless an APHIS representative has visited the premises where the flock of origin is kept within the 12-month period before the intended importation and has determined that the flock is pen-raised and contains sufficient breeding pairs to produce the number of ratites or hatching eggs intended for importation.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0040)

5. Section 92.104 would be amended as follows:

a. By revising paragraphs (c)(2), (c)(8), (c)(13), (c)(14), (c)(15), (c)(16), (d)(2), (d)(9), (d)(10), and (d)(11) to read as set forth below.

b. At the end of the section, by adding an OMB control number to read as set forth below.

§ 92.104 Certificates for pet birds, commercial birds, zoological birds, and research birds.

* * * * *

(c) * * *

(2) That, except when the certificate is for zoological birds or ratites imported from Canada in accordance with § 92.107, the flock of origin is pen-raised and the ratites covered by the certificate were produced and maintained in that flock;

* * * * *

(8) That, except as provided in § 92.107 for ratites imported from Canada for immediate slaughter, the ratites were treated at least 3 days but not more than 14 days before being loaded for shipment to the United States with a pesticide of a type and concentration sufficient to kill ectoparasites on the ratites;

* * * * *

(13) That the number of ratites and hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling required to be established under § 92.101(b)(3)(ix);

(14) That all the ratites and hatching eggs of ratites in the flock from which the ratites come were identified in accordance with § 92.101(b)(3);

(15) Except for ratites imported from Canada in accordance with § 92.107, the number of ratite laying hens in the flock from which the ratites come;

(16) For ratites required to be treated prior to shipment with a pesticide for ectoparasites, the certificate must also state the name, concentration, and date of administration of the pesticide used to treat the ratites;

* * * * *

(d) * * *

(2) That, except when the certificate is for hatching eggs of ratites imported from Canada in accordance with § 92.107, the flock of origin is pen-raised, and the hatching eggs covered by the certificate were produced by that flock;

* * * * *

(9) That the number of ratites and hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling required to be established under § 92.101(b)(3)(ix);

(10) That all the ratites and hatching eggs of ratites in the flock from which the hatching eggs come were identified in accordance with § 92.101(b)(3);

(11) Except for hatching eggs of ratites imported from Canada in accordance with § 92.107, the number of ratite laying hens in the flock from which the hatching eggs come.

(Approved by the Office of Management and Budget under control number 0579–0040)

6. Section 92.105 would be amended as follows:

a. In paragraph (a), by revising the first sentence to read as set forth below.

b. In paragraph (c), by revising the introductory text and paragraph (c)(1) to read as set forth below.

§ 92.105 Inspection at the port of entry.

(a) All commercial birds, zoological birds, and research birds, including hatching eggs of ratites, but excluding other ratites, imported into the United States, must be inspected by the port veterinarian at the Customs port of entry, which may be any international airport, or any land-border port within 20 miles of an international airport, serviced by Customs, as well as, for Canadian-origin hatching eggs of ratites, ports listed in § 92.107 (c). However, hatching eggs of ratites may be shipped, in bond, from the port of first arrival to the Customs port of entry at which they will be quarantined, for inspection, at that port.

* * * * *

(c) Ratites, other than hatching eggs of ratites, imported from any part of the world must be inspected at the Customs port of entry by a veterinary inspector of APHIS and, except as provided in § 92.107(b) for ratites imported from Canada, shall be permitted entry only at one of the following ports of entry:

(1) Ostriches:

(i) Up to 36 inches in height (as measured from the top of the head to the base of the feet) or 30 pounds in weight: New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL.

(ii) Exceeding 36 inches in height or 30 pounds in weight: New York, NY, and Stewart Airport, Newburgh, NY.

* * * * *

§ 92.106 [Amended]

7. Section 92.106 would be amended as follows:

a. In paragraph (b)(1), the first sentence, by adding the words ‘‘, except as provided in § 92.107,’’ immediately following the words ‘‘any part of the world’’.

b. In paragraph (b)(2), the first sentence, by adding the words ‘‘, except as provided in § 92.107,’’ immediately following the words ‘‘any part of the world’’.

8. Section 92.107 would be amended as follows:

a. By adding the paragraph designation ‘‘(a)’’ immediately preceding the words ‘‘*In-bond shipments from Canada.*’’

b. By adding new paragraphs (b) and (c) to read as follows:

§ 92.107 Special provisions.

* * * * *

(b) *Ratites from Canada.* Ratites that were hatched and raised in Canada or ratites that were legally imported into Canada and, upon arrival in Canada, were quarantined for a minimum of 28 days at a Canadian quarantine facility and remained in Canada for an additional 60 days following completion of quarantine may be imported into the United States:

(1) Without being quarantined upon arrival in the United States; and

(2) At any of the following ports of entry: Anchorage, AK; Fairbanks, AK; Los Angeles, CA; San Diego, CA; Denver, CO; Jacksonville, FL; Miami, FL; Port Canaveral, FL; St.Petersburg-Clearwater, FL; Tampa, FL; Atlanta, GA; Honolulu, HI; Eastport, ID; Chicago, IL; New Orleans, LA; Boston, MA; Baltimore, MD; Houlton, ME; Jackman, ME; Portland, ME; Detroit, MI; Port Huron, MI; Sault Ste. Marie, MI; Minneapolis, MN; Great Falls, MT; Opheim, MT; Raymond, MT; Sweetgrass, MT; Alexandria Bay, NY; Buffalo, NY; Champlain, NY; New York, NY; Stewart Airport, Newburgh, NY; Dunseith, ND; Pembina, ND; Portal, ND; Portland, OR; San Juan, PR; Galveston, TX; Houston, TX; Highgate Springs, VT; Blaine, WA; Lynden, WA; Oroville, WA; Seattle, WA; Spokane, WA; Sumas, WA; and Tacoma, WA; and

(3) If offered for entry at a Canadian land border port listed in § 92.203(b), without an import permit; and

(4) If consigned directly to slaughter from the port of entry, without being treated for ectoparasites within 3 to 14

days before shipment to the United States, as otherwise required by § 92.104(c)(8).

(c) *Ratite eggs from Canada.* Hatching eggs of ratites that were laid in Canada may be imported into the United States:

(1) Without being quarantined upon arrival in the United States; and

(2) At any of the ports of entry listed in paragraph (b)(2) of this section or authorized by § 92.105(a); and

(3) If offered for entry at a Canadian land border port listed in § 92.203(b), without an import permit.

Done in Washington, DC, this 28th day of May 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–13810 Filed 5–31–96; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–0926]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing amendments to its Regulation CC relating to the availability of funds and collection of checks. The proposed amendments do not represent any major policy changes and are intended to clarify the regulation and, in some cases, reduce the compliance burden for depository institutions.

DATES: Comments must be submitted on or before August 2, 1996.

ADDRESSES: Comments, which should refer to Docket No. R–0926, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Louise Roseman, Associate Director (202/452–2789), Division of Reserve Bank Operations and Payment Systems; Stephanie Martin, Senior Attorney (202/452–3198), Heatherun Allison, Attorney (202/452–3565), Legal Division; Manley Williams, Staff Attorney, (202/736–5565), Division of Consumer and Community Affairs. For the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board is proposing amendments to its Regulation CC (12 CFR Part 229), Availability of Funds and Collection of Checks. The proposed amendments are clarifying and technical in nature and do not represent any major policy changes. The proposed amendments to subpart B of the regulation, governing availability schedules and disclosures, address a variety of issues, including the treatment of deposits received at ''contractual'' branches (such as affiliate banks). Many of the proposed amendments are designed to reduce the burden on depository institutions of complying with the regulation. For example, the proposed amendments would provide more flexibility for banks giving hold notices under emergency conditions, clarify the various media by which written notices may be given, and delete certain notice content requirements. The Board is also proposing to update the Model Forms in Appendix C.

The proposed amendments to subpart C, governing collection of checks, would make various clarifications of the interaction between Regulation CC and the Uniform Commercial Code (U.C.C.), set forth rules for checks drawn on banks in Guam, American Samoa, and the Northern Mariana Islands, and address other check collection matters. The Board is specifically requesting comment on the time required for a bank to qualify a returned check for automated processing (§ 229.31(a)), the provisions regarding the extension of the midnight deadline (§ 229.30(c)), and the extent of a presenting bank's preferred claim against a closed paying bank (§ 229.39(d)).

A red-lined version of the proposed amendments to the regulation, model forms, and Commentary is available from the Board's Freedom of Information Office or by calling 202–452–3684.

Section-by-Section Analysis

Available for withdrawal (§ 229.2(d)). The regulation defines ''available for withdrawal'' to mean available for all uses generally permitted to the customer for actually and finally collected funds under the bank's account agreement or policies. The Commentary to this definition clarifies that funds are considered available for withdrawal even if they are being held to satisfy, among other things, the customer's liability arising from the certification, guaranty, or acceptance of a check or the sale of a cashier's or teller's check. The Board has received several inquiries as to whether funds would be considered available for withdrawal if they are being held to satisfy a contingent obligation of the customer relating to the customer's account. For example, a depositary bank might receive a notification that the customer has authorized a debit to the account at a point-of-sale terminal. Banks often ''memo-post'' these debits to the customer's account in advance of the settlement date. The Board proposes to revise the Commentary to clarify that funds held to meet contingent obligations of the customer related to the account are considered to be available for withdrawal.

Definition of ''bank'' (§ 229.2(e)). The regulation states that, for purposes of subpart C, the term ''bank'' includes any person engaged in the business of banking, including a Federal Reserve Bank, a Federal Home Loan Bank, and a state or unit of general local government to the extent that the state or unit of general local government acts as a paying bank. The Board proposes to amend the regulation's definition of ''bank'' to clarify that the Federal Reserve Banks, the Federal Home Loan Banks, and state or units of general local government are not necessarily engaged in the business of banking, notwithstanding the fact that they are included in this definition.

Definition of ''traveler's check'' (§ 229.2(hh)). The Commentary states that ''[t]raveler's checks that are not issued by banks may not have any words on them identifying a bank as drawee or paying agent * * *.'' Some commenters have interpreted this provision to mean that traveler's checks are prohibited from having words on them identifying a bank. The Board proposes to revise the Commentary to clarify that only a description of a possible situation, and not a prohibition, is intended.

Notice requirement to state amount of deposit (§§ 229.13(g) and 229.16(c)). Regulation CC requires a notice of an exception hold (§ 229.13(g)(1)(i)(B)) or a case-by-case hold (§ 229.16(c)(2)(i)(B)) to include the amount of the deposit from which funds will be held. Some banks have noted that when they learn that a check is being returned by the paying

bank several days after the day of deposit, it is often difficult to trace the check back to a particular deposit, especially in cases where a corporate customer makes several multi-check deposits on a single day. The Act does not require the notice to contain the amount of the deposit. The Board is proposing to eliminate the ''amount of deposit'' requirement for both exception and case-by-case hold notices. The Board also requests comment on the burdens to depositary banks and the benefits to customers of the requirement for hold notices to include the date of deposit.

Emergency exception notices (§§ 229.13(g)). The regulation allows a depositary bank to place an exception hold on funds deposited by check in the case of an emergency, such as computer or communications interruptions, suspension of payments by another bank, or war. The regulation requires the depositary bank to provide a notice to the customer of the emergency hold in the same manner in which it provides notice under the other exception holds, except that no notice is necessary if the funds are made available before the notice must be sent. Some banks have argued that during a major disaster they would be unable to meet the timing deadline for emergency exception hold notices. (Under the current regulation, the bank would have to mail or deliver the notice to the customer no later than the first business day following the day the facts upon which a determination to invoke the hold become known to the depositary bank.) The current deadline may be impracticable due to the time required to move to a backup processing site and the need for the bank to focus on other customer service priorities in the event of major disasters.

Section 604(f)(2)(C) of the Act requires depositary banks to send emergency exception hold notices ''in accordance with regulations of the Board.'' Therefore, the Board has the authority to adopt a more flexible provision regarding the timing of emergency hold notices. Because of the difficulty of determining an appropriate time deadline for notices in advance of any particular emergency, the Board is proposing to amend Regulation CC to require a depositary bank to give reasonable notice of emergency exception holds. Reasonable notice in some situations might consist of individual notices mailed to customers as soon as practicable or, in other situations, may consist of general notices, such as postings at branches or ATMs, or newspaper, television, or radio notices. The Board proposes to amend § 229.13(g) and revise the accompanying Commentary to provide separate requirements for emergency condition exception notices.

Written notices (§§ 229.13(g) and 229.15(a)). Section 229.13(g) requires a depositary bank to provide written exception hold notices to customers. Section 229.15(a) requires banks to make availability policy disclosures in writing. Some banks have asked whether a notice sent through electronic mail would be permissible. The Board is proposing to revise the Commentary to both these sections to clarify that notices delivered via fax or electronic media that display text on a monitor or screen, such as electronic mail, screenphone, or interactive television, are considered written notices.

Exception holds and the cash withdrawal rule (§ 229.13(h)). Section 229.12(d) permits a depositary bank to extend holds on deposits of local, nonlocal, and certain other checks by one business day for purposes of withdrawals by cash or similar means, with the exception of $400, which must be made available by 5:00 p.m. on the original availability day (the ''cash withdrawal rule''). The purpose of the cash withdrawal rule is to allow depositary banks an additional day to learn if a check is being returned before allowing irrevocable withdrawals from the customer's account. Some banks have asked how the cash withdrawal rule works in conjunction with the exception holds. For example, if a large deposit exception hold is placed on a $7,000 local check, $100 must be made available on the next business day, an additional $4,900 must be available by the second business day after deposit for check-writing purposes and by the third business day after deposit for withdrawal by cash or similar means. The banks asked whether the five-day exception hold on the $2,000 remainder is added to the second business day for all purposes, or whether the hold period may be added to the second day for check-writing withdrawals and to the third day for cash and similar withdrawals. The Board believes that it is not necessary to extend the exception hold period for cash withdrawal purposes, as in almost every case the depositary bank should learn of a returned local check by the seventh business day after deposit. Therefore, the Board is proposing to clarify that the exception hold periods may be applied to the availability schedules for local and nonlocal checks and checks deposited in a nonproprietary ATM, but may not be extended under the cash withdrawal rule.

Disclosure of branch-specific policies (§ 229.16(a)). Section 229.16 requires banks to furnish notices of their specific availability policies. Some banks have established different availability policies at different branches (or for deposits accepted on behalf of the bank by affiliates or ''contractual branches''). These banks have asked about the disclosure implications of different policies and whether such a bank must disclose to every customer what routing numbers are local to each location where deposits are accepted. The Board is proposing to revise the Commentary to § 229.16(a) to clarify that a bank may provide customers with a branch-specific disclosure. The Board proposes that banks, when determining which disclosure to provide, be allowed to allocate customers between branches through good faith use of a reasonable method, such as where the customer opened the account. This proposal is consistent with the disclosure requirement in the Interagency Policy Statement on Branch Closings.[1]

Deposits at contractual branches (§§ 229.2(s), 229.10(c), 229.14(a), 229.19(a)). Due to easing of interstate branching restrictions, the practice of one bank accepting deposits on behalf of another bank (''contractual branching'') is growing more prevalent. The Board proposes to clarify the Commentary regarding treatment of deposits at contractual branches. The proposed revision to the Commentary to the definition of local paying bank (§ 229.2(s)) states that a branch of a bank that is acting as an agent of the depositary bank is considered a branch of the depositary bank. Therefore, a check would be deemed local or nonlocal based on the location of the contractual branch with respect to the location of the paying bank.

The Board also proposes to revise the Commentary to §§ 229.10(c) and 229.19(a) to clarify that deposits at contractual branches would be treated similarly to deposits at proprietary ATMs; that is, deposits at contractual branches would be considered deposited when the funds are received by the contractual branch teller. However, deposits at contractual branches would not be considered deposited at a teller station staffed by an employee of the depositary bank within the meaning of § 229.10(c)(ii)–(v). The Board is also proposing to revise the Commentary to § 229.19(a) to state that the depositary bank could set a noon cut-off hour for deposits at contractual branches, as these deposits are treated as received at ''off-premise'' facilities. Finally, the Board proposes to revise the Commentary to § 229.14(a) to clarify

[1] 58 FR 49083, September 21, 1993.

that, in the case of a deposit at a contractual branch, interest must accrue when the account-holding bank receives credit for the deposit, not when the contractual branch receives credit.

Holds on other funds—notices (§ 229.19(e)). Section 229.19(e) provides that when a bank accepts a deposit to an account that is subject to the Regulation CC availability requirements, the bank may not place a hold on any other funds of the customer that exceeds those requirements. Similarly, if a customer cashes a check over the counter (other than an ''on-us'' check), § 229.19(e) prohibits the bank from placing a hold on a transaction account of that customer that exceeds the Regulation CC schedules that would apply to that check. Section 229.19(e) does not explicitly address whether the depositary bank must provide a hold notice (case-by-case or safeguard exception) in these cases. The Board is proposing to revise the Commentary to 229.19(e) to clarify that such a hold requires a notice if an exception or case-by-case notice would have been required under 229.13 or 229.16 had the funds been deposited in an account or had the hold been placed on those funds.

Midnight deadline extension (§ 229.30(c)). The regulation (§ 229.30(c)(1)) allows a bank to return a check after the midnight deadline, in order to expedite delivery, as long as it uses a means of delivery designed to get the returned check to the receiving bank by the end of that receiving bank's next banking day, or later if ''highly expeditious transportation'' is used. Section 229.30(c)(2) allows a paying bank to extend a Saturday midnight deadline if the checks get to a returning bank by the cut-off hour for the returning bank's next processing cycle or to a depositary bank by the end of the depositary bank's next banking day. The Board proposes to amend the regulation to clarify that § 229.30(c)(1) pertains to all midnight deadlines other than Saturday midnight deadlines, and that § 229.30(c)(2) pertains only to extension of a Saturday midnight deadline.

The Board also requests comment on whether further modifications to the regulation would be desirable in light of problems posed by nonstandard banking days other than Saturdays, *e.g.*, mid-week holidays. For example, should the § 229.30(c)(2) midnight deadline extension apply in all instances when a bank is open on a non-business day, such as a mid-week holiday? Do nonstandard banking days cause other problems for banks in complying with the regulation?

In addition, some banks have asked whether the regulation's conditions for extending a midnight deadline require a determination of motive or whether the regulation simply sets forth a ''time-of-receipt'' test. Specifically, questions have arisen concerning whether § 229.30(c) is available only ''in order to expedite delivery'' (and not, for example, to avoid a kite) or whether extension of the midnight deadline is permitted for any reason so long as the returned check is received by the receiving bank by the end of that bank's next banking day (or later if ''highly expeditious transportation'' is used). The Board requests comment on the circumstances under which banks make use of the extension of the midnight deadline and under which the extension should be available.

Extra day to create qualified returned checks (§ 229.31(a)). Section 229.31(a) allows a returning bank to convert a returned check to a qualified returned check (i.e., to encode the returned check with the routing number of the depositary bank, the amount of the check, and a return identifier so that it can be handled in an automated manner). If the returning bank creates a qualified returned check, § 229.31(a) provides a one-day extension in the returning bank's time frame for meeting the ''forward-collection'' expeditious return test in § 229.31(a)(2) (but not the ''two-day/four-day'' test) and the deadlines for return under Regulation J and the U.C.C. This extension does not apply if the returning bank returns the check directly to the depositary bank, because in that case the preparation of the qualified returned check will not expedite handling by other banks. Given the improvements in the check return system since Regulation CC was first implemented, the Board believes that the one-day extension is rarely used and is unnecessary. The Board proposes to eliminate the extension and to amend § 229.31(a) of the regulation and revise the accompanying Commentary accordingly. The Board requests comment on whether this extension is still necessary and, if so, a description of the operational problems that elimination of the extension would cause.

Midnight deadline warranty and U.C.C. defenses (§ 229.34(a)(1)). Section 229.34(a)(1) requires a paying or returning bank that returns a check to warrant that the return is within its deadlines under Regulation CC, Regulation J, and the U.C.C. The Commentary to § 229.30(a) clarifies that a paying bank is not responsible for failure to make expeditious return under that section to a party that has breached a presentment warranty under U.C.C. 4–208. This Commentary is consistent with U.C.C. 4–302(b), which subjects the paying bank's liability for missing its midnight deadline to defenses based on a breach of a presentment warranty or fraud. The Board proposes to revise the Commentary to § 229.34(a)(1) to clarify that a paying or returning bank's warranty of timely return within the U.C.C. deadline is subject to U.C.C. claims or defenses.

Set-off rights (§ 229.34(c)(4)) and returning bank liability (§ 229.31(a)). Under § 229.34(c)(4), if a paying bank overpays a presenting bank for checks presented, the paying bank may set off the excess amount paid against subsequent settlements for checks presented by that bank. The Board proposes to amend that section (and revise the accompanying Commentary) to give any bank in the collection or return chain the right to offset excess settlement made to a particular bank against settlement for subsequent checks or returned checks transferred by that bank.

The Board also proposes to revise the Commentary to § 229.31(a), which discusses the returning bank's liability if it makes an encoding error when creating a qualified returned check. The Commentary currently points out that the returning bank could be liable under § 229.38 for losses caused by negligence. The Board proposes to add that the returning bank could also be liable for a breach of its encoding warranty under § 229.34(c)(3).

Time limit for notice of warranty breach (§ 229.34(f)). Sections 4–207(d) and 4–208(e) of the U.C.C. provide that a claimant on a breach of warranty must give notice to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, or else the warrantor is discharged to the extent of any loss caused by the delay in notice. The Board proposes to add this time limitation for notices of warranty claims to Regulation CC. The Board's proposal would ensure that the same time limitations apply for check-related warranty claims, regardless of whether the claim is under state or federal law.

Electronic presentment (§ 229.36(c)). Section 229.36(c) allows a bank to present a check electronically under an agreement with the paying bank. That section and the accompanying Commentary contain references to check ''truncation'' (generally a term used to describe a system in which the physical check is held at some point in the check collection process). An electronic presentment arrangement may, but does not necessarily, include truncation of

the physical check. Therefore, the Board proposes to amend § 229.36(c) and revise the accompanying Commentary to apply it to ''electronic presentment'' arrangements, not merely ''truncation'' arrangements. The Board also proposes to revise the Commentary by adding an example of an electronic presentment arrangement.

Labelling requirements for payable-through checks (§ 229.36(e)). A bank that arranges for a check drawn on it to be payable through another bank must ensure that certain information is printed on the face of the check. Specifically, § 229.36(e) requires that these checks show (1) the name, location, and first four digits of the routing number of the bank by which the check is payable, and (2) the words ''payable through'' followed by the name and location of the payable-through bank. The Board adopted these labelling requirements to enable banks and their customers to identify payable-through checks and to determine whether they are local or nonlocal. The provisions regarding the ''payable through'' designation and the name and location of the payable-through bank are similar to provisions in U.C.C. 4–106. As these particular labelling requirements are covered by state law, the federal regulatory provision appears to be unnecessary, and the Board is proposing to eliminate it from Regulation CC. The Board would retain the labelling requirements regarding the name, location, and first four digits of the routing number of the bank by which the check is payable.

Measure of damages (§ 229.38(a)). The Commentary states that the measure of damages provided in § 229.38(a) ''derives from U.C.C. 4–103(e) and 4–202(c).'' The Board proposes to revise the Commentary to clarify the effect of U.C.C. 4–202(c) upon the measure of damages, as U.C.C. 4–202(c) does not state a measure of damages but rather limits liability by providing that a bank that has exercised ordinary care is not liable for the insolvency, neglect, misconduct, mistake, or default of others, or for the loss or destruction of an item by others.

Correction to Commentary (§ 229.38(d)). In the 1995 technical amendments to Regulation CC (60 FR 51669, October 3, 1995), some words were inadvertently dropped from the Commentary to § 229.38(d). The Board is proposing to correct the Commentary.

Preferred claim against depositary bank (§ 229.39(b)). Section 229.39(b) gives a bank a preferred claim against a closed paying or depositary bank that ''finally pays'' a check or returned check without settling for it. A paying bank ''finally pays'' (becomes accountable for) a check if it doesn't settle for or return the check by the applicable deadline. A depositary bank is obligated to ''pay'' for a returned check under § 229.32(b) but may not return the returned check. The depositary bank can meet its obligations under § 229.32(b) only by settling for the returned check. Therefore, the depositary bank cannot ''finally pay'' for a returned check without settling for it. The Board proposes to amend § 229.39(b) and revise the accompanying Commentary to clarify this distinction. The substance of § 229.39(b) would not change.

Preference against presenting bank (§ 229.39(d)). Section 229.39(d) gives a paying bank a preferred claim against a closed presenting bank in the event that the presenting bank breaches an amount or encoding warranty as provided in § 229.34(c) (1) or (3) and does not reimburse the paying bank for adjustments for a settlement made by the paying bank in excess of the value of the checks presented. This preference is intended to have the effect of a perfected security interest and is intended to put the paying bank in the position of a secured creditor for purposes of the receivership provisions of the Federal Deposit Insurance Act and similar provisions of state law.

The Board added § 229.39(d) in 1992, as part of the ''same-day settlement'' amendments to Regulation CC (57 FR 46956, October 14, 1992). At that time, some cementers suggested that the preferred claim should extend to claims other than adjustments, such as breach of a U.C.C. presentment warranty (e.g., warranties against forged or missing indorsements and alterations). At that time, the Board noted that a preferred claim against a failed presenting bank for forgeries, missing indorsements, and alterations may reduce risk to the paying bank. That risk, however, was not directly related to the obligation to make same-day settlement and was not addressed in the original proposal, therefore the Board did not adopt the cementers' suggestion. The Board is now requesting comment on whether § 229.39(d) should be expanded to cover the U.C.C. presentment warranties.

Exclusions (§ 229.42). The regulation exempts certain checks from the expeditious return and notice of nonpayment requirements (e.g., a check drawn upon the United States Treasury, a U.S. Postal Service money order, or a check drawn on a state or a unit of general local government that is not payable through or at a bank). The Board proposes to amend the regulation to reflect that such checks are also exempt from the same-day settlement requirements of § 229.36(f).

Checks payable in Guam, American Samoa, and the Northern Mariana Islands (§ 229.43). The Board has received inquiries as to the applicability of Regulation CC to checks drawn on depository institutions located in Guam, American Samoa, and the Northern Mariana Islands (''Pacific island banks''). For purposes of the Board's Regulation J, which governs collection of checks through Federal Reserve Banks, Pacific island banks are deemed to be in the Twelfth Federal Reserve District. Some checks drawn on these institutions (''Pacific island checks'') bear U.S. routing numbers and are generally handled by banks in the U.S. in the same manner as other checks.

Because the Act does not include Guam, American Samoa, or the Northern Mariana Islands in the definition of ''United States,'' Pacific island banks are not ''banks'' and Pacific island checks are not ''checks'' as defined in Regulation CC. Banks often handle Pacific island checks in the same manner as other checks, however. The Board believes that applying some of the provisions of subpart C to Pacific island checks would provide an appropriate legal framework for the handling of these checks. The Board proposes to add a new § 229.43 to the regulation and accompanying Commentary to set forth the provisions of subpart C that apply to checks drawn on Pacific island banks.

The Board is proposing that the regulation specifically allow banks to handle Pacific island checks for direct return and to convert them to qualified returned checks. Because the subpart B availability schedules do not apply to Pacific island checks, the Board is not proposing to subject returning banks to the expeditious return requirements of § 229.31, even though, as a practical matter, the Board believes that in most cases, banks will handle returned Pacific island checks expeditiously. The Board requests comment on whether the liability for failure to comply with expeditious return rules should apply for Pacific island checks. In addition, the Board is proposing that depositary banks that receive notice of nonpayment on Pacific island checks are not subject to the provisions of § 229.33(d) requiring timely notice to the depositary bank's customer. Again, the Board believes that in practice, most depositary banks would give notice to their customer within the time frame required by § 229.33(d) and requests comment on whether that section should apply to depositary banks with regard to Pacific island checks.

The only Regulation CC warranties that would apply to banks handling Pacific island checks for forward collection or return are the cash letter total and encoding warranties in § 229.34(c)(2) and (3). In addition, the Board would apply relevant provisions of §§ 229.35–229.42 to banks that handle Pacific island checks.

Model Forms (Appendix C). The Board proposes to make technical and stylistic changes to facilitate use of the model forms. For example, the Board would revise the typefaces. Information that a bank must insert, such as the bank's cut-off hour, would be italicized in parentheses. Where a provision is required only if a bank has elected to take advantage of a particular section of the regulation (requiring the use of a special deposit slip to receive next-day availability for a teller's check, for example) the provision would be enclosed in brackets and the additional disclosure requirements (how to obtain a special deposit slip, for example) would be italicized within parentheses in the brackets. Banks that use earlier versions of the model forms would be protected from civil liability under § 229.21(e), but would be encouraged to use new versions when reordering or reprinting supplies. The Board requests comment on whether any models in addition to those currently in Appendix C would be helpful to banks.

The Board proposes the following additional changes to the models:

Model C–3 Next-day availability, case-by-case holds to statutory limits, and § 229.13 exceptions. The Board proposes to revise Model C–3, to clarify the availability of funds subject to a hold. Generally, the first $100 is available on the first business day after deposit. The first $100 may not be available, however, if the funds are subject to an exception hold under § 229.13.

Model C–5 Holds to statutory limits on all deposits. The Board proposes to revise Model C–5 to facilitate use of the form by banks that elect to impose the limitation on withdrawals by cash under § 229.12(d).

Model C–10 Cash withdrawal limitation. The Board proposes to revise Model C–10 to facilitate the incorporation of the clause into the various model availability policy disclosures.

Model C–12 Exception hold notice. The Board proposes to revise Model C–12 to clarify that the optional provision concerning overdraft or returned check fees applies only to the last category of reasons, reasonable cause to doubt collectibility. In addition, to reflect the proposed change to § 229.13(g)(1)(i)(B), the Board would delete the reference to the amount of the deposit.

Model C–13 Reasonable cause hold notice. To reflect the proposed change to § 229.13(g)(1)(i)(B), the Board proposes to delete the reference to the amount of the deposit.

Model C–16 Case-by-case hold notice. The Board proposes to revise the model notice to incorporate optional language for banks that elect to impose the cash withdrawal limitation. In addition, to reflect the proposed change to § 229.16(c)(2)(i)(B), the Board would delete the reference to the amount of the deposit.

Commentary to model forms. The Board proposes to make a number of technical and stylistic changes to the Commentary to the model disclosures, clauses, and notices. For example, the proposed Commentary clarifies that the Act's protection from liability for banks that use the models properly applies to the model clauses and notices as well as to the model disclosures. In addition, the proposed Commentary to Models C–2 through C–5 clarifies that in disclosing that a longer delay may apply, a bank may disclose when funds will be generally available based on when the funds would be available if the deposit were of a nonlocal check. The proposed Commentary to model notices C–12 through C–16 clarifies that a bank should modify the notices if it places a hold on other funds.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all depository institutions regardless of size. The proposed amendments generally clarify rights and duties of depository institutions and do not impose any substantial economic burden on small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rulemaking under the authority delegated to the Board by the Office of Management and Budget. Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (7100–0235), Washington, DC 20503, with copies of such comments to be sent to Mary M. McLaughlin, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The collection of information requirements in this proposed rulemaking are found in 12 CFR 229.13, 229.15(a), 229.16(a), 229.16(c), 229.19(e), 229.34(f), former 229.36(e), and Appendix C. This information is intended to alert consumers about their financial institutions' check-hold policies and to help prevent unintentional (and costly) overdrafts. The respondents are for-profit financial institutions, including small businesses. The Board's Regulation CC applies to all types of depository institutions, not just state member banks. However, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Any estimates of paperwork burden for institutions other than state member banks that would be affected by the proposed amendments would be provided by the federal agency or agencies that supervise those lenders.

The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100–0235.

The proposed amendments are not expected to change the ongoing annual burden. The estimated burden per response ranges from 3 minutes (for a notice of exception, a case-by-case hold notice, or a notice to a potential new customer or to any person upon request) to 20 hours for notices of changes in policy. There are 1,042 state member banks and an average frequency of 3,314 responses per respondent each year. The total amount of annual burden is estimated to be 183,711 hours. Based on an hourly cost of $20, the annual cost to the public is estimated to be $3,674,220. There is not estimated to be any annual cost burden over the annual

hour burden. Additionally, the Federal Reserve estimates that there is associated capital or start up cost in the amount of $80 per bank for revising the notices to conform with the new model availability policy disclosures, clauses, and notices when a bank exhausts its current supply.

Because the notices are not provided to the Federal Reserve, no issue of confidentiality under the Freedom of Information Act arises. The disclosure of information to consumers with regard to the availability of funds is available to the public. The account information regarding the availability of funds in an individual's account is confidential between the institution and the consumer.

Comments are invited on: (a) whether the proposed revised collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the proposed revised information collection, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

List of Subjects in 12 CFR Part 229

Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 12 CFR Part 229 is proposed to be amended as set forth below:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001 *et seq.*

2. In § 229.2, the first sentence in paragraph (e) concluding text is revised to read as follows:

§ 229.2 Definitions.

* * * * *

(e) * * *

For purposes of subpart C of this part and, in connection therewith, this subpart A, the term *bank* also includes any person engaged in the business of banking, as well as a Federal Reserve Bank, a Federal Home Loan Bank, and a state or unit of general local government to the extent that the state or unit of general local government acts as a paying bank. * * *

* * * * *

3. Section 229.13 is amended as follows:

a. In paragraphs (g)(1) introductory text and (g)(1)(ii)(A), the phrase ''paragraphs (b) through (f)'' is revised to read ''paragraphs (b) through (e)'';

b. Paragraphs (g)(1)(i)(B) and (g)(1)(i)(E) are revised;

c. Paragraph (g)(1)(ii)(B) is removed and the paragraph designation (g)(1)(ii)(A) is removed;

d. Paragraph (g)(4) is redesignated as paragraph (g)(5) and new paragraph (g)(4) is added; and

e. Paragraph (h) is revised.

The addition and revisions read as follows:

§ 229.13 Exceptions.

* * * * *

(g) Notice of exception—(1) * * *

(i) * * *

(B) The date of the deposit;

* * * * *

(E) The time period within which the funds will be available for withdrawal.

* * * * *

(4) *Emergency conditions exception notice.* When a depositary bank extends the time when funds will be available for withdrawal based on the application of the emergency conditions exception contained in paragraph (f) of this section, it must provide the depositor with notice in a reasonable form and within a reasonable time given the circumstances. The notice shall include the reason the exception was invoked and the time period within which funds shall be made available for withdrawal, unless the depositary bank, in good faith, does not know at the time the notice is given the duration of the emergency and, consequently, when the funds must be made available. The depositary bank is not required to provide a notice if the funds subject to the exception become available before the notice must be sent.

* * * * *

(h) *Availability of deposits subject to exceptions.* (1) If an exception contained in paragraphs (b) through (f) of this section applies, the depositary bank may extend the time periods established under §§ 229.10(c) and 229.12 (b), (c), (e), and (f) by a reasonable period of time.

(2) If a depositary bank invokes an exception contained in paragraphs (b) through (e) of this section with respect to a check described in § 229.10(c)(1) (i) through (v) or § 229.10(c)(2), it shall make the funds available for withdrawal not later than a reasonable period after the day the funds would have been required to be made available had the check been subject to § 229.12 (b), (c), (e), or (f).

(3) If a depositary bank invokes an exception under paragraph (f) of this section based on an emergency condition, the depositary bank shall make the funds available for withdrawal not later than a reasonable period after the emergency has ceased or the period established in §§ 229.10(c) and 229.12 (b), (c), (e), or (f), whichever is later.

(4) For the purposes of this section, a ''reasonable period'' is an extension of up to one business day for checks described in § 229.10(c)(1)(vi), five business days for checks described in § 229.12(b)(1) through (4), and six business days for checks described in § 229.12(c)(1) and (2) or for checks deposited in a nonproprietary ATM. A longer extension may be reasonable, but the bank has the burden of so establishing.

4. Section § 229.16(c)(2)(i)(B) is revised to read as follows:

§ 229.16 Specific availability policy disclosure.

* * * * *

(c) *Longer delays on a case-by-case basis.* * * *

(2) * * * (i) * * *

(B) The date of the deposit;

* * * * *

5. In § 229.30, paragraph (c) is revised to read as follows:

§ 229.30 Paying bank's responsibility for return of checks.

* * * * *

(c) *Extension of deadline.* The deadline for return or notice of nonpayment under the U.C.C. or Regulation J (12 CFR part 210), or section 229.36(f)(2) is extended to the time of dispatch of such return or notice of nonpayment where a paying bank, in an effort to expedite delivery of a returned check to a bank, uses a means of delivery that would ordinarily result in receipt by the bank to which it is sent—

(1) On or before the receiving bank's next banking day following the otherwise applicable deadline, for all deadlines other than those described in paragraph (c)(2) of this section; this deadline is extended further if a paying bank uses a highly expeditious means of transportation, even if this means of transportation would ordinarily result in delivery after the receiving bank's next banking day; or

(2) Prior to the cut-off hour for the next processing cycle (if sent to a returning bank), or on the next banking day (if sent to the depositary bank), for

a deadline falling on a Saturday that is a banking day (as defined in the applicable U.C.C.) for the paying bank.

* * * * *

6. In § 229.31, the last two sentences of paragraph (a) concluding text are removed.

7. In § 229.34, the section heading and paragraph (c)(4) are revised and a new paragraph (f) is added to read as follows:

§ 229.34 Warranties.

* * * * *

(c) *Warranty of settlement amount, encoding, and offset.* * * *

* * * * *

(4) If a bank settles with another bank in amount exceeding the total amount of the checks or returned checks received, the bank may set off the excess settlement amount against subsequent settlements for checks or returned checks it receives from the other bank.

* * * * *

(f) *Notice of claim.* Unless a claimant gives notice of a claim for breach of warranty under this section to the bank that made the warranty within 30 days after the claimant has reason to know of the breach and the identity of the warranting bank, the warranting bank is discharged to the extent of any loss caused by the delay in giving notice of the claim.

8. In § 229.36, the heading and the last sentence of paragraph (c) and paragraph (e)(1) are revised to read as follows:

§ 229.36 Presentment and issuance of checks.

* * * * *

(c) *Electronic presentment.* * * * An electronic presentment agreement may not extend return times or otherwise vary the requirements of this part with respect to parties interested in the check that are not party to the agreement.

* * * * *

(e) *Issuance of payable-through checks.* (1) A bank that arranges for checks payable by it to be payable through another bank shall require that the name, location, and first four digits of the nine-digit routing number of the bank by which the check is payable be printed conspicuously on the face of each check.

* * * * *

9. In § 229.39, paragraphs (b) and (d) are revised to read as follows:

§ 229.39 Insolvency of bank.

* * * * *

(b) *Preference against paying or depositary bank.* If a paying bank finally pays a check, or if a depositary bank becomes obligated to pay a returned check, and suspends payment without making a settlement for the check or returned check with the prior bank that is or becomes final, the prior bank has a preferred claim against the paying bank or the depositary bank.

* * * * *

(d) *Preference against presenting bank.* If a paying bank settles with a presenting bank for one or more checks, and if the presenting bank breaches a warranty specified in § 229.34(c)(1) or (3) or in the U.C.C. with respect to those checks and suspends payments before satisfying the paying bank's warranty claim, the paying bank has a preferred claim against the presenting bank for the amount of the warranty claim.

* * * * *

10. Section 229.42 is revised to read as follows:

§ 229.42 Exclusions.

The expeditious return (§§ 229.30(a) and 229.31(a)), notice of nonpayment (§ 229.33) and same-day settlement (§ 229.36(f)) requirements of this subpart do not apply to a check drawn upon the United States Treasury, to a U.S. Postal Service money order, or to a check drawn on a state or a unit of general local government that is not payable through or at a bank.

11. A new § 229.43 is added to read as follows:

§ 229.43 Checks payable in Guam, American Samoa, and the Northern Mariana Islands.

(a) *Definitions.* For the purposes of this section—

(1) *Pacific island bank* means an office of an institution that would be a bank as defined in § 229.2(e) but for the fact that the office is located in Guam, American Samoa, or the Northern Mariana Islands;

(2) *Pacific island check* means a negotiable demand draft drawn on or payable through or at a Pacific island bank, which is not a check as defined in § 229.2(k).

(3) The definitions in § 229.2 apply to this section, unless otherwise noted.

(b) *Rules applicable to Pacific island checks.* To the extent a bank handles a Pacific island check as if it were a check defined in § 229.2(k), the bank is subject to the following sections of this part as if the Pacific island check were a check defined in § 229.2(k):

(1) § 229.31, except that the returning bank is not subject to the requirement to return a Pacific island check in an expeditious manner;

(2) § 229.32;

(3) § 229.34(c)(2), (c)(3), (d), and (e);

(4) § 229.35; for purposes of § 229.35(c), the Pacific island bank is deemed to be a bank;

(5) § 229.36(d);

(6) § 229.37;

(7) § 229.38(a) and (c) through (h);

(8) § 229.39(a), (b), (c) and (e); and

(9) §§ 229.40 through 229.42.

12. Appendix C to Part 229 is amended as follows:

a. The appendix heading is revised;

b. The introductory text is revised;

c. The heading above the contents listing for models C–1 through C–5 is revised;

d. The heading immediately above model policy disclosure ''C–1—Next-day availability'' is revised; and

d. Model Availability Policy Disclosures C–1 through C–5, Model Clauses C–9 and C–10, and Model Notices C–12 through C–16 are revised.

The revisions read as follows:

Appendix C to Part 229—Model Availability Policy Disclosures, Clauses, and Notices

This appendix contains model availability policy disclosures, clauses, and notices to facilitate compliance with the disclosure requirements of Regulation CC (12 CFR part 229). Although use of these models is not required, banks using them properly to make disclosures required by the Regulation CC are deemed to be in compliance.

Model Availability Policy Disclosures

* * * * *

Model Availability Policy Disclosures

C–1—Next-day availability

YOUR ABILITY TO WITHDRAW FUNDS

Our policy is to make funds from your deposits available to you on the first business day after the day we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once they are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written.

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before (*time of day*) on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after (*time of day*) or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

C–2—Next-day availability and § 229.13 exceptions

YOUR ABILITY TO WITHDRAW FUNDS

Our policy is to make funds from your deposits available to you on the first business day after the day we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once they are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written.

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before (*time of day*) on a business day that we are open, we will

consider that day to be the day of your deposit. However, if you make a deposit after (*time of day*) or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

LONGER DELAYS MAY APPLY

Funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than $5,000 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the (*number*) business day after the day of your deposit.

SPECIAL RULES FOR NEW ACCOUNTS

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first $5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over $5,000 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first $5,000 will not be available until the second business day after the day of your deposit.

Funds from all other check deposits will be available on the (number) business day after the day of your deposit.

C–3—Next-day availability, case-by-case holds to statutory limits, and § 229.13 exceptions

YOUR ABILITY TO WITHDRAW FUNDS

Our policy is to make funds from your deposits available to you on the first business day after the day we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once they are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written.

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before (*time of day*) on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after (*time of day*) or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

LONGER DELAYS MAY APPLY

In some cases, we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the fifth business day after the day of your deposit. The first $100 of your deposits, however, may be available on the first business day.

If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

If you will need the funds from a deposit right away, you should ask us when the funds will be available.

In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than $5,000 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the (*number*) business day after the day of your deposit.

SPECIAL RULES FOR NEW ACCOUNTS

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first $5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over $5,000 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first $5,000 will not be available until the second business day after the day of your deposit.

Funds from all other check deposits will be available on the (*number*) business day after the day of your deposit.

C–4—Holds to statutory limits on all deposits (includes chart)

YOUR ABILITY TO WITHDRAW FUNDS

Our policy is to delay the availability of funds that you deposit in your account. During the delay, you may not withdraw the funds in cash and we will not use the funds to pay checks that you have written.

DETERMINING THE AVAILABILITY OF A DEPOSIT

The length of the delay is counted in business days from the day of your deposit. Every day is a business day except Saturdays, Sundays, and federal holidays. If you make a deposit before (*time of day*) on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after (*time of day*) or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

The length of the delay varies depending on the type of deposit and is explained below.

Same-Day Availability

Funds from electronic direct deposits to your account will be available on the day we receive the deposit.

Next-Day Availability

Funds from the following deposits are available on the first business day after the day of your deposit:

- U.S. Treasury checks that are payable to you.
- Wire transfers.
- Checks drawn on (*bank name*) [unless (*any limitations related to branches in different states or check processing regions*)].

If you make the deposit in person to one of our employees, funds from the following deposits are also available on the first business day after the day of your deposit:

- Cash.
- State and local government checks that are payable to you [if you use a special deposit slip available from (*where deposit slip may be obtained*)].
- Cashier's, certified, and teller's checks that are payable to you [if you use a special deposit slip available from (*where deposit slip may be obtained*)].
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and postal money orders, if these items are payable to you.

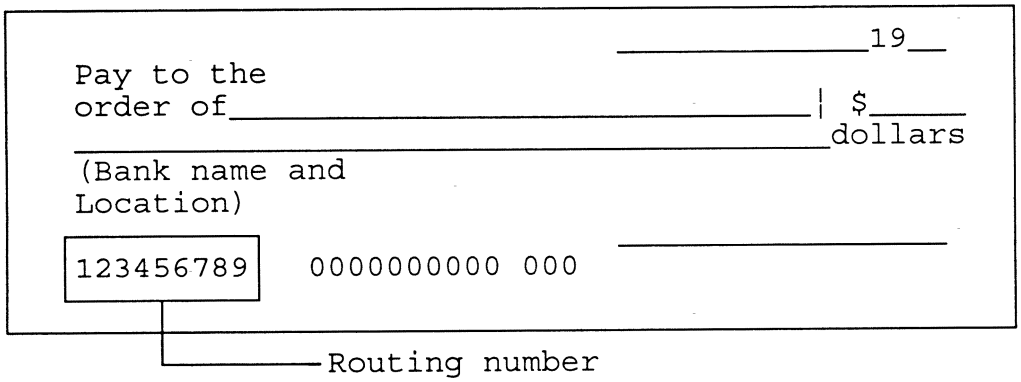
If you do not make your deposit in person to one of our employees (for example, if you mail the deposit), funds from these deposits will be available on the second business day after the day of your deposit.

Other Check Deposits

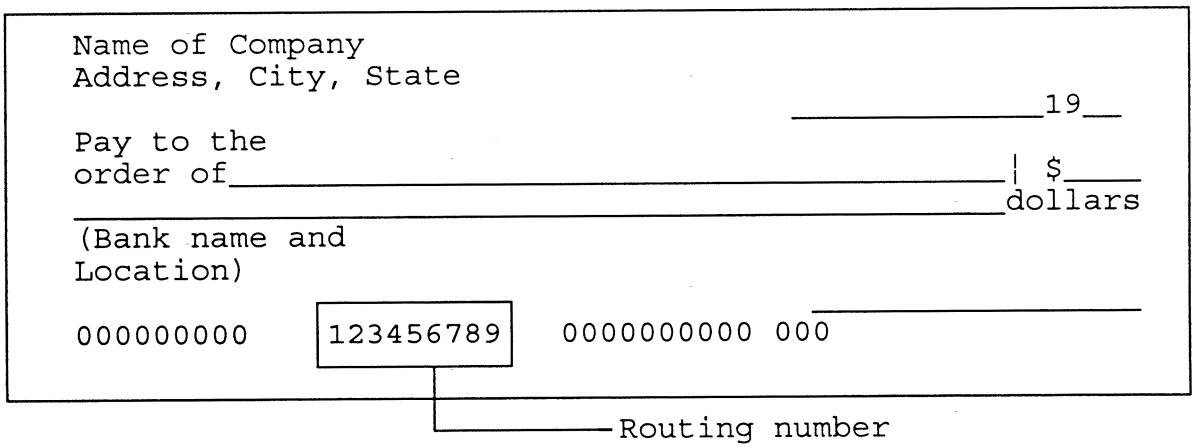
To find out when funds from other check deposits will be available, look at the first four digits of the routing number on the check:

BILLING CODE 6210–01–P

Personal Check



Business Check



BILLING CODE 6210–01–C

Some checks are marked ''payable through'' and have a four- or nine-digit number nearby. For these checks, use this four-digit number (or the first four digits of the nine-digit number), not the routing number on the bottom of the check, to determine if these checks are local or nonlocal. Once you have determined the first four digits of the routing number (1234 in the examples above), the following chart will show you when funds from the check will be available:

First four digits from routing number	When funds are available	When funds are available if a deposit is made on a Monday
[Local numbers]	$100 on the first business day after the day of your deposit	Tuesday.
	Remaining funds on the second business day after the day of your deposit	Wednesday.
All other numbers	$100 on the first business day after the day of your deposit	Tuesday.
.....	Remaining funds on the fifth business of the day after the your deposit	Monday day of following week.

If you deposit both categories of checks, $100 from the checks will be available on the first business day after the day of your deposit, not $100 from each category of check.

LONGER DELAYS MAY APPLY

Funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than $5,000 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the (*number*) business day after the day of your deposit.

SPECIAL RULES FOR NEW ACCOUNTS

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first $5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over $5,000 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first $5,000 will not be available until the second business day after the day of your deposit.

Funds from all other check deposits will be available on the (*number*) business day after the day of your deposit.

C–5—Holds to statutory limits on all deposits

YOUR ABILITY TO WITHDRAW FUNDS

Our policy is to delay the availability of funds that you deposit in your account. During the delay, you may not withdraw the funds in cash and we will not use the funds to pay checks that you have written.

DETERMINING THE AVAILABILITY OF A DEPOSIT

The length of the delay is counted in business days from the day of your deposit. Every day is a business day except Saturdays, Sundays, and federal holidays. If you make a deposit before (*time of day*) on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after (*time of day*) or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

The length of the delay varies depending on the type of deposit and is explained below.

Same-Day Availability

Funds from electronic direct deposits to your account will be available on the day we receive the deposit.

Next-Day Availability

Funds from the following deposits are available on the first business day after the day of your deposit:

- U.S. Treasury checks that are payable to you.
- Wire transfers.
- Checks drawn on (*bank name*) [unless (*any limitations related to branches in different states or check processing regions*)].

If you make the deposit in person to one of our employees, funds from the following deposits are also available on the first business day after the day of your deposit:

- Cash.
- State and local government checks that are payable to you [if you use a special deposit slip available from (*where deposit slip may be obtained*)].
- Cashier's, certified, and teller's checks that are payable to you [if you use a special deposit slip available from (*where deposit slip may be obtained*)].
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and postal money orders, if these items are payable to you.

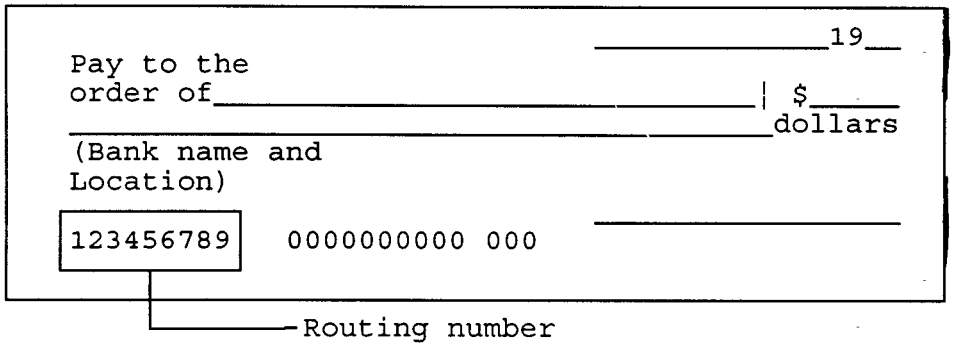
If you do not make your deposit in person to one of our employees (for example, if you mail the deposit), the deposit will be treated like a deposit of a local check. Funds from these deposits will generally be available on the second business day after the day of your deposit.

Other Check Deposits

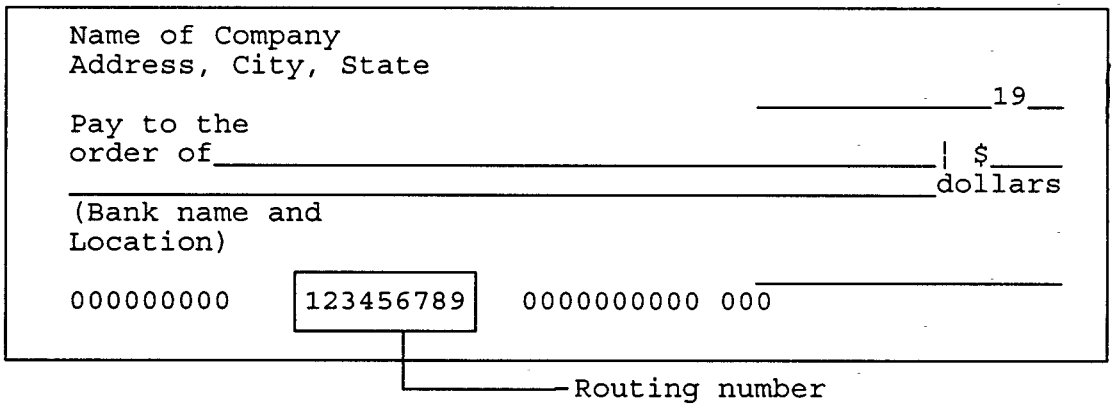
The delay for other check deposits depends on whether the check is a local or a nonlocal check. To see whether a check is a local or a nonlocal check, look at the routing number on the check:

BILLING CODE 6210–01–P

Personal Check



Business Check



BILLING CODE 6210–01–C

If the first four digits of the routing number (1234 in the examples above) are (*list of local numbers*), then the check is a local check. Otherwise, the check is a nonlocal check. Some checks are marked ''payable through'' and have a four- or nine-digit number nearby. For these checks, use the four-digit number (or the first four digits of the nine-digit number), not the routing number on the bottom of the check, to determine if these checks are local or nonlocal. Our policy is to make funds from local and nonlocal checks available as follows.

1. Local checks. The first $100 from a deposit of local checks will be available on the first business day after the day of your deposit. The remaining funds will be available on the second business day after the day of your deposit.

For example, if you deposit a local check of $700 on a Monday, $100 of the deposit is available on Tuesday. The remaining $600 is available on Wednesday.

2. Nonlocal checks. The first $100 from a deposit of nonlocal checks will be available on the first business day after the day of your deposit. The remaining funds will be available on the fifth business day after the day of your deposit.

For example, if you deposit a $700 nonlocal check on a Monday, $100 of the deposit is available on Tuesday. The remaining $600 is available on Monday of the following week.

LONGER DELAYS MAY APPLY

Funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than $5,000 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the (*number*) business day after the day of your deposit. If you deposit both categories of checks, $100 from the checks will be available on the first business day after the day of your deposit, not $100 from each category of check.

SPECIAL RULES FOR NEW ACCOUNTS

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits to a new account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first $5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over $5,000 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first $5,000 will not be available until the second business day after the day of your deposit.

Funds from all other check deposits will be available on the (*number*) business day after the day of your deposit.

* * * * *

Model Clauses

* * * * *

C–9—Automated teller machine deposits (extended hold)

DEPOSITS AT AUTOMATED TELLER MACHINES

Funds from any deposits (cash or checks) made at automated teller machines (ATMs) we do not own or operate will not be available until the fifth business day after the day of your deposit. This rule does not apply at ATMs that we own or operate.

(*A list of our ATMs is enclosed.*) or (*A list of ATMs where you can make deposits but that are not owned or operated by us is enclosed.*) or (*All ATMs that we own or operate are identified as our machines.*)

C–10—Cash withdrawal limitation

CASH WITHDRAWAL LIMITATION

We place certain limitations on withdrawals in cash. In general, $100 of a deposit is available for withdrawal in cash on the first business day after the day of deposit. In addition, a total of $400 of other funds becoming available on a given day is available for withdrawal in cash at or after (*time no later than 5:00 p.m.*) on that day. Any remaining funds will be available for withdrawal in cash on the following business day.

* * * * *

Model Notices

C–12—Exception hold notice

NOTICE OF HOLD

Account number: (*number*)
Date of deposit: (*date*)
We are delaying the availability of $(*amount being held*) from this deposit. These funds will be available on the (*number*) business day after the day of your deposit.

We are taking this action because:

—A check you deposited was previously returned unpaid.
—You have overdrawn your account repeatedly in the last six months.
—The checks you deposited on this day exceed $5,000.
—An emergency, such as failure of computer or communications equipment, has occurred.
—We believe a check you deposited will not be paid for the following reasons[*]:

_____

_____

_____

[*]If you did not receive this notice at the time you made the deposit and the check you deposited is paid, we will refund to you any fees for overdrafts or returned checks that result solely from the additional delay that we are imposing. To obtain a refund of such fees, (*description of procedure for obtaining refund*).

C–13—Reasonable cause hold notice

NOTICE OF HOLD

Account number: *number*
Date of deposit: *date*
We are delaying the availability of the funds you deposited by the following check: (*description of check, such as amount and drawer.*)

These funds will be available on the *number* business day after the day of your deposit. The reason for the delay is explained below:

—We received notice that the check is being returned unpaid.
—We have confidential information that indicates that the check may not be paid.
—The check is drawn on an account with repeated overdrafts.
—We are unable to verify the endorsement of a joint payee.
—Some information on the check is not consistent with other information on the check.
—There are erasures or other apparent alterations on the check.
—The routing number of the paying bank is not a current routing number.
—The check is postdated or has a stale date.
—Information from the paying bank indicates that the check may not be paid.
—We have been notified that the check has been lost or damaged in collection.
—Other:

_____

[If you did not receive this notice at the time you made the deposit and the check you deposited is paid, we will refund to you any fees for overdrafts or returned checks that result solely from the additional delay that we are imposing. To obtain a refund of such fees, *description of procedure for obtaining refund*.]

C–14—One-time notice for large deposit and redeposited check exception holds

NOTICE OF HOLD

If you deposit into your account:

- Checks totaling more than $5,000 on any one day, the first $5,000 deposited on any one banking day will be available to you according to our general policy. The amount in excess of $5,000 will generally be available on the (*number*) business day after the day of deposit for checks drawn on (*bank name*), the (*number*) business day after the day of deposit for local checks and (*number*) business day after the day of deposit for nonlocal checks. If checks (not drawn on us) that otherwise would receive next-day availability exceed $5,000, the excess will be treated as either local or nonlocal checks depending on the location of the paying bank. If your check deposit, exceeding $5,000 on any one day, is a mix of local checks, nonlocal checks, checks drawn on (*bank name*), or checks that generally receive next-day availability, the excess will be calculated by first adding together the (*type of check*), then the (*type of check*), then the (*type of check*), then the (*type of check*).

• A check that has been returned unpaid, the funds will generally be available on the (*number*) business day after the day of deposit for checks drawn on (*bank name*), the (*number*) business day after the day of deposit for local checks and the (*number*) business day after the day of deposit for nonlocal checks. Checks (not drawn on us) that otherwise would receive next-day availability will be treated as either local or nonlocal checks depending on the location of the paying bank.

C–15—One-time notice for repeated overdraft exception hold

NOTICE OF HOLD

Account Number: (*number*)
Date of Notice: (*date*)
We are delaying the availability of checks deposited into your account due to repeated overdrafts of your account. For the next six months, deposits will generally be available on the (*number*) business day after the day of your deposit for checks drawn on (*bank name*), the (*number*) business day after the day of your deposit for local checks, and the (*number*) business day after the day of deposit for nonlocal checks. Checks (not drawn on us) that otherwise would have received next-day availability will be treated as either local or nonlocal checks depending on the location of the paying bank.

C–16—Case-by-case hold notice

NOTICE OF HOLD

Account number: (*number*)
Date of deposit: (*date*)
We are delaying the availability of $(*amount being held*) from this deposit. These funds will be available on the *number* business day after the day of your deposit [(*subject to our cash withdrawal limitation policy*)].
[If you did not receive this notice at the time you made the deposit and the check you deposited is paid, we will refund to you any fees for overdrafts or returned checks that result solely from the additional delay that we are imposing. To obtain a refund of such fees, (*description of procedure for obtaining refund*).]

* * * * *

13. In appendix E to Part 229, under section II, the last sentence of paragraph E.2. and the last sentence of paragraph HH.2. are revised and a new sentence is added to the end of paragraph S.1. to read as follows:

Appendix E to Part 229—Commentary

* * * * *

II. Section 229.2 Definitions

* * * * *

E. 229.2(d) Available for Withdrawal

* * * * *

2. * * * For example, funds are available for withdrawal even though they are being held by a bank to satisfy a garnishment, tax levy, or court order restricting disbursements from the account; to satisfy the customer's liability arising from the certification of a check, sale of a cashier's or teller's check, guaranty or acceptance of a check, or similar transaction; or to satisfy a contingent liability of the customer related to the account.

* * * * *

S. 229.2(s) Local Paying Bank

1. * * * A branch of a bank accepting a deposit as agent for the depositary bank (a contractual branch) is a branch of the depositary bank for purposes of this definition.

* * * * *

HH. 229.2(hh) Traveler's Check

* * * * *

2. * * * Traveler's checks that are not issued by banks sometimes do not have any words on them identifying a bank as drawee or paying agent, but instead may bear unique routing numbers with an 8000 prefix that identifies a bank as paying agent.

* * * * *

14. In appendix E, under section IV, in paragraph D.3.a., three new sentences are added to the end to read as follows:

* * * * *

IV. Section 229.10 Next-Day Availability

* * * * *

D. 229.10(c) Certain Check Deposits

* * * * *

3. Deposits Made to an Employee of the Depositary Bank.

a. * * * The depositary bank may have a contractual arrangement with another bank under which the other bank will accept deposits on behalf of the depositary bank. Employees of such a contractual branch would not be considered employees of the depositary bank for the purposes of this regulation, and deposits at contractual branches would be treated the same as deposits to a proprietary ATM for the purposes of this regulation. (See also, Commentary to § 229.19(a).)

* * * * *

15. In appendix E, under section VII:

a. In paragraph H.1.a, the first sentence is revised and two new sentences are added to the end;

b. Paragraph H.1.e. is removed and paragraph H.1.f. is redesignated as H.1.e.;

c. Paragraph H.4. is redesignated as H.5. and new paragraph H.4. is added;

d. The second sentence in paragraph I.1. is revised;

e. The first sentence in paragraph I.4. is revised; and

f. Paragraph I.5. is revised.

The additions and revisions read as follows:

* * * * *

VII. Section 229.13 Exceptions

* * * * *

H. 229.13(g) Notice of Exception

1. In general.

a. If a depositary bank invokes any of the safeguard exceptions to the schedules listed above, other than the new account or emergency conditions exception, and extends the hold on a deposit beyond the time periods permitted in §§ 229.10(c) and 229.12, it must provide a notice to its customer. * * * A depositary bank satisfies the ''written'' notice requirement by sending an electronic transmission of a visual display of the text, if the customer agrees to receive account information through such means. The depositary bank, however, must give a paper copy of the notice to the customer upon request.

* * * * *

4. Emergency conditions exception notice.

a. If an account is subject to the emergency conditions exception under § 229.13(f), the depositary bank must provide notice in a reasonable form within a reasonable time, depending on the circumstances. For example, a depositary bank may learn of a weather emergency or a power outage that affects the paying bank's operations. Under these circumstances, it likely would be reasonable for the depositary bank to provide an emergency conditions exception notice in the same manner and within the same time as required for other exception notices. On the other hand, if a depositary bank experiences a weather or power outage emergency that affects its own operations, it may be reasonable for the depositary bank to provide a general notice to all depositors via postings at branches and ATMs, or through newspaper, television, or radio notices.

b. If the depositary bank extends the hold placed on a deposit due to an emergency condition, the regulation provides that the bank need not provide a notice if the funds would be available for withdrawal before the notice must be sent. For example, if on the last day of a hold period the depositary bank experiences a computer failure and customer accounts cannot be updated in a timely fashion to reflect the funds as available balances, notices are not required if the funds are made available before the notices must be sent.

* * * * *

I. 229.13(h) Availability of Deposits Subject to Exceptions

1. * * * This provision establishes that an extension of up to one business day for ''on us'' checks, five business days for local checks, and six business days for nonlocal checks and checks deposited in a nonproprietary ATM is reasonable. * * *

* * * * *

4. One business day for ''on us'' checks, five business days for local checks, and six business days for nonlocal checks or checks deposited in a nonproprietary ATM, in addition to the time period provided in the schedule, should provide adequate time for the depositary bank to learn of the nonpayment of virtually all checks that are returned. * * *

5. In the case of the application of the emergency conditions exception, the depositary bank may extend the hold placed on a check by not more than a reasonable period following the end of the emergency or the time funds must be available for withdrawal under §§ 229.10(c) or 229.12(b), (c), (e), or (f), whichever is later.

* * * * *

16. In appendix E, under section VIII, a new sentence is added to the end of paragraph A.1. to read as follows:

* * * * *

VIII. Section 229.14 Payment of Interest

A. 29.14(a) In General

1. * * * In the case of a deposit at a contractual branch or agent of a depositary bank, credit is received on the day the depositary bank receives credit for the amount of the deposit, which may be different from the day the contractual branch or agent receives credit for the deposit.

* * * * *

17. In appendix E, under section IX, two new sentences are added immediately following the second sentence of paragraph A.1. to read as follows:

* * * * *

IX. Section 229.15 General Disclosure Requirements

A. 229.15(a) Form of Disclosures

1. * * * A depositary bank satisfies the requirement that disclosures be in writing and in a form the customer may keep by sending an electronic transmission of a visual display of the text, if the customer agrees to receive account information through such means. The depositary bank, however, must give a paper copy of the disclosure to the customer upon request. * * *

* * * * *

18. In appendix E, under section X, paragraph A.3. is redesignated as paragraph A.4. and a new paragraph A.3. is added, and the last sentence of paragraph C.2.a. is revised to read as follows:

* * * * *

X. Section 229.16 Specific Availability Policy Disclosure

A. 229.16(a) General

* * * * *

3. A bank may establish different availability policies for different branches (or contractual branches) and may allocate customers to a particular branch for purposes of providing a specific availability policy. In this situation, the bank must allocate customers between branches through good faith use of a reasonable method, such as where the customer opened the account.

* * * * *

C. 229.16(c) Longer Delays on a Case-by-Case Basis

* * * * *

2. * * *

a. * * * In addition, the notice must include the account number, the date of the deposit, and the amount of the deposit being delayed.

* * * * *

19. In appendix E, under section XIII, three sentences are added to the end of paragraph A.2., the last four sentences of paragraph A.6.a. are revised, and a new paragraph E.4. is added to read as follows:

* * * * *

XIII. Section 229.19 Miscellaneous

A. 229.19(a) When Funds Are Considered Deposited

* * * * *

2. * * * The depositary bank might have a contractual arrangement with another bank under which the other bank will accept deposits on behalf of the depositary bank. Funds received at such a contractual branch are considered deposited when received by a teller at the contractual branch or deposited into a proprietary ATM of the contractual branch. (See also, Commentary to § 229.10(c) on deposits made to an employee of the depositary bank.)

* * * * *

6. Banking day of deposit.

a. * * * For receipt of deposits at ATMs, contractual branches, or other off-premise facilities, such as night depositories or lock boxes, the depositary bank may establish a cut-off hour of 12:00 noon or later (either local time of the branch or other location of the depositary bank at which the account is maintained or local time of the ATM, contractual branch, or other off-premise facility). The depositary bank must use the same timing method for establishing the cut-off hour for all ATMs, contractual branches, and other off-premise facilities used by its customers. The choice of cut-off hour must be reflected in the bank's internal procedures, and the bank must inform its customers of the cut-off hour upon request. This earlier cut-off for ATM, contractual branch, or other off-premise deposits is intended to provide greater flexibility in the servicing of these facilities.

* * * * *

E. 229.19(e) Holds on Other Funds

* * * * *

4. When a customer deposits a check in an account and the depositary bank places a hold on other funds of the customer, or when a customer cashes a check over the counter and the bank places a hold on an account of the customer, the bank must give whatever notice would be required under §§ 229.13 or 229.16 had the funds been deposited in an account or had the hold been placed on those funds.

* * * * *

20. In appendix E, under section XVI, a new sentence is added to the end of paragraphs C.1.a. and C.1.b. to read as follows:

* * * * *

XVI. Section 229.30 Paying Bank's Responsibility for Return of Checks

* * * * *

C. 229.30(c) Extension of Deadline

1. * * *

a. * * * This paragraph applies to the extension of all midnight deadlines except Saturday midnight deadlines (which are covered exclusively by paragraph C.1.b of this appendix).

b. * * * This paragraph applies exclusively to the extension of Saturday midnight deadlines.

* * * * *

21. In appendix E, under section XVII, paragraph A.7. is revised to read as follows:

* * * * *

XVII. Section 229.31 Returning Bank's Responsibility for Return of Checks

A. 229.31(a) Return of Checks

* * * * *

7. Qualified returned checks. The expeditious return requirement for a returning bank in this regulation is more stringent in many cases than the duty of a collecting bank to exercise ordinary care under U.C.C. 4–202 in returning a check. A returning bank is under a duty to act as expeditiously in returning a check as it would in the forward collection of a check. Consistent with its duty of expeditious return and its midnight deadline under U.C.C. 4–202 and § 210.12(a) of Regulation J (12 CFR 210.12(a)), a returning bank may qualify a returned check. A qualified returned check will be handled by subsequent returning banks more efficiently than a raw return. The qualified returned check must include the routing number of the depositary bank, the amount of the check, and a return identifier encoded on the check in magnetic ink. If the returning bank makes an encoding error in creating a qualified returned check, it may be liable under § 229.38 for losses caused by any negligence or under § 229.34(c)(3) for breach of an encoding warranty.

* * * * *

22. In appendix E, under section XX, the first sentence of paragraph A.1. and paragraph C.5. are revised, and a new paragraph F. is added as follows:

* * * * *

XX. Section 229.34 Warranties

A. 229.34(a) Warranty of Returned Check

1. This paragraph includes warranties that a returned check, including a notice in lieu of return, was returned by the paying bank, or in the case of a check payable by a bank and payable through another bank, the bank by which the check is payable, within the deadline under the U.C.C. (subject to any claims or defenses under the U.C.C., such as breach of a presentment warranty), Regulation J (12 CFR Part 210), or § 229.30(c); that the paying or returning bank is authorized to return the check; that the returned check has not been materially altered; and that, in the case of a notice in lieu of return, the original check has not been and will not be returned for payment. * * *

* * * * *

C. 229.34(c) Warranty of settlement amount, encoding, and offset

* * * * *

5. Paragraph (c)(4) provides that any bank in the forward-collection or return chain may set off excess settlement paid to another bank against settlement owed to that bank for

checks or returned checks transferred subsequent to the excess settlement.

* * * * *

F. 229.34(f) Notice of Claim

1. This paragraph adopts for this Regulation CC the warranty notice provisions of U.C.C. sections 4–207(d) and 4–208(e).

23. In appendix E, section XXII is amended as follows:

a. Paragraph C. is revised; and

b. In paragraph E., the first sentence of paragraph E.1. and paragraph E.2. are revised to read as follows:

* * * * *

XXII. Section 229.36 Presentment and Issuance of Checks

* * * * *

C. 229.36(c) Electronic Presentment

1. Electronic presentment includes a variety of procedures in which the physical check may be held (truncated) or delayed by the depositary or collecting bank, and the information from the check is transmitted to the paying bank electronically. Often, electronic presentment agreements provide that presentment takes place when the paying bank receives the electronic transmission. Express provision for truncation and electronic presentment is made in U.C.C. 4–110 and 4–406(b). This paragraph allows electronic presentment by agreement with the paying bank; however, such agreement may not prejudice the interests of prior parties to the check. For example, an electronic presentment agreement may not extend the paying bank's time for return. Such an extension could damage the depositary bank, which must make funds available to its customers under mandatory availability schedules.

2. An electronic presentment agreement must be designed so that the rights of third parties are not prejudiced by the agreement. For example, banks may agree to an electronic presentment arrangement whereby the presenting bank transmits information about the check electronically to the paying bank before the arrival of the physical checks. The parties (including the drawer of the check) could agree that presentment continues to occur upon arrival of the physical checks at the paying bank but that the paying bank will settle for and/or return the checks within the time frames that would apply if the electronic transmission constituted presentment, if the physical checks arrive by the time specified in the agreement.

* * * * *

E. 229.36(e) Issuance of Payable Through Checks

1. If a bank arranges for checks payable by it to be payable through another bank, it must require its customers to use checks that contain conspicuously on their face the name, location, and first four digits of the nine-digit routing number of the bank by which the check is payable. * * *

2. If a payable-through check does not meet the requirements of this paragraph, the bank by which the check is payable may be liable to the depositary bank or others as provided in § 229.38. For example, a bank by which a payable-through check is payable could be liable to a depositary bank that suffers a loss, such as lost interest or liability under Subpart B, that would not have occurred had the check met the requirements of this paragraph. Similarly, a bank may be liable under § 229.38 if a check payable by it that is not payable through another bank is labeled as provided in this section. The bank by which the check is payable may be liable for additional damages if it fails to act in good faith.

* * * * *

24. In appendix E, section XXIV is amended as follows:

a. In paragraph A.2., the third sentence is revised; and

b. In paragraph D.2.b., the second sentence is removed and two new sentences are added immediately following the first sentence to read as follows:

* * * * *

XXIV. Section 229.38 Liability

A. 229.38(a) Standard of care; liability; measure of damages

* * * * *

2. * * * The measure of damages provided in this section (loss incurred up to amount of check, less amount of loss party would have incurred even if bank had exercised ordinary care) is based on U.C.C. 4–103(e) (amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care), as limited by 4–202(c) (bank is liable only for its own negligence and not for actions of subsequent banks in chain of collection). * * *

* * * * *

D. 229.38(d) Responsibility for Certain Aspects of Checks

* * * * *

2. * * *

b. * * * Under § 229.33(a), a paying bank that returns a check in the amount of $2,500 or more must provide notice of nonpayment to the depositary bank by 4:00 p.m. on the second business day following the banking day on which the check is presented to the paying bank. Even if a payable-through check in the amount of $2,500 or more is not returned through the payable-through bank as quickly as would have been required had the check been received by the bank by which it is payable, the depositary bank should not suffer damages unless it has not received timely notice of nonpayment. * * *

* * * * *

25. In appendix E, under section XXV, the first sentence in paragraph C.1. and the first sentence in paragraph E.1. are revised to read as follows:

* * * * *

XXV. Section 229.39 Insolvency of Bank

* * * * *

C. 229.39(b) Preference Against Paying or Depositary Bank

1. This paragraph gives a bank a preferred claim against a closed paying bank that finally pays a check without settling for it or a closed depositary bank that becomes obligated to pay a returned check without settling for it. * * *

* * * * *

E. 229.39(d) Preference Against Presenting Bank

1. This paragraph gives a paying bank a preferred claim against a closed presenting bank in the event that the presenting bank breaches an amount or encoding warranty as provided in § 229.34(c) (1) or (3) or a presentment warranty as provided in the U.C.C. (see U.C.C. 4–208) and does not reimburse the paying bank for adjustments for a settlement made by the paying bank in excess of the value of the checks presented. * * *

* * * * *

26. In appendix E, under section XXVIII, the first sentence of paragraph A. is revised to read as follows:

* * * * *

XXVIII. Section 229.42 Exclusions

A. Checks drawn on the United States Treasury, U.S. Postal Service money orders, and checks drawn on states and units of general local government that are presented directly to the state or unit of general local government and that are not payable through or at a bank are excluded from the coverage of the expeditious-return, notice-of-nonpayment and same-day settlement requirements of subpart C of this regulation CC. * * *

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27. In appendix E, section XXIX is redesignated as section XXX and a new section XXIX is added to read as follows:

* * * * *

XXIX. Section 229.43 Checks Payable in Guam, American Samoa, and the Northern Mariana Islands

A. 229.43(a) Definitions

1. Bank offices in Guam, American Samoa, and the Northern Mariana Islands (which Regulation CC defines as Pacific island banks) do not meet the definition of bank in § 229.2(e) because they are not located in the United States. Some checks drawn on Pacific island banks (defined as Pacific island checks) bear U.S. routing numbers and are collected and returned by banks in the same manner as checks payable in the U.S.

B. 229.43(b) Rules Applicable to Pacific Island Checks

1. When a bank handles a Pacific island check as if it were a check as defined in § 229.2(k), the bank is subject to certain provisions of Regulation CC, as provided in this section. Because the Pacific island bank is not a bank as defined in § 229.2(e), it is not a paying bank as defined in § 229.2(z) (unless otherwise noted in this section). Pacific island banks are not subject to the provisions

of Regulation CC. Banks that handle Pacific island checks are not subject to the provisions of subpart B of Regulation CC, including the availability, notice, and interest accrual requirements, with respect to these checks.

2. A bank may agree to handle a Pacific island check as a returned check under § 229.31 and may convert the returned Pacific island check to a qualified returned check. The returning bank is not, however, subject to the expeditious return requirements of § 229.31. The returning bank may receive the Pacific island check directly from a Pacific island bank or from another returning bank. As a Pacific island bank is not a paying bank, § 229.31(c) does not apply to a returning bank settling with the Pacific island bank.

3. A bank might accept a Pacific island check for deposit (or otherwise accept the check as transferee) and collect the Pacific island check in the same manner as other checks. Under these circumstances, the depositary bank is subject to the provisions of § 229.32, including the provisions regarding time and manner of settlement for returned checks in § 229.32(b), in the event the Pacific island check is returned by a returning bank. If the depositary bank receives the returned Pacific island check directly from the Pacific island bank, however, the provisions of § 229.32(b) do not apply, because the Pacific island bank is not a paying bank under Regulation CC. The depositary bank is not subject to the notice of nonpayment requirements in § 229.33 for Pacific island checks.

4. Banks that handle Pacific island checks in the same manner as other checks are subject to the indorsement provisions of § 229.35. Section 229.35(c) eliminates the need for the restrictive indorsement ''pay any bank.'' For purposes of § 229.35(c), the Pacific island bank is deemed to be a bank.

5. Pacific island checks will often be intermingled with other checks in a single cash letter. Therefore, a bank that handles Pacific island checks in the same manner as other checks is subject to the transfer warranty provision in § 229.34(c)(2) regarding accurate cash letter totals and the encoding warranty in § 229.34(c)(3). A bank that acts as a returning bank for a Pacific island check is not subject to the warranties in § 229.34(a). Similarly, because the Pacific island bank is not a ''bank'' or a ''paying bank'' under Regulation CC, § 229.34(b), (c)(1), and (c)(4) do not apply. For the same reason, the provisions of § 229.36 governing paying bank responsibilities such as place of receipt and same-day settlement do not apply to checks presented to a Pacific island bank, and the liability provisions applicable to paying banks in § 229.38 do not apply to Pacific island banks. Section 229.36(d), regarding finality of settlement between banks during forward collection, applies to banks that handle a Pacific island check in the same manner as other checks, as do the liability provisions of § 229.38, to the extent the banks are subject to the requirements of Regulation CC as provided in this section, and §§ 229.37 and 229.39 through 229.42.

* * * * *

28. Newly-redesignated section XXX is revised to read as follows:

* * * * *

XXX. Appendix C—Model Availability Policy Disclosures, Clauses, and Notices

A. Introduction

1. Appendix C contains model disclosures, clauses, and notices that may be used by banks to meet their disclosure responsibilities under the regulation. Banks using the models properly will be in compliance with the regulation's disclosure requirements.

2. Information that must be inserted by a bank using the models is italicized within parentheses in the text of the models. Optional information and alternate ways of providing the information is enclosed in brackets.

3. Banks may make certain changes to the format or content of the models, including deleting material that is inapplicable, without losing the Act's protection from liability for banks that use the models properly. For example, if a bank does not take advantage of the § 229.13 exceptions, it may delete the material relating to those exceptions. The changes may not be so extensive, however, as to affect the substance, clarity, or meaningful sequence of the models. Acceptable changes include, for example:

a. Using ''customer'' and ''bank'' instead of pronouns.

b. Changing the typeface or size.

c. Incorporating certain state law ''plain English'' requirements.

4. Shorter time periods for availability may always be substituted for time periods used in the models.

5. Banks may also add related information. For example, a bank may indicate that although funds have been made available to a customer and the customer has withdrawn them, the customer is still responsible for problems with the deposit, such as checks that were deposited being returned unpaid. Or a bank could include a telephone number to be used if a customer has an inquiry regarding a deposit.

6. Banks are cautioned against using the models without reviewing their own policies and practices, as well as state and federal laws regarding the time periods for availability of specific types of checks. A bank using the models will be in compliance with the Act and the regulation only if the bank's disclosures correspond to its availability policy.

7. Banks that have used earlier versions of the models (such as those models that gave Social Security benefits and payroll payments as examples of preauthorized credits available the day after deposit, or that did not address the cash withdrawal limitation) are protected from civil liability under § 229.21(e). Banks are encouraged, however, to use current versions of the models when reordering or reprinting supplies.

B. Model Availability Policy Disclosures, Models C–1 through C–5

1. *Models C–1 through C–5 generally.*

a. Models C–1 through C–5 are models for the availability policy disclosures described in § 229.16. The models accommodate a variety of availability policies, ranging from next-day availability to holds to statutory limits on all deposits. Model C–3 reflects the additional disclosures discussed in §§ 229.16 (b) and (c) for banks that have a policy of extending availability times on a case-by-case basis.

b. As already noted, there are several places in the models where information must be inserted. This information includes the bank's cut-off times, limitations relating to next-day availability, and the first four digits of routing numbers for local banks. In disclosing when funds will be available for withdrawal, the bank must insert the ordinal number (such as first, second, etc.) of the business day after deposit that the funds will become available.

c. Models C–1 through C–5 generally do not reflect any optional provisions of the regulation, or those that apply only to certain banks. Instead, disclosures for these provisions are included in Models C–6 through C–11. A bank using one of the model availability policy disclosures should also consider whether it must incorporate one or more of Models C–6 through C–11.

d. While § 229.10(b) of the regulation requires next-day availability for electronic payments, Treasury regulations (31 CFR Part 210) and ACH association rules require that preauthorized credits (''direct deposits'') be made available on the day the bank receives the funds. Models C-l through C–5 reflect these rules. Wire transfers, however, are not governed by Treasury or ACH rules, but banks generally make funds from wire transfers available on the day received or on the business day following receipt. Banks should ensure that their disclosures reflect the availability given in most cases for wire transfers.

2. *Model C–1 Next-day availability.* A bank may use this model when its policy is to make funds from all deposits available on the first business day after a deposit is made. This model may also be used by banks that provide immediate availability by substituting the word ''immediately'' in place of ''on the first business day after the day we receive your deposit.''

3. *Model C–2 Next-day availability and § 229.13 exceptions.* A bank may use this model when its policy is to make funds from all deposits available to its customers on the first business day after the deposit is made, and to reserve the right to invoke the new account and other exceptions in § 229.13 of the regulation. In disclosing that a longer delay may apply, a bank may disclose when funds will generally be available based on when the funds would be available if the deposit were of a nonlocal check.

4. *Model C–3 Next-day availability, case-by-case holds to statutory limits, and § 229.13 exceptions.* A bank may use this model when its policy, in most cases, is to make funds from all types of deposits available the day after the deposit is made, but to delay availability on some deposits on a case-by-case basis up to the maximum time periods allowed under the regulation. A bank using this model also reserves the right to invoke

the exceptions listed in § 229.13 of the regulation. In disclosing that a longer delay may apply, a bank may disclose when funds will generally be available based on when the funds would be available if the deposit were of a nonlocal check.

5. *Model C–4 Holds to statutory limits on all deposits.* A bank may use this model when its when its policy is to impose delays to the full extent allowed under § 229.12 and to reserve the right to invoke the § 229.13 exceptions. In disclosing that a longer delay may apply, a bank may disclose when funds will generally be available based on when the funds would be available if the deposit were of a nonlocal check. Model C–4 uses a chart to show the bank's availability policy for local and nonlocal checks and Model C–5 uses a narrative description.

6. *Model C–5 Holds to statutory limits on all deposits.* A bank may use this model when its policy is to impose delays to the full extent allowed under § 229.12 and to reserve the right to invoke the § 229.13 exceptions. In disclosing that a longer delay may apply, a bank may disclose when funds will generally be available based on when the funds would be available if the deposit were of a nonlocal check.

C. Model Clauses, Models C–6 Through C–11

1. *Models C–6 through C–11 generally.* Certain clauses like those in the models must be incorporated into a bank's availability policy disclosure under certain circumstances. The commentary to each clause indicates when a clause similar to the model clause is required.

2. *Model C–6 Holds on other funds (check cashing).* A bank that reserves the right to place a hold on funds already on deposit when it cashes a check for a customer, as addressed in § 229.19(e), must incorporate this type of clause in its availability policy disclosure.

3. *Model C–7 Holds on other funds (other account).* A bank that reserves the right to place a hold on funds in an account of the customer other than the account into which the deposit is made, as addressed in § 229.19(e), must incorporate this type of clause in its availability policy disclosure.

4. *Model C–8 Appendix B availability (nonlocal checks).* A bank in a check processing region where the availability schedules for certain nonlocal checks have been reduced, as described in Appendix B of Regulation CC, must incorporate this type of clause in its availability policy disclosure. Banks using Model C–5 may insert this clause at the conclusion of the discussion titled ''Nonlocal checks.''

5. *Model C–9 Automated teller machine deposits (extended holds).* A bank that reserves the right to delay availability of deposits at nonproprietary ATMs until the fifth business day following the date of deposit, as permitted by § 229.12(f)(1), must incorporate this type of clause in its availability policy disclosure. A bank must choose among the alternative language based on how it chooses to differentiate between proprietary and nonproprietary ATMs, as required under § 229.16(b)(5).

6. *Model C–10 Cash withdrawal limitation.* A bank that imposes cash withdrawal limitations under § 229.12 must incorporate this type of clause in its availability policy disclosure. Banks reserving the right to impose the cash withdrawal limitation and using Model C–3 should disclose that funds may not be available until the sixth (rather than fifth) business day in the first paragraph under the heading ''Longer Delays May Apply.''

7. *Model C–11 Credit union interest payment policy.* A credit union subject to the notice requirement of § 229.14(b)(2) must incorporate this type of clause in its availability policy disclosure. This model clause is only an example of a hypothetical policy. Credit unions may follow any policy for accrual provided the method of accruing interest is the same for cash and check deposits.

D. Model Notices, Models C–12 Through C–21

1. *Model Notices C–12 through C–21 generally.* Models C–12 through C–21 provide models for the various notices required by the regulation.

2. *Model C–12 Exception hold notice.* This model satisfies the written notice required under § 229.13(g) when a bank places a hold based on a § 229.13 exception. If the bank places the hold on other funds (see § 229.19(e)), the notice should be modified accordingly. If a hold is being placed on more than one check in a deposit, each check need not be described, but if different reasons apply, each reason must be indicated. A bank may use the actual date when funds will be available for withdrawal rather than the number of the business day following the day of deposit. A bank must incorporate in the notice the material set out in brackets if it imposes overdraft or returned check fees after invoking the reasonable cause exception under § 229.13(e).

3. *Model C–13 Reasonable cause hold notice.* This notice satisfies the written notice required under § 229.13(g) when a bank invokes the reasonable cause exception under § 229.13(e). If the bank places the hold on other funds (see § 229.19(e)), the notice should be modified accordingly. The notice provides the bank with a list of specific reasons that may be given for invoking the exception. If a hold is being placed on more than one check in a deposit, each check must be described separately, and if different reasons apply, each reason must be indicated. A bank may disclose its reason for doubting collectibility by checking the appropriate reason on the model. If the ''Other'' category is checked, the reason must be given. A bank may use the actual date when funds will be available for withdrawal rather than the number of the business day following the day of deposit. A bank must incorporate in the notice the material set out in brackets if it imposes overdraft or returned check fees after invoking the reasonable cause exception under § 229.13(e).

4. *Model C–14 One-time notice for large deposit and redeposited check exception holds.* This model satisfies the notice requirements of § 229.13(g)(2) concerning nonconsumer accounts. If the bank places the hold on other funds (see § 229.19(e)), the notice should be modified accordingly.

5. *Model C–15 One-time notice for repeated overdraft exception hold.* This model satisfies the notice requirements of § 229.13(g)(3). If the bank places the hold on other funds (see § 229.19(e)), the notice should be modified accordingly.

6. *Model C–16 Case-by-case hold notice.* This model satisfies the notice required under § 229.16(c)(2) when a bank with a case-by-case hold policy imposes a hold on a deposit. If the bank places the hold on other funds (see § 229.19(e)), the notice should be modified accordingly. This notice does not require a statement of the specific reason for the hold, as is the case when a § 229.13 exception hold is placed. A bank may specify the actual date when funds will be available for withdrawal rather than the number of the business day following the day of deposit when funds will be available. A bank must incorporate in the notice the material set out in brackets if it imposes overdraft fees after invoking a case-by-case hold.

7. *Model C–17 Notice at locations where employees accept consumer deposits and Model C–18 Notice at locations where employees accept consumer deposits (case-by-case holds).* These models satisfy the notice requirement of § 229.18(b). Model C–17 reflects an availability policy of holds to statutory limits on all deposits, and Model C–18 reflects a case-by-case availability policy.

8. *Model C–19 Notice at automated teller machines.* This model satisfies the ATM notice requirement of § 229.18(c)(1).

9. *Model C–20 Notice at automated teller machines (delayed receipt).* This model satisfies the ATM notice requirement of § 229.18(c)(2) when receipt of deposits at off-premises ATMs is delayed under § 229.19(a)(4). It is based on collection of deposits once a week. If collections occur more or less frequently, the description of when deposits are received must be adjusted accordingly.

10. *Model C–21 Deposit slip notice.* This model satisfies the notice requirements of § 229.18(a) for deposit slips.

By order of the Board of Governors of the Federal Reserve System, May 15, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–13880 Filed 5–31–96; 8:45 a.m.]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 250

[Docket No. OST–96–1255 Notice 96–7]

RIN 2105–AC45

Oversales Signs

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department proposes to eliminate a consumer notice about airline oversales that is required to appear on signs at airports, city ticket offices, and travel agencies, on the basis that the information will continue to be

available through other means. This action is taken on the Department's initiative, as a result of the President's Regulatory Reinvention Initiative.

DATES: Comments on the issues discussed in this document should be received by July 18, 1996. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent to Docket Clerk, Docket No. OST–96–1255, Room PL–401, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590. For the convenience of persons who will be reviewing the docket, it is requested that commenters provide an original and three copies of their comments. Comments can be inspected from 10:00 a.m. to 5:00 p.m. at the address listed for mailing comments. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The docket clerk will date-stamp the postcard and mail it to the commenter. Comments should be on 8½ by 11 inch white paper using dark ink and should be without tabs and unbound.

An electronic version of this notice of proposed rulemaking will be available at http://www.dot.gov/dotinfo/general/rules/aviation.html shortly after publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Tim Kelly, Aviation Consumer Protection Division, Office of Aviation Enforcement and Proceedings, Office of the General Counsel, Department of Transportation, 400 Seventh Street SW, Room 4107, Washington, DC 20590, telephone (202) 366–5952.

SUPPLEMENTARY INFORMATION: Airlines overbook (accept more reservations than there are seats on a flight) in order to compensate for ''no shows'' (passengers with confirmed reservations who do not show up for their flight and do not cancel their reservation). Overbooking fills seats that would otherwise go empty, thus keeping load factors up and fares down. It also allows more passengers to obtain reservations on the flight of their choice.

The Department of Transportation (Department or DOT) allows overbooking but regulates it; see 14 CFR Part 250. Section 250.11(a) of this regulation requires U.S. and foreign air carriers and travel agencies to display a notice about overbooking at every desk or position in the United States where tickets are sold. (The original document adopting this rule can be found at 42 FR 12422, March 4, 1977.) The notice must be in boldface type at least one-fourth of an inch high, and must read as follows:

Notice—Overbooking of Flights

Airline flights may be overbooked, and there is a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. If the flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for a payment of the airline's choosing. If there are not enough volunteers the airline will deny boarding to other persons in accordance with its particular boarding priority. With few exceptions persons denied boarding involuntarily are entitled to compensation. The complete rules for the payment of compensation and each airline's boarding priorities are available at all airport ticket counters and boarding locations. Some airlines do not apply these consumer protections to travel from some foreign countries, although other consumer protections may be available. Check with your airline or your travel agent.

The oversale protections of Part 250 do not apply to inbound international flights to the United States. Section 250.11(e) states that any U.S. or foreign air carrier that chooses to fully comply with Part 250 on inbound international flights to the United States need not use the last two sentences of the above § 250.11(a) notice.

In his Regulatory Reinvention Initiative Memorandum of March 4, 1995, President Clinton directed Federal agencies to conduct a page-by-page review of all of their regulations and to ''eliminate or revise those that are outdated or otherwise in need of reform.'' In response to that directive, the Department has undertaken a review of its aviation economic and consumer regulations as contained in 14 CFR Chapter II. This rulemaking is one result of those efforts. Other rulemakings will address other regulations.

Section 250.11(b) requires that the text of the oversales sign also appear on a notice that must accompany every ticket, and we plan to leave this ticket notice requirement in place. The Department has tentatively decided that it is no longer necessary to require this notice both on signs and in tickets, and consequently we are proposing to eliminate the requirement for the oversales sign for carriers and travel agencies that provide the ticket notice. Most carriers that offer ''ticketless'' transportation send passengers a copy of the consumer notices required by DOT rules, including the § 250.11(b) notice.[1] Where a carrier does not provide this notice in writing to each customer, however, the notice would have to continue to appear on signs at locations where that carrier sells tickets, e.g. airports and city ticket offices.

We have decided to propose elimination of the sign rather than the ticket notice because the ticket notice is normally provided earlier in the process, and it is a record that the passenger can retain. At airports, the oversales sign is sometimes placed in locations where it is difficult to read. In addition, there have been occasional objections from airports over the placement of required signage. Eliminating the requirement for the sign should be particularly beneficial to the more than 45,000 travel agencies in the United States, many of whom are small businesses.

This revision should not impair consumer protection. Air travelers will continue to receive the same information via ticket notices. In addition, § 250.9 requires carriers to give a lengthier written handout to anyone who is actually denied boarding, and to anyone else who requests this handout. (The ticket notice makes reference to this handout.) Finally, the substantive consumer protections of Part 250 continue to apply even where specific passengers might not receive notice about those protections. In other words, during an oversale situation, carriers are under an affirmative obligation to solicit volunteers and pay compensation to all eligible passengers who are denied boarding involuntarily, not simply those who request these services as a result of reading a notice.

As indicated above, the ticket notice requirement in § 250.11(b) is being retained. The text of the ticket notice is not contained in current § 250.11(b); instead, because the text of the ticket notice and the sign is identical, current § 250.11(b) (the ticket notice provision) incorporates the notice text by reference to the text in § 250.11(a) (the sign provision). Because § 250.11(a) is being eliminated, we are proposing to move the text of the ticket notice to § 250.11(b). We are also proposing to change the word ''notices'' in the first sentence of current § 250.11(b) to ''notice''; the singular form is more accurate and is the form used in the remainder of current § 250.11(b). Finally, we are proposing to remove the word ''station'' from the phrase ''desk,

[1] On January 19, 1996, the Department published a Federal Register notice seeking comment on the issue of passenger notices as applied to ticketless travel. See 61 FR 1309; also available on the World Wide Web at http://www.dot.gov/dotinfo/general/rules/aviation.html. The comment period for that Notice ended March 19, 1996. After examining the comments in that proceeding, the Department will determine, among other things, whether ''ticket'' in the context of currently required ticket notices would include air transportation sold without a conventional paper ticket and, consequently, whether the existing rules require ticketless sales to be accompanied by the passenger notices that are currently required to be included on or with tickets.

station or position'' in current § 250.11(a) (proposed § 250.11(b)) because it is confusing. This provision refers to an individual staffed counter position, whereas the airlines use ''station'' to refer to a carrier's entire operation at a particular city.

We are also taking this opportunity to propose changes to certain outdated language in Part 250. We are proposing to change references to the Civil Aeronautics Board, our predecessor in aviation economic regulation, to the Department of Transportation. Citations to sections of the Federal Aviation Act shall be changed to reflect the current section numbers of these statutory provisions in the United States Code, as a result of a 1994 recodification which absorbed that Act directly into the U.S. Code and renumbered its sections. A statutory change that occurred at the time of this recodification incorporated ''overseas air transportation'' into ''interstate air transportation'' and eliminated the former term, and we are proposing to make corresponding changes to the term ''overseas air transportation'' wherever it occurs in Part 250.

Regulatory Analyses and Notices

This NPRM is considered to be a non-significant rulemaking under DOT's regulatory policies and procedures, 44 FR 11034. The NPRM was not subject to review by the Office of Information and Regulatory Affairs pursuant to Executive Order 12866.

The proposal would have minimal economic impact, and accordingly no regulatory evaluation has been prepared. The principal impact will be that several dozen air carriers and more than 45,000 travel agencies, many of whom are small businesses, will no longer have to display this sign. The economic impact is difficult to quantify. There has been no continuing direct cost associated with display of the signs, and thus elimination of this requirement will not produce an immediate monetary savings. Some carriers may choose not to incur the labor cost of removing signs, particularly since the information on the sign is still accurate. The major economic benefit will result from the fact that this sign will not have to be erected at future airline and travel agency locations. That will bring about both material and labor savings.

The NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

While the proposal would benefit a large number of small businesses, I certify that the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection.

For the reasons set forth above, the Department proposes to amend title 14, chapter II, subchapter A, part 250 as follows:

PART 250—[AMENDED]

1. The authority citation for part 250 would continue to read as follows:

Authority: 49 U.S.C. chapters 401, 411, 413, 417.

2. In § 250.1, revise the definition of ''Carrier'' to read as follows:

§ 250.1 Definitions.

* * * * *

Carrier means

(1) A direct air carrier, except a helicopter operator, holding a certificate issued by the Department of Transportation pursuant to 49 U.S.C. 41102 (formerly sections 401(d)(1), 401(d)(2), 401(d)(5) and 401(d)(8) of the Federal Aviation Act of 1958), or an exemption from 49 U.S.C. 41101 (formerly section 401(a) of the Act), authorizing the transportation of persons, or

(2) A foreign route air carrier holding a permit issued by the Department pursuant to 49 U.S.C. 41301 through 41306 (formerly section 402 of the Act), or an exemption from the appropriate provision of 49 U.S.C. 41301 through 41306, authorizing the scheduled foreign air transportation of persons.

§ 250.2 [Amended]

* * * * *

3. In § 250.2, remove the words ''or overseas.''

§ 250.2 [Amended]

4. In § 250.2b(b), remove the word ''Board'' in the last sentence and add in its place ''DOT.''

§ 250.4 [Amended]

5. In § 250.4(c), remove ''the Board'' and add in its place ''DOT.''

§ 250.5 [Amended]

6. In § 250.5(a), remove the words ''and overseas'' in the last sentence.

§ 250.9 [Amended]

7. In § 250.9(b), in the subsection entitled Compensation for Denied Boarding, remove the phrase ''Civil Aeronautics Board'' and add in its place ''Department of Transportation.''

§ 250.9 [Amended]

8. In § 250.9(b), in the subsection entitled Amount of Denied Boarding Compensation, remove ''the CAB'' and add in its place ''DOT.''

§ 250.11 [Amended]

9. Section 250.11(a) is removed and reserved.

10. Paragraph (b) of § 250.11 is revised to read as follows:

§ 250.11 Public disclosure of deliberate overbooking and boarding procedures.

* * * * *

(b) Every carrier shall include with each ticket sold in the United States the following notice, printed in at least 12-point type. The notice may be printed on a separate piece of paper, on the ticket stock, or on the ticket envelope. The last two sentences of the notice shall be printed in a typeface contrasting with that of the rest of the notice.

Notice—Overbooking of Flights

Airline flights may be overbooked, and there is a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. If the flight is overbooked, no one will be denied a seat until airline personnel first ask for volunteers willing to give up their reservation in exchange for a payment of the airline's choosing. If there are not enough volunteers the airline will deny boarding to other persons in accordance with its particular boarding priority. With few exceptions persons denied boarding involuntarily are entitled to compensation. The complete rules for the payment of compensation and each airline's boarding priorities are available at all airport ticket counters and boarding locations. Some airlines do not apply these consumer protections to travel from some foreign countries, although other consumer protections may be available. Check with your airline or your travel agent.

A ''ticketless'' carrier that does not provide a copy of this notice to passengers in writing in conjunction with air transportation purchased in the United States must display this notice continuously on a sign in a conspicuous public place at each desk and position in the United States staffed by its employees or its contractor (not including travel agencies) to sell transportation to passengers. The notice must be clearly visible and clearly readable to the traveling public and must be in boldface type at least one-fourth of an inch high.

§ 250.11 [Amended]

11. In § 250.11(c), remove the phrase ''paragraphs (a) and (b) of this section'' and add in its place ''paragraph (b) of this section.''

§ 250.12 [Amended]

12. In § 250.11(e), remove ''notices'' and add in its place ''notice'' and remove the phrase ''paragraph (a) of this subsection'' and add in its place ''paragraph (b) of this section.''

Issued this 1st day of April, 1996 at Washington, D.C.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–13815 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 1

RIN 1076–AD64

Applicability of the Rules of the Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to amend the applicability of rules to make them more readable and comprehensive by rewriting them in plain English.

DATES: Comments must be received on or before August 2, 1996.

ADDRESSES: Mail or hand carry comments to James McDivitt, Acting Director, Office of Management and Administration, Bureau of Indian Affairs, Department of the Interior, 1849 C St. NW, Mail Stop 4657–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dave Etheridge, Office of Secretary at telephone (202) 208–4361.

SUPPLEMENTARY INFORMATION: We are publishing this proposed rule by the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Public Participation Statement

Our policy is to give the public an opportunity to participate in the rulemaking process by submitting written comments regarding the proposed rules. We will consider all comments received during the public comment period. We will determine necessary revisions and issue the final rule. Please refer to this preamble's **ADDRESSES** section for where you must submit your written comments on this proposed rule.

Executive Order 12778

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

Executive Order 12866

This proposed rule is not a significant regulatory action under Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This proposed 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.*). This proposed rule will determine the funding levels to be awarded to tribes for the purposes of creating new or enhancing and improving existing tribal court systems. In the event a tribe elects to receive funding, there are likely to be improvements in the exercise of civil jurisdiction by tribes. This improvement may increase the rate of civil collections by private economic enterprises operating on or near Indian reservations. In addition, there may be an increase in the number of civil claims made against private economic enterprises.

Executive Order 12630

The Department has determined that this proposed rule does not have significant ''takings'' implications. The proposed rule does not pertain to ''taking'' of private property interests, nor does it impact private property.

Executive Order 12612

The Department has determined that this proposed rule does not have significant federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of states.

NEPA Statement

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

Unfunded Mandates

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the *Unfunded Mandates Act of 1995.*

Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of the Interior has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Drafting Information

The primary author of this document was Kimberly Toyekoyah, Bureau of Indian Affairs, Department of the Interior.

List of Subjects in 25 CFR Part 1

Indians—land.

For the reasons given in the preamble, Part 1 of Title 25, Chapter I of the Code of Federal Regulations is proposed to be revised as set forth below.

PART 1—APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

Sec.

Authority: 5 U.S.C. 301; RS 463 25 U.S.C. 2.

§ 1.1 Waiver of regulations.

The Secretary of the Interior may waive or make exception to any provision in Chapter I of Title 25 of the Code of Federal Regulations if the Secretary finds that it:

(a) Is in the best interest of the Indians; and

(b) Would not violate any federal statute or the United States Constitution.

§ 1.2 State and local regulation of the use of Indian property.

(a) Except as provided in paragraph (b) of this section or in a federal statute, no restriction based on the law of any state or any subdivision of a state applies to the use of any property (including water rights) that is either:

(1) Held by the United States in trust for an Indian or Indian tribe; or

(2) Owned by an Indian or Indian tribe subject to a restriction against alienation imposed by the United States.

(b) When the Secretary of the Interior finds that it is in the best interest of the Indian owner in achieving the highest and best use of the property, the Secretary may make a restriction based on the law of a state or a subdivision of a state applicable to specific property that is:

(1) Held by the United States in trust for an Indian or Indian tribe;

(2) Owned by an Indian or Indian tribe subject to a restriction against alienation imposed by the United States.

Dated: May 24, 1996.
Ada E. Deer,
Assistant Secretary—Indian Affairs.
[FR Doc. 96–13727 Filed 5–31–96; 8:45 am]
BILLING CODE 4310–02–P

25 CFR Part 150

RIN 1076–AD43

Land Records and Title Documents

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The purpose of this rulemaking action is to revise the Land Records and Title Documents regulations. This rule was identified for reinvention under the National Performance Review. It is written in plain English to make the rule easier to read and understand for Indian landowners and Bureau realty staff.

DATES: Comments by interested parties must be in writing and we must receive them before August 2, 1996.

ADDRESSES: You must mail or hand carry your comments to Terrance Virden, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., MS 4513 MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Alice Harwood, Acting Chief, Division of Real Estate Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., MS 4510 MIB, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: We are publishing this proposed rule by the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Our policy is to give the public an opportunity to participate in the rule making process by submitting written comments regarding proposed rules. We will consider all comments received during the public comment period. We will determine necessary revisions and issue the final rule. Please refer to this preamble's **ADDRESSES** section for where you must submit your written comments on this proposed rule.

We certify to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

This is not a significant rule under Executive Order 12866 and does not require review by the Office of Management and Budget.

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates of 1995.

The information collection requirements in this part do not require approval by OMB under 44 U.S.C. 3501 et seq.

We determined this proposed rule:

(a) Will not have a significant economic impact on a substantial number of small entities under the Regulartory Flexibility Act (5 U.S.C. 601 et seq.);

(b) Does not constitute a major Federal action significantly affecting the human environment, and no detailed statement is needed under the Environmental Policy Act of 1969;

(c) Does not have significant takings implications in accordance with Executive Order 12630; and

(d) Does not have significant federalism effects.

This rule was written by Quentin M. Jones, Division of Real Estate Services.

List of Subjects in 25 CFR Part 150

Indians-lands.

For the reasons set out in the preamble, we propose to revise Part 150 of Title 25 of the Code of Federal Regulations, as follows:

PART 150—LAND RECORDS AND TITLE DOCUMENTS

Sec.

Authority: Act of June 30, 1834 (4 Stat. 738; 25 U.S.C. 9). Act of July 26, 1892 (27 Stat. 272; 25 U.S.C. 5). Reorganization Plan No. 3 of 1950 approved June 20, 1949 (64 Stat. 1262). (The Act of April 26, 1906 (34 Stat. 137); the Act of May 27, 1908 (35 Stat. 312); and the Act of August 1, 1914 (38 Stat. 582, 598) deal specifically with land records of the Five Civilized Tribes.)

§ 150.1 Definitions.

Administrative Law Judge means an employee of the Office of Hearings and Appeals, Department of the Interior, who has authority to probate the trust or restricted estates of deceased Indians.

Agency means an Indian Agency or other field unit of the Bureau of Indian Affairs having Indian land under its immediate jurisdiction.

Bureau means the Bureau of Indian Affairs.

Commissioner means the Commissioner of Indian Affairs or authorized representative.

Indian land means all lands held in trust by the United States for individual Indians or tribes, or all lands, titles to which are held by individual Indians or tribes, subject to Federal restrictions against alienation or encumbrance, or all lands which are subject to the rights of use, occupancy and/or benefit of certain tribes. For purposes of this part, the term Indian land also includes land for which the title is held in fee status by Indian tribes, and U.S. Government-owned land under Bureau jurisdiction.

Land means real property or any interests therein.

Land Titles and Records Office means offices within the Bureau of Indian Affairs with the Federal responsibility to record, provide custody, and maintain records that affect titles to Indian lands, to examine and evaluate titles, and to provide title status reports.

Manager means the officer in charge of a Land Titles and Records Office.

Recordation or *recording* means the acceptance of a title document by the appropriate Land Titles and Records Office. The purpose of recording is to provide evidence of a transaction, event, or happening that affects land titles to preserve a record of the title, to give constructive notice of the ownership, change of ownership, and the existence of encumbrances to the land.

Secretary means the Secretary of the Interior or authorized representative.

Superintendent means the designated officer in charge of an Agency.

Title document means any document that affects the title to or encumbers Indian land and is required to be recorded by regulation or Bureau policy.

Title examination means an examination and evaluation by a qualified title examiner for the completeness and accuracy of title documents.

Title status report means a report issued after a title examination which shows the proper legal description of a tract of Indian land; current ownership, including any applicable conditions, exceptions, restrictions, or encumbrances on record; and whether

the land is in unrestricted, restricted, trust, or other status as indicated by the records in a Land Titles and Records Office.

Tribe means a tribe, band, nation, community, rancheria, colony, pueblo or other federally recognized group of Indians.

§ 150.2 Purpose.

This part contains the authorities, policy, and procedures governing the recording, custody, maintenance, use, and certification of title documents, and the issuance of title status reports for Indian land.

§ 150.3 Why do we keep land title records?

(a) We are required to make and keep a record of every deed or document showing:

(1) Who has rights and interests in Indian land;

(2) The extent or amount of the rights and interests; and

(3) Where the Indian land is located.

(b) If you are an Indian land owner you may be required to provide copies of documents showing title to the land for approval of land use activity or its financing.

§ 150.4 What documents must be submitted for recording, and who can submit them?

(a) *Title documents other than probate records.* If we approve or execute a deed or other conveyance of an interest in land executed by an Indian, his heirs, representatives, or assigns, which may require the approval of the President of the United States or the Secretary of the Interior, we must submit the original, a signed duplicate, or a certified copy for recording.

(b) *Probate records.* Under 43 CFR part 4, Subpart D, Administrative Law Judges must submit the original record of Indian probate decisions and copies of petitions for rehearing, reopening, and other appeals to the appropriate Land Titles and Records Office.

§ 150.5 What are the responsibilities of the Land Titles and Records Offices?

In addition to our record keeping responsibility, we:

(a) Certify copies or make reproductions of title documents which can be admitted into evidence the same as the original. The fees for certified copies are established by a uniform fee schedule that is published in 43 CFR part 2, Appendix A.

(b) Produce title status reports, real property inventories for probate proceedings, and title status maps.

§ 150.6 Where are the Land Titles and Records Offices?

Location	BIA jurisdictional areas served
Aberdeen, South Dakota.	Aberdeen and Minneapolis.
Albuquerque, New Mexico.	Albuquerque, Navajo, and Phoenix.
Anadarko, Oklahoma.	Anadarko, and Miami Agency in Muskogee.
Billings, Montana	Billings.
Portland, Oregon	Portland.

§ 150.7 What other offices have title service responsibilities?

(a) Muskogee Area Office is the office of record and performs limited title functions for all Indian land of the Five Civilized Tribes.

(b) The Juneau Area Office has title service responsibility for the Juneau area.

(c) The Cherokee Agency has title service responsibility for the Eastern Cherokee Reservation.

(d) The Eastern Area Office is the office of record and provides title service responsibility for Indian land located under its jurisdiction.

(e) The Sacramento Area Office has title service responsibility for Indian land located under its jurisdiction.

(f) The Central office in Washington, D.C., provides title services for all other Indian land not shown above, including the land of the Absentee Wyandottes.

§ 150.8 What if errors are discovered during the recording process?

When errors are discovered, we will:

(a) Notify the originating office if an error is traced to a defective title document, other than a probate record; and

(b) Initiate corrective action for errors discovered in probate records, as follows:

(1) Issue an administrative modification to include any Indian land omitted from the inventory if the property is located in the same state and takes the same line of descent as the original probate decision. Authority is delegated to the Commissioner by 43 CFR 4.272 to make these modifications except on Indian reservations covered by special Inheritance Acts (43 CFR 4.300);

(2) Send copies of administrative modifications to the appropriate Administrative Law Judge, agencies with jurisdiction over the Indian land, and to all persons who share in the estate;

(3) Notify the Superintendent when other types of probate errors require corrective action by Administrative Law Judges;

(4) Issue administrative corrections to correct probate errors which are clerical in nature and which do not affect vested property rights or involve questions of due process; and

(5) Send copies of administrative corrections to the appropriate Administrative Law Judge and agency.

§ 150.9 When do I need a record of a land title?

When you:

(a) Are required by state, tribal or federal law to show ownership or interest;

(b) Wish to make contracts or agreements requiring a showing of ownership or interest;

(c) Wish to respond to a request that you show proof of rights and interests in Indian land; or

(d) Wish to make a will or gift to include Indian land.

§ 150.10 How do I get a copy of a certified land title record, title status map, or copy of a title document?

You must submit a written request to a Bureau agency or area office. That office will issue a written request, clearly identifying the tract of land, to the appropriate Land Titles and Records Office.

§ 150.11 What are the restrictions for access to land records, title documents, and title reports?

(a) We allow access to land records and title documents unless access is restricted by the Privacy Act, 5 U.S.C. 552a, Freedom of Information Act, 5 U.S.C. 552, or other law restricting access. Unless authorized, monetary considerations on leases of tribal land will not be disclosed.

(b) If information concerns individuals and is protected by the Privacy Act, we will not release it without their permission.

§ 150.12 What is a land status map and who prepares it?

Land status maps reflect the individual tracts, tract numbers, and current status of the tract. The Land Titles and Records Offices prepare and maintain maps of all reservations and similar land areas within their jurisdictions. Base maps are prepared from plats of official survey made by the General Land Office and the Bureau of Land Management. These base maps show prominent physical features, sections, townships, and range lines and are used to prepare land status maps. The office also prepares other special maps, such as plats and townsite maps.

Dated: May 22, 1996.
Ada E. Deer,
Assistant Secretary—Indian Affairs.
[FR Doc. 96–13732 Filed 5–31–96; 8:45 am]
BILLING CODE 4310–02–P

25 CFR Part 166

RIN 1076–AD04

General Agriculture and Range Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The purpose of this rule making action is to revise and rename the General Grazing Regulations to include provisions of the American Indian Agricultural Resource Management Act (AIARMA) enacted December 3, 1993. The American Indian Agricultural Resource Management Act reaffirmed many aspects of the existing Indian agriculture program and established new program direction for agriculture trespass, management planning, and agriculture education assistance.

DATES: Comments must be submitted on or before October 1, 1996.

ADDRESSES: Mail comments to: Mr. Mark Bradford, Bureau of Indian Affairs, Division of Land and Water, 1849 C Street, N.W., Mail Stop 4559 MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Bradford, Bureau of Indian Affairs, Division of Land and Water, telephone (202) 208–3598.

SUPPLEMENTARY INFORMATION: The proposed rule was developed with the participation of the affected Indian and Alaska Native public. Bureau of Indian Affairs (BIA) and tribal representatives formed four work groups (Leasing, Trespass, Education and, Management Plans) and a steering committee. The work groups first met in March 1994. We distributed three thousand copies of the first draft of the regulations for comment on April 29, 1994. The first draft did not provide for a consolidation of the permitting provisions in 25 CFR Parts 162 and 166.

We conducted five formal hearings throughout the nation. The second draft was distributed for comment on June 28, 1994. The second draft included a cross-references summary sheet which showed how most of the permitting provisions in the existing Part 166 would be incorporated in Subpart D of the proposed Part 162, but it did not include the text of the proposed Subpart D. Input from these meetings and feedback from initial drafts were considered and addressed in this proposed rule.

The AIARMA was enacted on December 3, 1993 (107 Stat. 2011, 25 U.S.C. 3701 et seq.), and amended on November 2, 1994 (108 Stat. 4572). Section 102(a) of the AIARMA requires that all ''land management activities''—defined in Section 4(12)(D) to include the ''administration and supervision of agricultural leasing and permitting activities, including a determination of proper land use, * * * appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts''—conform to agricultural resource management plans, integrated resource management plans, and all tribal laws and ordinances. Section 102(b) requires that we recognize and enforce all tribal laws and ordinances which regulate land use or pertain to Indian agricultural land, and provide notice of such laws and ordinances to individuals or groups ''undertaking activities'' on any affected land. Section 102(c) authorizes—but does not require—waivers of federal regulations or administrative policies which conflict with an agricultural resource management plan or a tribal law. Please note, Sections 102 (a)–(c) expressly provide for the recognition of only those tribal laws which do not conflict with federal law or our trust responsibility.

Sections 105(b) (1)–(4) allows tribes to supersede our rules and regulations on preferences, bonding, and the leasing or permitting of heirship land, but Section 105(c)(3) allows individual landowners to exempt their land from these *specific* types of tribal actions where the owners of at least a 50% interest in such land object in writing.

This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 208 DM 8.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments on the proposed rule to the location identified in the addresses section of this document.

This document has been reviewed under Executive Order 12866 and is not a significant rule requiring Office of Management and Budget review. It 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 Department of the Interior has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969. This proposed rule was compiled by four workgroups comprised of BIA and tribal representatives.

The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 25 CFR Part 166

Agriculture, Agricultural products, Education, Grazing lands, and Indian lands.

For the reasons set out in the preamble, part 166 of title 25 of the Code of Federal Regulations is proposed to be revised as follows.

PART 166—GENERAL AGRICULTURE AND RANGE REGULATIONS

Subpart A—General Provisions

Subpart B—Indian Agricultural Land Trespass

Subpart C—Agriculture Education, Education Assistance, Recruitment and Training

Authority: 5 U.S.C.301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; and by sec. 6, 69 Stat. 986, 25 U.S.C. 466. Interpret or apply R.S. 2078, 25 U.S.C. 68; R.S. 2117, 25 U.S.C. 179; sec. 3, 26 Stat. 795, 25 U.S.C. 397; sec. 1, 28 Stat. 305, 25 U.S.C. 402; sec. 4, 36 Stat. 856, 25 U.S.C. 403; sec. 1, 39 Stat. 128, 25 U.S.C. 394; sec. 1, 41 Stat. 1232, 25 U.S.C. 393; C. 158, 47 Stat. 1417, 25 U.S.C. 413; secs. 16, 17, 48 Stat. 987, 988, 25 U.S.C. 476, 477; C. 210, 53 Stat. 840, 25 U.S.C. 68a, 87a; C. 554, 54 Stat. 745, 25 U.S.C. 380; secs. 1, 2, 4, 5, 6, 69 Stat. 539, 540, 25 U.S.C. 415, 415a, 415b, 415c, 415d,25 U.S.C. 3701, 3702, 3703, 3711, 3712, 3713, 3714, 3731, 3732, 3733, 3734, 3741, 3742, 3743, 3744, 3745, 107 Stat. 2011.

Subpart A—General Provisions

§ 166.1 Definitions.

Agricultural product means:

(a) Crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit, excluding any crop that is defined as illegal by tribal or Federal statute;

(b) Domestic livestock, including cattle, sheep, goats, horses, buffalo, swine, reindeer, fowl, or other animals specifically raised and used for food or fiber or as a beast of burden;

(c) Forage, hay, fodder, food grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes; and

(d) Other marketable or traditionally used materials authorized for removal from Indian agricultural lands.

Approved organization means the Bureau of Indian Affairs, a tribe, tribal agricultural enterprise, Alaska Native Claims Settlement Act Corporation, or other Federal agencies providing agricultural services on Indian reservations.

Authorized officer means any tribal or Bureau person authorized to detect and investigate Indian agricultural lands trespass of Public Law 103–177.

Beneficial owner means the individual or entity who holds an ownership or contractual or permitted interest in Indian land.

Bureau means the Bureau of Indian Affairs of the Department of the Interior.

Fair market value means the value of an agricultural product if sold, bartered, or traded within a competitive market, including appropriate seasonal or replacement values.

Farmland means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage and seed oil crops or other agricultural products, and may be either dryland, irrigated, or irrigated pasture.

Indian agricultural lands means Indian land, including farmland and rangeland, excluding Indian forest land (except where authorized grazing occurs) that is used for the production of agricultural products, and Indian lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been conducted.

Indian land means land that is:

(a) Held in trust by the United States for an Indian tribe; or

(b) Owned by an Indian or Indian tribe and is subject to restrictions against alienation.

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Individual Indian means any person for whom the United States holds title to property in trust status, or holds title subject to federal restrictions against alienation or encumbrance.

Land use authorization means a permit, lease, plan of operation, or instrument issued or approved by the authorized officer for the legitimate utilization of Indian agricultural lands or removal of resources from them.

Lawful authority means a tribal or Bureau land use authorization or a right granted by tribal or Federal law or statute.

Rangeland means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs, half-shrubs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed as native vegetation.

Trespass means any use, occupancy, or development of Indian agricultural lands, without either a prior tribal or Bureau land use authorization or a right granted by tribal or Federal law or statute.

§ 166.2 Information collection.

The information collection requirements contained in this part do not require the approval of the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.*

§ 166.3 What activities are regulated by this part?

The regulations in this part apply to all Indian agriculture and range land except when this part is superseded by legislation.

§ 166.4 What is BIA's Indian agriculture policy?

(a)We must:

(1) Carry out the trust responsibility of the United States and facilitate the self-determination of Indian tribes by providing for the management of Indian agricultural lands and related renewable resources in a manner consistent with identified tribal goals and priorities for conservation, multiple use, and sustained yield;

(2) Take part in the management of Indian agricultural lands, with the full and active participation of the beneficial owners of the land, in a manner consistent with our trust responsibility and with the objectives of the beneficial owners;

(3) Develop and manage agricultural resources consistent with integrated resource management plans in order to protect and maintain other values such as wildlife, fisheries, cultural resources, and recreation.

(4) Increase the educational and training opportunities available to Indian people and communities in the practical, technical and professional aspects of agriculture and land management to improve the expertise and technical abilities of Indian tribes and their members.

(b) Any Indian agricultural land management activity we undertake must:

(1) Protect, conserve, and maintain or improve the productivity of Indian agricultural and range lands through the use of sound conservation practices and techniques including best management practices, applicable tribal codes, and state of the art soil and range conservation management techniques in planning, development, inventorying, classification, and management of the agricultural resources.

(2) Manage Indian agricultural lands to increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives.

(3) Manage Indian agricultural resources consistent with integrated resource management plans in order to protect and maintain other values such as wildlife, fisheries, cultural resources, and recreation.

(4) Manage Indian agricultural lands to enable Indian farmers and ranchers to maximize the available benefits by providing technical assistance, training in conservation practices, management and economics of agribusiness, sources and use of credit and marketing of agricultural products and other applicable subject areas.

(5) Develop Indian agricultural lands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities.

(6) Assist trust and restricted landowners in leasing their agricultural lands for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

§ 166.5 When will the BIA recognize tribal laws?

We must comply with tribal laws pertaining to Indian agricultural land, and cooperate with the enforcement of these laws on Indian agricultural land, unless doing this would violate Federal law or our trust responsibility. This cooperation does not constitute a waiver of United States sovereign immunity and includes:

(a) Assisting in the enforcement of these laws;

(b) Notifying persons or entities undertaking activities on Indian agricultural lands;

(c) Appearing in tribal forums when requested by a tribe; and

(d) Waiving sections of this part that conflict with tribal law or the objectives of an agricultural resource management plan. We must inform the tribes of any refusal to waive regulations.

§ 166.6 How is Indian agricultural land managed?

(a) We will manage Indian agricultural land either directly or through contracts, compacts, cooperative agreements, or grants under the Indian Self-Determination and Education Assistance Act (Public Law 93–638, as amended).

(b) In close consultation with the affected tribes, we must prepare and revise as necessary an agricultural resource management plan for all Indian agricultural lands unless a tribe notifies us that a plan is not needed. We will follow the tribe's current public hearing and notice policies. In the absence of a tribal policy, we will develop a public hearing and notification plan within 90 days of beginning to write the plan for tribal approval.

Subpart B—Indian Agricultural Land Trespass

§ 166.20 What is our trespass policy?

We will:

(a) Ensure that all uses, occupancies, or developments of Indian agricultural land are properly authorized and that these authorizations do not cause undue or unnecessary damage to Indian agricultural land or the improvements on it;

(b) Investigate and determine accidental, willful, or incidental trespass;

(c) Resolve all alleged trespass, either administratively or civilly, in a prompt, efficient manner;

(d) Recover the value of products, damage costs, and enforcement costs as a consequence of the trespass;

(e) Ensure that unnecessary or undue damage to Indian lands by trespass activities is rehabilitated and/or stabilized at the expense of the trespasser; and

(f) Determine if there are contractual or permit violations by lessees and permittees as well as other violations of other Federal or tribal laws separate from the regulations in this part.

§ 166.21 How do tribes get concurrent civil jurisdiction?

Tribes that adopt the regulations in this section, conformed as necessary to tribal law, have concurrent civil jurisdiction to enforce 25 U.S.C. 3713 and this section against any person.

(a) We will acknowledge concurrent civil jurisdiction over trespass, when we receive:

(1) A formal tribal resolution documenting the tribe(s)' adoption of this part; and

(2) Notification from the tribe that its court system is able to properly adjudicate agricultural trespasses, including:

(i) A statement that the tribal court will enforce the Indian Civil Rights Act; or

(ii) A tribal civil rights law that contains provisions for due process and equal protection that are similar to or stronger than those contained in the Indian Civil Rights Act.

(b) Where an Indian tribe acquires concurrent civil jurisdiction over trespass cases under paragraph (a) of this section, we and the authorized tribal representatives are jointly responsible for coordinating prosecution of trespass actions.

(1) When a tribe makes a timely request, we will defer prosecution of agricultural trespasses to the tribe.

(2) When a deferral is not requested, we will determine with the authorized tribal representatives how concurrent tribal and Federal trespass jurisdiction will apply to each trespass.

(3) When an Indian tribe acquires concurrent jurisdiction but does not request deferral of prosecution, we will file and prosecute an action in the tribal court or forum.

(c) We will rescind an Indian tribe's concurrent civil jurisdiction over trespass cases under this part if we or a court of competent jurisdiction determine that the tribal court has not adhered to the due process or equal protection requirements of the Indian Civil Rights Act. If a rescission is justified, we will notify in writing. The notice will include the findings that justify the rescission and the steps needed to remedy the violations causing the rescission. We will notify the chief judge of the tribal judiciary. If there is no chief judge, we will notify the other authorized tribal official. If the tribe does not take the steps we specify within 60 days, the rescission of concurrent civil jurisdiction will become final. The affected tribe can appeal a Notice of Rescission under Part 2 of Title 25.

(d) Nothing in this part prohibits or diminishes the authority of a tribe to prosecute individuals under its criminal or civil trespass laws where it has jurisdiction over those individuals.

§ 166.22 What is agricultural trespass?

The following uses or actions are acts of agricultural land trespass if unauthorized on land where a tribe has jurisdiction to enforce its laws:

(a) Cultivating of irrigated or non-irrigated crops or the harvesting of native hay, forage, or seed;

(b) Fencing or gates;

(c) Developing water sources reserved to or administered by us;

(d) Commercial filming or photography;

(e) Sale or barter of goods or services;

(f) Placing or storing of beehives;

(g) Commercial use of Indian or tribally owned and controlled road or motorized vehicle use off road where prohibited;

(h) Grazing;

(i) Cutting, damaging, taking, harvesting, or removing of special agricultural products, including but not limited to: berries, nuts, flowers, seeds, moss, cones, leaves, mushrooms, cactus, yucca, and greenery for commercial purposes. (Non-commercial use of special agricultural products for religious and cultural traditions by tribal members are exempt);

(j) Recreation, hunting, trapping, fishing, use of special areas, and developed recreation facilities;

(k) Damaging or removing archaeological or paleontological resources;

(l) Littering or disposing of agriculture related products, hazardous waste, household or business waste, or garbage.

(m) Applying pesticides without tribal/Federal certification, misusing pesticides for purposes other than authorized by pesticide label, or appling pesticides at rates or solutions greater than label directions.

(n) Aquaculture or the harvesting of fish raised for commercial sale or consumption; and

(o) Other items designated by tribes as acts of Indian agricultural land trespass.

§ 166.23 How are trespassers notified?

Unless otherwise provided under tribal law:

(a) When there is reason to believe that Indian agricultural land or products are involved in trespass, we or the authorized tribal representative must immediately provide the following notice to the alleged trespasser, the possessor of trespass products, and any known lien holder:

(1) Basis for the trespass determination;

(2) Legal description of where trespass occurred;

(3) Time frames for resolving the trespass; and

(4) Actions that must be taken.

(b) The actions may be:

(1) Removal of the trespasser's property to prevent further loss, damage, or destruction to the Indian agricultural land; or,

(2) Prohibition of removal of the agricultural products from the Indian agricultural land.

§ 166.24 What actions are taken against trespassers?

(a) We will immediately take corrective action to protect Indian agricultural lands or products. If we seize agricultural products we may sell or dispose of them, if appropriate. We will keep equipment that we seize for use as evidence unless a court of competent jurisdiction orders otherwise.

(b) Trespassers will be liable for fair market value of products illegally used or removed, and penalties and damages.

(c) When there is reason to believe that Indian agricultural products are involved in trespass and the products have been removed to land not under our supervision, we must immediately notify the owner of the land or the party in possession of the trespass products that such products could be Indian trust property involved in a trespass and that no action to remove or otherwise dispose of the products may be taken unless authorized.

(d) If we determine that the trespasser or possessor is unknown or refuses delivery of the trespass notice, the trespass notice will be posted at the tribal community building and the U.S. Post Office, and published in the local newspaper nearest to the Indian agricultural lands where the trespass is occurring.

§ 166.25 What are the penalties, damages, and costs payable by trespassers?

(a) Trespassers may be assessed civil penalties such as the ones in the following table. Other penalties may also be assessed.

Penalty	Comments
Double Damages	1. Must be based upon the highest value obtainable for the raw materials involved in the trespass. 2. Must be assessed when a person without lawful authority injures, severs, or carries off from a reservation any agricultural product. 3. Proof of Indian ownership of the premises and commission of the acts by the trespasser are prima facie evidence sufficient to support liability. There is no requirement to show willfulness of intent.
Costs associated with damage to Indian land.	Includes rehabilitation, revegetation, lost future revenue, lost profits, loss of productivity, damage to other resources, and other damages.
Reasonable enforcement costs	Includes detection, and all processes through prosecution and collection of damages. This covers field examination and survey, damage appraisal, investigation assistance and report preparation, witness expenses, demand letters, court costs, attorney fees, and other costs.
Interest	1. Must be based upon double the highest value obtainable for the raw materials involved in the trespass. 2. Must be calculated at the highest rate prescribed by tribal law. If there is no tribal law, calculation must be based upon Federal law. Where there is no Federal law, calculation must be based upon judgments as prescribed by the law of the State where the trespass occurred. 3. Must be calculated from the date of the trespass until payment is made.

(b) When the trespass actions have been resolved, but the trespasser has not settled civil penalties, damages, and costs, we will send a certified letter, return receipt requested, to the trespasser demanding immediate settlement. If settlement is not made within 5 working days after date of receipt, we may refer the case to the appropriate prosecuting authority.

§ 166.26 How are the proceeds from trespass distributed?

Unless otherwise provided under tribal law:

(a) We will treat civil penalties and other damages collected under the regulations in this part, except for those related to land damage and enforcement costs, as proceeds from the sale of agricultural products from the Indian agricultural land upon which the trespass occurred.

(b) If we confiscate and dispose of equipment, goods, or agricultural products from the trespasser, we will apply any cash or other proceeds to satisfy the civil penalties. If any money is left, we will return it to the trespasser. If we do not collect enough money from the trespasser, we will distribute civil penalties in accordance with the following table:

If we collect	We will distribute the money
Damages up to the highest value of the trespass products.	pro rata between the beneficial share and the cost of restoring the land
Damages over the highest value of the trespass product, but less than enough for full recovery.	pro rata between the beneficial share, the law enforcement agency, and the cost of restoring the land

(c) If beneficial owners trespass or are involved in trespass on their own land or undivided land in which they have a partial interest, they must not receive their beneficial share of any civil penalties and damages collected. If we collect civil penalties and damages as a result of a trespass, we will distribute them as follows:

(1) Toward restoration of the land where the trespass occurred; and

(2) Toward the enforcement agency's costs for rectifying the trespass.

(d) We may accept payment of damages in the settlement of civil trespass cases. In the absence of a court order, we will determine the procedure and approve acceptance of any settlements negotiated by a tribe exercising its concurrent jurisdiction.

§ 166.27 What happens if you do not settle a civil trespass case?

Unless otherwise provided by tribal law:

(a) We will refuse to issue you a lease, permit, or license for use, development or occupancy, if you fail to make full payment of damages in the settlement of a civil trespass case.

(b) If we determine that continuance of any use, occupancy, or development presents a risk to health, safety, or the environment, we will order an immediate, temporary suspension of the use, occupancy, or development before or during the pendency of an appeal. A person whose own direct economic interest is harmed by an action or decision may bring or participate in an appeal.

§ 166.28 How can you appeal our decisions?

You may challenge an action we take under this part only through administrative appeal or under the Indian Self-Determination and Education Assistance Act only. The appeal must be filed in accordance with 25 CFR part 2, Appeal from administrative actions, except that an appeal of any action under this part must not stay any action unless we direct.

Subpart C—Agriculture Education, Education Assistance, Recruitment and Training

§ 166.30 How are the Indian agriculture education programs operated?

(a) The purpose of the cooperative education program is to recruit and develop promising Indian and Alaska Natives who are enrolled in secondary schools, tribal or Alaska Native community colleges, and other post-secondary schools for employment as professional resource manager and other agriculture-related professionals by approved organizations.

(b) We will operate the program in accordance with the provisions of 5 CFR 213.3202 (a) and (b).

(c) We will establish an education committee to coordinate and carry out the agriculture education assistance programs and to select participants for all agriculture education assistance programs except the cooperative education program. The committee will include at least an American Indian professional educator in the field of natural resources or agriculture, a personnel specialist, a representative of the Intertribal Agriculture Council, and a natural resources or agriculture professional from the Bureau of Indian Affairs and a representative from American Indian Higher Education Consortium. The committee's duties will include the writing of a manual for the Indian and Alaska Native Agriculture Education and Assistance Programs.

(d) We will monitor and evaluate the agriculture education assistance programs to ensure that there are adequate Indian and Alaska Native natural resources and agriculture-related professionals to manage Indian natural resources and agriculture programs by or for tribes and Alaska Native Corporations. Monitoring and evaluating will identify the number of participants in the intern, cooperative education, scholarship, and outreach programs; the number of participants who completed the requirements to become a natural resources or agriculture-related professional; and the number of participants completing advanced degree requirements.

§ 166.31 How can you become an agriculture intern?

(a) The purpose of the agriculture intern program is to ensure the future participation of trained, professional Indians and Alaska Natives in the management of Indian and Alaska Native agricultural land. In keeping with this purpose, we will work with tribes and Alaska Natives:

(1) To obtain the maximum degree of participation from Indians and Alaska Natives in the agriculture intern program;

(2) To encourage agriculture interns to complete an undergraduate degree program in natural resources or agriculture-related field; and

(3) To create an opportunity for the advancement of natural resources and agriculture-related technicians to professional resource management positions with the Bureau of Indian Affairs, other Federal agencies providing an agriculture service to their respective tribe, a tribe, or tribal agriculture enterprise.

(b) Subject to restrictions imposed by agency budgets, we will establish and maintain in the BIA at least 20 positions for the agriculture intern program. All Indians and Alaska Natives who satisfy the qualification criteria may compete for positions.

(c) Applicants for intern positions must meet the following criteria:

(1) Be eligible for Indian preference as defined in 25 CFR part 5;

(2) Possess a high school diploma or its recognized equivalent;

(3) Be able to successfully complete the intern program within a 3-year period; and

(4) Possess a letter of acceptance to an accredited post-secondary school or demonstrate that one will be sent within 90 days.

(d) We will advertise vacancies for agriculture intern positions semi annually, no later than the first day of April and October, to accommodate entry into school.

(e) In selecting agriculture interns, we will seek to identify candidates who:

(1) Have the greatest potential for success in the program;

(2) Will take the shortest time period to complete the intern program; and

(3) Provide the letter of acceptance required by paragraph (c)(4) of this section.

(f) Agriculture interns must:

(1) Maintain full-time status in an agriculture-related curriculum at an accredited post secondary school;

(2) Maintain good academic standing;

(3) Enter into an obligated service agreement to serve as a professional resource manager or agriculture-related professional with an approved organization for 2 years in exchange for each year in the program; and

(4) Report for service with the approved organization during any break in attendance at school of more than 3 weeks. We will count this service toward satisfaction of the intern's obligated service.

(g) The education committee will evaluate annually the performance of the agriculture intern program participants against requirements to ensure that they are satisfactorily progressing toward completion of program requirements.

(h) We will pay all costs for tuition, books, fees and living expenses incurred by an agriculture intern while attending an accredited post secondary school.

§ 166.32 How can you become an agriculture cooperative education student?

(a) To be considered for selection, applicants for the cooperative program must:

(1) Meet the eligibility requirements and be subject to status requirements in 5 CFR Part 308; and

(2) Be accepted into or enrolled in a course of study at an accredited post secondary institution which grants degrees in natural resources or agriculture-related curricula.

(b) Cooperative education steering committees established at the field level will select program participants based on eligibility requirements without regard to applicants' financial needs.

(c) A recipient of assistance under the cooperative education program will be required to enter into an obligated service agreement to serve as a natural resources or agriculture-related professional with an approved organization for one year in exchange for each year in the program.

(d) We will pay all costs of tuition, books, fees, and transportation to and from the job site to school, for an Indian or Alaska Native student who is selected for the cooperative education program.

§ 166.33 How can you get an agriculture scholarship?

(a) We may grant agriculture scholarships to Indians and Alaska Natives enrolled as full time students in accredited post-secondary and graduate programs of study in natural resources and agriculture-related curricula.

(b) The education committee established in § 166.30(a) will select program participants based on eligibility requirements stipulated in paragraphs (e) through (g) of this section without regard to applicants' financial needs or past scholastic achievements.

(c) Recipients of scholarships must reapply annually to continue to receive funding beyond the initial award period. Students who have received scholarships in past years, are in good academic standing, and have been recommended for continuation by their academic institution will be given priority over new applicants for scholarship assistance.

(d) The amount of scholarship funds an individual is awarded each year will be contingent upon the availability of funds appropriated each fiscal year and is subject to yearly change.

(e) Preparatory scholarships are available for a maximum of 3 academic years of general, undergraduate course work leading to a degree in natural resources or agriculture-related curricula and may be awarded to individuals who:

(1) Possess a high school diploma or its recognized equivalent; and

(2) Are enrolled and in good academic standing at an acceptable post secondary school.

(f) Undergraduate scholarships are available for a maximum of three academic years and may be awarded to individuals who:

(1) Have completed a minimum of 55 semester hours toward a bachelor's degree in a natural resources or agriculture-related curriculum; and

(2) Have been accepted into a natural resource or agriculture-related degree-granting program at an accredited college or university.

(g) Graduate scholarships are available for a maximum of 5 academic years for individuals selected into the graduate program of an accredited college or university that grants advanced degrees in natural resources or agriculture-related fields.

(h) A recipient of assistance under the scholarship program must enter into an obligated service agreement to serve as a natural resources or agriculture-related professional with the Bureau of Indian Affairs, other Federal agency providing assistance to their respective tribe, a tribe, tribal agriculture enterprise or ANCSA Corporation for one year for each year in the program.

(i) We will pay all scholarships approved by the education committee established in § 166.30(a) for which funding is available.

§ 166.34 What is agriculture education outreach?

(a) We will establish and maintain an agriculture education outreach program for Indian and Alaska Native youth that will:

(1) Encourage students to acquire academic skills needed to succeed in post secondary mathematics and science courses;

(2) Promote agriculture career awareness;

(3) Involve students in projects and activities oriented to agriculture related professions early so students realize the need to complete required pre college courses; and

(4) Integrate Indian and Alaska Native agriculture program activities into the education of Indian and Alaska Native students.

(b) We will develop and carry out the program in consultation with appropriate community education organizations, tribes, ANCSA Corporations, Alaska Native organizations and other federal agencies providing agriculture services to Indians.

(c) The education committee established under § 166.30(a) will coordinate and implement the program nationally.

§ 166.35 Who can get assistance for postgraduate studies?

(a) The purpose of the postgraduate studies program is to enhance the professional and technical knowledge of Indian and Alaska Native natural resource and agriculture-related professionals working for an approved organization so that the best possible service is provided to Indian and Alaska Natives.

(b) We may pay the cost of tuition, fees, books, and salary of Alaska Natives and Indians who are employed by an approved organization and who wish to pursue advanced levels of education in natural resource or agriculture-related fields.

(c) The goal of the advanced study program is to encourage participants to obtain additional academic credentials such as a degree or diploma in a natural resources or agriculture-related field. Requirements of the postgraduate study program are:

(1) the duration of course work cannot be less than one semester or more than three years; and

(2) Students in the postgraduate studies program must meet performance standards as required by the graduate school offering the study program.

(d) Program applicants must submit application packages to the education committee established under § 166.30. At a minimum, such packages must contain a resume and an endorsement signed by the applicant's supervisor clearly stating the need for and benefits of the desired training.

(e) The education committee must use the following criteria to select participants:

(1) Need for the expertise sought at both the local and national levels;

(2) Expected benefits, both locally and nationally; and

(3) Years of experience and the service record of the employee.

(f) Program participants will enter into an obligated service agreement to serve as a natural resources or agriculture-related professional with an approved organization for two years for each year in the program. We may reduce the obligated service requirement if the employee receives supplemental funding such as research grants, scholarships or graduate stipends and, as a result, reduces the need for financial assistance under this part. If the obligated service agreement is breached, we will collect the amount owed us in accordance with § 166.37.

§ 166.36 What can happen if we recruit you after graduation?

(a) The purpose of the postgraduation recruitment program is to recruit Indian and Alaska Native natural resource and trained agriculture technicians into the agriculture programs of approved organizations.

(b) We may assume outstanding student loans from established lending institutions of Indian and Alaska Native natural resources and agriculture technicians who have successfully

completed a post-secondary natural resources or agriculture-related curriculum at an accredited institution.

(c) Indian and Alaska Natives receiving benefits under this program will enter into an obligated service agreement in accordance with § 166.38. Obligated service required under this program will be one year for every $5,000 of student loan debt repaid.

(d) If the obligated service agreement is breached, we will collect student loan(s)in accordance with § 166.39.

§ 166.37 Who can be an intergovernmental intern?

(a) Natural resources or agriculture personnel working for an approved organization may apply for an internship within agriculture-related programs of agencies of the Department of the Interior or other federal agencies providing an agriculture service to their respective reservations.

(b) Natural resources or agriculture-related personnel from other Department of the Interior agencies may apply through proper channels for internships within Bureau of Indian Affairs agriculture programs and, with the consent of a tribe or Alaska Native organization, within tribal or Alaska Native agriculture programs.

(c) Natural resources and agriculture personnel from agencies not within the Department of the Interior may apply, through proper agency channels and pursuant to an interagency agreement, for an internship within the Bureau of Indian Affairs and, with the consent of a tribe or Alaska Native organization, within a tribe, tribal agriculture enterprise or Alaska Native Corporation.

(d) Natural resources or agriculture personnel from a tribe, tribal agriculture enterprise or Alaska Native Corporation may apply, through proper channels and pursuant to a cooperative agreement, for an internship within another tribe, tribal forest enterprise or ANCSA Corporation agriculture program.

(e) The employing agency of participating Federal employees will provide for the continuation of salary and benefits.

(f) The host agency for participating tribal, tribal agriculture enterprise or Alaska Native Corporation agriculture employees will provide for salaries and benefits.

(g) A bonus pay incentive, up to 25 percent of the intern's base salary, may be provided to intergovernmental interns at the conclusion of the internship period. Bonus pay incentives will be at the discretion of and funded by the host organization and must be conditioned upon the host agency's documentation of the intern's superior performance, in accordance with the agency's performance standards, during the internship period.

§ 166.38 Who can participate in continuing education and training?

(a) The purpose of continuing education and training is to establish a program to provide for the ongoing education and training of natural resources and agriculture personnel employed by approved organizations. This program will emphasize continuing education and training in three areas:

(1) Orientation training including tribal-Federal relations and responsibilities;

(2) Technical agriculture education; and

(3) Developmental training in agriculture-based enterprises and marketing.

(b) We will maintain an orientation program to increase awareness and understanding of Indian culture and its effect on natural resources management and agriculture practices and on Federal laws that effect natural resources management and agriculture operations and administration in the Indian agriculture program.

(c) We will maintain a continuing technical natural resources and agriculture education program to assist natural resources managers and agriculture-related professionals to perform natural resources and agriculture management on Indian land.

(d) We will maintain an agriculture land-based enterprise and marketing training program to assist with the development and use of Indian and Alaska Native agriculture resources.

§ 166.39 What are your obligations to us after you participate in an agriculture education program?

(a) Individuals completing agriculture education programs with an obligated service requirement may be offered full time permanent employment with an approved organization to fulfill their obligated service within 90 days of the date all program education requirements have been completed. If employment is not offered within the 90-day period, the student will be relieved of obligated service requirements. Not less than 30 days before to the start of employment, the employer must notify the participant of the work assignment, its location and the date work must begin. If the employer is other than the Bureau of Indian Affairs, the employer must also notify us.

(b) Employment time that can be credited toward obligated service requirement will begin the day after all program education requirements have been completed, with the exception of the agriculture intern program which includes the special provisions outlined in § 166.31(f)(4). The minimum service obligation period will be one year of full time employment.

(c) The employer has the right to designate the location of employment for fulfilling the service obligation.

(d) A participant in any of the agriculture education programs with an obligated service requirement may, within 30 days of completing all program education requirements, request a deferment of obligated service to pursue postgraduate or post-doctoral studies. In such cases, we will issue a decision within 30 days of receipt of the request for deferral. We may grant such a request; however, deferments granted in no way waive or otherwise affect obligated service requirements.

(e) A participant in any of the agriculture education programs with an obligated service requirement may, within 30 days of completing all program education requirements, request a waiver of obligated service based on personal or family hardship. We may grant a full or partial waiver or deny the request for wavier. In such cases, we will issue a decision within 30 days of receiving the request for waiver.

§ 166.40 What happens if you do not fulfill your obligation to us?

(a) Any individual who accepts financial support under agriculture education programs with an obligated service requirement, and who does not accept employment or unreasonably terminates employment must repay us in accordance with the following table:

Program	Costs that must be repaid	Costs that do not need to be repaid
Agriculture intern.	Salary, tuition, books, and fees received while occupying position plus interest.	Salary paid during school breaks or when recipient was employed by an approved organization.
Cooperative education.	Tuition, books, and fees plus interest.	
Scholarship	Costs of scholarship plus interest.	

Program	Costs that must be repaid	Costs that do not need to be repaid
Postgraduation recruitment.	All student loans assumed by us under the program plus interest.	
Postgraduate studies.	Salary, tuition, books, and fees received while in the program plus interest.	Salary paid during school breaks or when recipient was employed by an approved organization.

(b) For agriculture education programs with an obligated service requirement, we will adjust the amount required for repayment by crediting toward the final amount of debt any obligated service performed before breach of contract.

Dated: May 24, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–13729 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–02–P

25 CFR Part 217

RIN 1076–AD37

Management by the Tribe and the Ute Distribution Corporation of the Ute Indian Tribe's Undivided Tribal Assets on the Uintah and Ouray Reservations, Utah

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is proposing to amend the regulations governing the procedures, under the Secretary of the Interior's supervision, for jointly managing the undivided assets of the Ute Indian Tribe. This rule was identified for reinvention under the National Performance Review. It is written in plain English to make the rule easier to read and understand.

DATES: Comments must be received on or before August 2, 1996.

ADDRESSES: Mail or hand carry comments to Terrance Virden, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, 1849 C St. NW, Mail Stop 4513–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Kim Synder, Division of Energy and Minerals, Bureau of Indian Affairs at telephone (202) 208–3607.

SUPPLEMENTARY INFORMATION: Publication of the proposed rule by the Department of the Interior (Department) provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments regarding the proposed rule to the location identified in the ''addresses'' section of this document.

We certify to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

This is not a significant rule under Executive Order 12866 and does not require review by the Office of Management and Budget.

This rule imposes no unfunded mandates on any government or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

The information collection requirements in this part do not require approval by OMB under 44 U.S.C. 3501 *et seq.*

We determined this proposed rule:

(a) 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.);

(b) Does not constitute a major Federal action significantly affecting the quality of the human environment and no detailed statement is required under the National Environmental Policy Act of 1969;

(c) Does not have significant takings implications in accordance with Executive Order 12630; and

(d) Does not have significant federalism effects.

This rule was written by the Bureau of Indian Affairs' Regulatory Review Action Team.

List of Subjects in 25 CFR Part 217

Indians-claims, Indians-land, mineral resources.

For the reasons set out in the preamble, we propose to revise Part 217 of Title 25 of the Code of Federal Regulations as follows:

PART 217—MANAGEMENT BY THE TRIBE AND THE UTE DISTRIBUTION CORPORATION OF THE UTE INDIAN TRIBE'S UNDIVIDED TRIBAL ASSETS ON THE UINTAH AND OURAY RESERVATION, UTAH

Sec.

Authority: 25 U.S.C. 677z.

§ 217.1 What do certain terms mean?

Act means the Act of August 27, 1954, 68 Stat. 868, 25 U.S.C. 677–677aa, commonly referred to as the ''Ute Partition Act'' or the ''Ute Termination Act,'' as amended by the Act of August 2, 1956, 70 Stat. 936, and the Act of September 25, 1962, 76 Stat. 597.

Affiliated Ute Citizens of Utah (AUC) means the organization that represented the mixed-blood members of the Ute Indian Tribe to help partition and distribute divisible tribal assets and carry out other purposes under the Act before August 27, 1961, 12 midnight.

Asset means any real, personal, or mixed property of the tribe, whether held by the tribe or by the United States in trust for them, or restricted from division by the United States.

Full-blood means a member of the tribe who is on the final roll of full-bloods published April 5, 1956, 21 FR 2208, and also anyone enrolled later as a tribal member under the tribe's constitution, by-laws, and ordinances.

Indian mineral interest means any interest in minerals United States holds in trust to benefit the full-bloods and mixed-bloods, individually or as a tribe.

Mixed-blood means a person who is on the final roll of mixed-bloods published April 5, 1956, 21 FR 2208. The mixed-blood roll is closed.

Secretary means the Secretary of the Interior or other person acting under the Secretary's authority.

Tribal Business Committee means the governing body of the Ute Indian Tribe, created under the tribe's constitution and by-laws.

Tribe means the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah. Starting April 5, 1956, when the

final rolls were published, the tribe has consisted exclusively of full-blood members, as determined by the tribe's constitution, by-laws, and ordinances.

Undivided assets means those which are unadjudicated or unliquidated claims against the United States and rights in gas, oil, and minerals. They also consist of other assets existing on April 5, 1956, which can't be distributed equitably and practically, including wildlife and the right to hunt and fish.

Ute Distribution Corporation (UDC) means the corporation organized by the Affiliated Ute Citizens of Utah (AUC), under the Act and the laws of the State of Utah. The AUC irrevocably delegated authority to the UDC to represent the mixed-blood members of the tribe in joint management of undivided assets and to receive and distribute their net proceeds to stockholders of the UDC.

§ 217.2 What is the authority for this part?

The basic authority for this part is the Act itself, 25 U.S.C. 677z, but we have also tried to follow the decrees and directions of the federal courts in the following cases: *Affiliated Ute Citizens* v. *United States*, 406 U.S. 128 (1972); *Reyos* v. *United States*, 431 F.2d 1337 (10th Cir. 1970); *Affiliated Ute Citizens of Utah* v. *United States*, 431 F.2d 1349 (10th Cir. 1970); *United States* v. *Felter*, 546 F. Supp. 1002 (D. Utah 1982); *United States* v. *Felter*, 752 F.2d 1505 (10th Cir. 1985); *Murdock* v. *Ute Indian Tribe, et al.*, No. 91–4112, Slip. Op. (10th Cir. Sept. 9, 1992); and *Affiliated Ute Citizens* v. *Ute Indian Tribe, Donald Hodel, et al.*, Federal District Court for Utah, 85–C–0569J, Memorandum Opinion and Order, February 3, 1987, and Memorandum Opinion and Order, November 16, 1992.

§ 217.3 What is the purpose of this part?

This part provides procedures for jointly managing undivided assets of the Ute Indian tribe, under the Secretary's supervision. In managing these assets, Tribal Business Committee represents the full-blood group, and the Ute Distribution Corporation (UDC) represents the mixed-blood group.

§ 217.4 How do proceeds divide between the two groups?

(a) The proceeds divide between the two groups in proportion to the number of persons on final membership rolls published April 5, 1956, in 21 FR 2208. Based on these rolls, they received a certain percentage of all divisible assets; they have also received, and will continue to receive, the same percentages of net proceeds from undivided assets:

(1) Full-bloods: 72.83814 percent;

(2) Mixed-bloods: 27.16186 percent.

(b) These percentages don't change, even though tribal membership has changed, and the type and number of UDC stockholders varies as they transfer stock. Originally, UDC's stockholders were all the people listed on the final roll of mixed-bloods.

(c) The tribe and the UDC pay their own costs for managing undivided assets.

§ 217.5 What is the Secretary's role under this part?

(a) Under this part, the Secretary's standard responsibilities include—

(1) Supervising how the Tribal Business Committee and the UDC manage the Ute tribe's undivided assets;

(2) Receiving the proceeds from undivided assets and, after deducting internal costs, dividing the net proceeds between the UDC and the tribe according to the established percentages;

(3) Signing patents, deeds, assignments, releases, certificates, contracts, or other instruments needed to carry out the Act or to establish a marketable and recordable title to property disposed of under the Act (25 U.S.C. 677y).

(b) If the Tribal Business Committee or the UDC's Board of Directors notifies the Secretary that they disagree on how to handle undivided assets, he or she—

(1) Partitions the tribe's assets lawfully, equitably, and fairly to both groups (25 U.S.C. 677i);

(2) Issues a written decision resolving the disagreement within 30 days of receiving the notice; and

(3) States this decision in letters to all interested parties.

(c) The Secretary also handles other responsibilities stated in the Act or elsewhere in federal law.

§ 217.6 How is wildlife managed?

Based on decisions in federal courts, wildlife on the Uintah and Ouray Reservation, Utah is an undivided asset because no one can equitably divide the tribe's or individual Indian's right to hunt and fish on it. Specifically, the rights of mixed-bloods to hunt and fish on the reservation will end whenever the last mixed-blood listed on the final roll dies. Thus, the Tribal Business Committee and the UDC must jointly manage the regulation of wildlife and hunting and fishing by tribal members and by mixed-bloods on the final roll.

§ 217.7 What is the Joint Advisory Board and what do they do?

(a) The Joint Advisory Board is a group the Secretary may establish permanently or to consider a particular issue. It includes representatives of—

(1) The Tribe;

(2) The UDC; and

(3) The Secretary.

(b) The Joint Advisory Board:

(1) Considers anything that concerns managing undivided assets;

(2) If organized to consider a specific task, investigates and recommends actions on that task to the Secretary;

(3) Transmits its decisions in writing to the Tribal Business Committee, the UDC's Board of Directors, and the Secretary.

§ 217.8 Must joint managers document decisions and file reports?

Yes. The Tribal Business Committee and UDC's Board of Directors must:

(a) Write out and place an authorized member's signature on all decisions or legal documents;

(b) Accompany each decision or document with a resolution authorizing it to be signed;

(c) Send all decisions or documents to the Secretary for approval or disapproval; and

(d) File annual reports to the Secretary:

(1) From the Tribal Business Committee on management of undivided assets to the tribal membership;

(2) From UDC's Board of Directors on management of hunting and fishing to the mixed-bloods and of all other undivided assets to UDC stockholders.

§ 217.9 Who collects payments from mineral interests?

The Minerals Management Service collects payments from mineral interests and sends them to the Bureau of Indian Affairs' Office of Trust Fund Management. Trust Fund Management deposits the money in a joint management account or Individual Indian Money account in the United States Treasury.

§ 217.10 How are errors in paying mineral interests corrected?

(a) An error that results in underpaying or overpaying the tribe, UDC, or an allottee usually gets corrected within six months. The period may be longer if the amount is too large. The BIA's Office of Trust Fund Management takes money from the joint management account or diverts money that would otherwise go to an Individual Indian Money account and places it in the account of the appropriate joint manager or allottee. The amount includes principal and interest earned, as well as penalties, if any.

(b) Reporting of an error depends on its source. If the error results from—

(1) An action by BIA, the joint managers, or an allottee, the Secretary must immediately notify the BIA's Office of Trust Fund Management and the Minerals Management Service (MMS) of the error and how to correct it;

(2) An action or inaction by MMS, a lessee, payee, or a person or company legally associated with a lessee, MMS must immediately notify the BIA's Office of Trust Fund Management of the error and how to correct it.

Dated: May 22, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–13731 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–02–P

25 CFR Parts 271, 272, 274, 277 and 278

RIN 1076 AD 53

Contracts and Grants; School Construction; Special Grants to Small Tribes; Removal of Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed Rule.

SUMMARY: The Bureau of Indian Affairs (Bureau) is proposing the elimination of 25 CFR Parts 271, 272, 274, 277 and 278 as mandated by Executive Order 12866 to streamline the regulatory process and enhance the planning and coordination of new and existing regulations.

DATES: Comments must be received on or before August 2, 1996.

ADDRESSES: Mail comments to James Thomas, Division of Self-Determination Services, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, 1849 C St. NW, Mail Stop 4603–MIB, Washington, DC 20240; OR, hand deliver them to Room 4603 at the above address. Comments will be available for inspection at this address from 9:00 a.m. to 4:00 p.m., Monday through Friday beginning approximately 2 weeks after publication of this document in the Federal Register.

FOR FURTHER INFORMATION CONTACT: James Thomas, Office of Tribal Services, Bureau of Indian Affairs at telephone (202) 208–3463.

SUPPLEMENTARY INFORMATION:

Background

The Bureau is promulgating new rules to implement the Indian Self-Determination and Education Assistance Act, 25 CFR Part 900, which will replace Part 271, Contracts under Indian Self-Determination Act and Part 272, Grants under Indian Self-Determination Act. The Bureau is proposing the elimination of 25 CFR Part 274, School Construction Contracts or Services for Tribally Operated Previously Private Schools, Part 277, School Construction Contracts for Public Schools and Part 278, Special Grants for Economic Development and Core Management Grants to Small Tribes because they are no longer necessary for the administration of Bureau programs.

Supplementary Information

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes, 25 U.S.C. 2 and 9.

Publication of this proposed rule by the Department of the Interior (Department) provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments regarding this proposed rule to the location identified in the ''addresses'' section of this document.

Executive Order 12778

The Department has certified to the Office of Management and Budget (OMB) that this rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

Executive Order 12866

This rule is not a significant regulatory action under Executive Order 12866 and does not require review by the Office of Management and Budget.

Regulatory Flexibility Act

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.*).

Executive Order 12630

The Department has determined that this rule does not have ''significant takings'' implications. This rule does not pertain to ''taking'' of private property interests, nor does it impact private property.

Executive Order 12612

The Department has determined that this rule does not have significant federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of states.

NEPA Statement

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

Unfunded Mandates Act of 1995

This rule imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Paperwork Reduction Act of 1995

This rule contains no information collection requirement that would require notification to the Office of Management and Budget.

Drafting Information

The primary author of this document is Harriet Brown, Bureau of Indian Affairs.

List of Subjects

25 CFR Part 271

Indians—tribal government, Indians—contracting.

25 CFR Part 272

Indians—tribal government, Indians—grants.

25 CFR Parts 274 and 277

Indians—school construction.

25 CFR Part 278

Indians—special grants for economic development—core management grants.

Under the authority of Executive Order 12866, and for the reasons stated above, 25 CFR parts 271, 272, 274, 277 and 278 are proposed to be removed.

Dated: May 24, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–13728 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–0054–95]

RIN 1545–AT96

Proposed Amendments to the Regulations on the Determination of Interest Expense Deduction of Foreign Corporations and Branch Profits Tax; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of location of public hearing.

SUMMARY: This document changes the location of the public hearing on proposed regulations relating to the determination of the interest expense deduction of foreign corporations and branch profits tax.

DATES: The public hearing is being held on Thursday, June 6, 1996, beginning at 10:00 a.m.

ADDRESSES: The public hearing originally scheduled in the IRS Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC is changed to room 5718, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of public hearing appearing in the Federal Register on Friday, March 8, 1996 (61 FR 9377), announced that a public hearing relating to proposed regulations under sections 882 and 884 of the Internal Revenue Code will be held Thursday, June 6, 1996, beginning at 10:00 a.m. in the IRS Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC and that requests to speak and outlines of oral comments should be received by Thursday, May 23, 1996.

The location of the public hearing has changed. The hearing is being held in room 5718 on Thursday, June 6, 1996, beginning at 10:00 a.m. The requests to speak and outlines of oral comments should be received by Thursday, May 23, 1996. Because of controlled access restrictions, attenders cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

Copies of the agenda are available free of charge at the hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–13723 Filed 5–31–96; 8:45 am]

BILLING CODE 4830–01–U

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26 CFR Part 1

[IA–292–84]

RIN 1545–AU11

Section 467 Rental Agreements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the treatment of rent and interest under certain agreements for the lease of tangible property. The proposed regulations apply to certain rental agreements that provide increasing or decreasing rents, or deferred or prepaid rent. This document also provides notice of a public hearing on these regulations.

DATES: Written comments, requests to appear and outlines of topics to be discussed at the public hearing scheduled for September 25, 1996, must be received by September 3, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (IA–292–84), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (IA–292–84), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. The public hearing will be held in the Commissioner's Conference Room, 3rd Floor, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Forest Boone of the Office of Assistant Chief Counsel (Income Tax and Accounting) at (202) 622–4960; concerning submissions and the public hearing, Mike Slaughter at (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) relating to section 467 of the Internal Revenue Code (Code). This section was added by the Tax Reform Act of 1984. In general, section 467 requires parties to certain rental agreements to accrue rent and interest in accordance with the rules specified in section 467. These proposed regulations provide guidance regarding the applicability of section 467, and the amount of rent and interest required to be accrued under section 467. No inference should be drawn from any provision in the proposed regulations concerning whether an arrangement constitutes a lease for Federal income tax purposes.

Explanation of Provisions

1. Section 467 Rental Agreements

Section 467(a) provides that, if a rental agreement is a section 467 rental agreement, the lessor and lessee must take into account for a taxable year the section 467 rent and the section 467 interest for that year. A section 467 rental agreement is a rental agreement that has increasing or decreasing rents, or prepaid or deferred rents. A rental agreement has increasing or decreasing rents if the annualized fixed rent allocated to any rental period exceeds the annualized fixed rent allocated to any other rental period in the lease term. The proposed regulations provide that a rent holiday at the beginning of the lease term is disregarded in determining whether the rental agreement has increasing or decreasing rent if the rent holiday period is three months or less.

In addition, the proposed regulations provide that a rental agreement has increasing or decreasing rent if it requires (or may require) the payment of contingent rent, other than contingent rent that is contingent due to (a) a provision computing rent based on a percentage of the lessee's gross or net receipts (but only if the percentage does not vary throughout the term of the lease); (b) adjustments based on a reasonable price index; or (c) a provision requiring the lessee to pay real estate taxes, insurance premiums, maintenance costs, or any other cost (other than a debt service cost) that relates to the leased property and is not within the control of the lessor or lessee or a person related to the lessor or lessee.

Section 467(d)(1)(A) provides that a rental agreement has deferred rent if rent allocated to a calendar year is payable after the close of the succeeding calendar year. The proposed regulations provide that there is prepaid rent if rent allocated to a calendar year is payable prior to the beginning of the prior calendar year.

Section 467(d)(2) provides that section 467 does not apply to a rental agreement if the aggregate rental payments and other consideration to be received for the use of the property do not exceed $250,000.

2. Section 467 Rent

Under the proposed regulations, the section 467 rent for a taxable year is the sum of the fixed rent for any rental periods that begin and end in the taxable year, a ratable portion of the fixed rent for other rental periods beginning or ending in the taxable year, and any contingent rent that accrues in the taxable year. In general, the proposed regulations provide that rental periods may be of any length as long as (a) the rental periods are one year or less, cover the entire lease term, and do not overlap, and (b) each scheduled

payment under the rental agreement occurs within 30 days of the beginning or end of a rental period. The amount of fixed rent for a rental period depends on the terms of the rental agreement.

A. Disqualified Leaseback or Long-Term Agreement

Section 467 provides that if the section 467 rental agreement is a leaseback or long-term agreement and has increasing or decreasing rents a principal purpose of which is tax avoidance (a disqualified leaseback or long-term agreement), the fixed rent for each rental period is the constant rental amount. The proposed regulations provide that (a) the Commissioner, rather than the parties to the rental agreement, will determine whether a rental agreement is a disqualified leaseback or long-term agreement and (b) a rental agreement will not be disqualified unless it requires more than $2,000,000 in rental payments and other consideration. The proposed regulations also provide that, if either the lessor or the lessee is not subject to Federal income tax on its income or is a tax-exempt entity (within the meaning of section 168(h)(2)), the rental agreement will be closely scrutinized, and clear and convincing evidence will be required to establish that tax avoidance is not a principal purpose for providing increasing or decreasing rent.

Section 467(b)(5) provides that regulations should set forth circumstances under which section 467 rental agreements will not be treated as disqualified leasebacks or long-term agreements, including circumstances relating to the use of price indices, percentage rents, reasonable rent holidays, or changes in amounts paid to third parties. In addition to these safe harbors, which have been included in the proposed regulations, the Conference Committee Report stated that the Committee anticipated that regulations under section 467 would adopt standards under which leases providing for fluctuations in rents by no more than a reasonable percentage above or below the average rent over the term of the lease will be deemed not motivated by tax avoidance. The report cited the standards for advance rulings on leveraged lease transactions set forth in Rev. Proc. 75–21 (1975–1 C.B. 715), and stated that such standards may not be appropriate for real estate leases. H.R. Rep. No. 861, 98th Cong., 2d Sess. 893 (1984).

The proposed regulations contain a safe harbor providing that tax avoidance will not be considered to be a principal purpose for providing increasing or decreasing rents if the rents allocable to each calendar year of the lease do not vary from the average annual rents over the entire lease term by more than 10 percent. This safe harbor is based on, but is not identical to, the safe harbor contained in Rev. Proc. 75–21. The proposed regulations do not provide a safe harbor specifically applicable to real estate leases. The IRS and the Treasury Department invite comments regarding the nature and extent of a safe harbor for such leases, as well as comments on whether additional safe harbors are appropriate either generally or for particular industries.

Section 467(e)(1) provides that the constant rental amount is the amount that, if paid at the end of each rental period, would result in a present value equal to the present value of all amounts payable under the disqualified leaseback or long-term agreement. If constant rental accrual is required, all rental periods must be equal in length except for an initial or final short rental period.

B. Agreements Without Adequate Interest

If the section 467 rental agreement is not a disqualified leaseback or long-term agreement and does not provide adequate interest for prepaid or deferred rent, the proposed regulations provide that the fixed rent for each rental period is the proportional rental amount. The proportional rental amount is the fixed rent allocated to the rental period under the rental agreement multiplied by a fraction, the numerator of which is the present value of the amounts payable as fixed rent and interest on fixed rent under the rental agreement and the denominator of which is the present value of the fixed rent allocated to each rental period under the rental agreement. Under the proposed regulations, a rental agreement provides adequate interest if (a) no deferred or prepaid rent is required under the agreement, (b) there is deferred or prepaid rent but the agreement requires the payment of interest at an adequate single fixed rate, or (c) there is deferred or prepaid rent but the present values of rent payments and rent accruals meet certain tests set forth in the proposed regulations.

C. Rental Agreement Accrual

The proposed regulations provide that if neither the constant rental amount nor the proportional rental amount is required to be accrued, the fixed rent for a rental period is the fixed rent allocated to that rental period in accordance with the section 467 rental agreement. The amount of fixed rent allocated to a rental period by the rental agreement depends on whether the agreement provides a specific allocation of fixed rent. The proposed regulations provide that if a rental agreement provides a specific allocation of fixed rent, the amount of fixed rent allocated to each rental period during the lease term is the amount of rent allocated to that period by the agreement. For this purpose, a rental agreement that allocates rent to a period is treated as allocating rent ratably within that period. Thus, if a rental agreement provides that $120,000 is allocated to each calendar year in the lease term, $10,000 of rent is allocated to each calendar month. In general, under the proposed regulations, a rental agreement specifically allocates fixed rent if the agreement unambiguously specifies, for periods of no longer than a year, a fixed amount of rent for which the lessee becomes liable on account of the use of the property during that period.

If a section 467 rental agreement does not provide a specific allocation of fixed rent, the amount of fixed rent allocated to a rental period is the amount of fixed rent payable during that rental period.

3. Section 467 Interest

The section 467 interest for a taxable year is the sum of the interest on fixed rent for any rental period that begins and ends in the taxable year, a ratable portion of the interest on fixed rent for any other rental period beginning or ending in the taxable year, and any interest that accrues on contingent rent during the taxable year. If a section 467 rental agreement provides an adequate stated rate of interest, the interest on fixed rent for a rental period is the interest provided in the agreement for that period. If no adequate stated rate of interest is provided, the interest on fixed rent for a rental period is determined under the section 467 loan rules.

Under the proposed regulations, there is a deemed loan (a section 467 loan) in a rental period if, at the beginning of that period, there is a difference between the amount of fixed rent payable under the section 467 rental agreement and the amount of fixed rent required to be accrued under the proposed regulations. For rental periods in which there is a section 467 loan, the interest for the rental period is equal to the product of the principal balance of the section 467 loan at the beginning of the rental period and the yield of the section 467 loan.

In general, the principal balance of a section 467 loan as of the beginning of any rental period is the difference between the cumulative amount of accrued fixed rent and interest and the

cumulative amount of fixed rent and interest payable under the section 467 rental agreement. The yield of a section 467 loan is the discount rate at which the sum of the present values of all amounts payable by the lessee as fixed rent and interest on fixed rent, plus the sum of the negative present values of all amounts payable by the lessor as interest on prepaid fixed rent, equals the sum of the present values of the fixed rent allocated to the rental periods.

The amount constituting a section 467 loan may be either positive or negative. For purposes of applying any aspect of the proposed regulations relating to a section 467 loan, the principal balance of the loan should be clearly identified as either positive or negative. For example, if the principal balance of a loan at the beginning of a rental period is a negative number, the interest on the loan for that period will also be a negative number.

4. Rental Agreements With Variable Rates of Interest

The proposed regulations provide rules for section 467 rental agreements that provide for certain types of variable rates of interest. The rules in the proposed regulations are similar to the rules provided in § 1.1275–5 for the computation of original issue discount (OID) for variable rate debt instruments providing for interest at qualified floating rates. Under the proposed regulations, a rental agreement provides variable interest if the rental agreement provides for stated interest that is paid or compounded at least annually at a rate or rates that meet the requirements of § 1.1275–5(a)(3)(i) (A) or (B) and § 1.1275–5(a)(4). If a rental agreement provides for fluctuations in interest other than pursuant to one or more qualified floating rates the interest will be subject to the rules for contingent payments.

Under the proposed regulations, if a section 467 rental agreement provides variable interest, the fixed rate substitutes (determined in the same manner as under § 1.1275–5(e) treating the agreement date as the issue date) for the variable rates of interest called for by the agreement must be used in computing the proportional rental amount, the constant rental amount, the principal balance of a section 467 loan, and the yield of a section 467 loan. Further, in determining the interest on fixed rent for any rental period, the variable interest adjustment amount must be taken into account. The variable interest adjustment amount for a rental period is the difference between (a) the amount of interest that would have accrued during the rental period under the terms of the rental agreement, and (b) the amount of interest that would have accrued during the rental period under the terms of the agreement using the fixed rate substitutes.

5. Rental Agreements With Contingent Payments

The proposed regulations reserve on the issue of the section 467 treatment of contingent rent. The IRS and the Treasury Department anticipate that regulations addressing this issue will provide rules for contingent rent similar to those provided for computing OID for contingent payment debt instruments in § 1.1275–4. The IRS and the Treasury Department invite comments regarding the application of the § 1.1275–4 rules to section 467 rental agreements.

6. Recapture

Section 467(c) provides that if a section 467 rental agreement is a leaseback or long-term agreement providing for increasing rent but is not subject to constant rental accrual, and the property subject to the agreement is disposed of, a portion of the gain realized on the disposition is required to be recaptured by the lessor as ordinary income. Accordingly, a leaseback or long-term agreement could be subject to section 467(c) even though it does not require more than $2,000,000 in rental payments and other consideration and is thus not subject to constant rental accrual.

The recapture amount is equal to the lesser of the prior understated inclusions or the section 467 gain. The prior understated inclusions are the excess of (a) the aggregate amount of section 467 rent and section 467 interest for the period during which the lessor held the property, determined as if the section 467 rental agreement were a disqualified leaseback or long-term agreement, over (b) the aggregate amount of section 467 rent and section 467 interest accrued by the lessor during that period. The section 467 gain is the excess of (a) the amount realized from the disposition, over (b) the sum of the adjusted basis of the property and the amount of any gain from the disposition that is treated as ordinary income under any provision of subtitle A of the Code other than section 467(c) (e.g., section 1245 or 1250).

In the case of a disposition that is not a sale, exchange, or involuntary conversion, the section 467 gain is the excess of (a) the fair market value of the property on the date of disposition, over (b) the sum of the adjusted basis of the property and the amount of any gain from the disposition that is treated as ordinary income under Code provisions other than section 467(c). The regulations provide exceptions to this recapture rule for dispositions by gift, transfers at death, and certain tax-free transactions.

7. Other Disposition Rules

Under the proposed regulations, if property subject to a section 467 rental agreement is sold, exchanged, or otherwise disposed of, the section 467 rent for a period is taken into account by the owner of the property during the period. The lessee, however, must continue to take section 467 rent and section 467 interest into account without regard to the change of ownership.

Further, if there is a sale, exchange or other disposition of property subject to a section 467 rental agreement, the beginning balance of the transferor's section 467 loan after the transfer equals the net present value at the time of the transfer of all amounts subsequently payable as fixed rent and interest on fixed rent to the transferor and all amounts subsequently payable as interest on prepaid fixed rent by the transferor. The transferor must continue to take into account interest on the transferor's section 467 loan balance after the transfer. The beginning balance of the transferee's section 467 loan is equal to the principal balance of the section 467 loan immediately before the transfer reduced by the beginning balance of the transferor's section 467 loan after the transfer. Amounts payable to the transferor after the transfer are not taken into account in adjusting the transferee's section 467 loan balance.

Finally, under the proposed regulations, if there is a disposition of property subject to a section 467 rental agreement, the transferor and transferee must treat the beginning balance of the transferee's section 467 loan as a liability that is either assumed in connection with the transfer of the property or secured by the property acquired subject to the liability (if negative) and as a reduction in the consideration for the transfer of the property (if positive). In the case of a positive section 467 loan balance, a reduction in the consideration for the transfer of the property is appropriate because the transferee will also be deemed to have acquired an asset other than the property itself, i.e., the loan, and a portion of the total consideration should be allocated to the loan balance. Similar rules apply to transfers of leasehold interests under section 467 rental agreements.

In order to account for any timing differences that may exist between a schedule of payments under a section

467 rental agreement and a separate schedule providing an allocation of rent, it will be necessary, in appropriate cases, to determine the amount of a section 467 loan balance even if the rental agreement does not have either deferred or prepaid rent or if the rental agreement has deferred or prepaid rent but provides adequate stated interest. The proposed regulations provide that the section 467 loan rules apply to rental agreements described in the preceding sentence, but only for purposes of the rules relating to dispositions of property subject to a section 467 rental agreement and the rules relating to transfers of leasehold interests under a section 467 rental agreement.

Although the proposed regulations contain rules applicable to all dispositions of property subject to a section 467 rental agreement and all transfers of leasehold interests under a section 467 rental agreement, the regulations reserve guidance on the question of whether special rules should be provided for transfers of property and leasehold interests in transactions in which gain or loss is not recognized in whole or in part. Examples of these transactions would include transfers between a partnership and one or more of its partners, transfers to a controlled corporation under section 351, transfers pursuant to a reorganization described in section 368(a), like-kind exchanges subject to section 1031, and transfers by gift or upon the death of the owner of the property or the holder of the leasehold interest. The IRS and Treasury Department invite comments on whether special rules should be provided for any of these transactions.

8. Proposed Effective Date

The regulations are proposed to be effective for (1) rental agreements entered into after the date that final regulations under section 467 are published and (2) disqualified leasebacks and long-term agreements entered into after June 3, 1996. No inference should be drawn from the proposed effective date concerning the treatment of rental agreements entered into before the regulations are applicable. Moreover, the IRS will, in appropriate circumstances, apply the provisions of section 467 requiring constant rental accrual to rental agreements entered into on or before June 3, 1996.

9. Issues Not Addressed

The proposed regulations do not address the application of section 467 to payments for services. The IRS and the Treasury Department invite comments on the appropriate scope of rules under section 467 for transactions involving deferred payments for services in light of the scope of section 404. In addition, the IRS and the Treasury Department invite comments on whether rules should be provided for transactions involving prepayments for services.

The proposed regulations do not address the application of section 467 to transactions sometimes referred to as ''lease strips'' or ''stripping transactions'', as described in Notice 95–53 (1995–44 I.R.B. 21). Notice 95–53 provides that regulations will be issued pursuant to section 7701(*l*) (and, as appropriate, other sections of the Code) recharacterizing stripping transactions. The IRS and the Treasury Department invite comments on whether rules should be provided that would apply section 467 to such transactions.

The proposed regulations do not provide for an adjustment to section 467 rent and interest where a section 467 rental agreement is modified. The IRS and the Treasury Department invite comments on the appropriate treatment of the lessor and lessee in these cases.

The proposed regulations do not provide rules addressing the treatment of payments by the lessor to induce a lessee to enter into a rental agreement.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 25, 1996 at 10 a.m. in the Commissioner's Conference Room, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons that wish to present oral comments at the hearing must submit written comments and submit an outline of the topics to be discussed and the time to be devoted to each topic by September 3, 1996. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Forest Boone of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.467–1 is also issued under 26 U.S.C. 467.

Section 1.467–2 is also issued under 26 U.S.C. 467.

Section 1.467–3 is also issued under 26 U.S.C. 467.

Section 1.467–4 is also issued under 26 U.S.C. 467.

Section 1.467–5 is also issued under 26 U.S.C. 467.

Section 1.467–6 is also issued under 26 U.S.C. 467.

Section 1.467–7 is also issued under 26 U.S.C. 467.

Section 1.467–8 is also issued under 26 U.S.C. 467.

* * * * *

Par. 2. In § 1.61–8, the first sentence of paragraph (b) is revised to read as follows:

§ 1.61–8 Rents and royalties.

* * * * *

(b) * * * Except as provided in section 467 and the regulations thereunder, gross income includes advance rentals, which must be included in income for the year of receipt regardless of the period covered

or the method of accounting employed by the taxpayer. * * *

* * * * *

Par. 3. In § 1.451–1, paragraph (g) is added to read as follows:

§ 1.451–1 General rule for taxable year of inclusion.

* * * * *

(g) *Timing of income from section 467 rental agreements.* For the timing of income with respect to section 467 rental agreements, see section 467 and the regulations thereunder.

Par. 4. Section 1.461–1 is amended by:

1. Adding a sentence at the end of paragraph (a)(1).

2. Adding paragraph (a)(2)(iii)(E).

The additions read as follows:

§ 1.461–1 General rule for taxable year of deduction.

(a) * * * (1) * * * See section 467 and the regulations thereunder for rules under which a liability arising out of the use of property pursuant to a section 467 rental agreement is taken into account.

(2) * * *

(iii) * * *

(E) Except as otherwise provided by regulations or other published guidance issued by the Commissioner, in the case of a liability arising out of the use of property pursuant to a section 467 rental agreement, the all events test (including economic performance) is considered met in the taxable year in which the liability is to be taken into account under section 467 and the regulations thereunder.

* * * * *

Par. 5. Section 1.461–4 is amended by:

1. Revising the heading of paragraph (d)(3)(ii).

2. Redesignating the text of paragraph (d)(3)(ii) following the heading as paragraph (d)(3)(ii)(A) and adding a heading for newly designated paragraph (d)(3)(ii)(A).

2. Adding paragraph (d)(3)(ii)(B).

3. Adding sentence at the end of the introductory text of paragraph (d)(7).

The revisions and additions read as follows:

§ 1.461–4 Economic performance.

* * * * *

(d) * * *

(3) * * *

(ii) *Exceptions—(A) Volume, frequency of use, or income.* * * *

(B) *Section 467 rental agreements.* In the case of a liability arising out of the use of property pursuant to a section 467 rental agreement, economic performance occurs as provided in § 1.461–1(a)(2)(iii)(E).

* * * * *

(7) * * * Assume further that the examples do not involve section 467 rental agreements and, therefore, section 467 is not applicable.

* * * * *

Par. 6. Sections 1.467–0 through 1.467–8 are added to read as follows:

§ 1.467–0 Table of contents.

This section lists the major captions that appear in §§ 1.467–1 through 1.467–8.

§ 1.467–1 Treatment of lessors and lessees generally.

(a) *Overview*—(1) *In general.* When applicable, section 467 requires a lessor and lessee of tangible property to treat rents consistently and to use the accrual method of accounting regardless of their overall method of accounting. In addition, in certain cases involving tax avoidance, the lessor and lessee must take rent and stated or imputed interest into account under a constant rental method, pursuant to which time value of money principles are applied to treat the rent as having accrued ratably over the entire lease term.

(2) *Cases in which rules are inapplicable.* Section 467 applies only to leases (or other similar arrangements) that constitute section 467 rental agreements as defined in paragraph (c) of this section. For example, a rental agreement is not a section 467 rental agreement, and, therefore, is not subject to the provisions of this section and §§ 1.467–2 through 1.467–8 (the section 467 regulations), if it specifies equal amounts of rent for each month (or other similar period) throughout the lease term and all payments of rent are due in the year to which the rent relates (or in the preceding or succeeding year). In addition, the section 467 regulations do not apply to a rental agreement that requires total rents of $250,000 or less determined, for this purpose, by disregarding any adjustments based on a reasonable price index and the amount of any rent resulting from the lessee's obligation to pay certain third-party expenses of the lessor.

(3) *Limited effect for rental agreements with total rents between $250,000 and $2,000,000.* A rental agreement is a section 467 rental agreement, and, therefore, the section 467 regulations generally apply, if the agreement requires total rents of more than $250,000 and does not specify equal amounts of rent for each month (or other similar period) throughout the lease term. If, however, the rental agreement requires total rents of $2,000,000 or less (determined by disregarding adjustments and excluding the same types of rent that are disregarded or excluded for purposes of the $250,000 threshold requirement) and all payments of rent are due in the year to which the rent relates (or in the preceding or succeeding year), the only effect of the section 467 regulations is to require the lessor and lessee to take rent into account in the year to which the rent relates.

(4) *Summary of rules*—(i) *Basic rules.* Paragraph (c) of this section provides rules for determining whether a rental agreement is a section 467 rental agreement. Paragraphs (d) and (e) of this section provide rules for determining the amount of rent and interest, respectively, required to be taken into account by a lessor and lessee under a section 467 rental agreement. Paragraphs (f) through (h) and (j) of this section provide various definitions and special rules relating to the application of the section 467 regulations.

(ii) *Special rules.* Section 1.467–2 provides rules for section 467 rental agreements that have deferred or prepaid rents without providing for adequate interest. Section 1.467–3 provides rules for application of the constant rental accrual requirement, including criteria for determining whether an agreement is subject to this requirement. Section 1.467–4 provides rules for establishing and adjusting a section 467 loan, the amount that a lessor is deemed to have loaned to the lessee, or vice versa, pursuant to the application of the section 467 regulations. Sections 1.467–5 and 1.467–6 provide rules for applying the section 467 regulations where a rental agreement requires variable interest or certain contingent payments. Section 1.467–7 provides rules for the treatment of dispositions by a lessor of property subject to a section 467 rental agreement and the treatment of assignments by lessees and certain lessee- financed renewals of a section 467 rental agreement. Finally, § 1.467–8 provides the effective date rules for the section 467 regulations.

(b) *Method of accounting for section 467 rental agreements.* If a rental agreement is a section 467 rental agreement, as described in paragraph (c) of this section, the lessor and lessee must each take into account for any taxable year—

(1) The section 467 rent for the taxable year (as defined in paragraph (d) of this section); and

(2) The section 467 interest for the taxable year (as defined in paragraph (e) of this section).

(c) *Section 467 rental agreements*—(1) *In general.* Except as otherwise provided in paragraph (c)(4) of this section, the term *section 467 rental agreement* means a rental agreement, as defined in paragraph (h) of this section, that has increasing or decreasing rents (as described in paragraph (c)(2) of this section), or prepaid or deferred rents (as described in paragraph (c)(3) of this section).

(2) *Increasing or decreasing rent*—(i) *Fixed rent*—(A) *In general.* A rental agreement has increasing or decreasing rent if the annualized fixed rent, as described in paragraph (j)(3) of this section, allocated to any rental period exceeds the annualized fixed rent allocated to any other rental period in the lease term.

(B) *Certain rent holidays disregarded.* Notwithstanding the provisions of paragraph (c)(2)(i)(A) of this section, a rental agreement does not have

increasing or decreasing rent if the increasing or decreasing rent is solely attributable to a rent holiday provision allowing reduced rent (including no rent) for a period at the beginning of the lease term, but only if the duration of the rent holiday does not exceed three months.

(ii) *Fixed rent allocated to a rental period*—(A) *Specific allocation*—(*1*) *In general.* If a rental agreement provides a specific allocation of fixed rent, as described in paragraph (c)(2)(ii)(A)(*2*) of this section, the amount of fixed rent allocated to each rental period during the lease term is the amount of fixed rent allocated to that period by the rental agreement.

(*2*) *Rental agreements specifically allocating fixed rent.* A rental agreement specifically allocates fixed rent if the rental agreement unambiguously specifies, for periods no longer than a year, a fixed amount of rent for which the lessee becomes liable on account of the use of the property during that period, and the total amount of fixed rent specified is equal to the total amount of fixed rent payable under the lease. For example, a rental agreement providing that rent is $100,000 per calendar year, and that provides for total payments of fixed rent equal to the total amount specified, specifically allocates rent. Similarly, a rental agreement that states the amount of rent accruing each month or the amount of rent allocated to each year contains a specific allocation if the total payments of fixed rent equal the total amount specified. A rental agreement stating only when rent is payable does not specifically allocate rent.

(B) *No specific allocation.* If a rental agreement does not provide a specific allocation of fixed rent (for example, because the total amount of fixed rent specified is not equal to the total amount of fixed rent payable under the lease), the amount of fixed rent allocated to a rental period is the amount of fixed rent payable during that rental period. If an amount of fixed rent is payable before the beginning of the lease term, it is allocated to the first rental period in the lease term. If an amount of fixed rent is payable after the end of the lease term, it is allocated to the last rental period in the lease term.

(iii) *Contingent rent*—(A) *In general.* A rental agreement has increasing or decreasing rent if it requires (or may require) the payment of contingent rent (as defined in paragraph (h) of this section), other than contingent rent described in paragraph (c)(2)(iii)(B) of this section.

(B) *Certain contingent rent disregarded.* Contingent rent is disregarded for purposes of this paragraph (c)(2)(iii) to the extent—

(*1*) The rent is contingent solely as the result of a provision pursuant to which the rent is equal to a percentage of the lessee's receipts (gross or net), but only if the percentage does not vary throughout the term of the lease;

(*2*) The rent is contingent solely as the result of an adjustment based on a reasonable price index, as defined in paragraph (h) of this section; or

(*3*) The rent is contingent solely as the result of a provision requiring the lessee to pay third-party costs, as defined in paragraph (h) of this section.

(3) *Deferred or prepaid rent*—(i) *Deferred rent.* A rental agreement has deferred rent under this paragraph (c)(3) if the amount of rent allocated to a calendar year (determined under paragraph (c)(3)(iii) of this section), when added to the rent allocated to all preceding calendar years, exceeds the cumulative amount of rent payable as of the close of the succeeding calendar year.

(ii) *Prepaid rent.* A rental agreement has prepaid rent under this paragraph (c)(3) if the amount of rent allocated to a calendar year (determined under paragraph (c)(3)(iii) of this section), when added to the rent allocated to all preceding calendar years, is less than the cumulative amount of rent payable before the beginning of the preceding calendar year.

(iii) *Rent allocated to a calendar year.* For purposes of this paragraph (c)(3), the rent allocated to a calendar year is the sum of—

(A) The fixed rent allocated to any rental period (determined under paragraph (c)(2)(ii) of this section) that begins and ends in the calendar year;

(B) A ratable portion of the fixed rent allocated to any other rental period that begins or ends in the calendar year; and

(C) Any contingent rent that accrues during the calendar year as provided in § 1.467–6.

(iv) *Examples.* The following examples illustrate the application of this paragraph (c)(3):

Example 1. (i) A and B enter into a rental agreement that provides for the lease of property to begin on January 1, 1997, and end on December 31, 2000. The rental agreement provides that rent of $100,000 accrues during each year of the lease term. Under the rental agreement, no rent is payable during calendar year 1997, a payment of $100,000 is to be made on December 31, 1998, and December 31, 1999, and a payment of $200,000 is to be made on December 31, 2000. A and B both select the calendar year as their rental period. Thus, under paragraph (c)(3)(iii) of this section, the amount of rent allocated to each rental period under paragraph (c)(2)(ii) of this section is $100,000. Therefore, the rental agreement does not have increasing or decreasing rent as described in paragraph (c)(2)(i) of this section.

(ii) Under paragraph (c)(3)(i) of this section, a rental agreement has deferred rent if, at the close of a calendar year, the cumulative amount of rent allocated under paragraph (c)(3)(iii) of this section exceeds the cumulative amount of rent payable as of the close of the succeeding year. In this example, there is no deferred rent: the rent allocated to 1997 ($100,000) does not exceed the cumulative rent payable as of December 31, 1998 ($100,000); the rent allocated to 1998 and preceding years ($200,000) does not exceed the cumulative rent payable as of December 31, 1999 ($200,000); the rent allocated to 1999 and preceding years ($300,000) does not exceed the cumulative rent payable as of December 31, 2000 ($400,000); and the rent allocated to 2000 and preceding years ($400,000) does not exceed the cumulative rent payable as of December 31, 2001 ($400,000). Therefore, because the rental agreement does not have increasing or decreasing rent and does not have prepaid or deferred rent, the rental agreement is not a section 467 rental agreement.

Example 2. (i) A and B enter into a rental agreement that provides for the lease of personal property for ten years, beginning on January 1, 1997, and ending on December 31, 2006. The rental agreement provides for accruals of rent of $10,000 during each month of the lease term. Under paragraph (c)(3)(iii) of this section, $120,000 is allocated to each calendar year. The rental agreement provides for a $1,200,000 payment on December 31, 1997.

(ii) The rental agreement does not have increasing or decreasing rent as described in paragraph (c)(2)(i) of this section. The rental agreement provides prepaid rent under paragraph (c)(3)(ii) of this section because an amount of rent allocated to a calendar year, when added to the rent allocated to all preceding calendar years, is less than the cumulative amount of rent payable before the beginning of the preceding calendar year. For example, the rent allocated to 1999 and preceding calendar years ($360,000) is less than the cumulative amount of rent payable before the beginning of the preceding calendar year ($1,200,000 is payable on December 31, 1997). Accordingly, the rental agreement is a section 467 rental agreement.

(4) *Rental agreements involving total payments of $250,000 or less*—(i) *In general.* A rental agreement is not a section 467 rental agreement if, taking into account any payments of contingent rent, and any other contingent consideration, the sum of the aggregate amount of rental payments under the rental agreement and the aggregate value of other consideration to be received for the use of property is not reasonably expected, as of the agreement date (as defined in paragraph (h) of this section), to exceed $250,000.

(ii) *Special rules in computing amount described in paragraph (c)(4)(i).* The following rules apply in

determining the amount described in paragraph (c)(4)(i) of this section—

(A) Stated interest on deferred rent is not taken into account. However, the Commissioner may recharacterize a portion of stated interest as additional rent if a rental agreement provides for interest on deferred rent at a rate that, in light of all of the facts and circumstances, is clearly greater than the arm's-length rate of interest that would have been charged in a lending transaction between the lessor and lessee.

(B) Consideration that does not involve a cash payment is taken into account at its fair market value. A liability that is either assumed or secured by property acquired subject to the liability is taken into account at its remaining principal amount or, in the case of an obligation originally issued at a discount, at its adjusted issue price.

(C) All leases that are part of the same transaction or a series of related transactions are treated as a single lease. Whether two or more leases are part of the same transaction or a series of related transactions depends on all the facts and circumstances.

(D) Any increase or decrease in rent payable solely as a result of an adjustment based on a reasonable price index is not taken into account.

(E) Contingent rent described in paragraph (c)(2)(iii)(B)(*3*) of this section is not taken into account.

(d) *Section 467 rent*—(1) *In general.* The section 467 rent for a taxable year is the sum of—

(i) The fixed rent for any rental period (determined under paragraph (d)(2) of this section) that begins and ends in the taxable year;

(ii) A ratable portion of the fixed rent for any other rental period beginning or ending in the taxable year; and

(iii) In the case of a section 467 rental agreement that provides for contingent rent, the contingent rent that accrues during the taxable year as provided in § 1.467–6.

(2) *Fixed rent for a rental period*—(i) *Constant rental accrual.* In the case of a section 467 rental agreement that is a disqualified leaseback or long-term agreement (as described in § 1.467–3(b)), the fixed rent for a rental period is the constant rental amount (as determined under § 1.467–3(d)).

(ii) *Proportional rental accrual.* In the case of a section 467 rental agreement that is not described in paragraph (d)(2)(i) of this section, and does not provide adequate interest on fixed rent (as determined under § 1.467–2(b)), the fixed rent for a rental period is the proportional rental amount (as determined under § 1.467–2(c)).

(iii) *Section 467 rental agreement accrual.* In the case of a section 467 rental agreement that is not described in paragraph (d)(2)(i) or (ii) of this section, the fixed rent for a rental period is the amount of fixed rent allocated to the rental period under the rental agreement, as determined under paragraph (c)(2)(ii) of this section.

(e) *Section 467 interest*—(1) *In general.* The section 467 interest for a taxable year is the sum of—

(i) The interest on fixed rent for any rental period that begins and ends in the taxable year;

(ii) A ratable portion of the interest on fixed rent for any other rental period beginning or ending in the taxable year; and

(iii) In the case of a section 467 rental agreement that provides for contingent rent, any interest that accrues on the contingent rent during the taxable year as provided in § 1.467–6.

(2) *Interest on fixed rent for a rental period*—(i) *In general.* Except as provided in paragraph (e)(2)(ii) of this section and § 1.467–5(b)(1)(ii), the interest on fixed rent for a rental period is equal to the product of—

(A) The principal balance of the section 467 loan (as described in § 1.467–4(b)) at the beginning of the rental period; and

(B) The yield of the section 467 loan (as described in § 1.467–4(c)).

(ii) *Section 467 rental agreements with adequate interest.* Except in the case of a section 467 rental agreement that is a disqualified leaseback or long-term agreement, if a section 467 rental agreement provides adequate interest under § 1.467–2(b)(1)(i) (agreements with no deferred or prepaid rent) or § 1.467–2(b)(1)(ii) (agreements with adequate stated interest at a single fixed rate), the interest on fixed rent for a rental period is the amount of interest provided in the rental agreement for the period.

(3) *Treatment of interest.* If the section 467 interest for a rental period is a positive amount, the lessor has interest income and the lessee has an interest expense. If the section 467 interest for a rental period is a negative amount, the lessee has interest income and the lessor has an interest expense.

(f) *Modification of a rental agreement.* If, after the lease date, the lessor and lessee agree to a substantial modification of the terms of a lease, the modified lease is treated, except as provided in this paragraph (f), as a new rental agreement for purposes of this section and §§ 1.467–2 through 1.467–8. If a principal purpose of such a modification is to avoid the purpose or intent of section 467, the Commissioner may treat the original and modified lease as a single rental agreement for purposes of this section and §§ 1.467–2 through 1.467–8.

(g) *Treatment of amounts payable by lessor to lessee*—(1) *Interest.* For purposes of determining present value, any amounts payable by the lessor to the lessee as interest on prepaid rent are treated as negative amounts.

(2) *Other amounts.* [Reserved]

(h) *Meaning of terms.* The following meanings apply for purposes of this section and §§ 1.467–2 through 1.467–8—

(1) *Agreement date* means the earlier of the lease date or the first date on which there is a binding written contract that substantially sets forth the terms under which the property will be leased.

(2) *Contingent rent* means any rent that is not fixed rent, including any amount reflecting an adjustment based on a reasonable price index.

(3) *Fixed rent* means any rent to the extent its amount and the time at which it will be paid are fixed and determinable under the terms of the section 467 rental agreement as of the lease date, as defined in paragraph (h)(4) of this section. For this purpose, the possibility of a breach or other early termination of the rental agreement and any provision that makes adjustments based on a reasonable price index are disregarded in determining whether amounts specified in the agreement are fixed rent.

(4) *Lease date* means the date on which the lessee first has the right to use property that is the subject of the section 467 rental agreement.

(5) *Lease term* means the period during which the lessee has the use of property subject to the section 467 rental agreement. An option period is included in the lease term only if it is expected, as of the agreement date, that the option will be exercised by either the lessor or the lessee. For this purpose, a lessor is generally expected to exercise an option if, for example, as of the agreement date, the rent in effect for the option period exceeds the expected market rental for the property during such period. Similarly, a lessee is generally expected to exercise an option if, for example, as of the agreement date, the rent for the option period is less than the expected market rental for such period. The lessor's or lessee's determination that an option period is either included in or excluded from the lease term is not binding on the Commissioner. If the lessee (or a related person) agrees that one or both of them will or could be obligated to make payments in the nature of rent (within

the meaning of § 1.168(i)–2(b)(2)) for a period when another lessee (the substitute lessee) or the lessor will have use of the property subject to the rental agreement, the Commissioner may, in appropriate cases, treat the period when the substitute lessee or lessor will have use of the property as part of the lease term. See paragraph § 1.467–7(f) for special rules applicable to the lessee, substitute lessee, and lessor.

(6) An adjustment is *based on a reasonable price index* if the adjustment reflects inflation or deflation occurring over a period during the lease term and is determined consistently under any generally recognized index for measuring inflation or deflation.

(7) Except as otherwise provided in this paragraph (h)(7), two persons are *related persons* if they either have a relationship to each other that is specified in section 267(b) or section 707(b)(1) or are related entities within the meaning of sections 168(h)(4) (A), (B), or (C). For purposes of determining whether a section 467 rental agreement is a leaseback within the meaning of § 1.467–3(b)(2), two persons are *related persons* if they are related persons within the meaning of section 465(b)(3)(C).

(8) *Rental agreement* includes any agreement, whether written or oral, that provides for the use of tangible property and is treated as a lease for Federal income tax purposes.

(9) *Third-party costs* include any real estate taxes, insurance premiums, maintenance costs, or any other cost (other than a debt service cost) that relates to the leased property and is not within the control of the lessor or lessee or any related person.

(i) [Reserved].

(j) *Computational rules.* For purposes of this section and §§ 1.467–2 through 1.467–8, the following rules apply—

(1) *Counting conventions.* Any reasonable counting convention may be used (e.g., 30 days per month/360 days per year) to determine the length of a rental period or to perform any computation. Rental periods of the same descriptive length, for example annual, semiannual, quarterly, or monthly, may be treated as being of equal length.

(2) *Conventions regarding timing of rent and payments*—(i) *In general.* For purposes of determining present values and yield—

(A) Except as otherwise provided in this section and §§ 1.467–2 through 1.467–7, the rent allocated to a rental period is taken into account on the last day of the rental period;

(B) Any amount payable during the first half of the first rental period is treated as payable on the first day of that rental period;

(C) Any amount payable during the first half of any other rental period is treated as payable on the last day of the preceding rental period; and

(D) Any amount payable during the second half of a rental period is treated as payable on the last day of the rental period.

(ii) *Time amount is payable.* For purposes of this paragraph (j)(2), an amount is payable on the last day for timely payment (that is, the last day such amount may be paid without incurring interest, computed at an arm's-length rate, or a substantial penalty charge) and an amount payable at the midpoint of a rental period is treated as payable during the first half of the rental period.

(3) *Annualized fixed rent.* Annualized fixed rent is determined by multiplying the fixed rent allocated to the rental period under paragraph (c)(2)(ii) of this section by a number that represents the ratio of one year to the length of the rental period. Thus, if the fixed rent allocated to a rental period is $100,000 and the rental period is one month, the annualized fixed rent allocated to the rental period is $1,200,000.

(4) *Allocation of fixed rent within a period.* A rental agreement that allocates fixed rent to any period is treated as allocating fixed rent ratably within that period. Thus, if a rental agreement provides that $120,000 is allocated to each calendar year in the lease term, $10,000 of rent is allocated to each calendar month.

(5) *Rental period length.* Except as provided in § 1.467–3(d)(1) (relating to agreements for which constant rental accrual is required), rental periods may be of any length and may vary in length as long as—

(i) The rental periods are one year or less, cover the entire lease term, and do not overlap;

(ii) Each scheduled payment under the rental agreement (other than a payment scheduled to occur before or after the lease term) occurs within 30 days of the beginning or end of a rental period; and

(iii) In the case of a rental agreement that does not provide a specific allocation of fixed rent, the rental periods selected do not cause the agreement to be treated as a section 467 rental agreement unless all alternative rental period schedules would result in such treatment.

§ 1.467–2 Rent accrual for section 467 rental agreements without adequate interest.

(a) *Section 467 rental agreement for which proportional rental accrual is required.* Under § 1.467–1(d)(2)(ii), the fixed rent for each rental period is the proportional rental amount, defined under paragraph (c) of this section, if—

(1) The section 467 rental agreement is not a disqualified leaseback or long-term agreement under § 1.467–3(b); and

(2) The section 467 rental agreement does not provide adequate interest on fixed rent under paragraph (b) of this section.

(b) *Adequate interest on fixed rent*—(1) *In general.* A section 467 rental agreement provides adequate interest on fixed rent if, disregarding any contingent rent—

(i) The rental agreement has no prepaid or deferred rent as described in § 1.467–1(c)(3);

(ii) The rental agreement has prepaid or deferred rent, and—

(A) The rental agreement provides interest (the stated rate of interest) on deferred or prepaid fixed rent at a single fixed rate (as defined in § 1.1273–1(c)(1)(iii));

(B) The stated rate of interest on fixed rent is no lower than 110 percent of the applicable Federal rate (as defined in paragraph (e)(3) of this section);

(C) The amount of deferred or prepaid fixed rent on which interest is charged is adjusted at least annually to reflect the amount of deferred or prepaid fixed rent as of a date no earlier than the date of the preceding adjustment and no later than the date of the succeeding adjustment; and

(D) The rental agreement requires interest to be paid or compounded at least annually;

(iii) The rental agreement provides for deferred rent but no prepaid rent, and the sum of the present values of all amounts payable by the lessee as fixed rent (and interest, if any, thereon) is equal to or greater than the sum of the present values of the fixed rent allocated to each rental period; or

(iv) The rental agreement provides for prepaid rent but no deferred rent, and the sum of the present values of all amounts payable by the lessee as fixed rent, plus the sum of the negative present values of all amounts payable by the lessor as interest, if any, on prepaid fixed rent, is equal to or less than the sum of the present values of the fixed rent allocated to each rental period.

(2) *Section 467 rental agreements that provide for a variable rate of interest.* For purposes of the adequate interest test under paragraph (b)(1) of this section, if a section 467 rental

agreement provides for variable interest, the rental agreement is treated as providing for fixed rates of interest on deferred or prepaid fixed rent equal to the fixed rate substitutes (determined in the same manner as under § 1.1275–5(e) treating the agreement date as the issue date) for the variable rates called for by the rental agreement. For purposes of this section, a rental agreement provides for variable interest if the rental agreement provides for stated interest that is paid or compounded at least annually at a rate or rates that meet the requirements of § 1.1275–5(a)(3)(i)(A) or (B) and § 1.1275–5(a)(4).

(c) *Computation of proportional rental amount*—(1) *In general.* The proportional rental amount for a rental period is the amount of fixed rent allocated to the rental period under § 1.467–1(c)(2)(ii), multiplied by a fraction. The numerator of the fraction is the sum of the present values of the amounts payable under the terms of the section 467 rental agreement as fixed rent and interest thereon. The denominator of the fraction is the sum of the present values of the fixed rent allocated to each rental period under the rental agreement.

(2) *Section 467 rental agreements that provide for a variable rate of interest.* To calculate the proportional rental amount for a section 467 rental agreement that provides for a variable rate of interest, see § 1.467–5.

(d) *Present value.* For purposes of determining adequate interest under paragraph (b) of this section or the proportional rental amount under paragraph (c) of this section, present values are determined as of the first day a fixed rent payment is called for by the section 467 rental agreement if the rental agreement calls for payments of fixed rent prior to the lease term. Otherwise, present values are determined as of the first day of the first rental period in the lease term. The present value of any amount is determined using a discount rate equal to 110 percent of the applicable Federal rate. For purposes of the present value determination under paragraph (b)(1)(iv) of this section, the fixed rent allocated to a rental period must be discounted from the first day of the rental period. For other conventions and rules relating to the determination of present value, see § 1.467–1(g) and (j).

(e) *Applicable Federal rate*—(1) *In general.* The applicable Federal rate for a section 467 rental agreement is the applicable Federal rate in effect on the agreement date. Except as otherwise provided in this section, the *applicable Federal rate* for a rental agreement means—

(i) The Federal short-term rate if the term of the rental agreement is not over 3 years;

(ii) The Federal mid-term rate if the term of the rental agreement is over 3 years but not over 9 years; and

(iii) The Federal long-term rate if the term of the rental agreement is over 9 years.

(2) *Source of applicable Federal rates.* The Internal Revenue Service publishes the applicable Federal rates, based on annual, semiannual, quarterly, and monthly compounding, each month in the Internal Revenue Bulletin (see § 601.601(d) of this chapter. However, the applicable Federal rates may be based on any compounding assumption. To convert a rate based on one compounding assumption to an equivalent rate based on a different compounding assumption, see § 1.1272–1(j), *Example 1.*

(3) *110 percent of applicable Federal rate.* For purposes of § 1.467–1, this section and §§ 1.467–3 through 1.467–8, 110 percent of the applicable Federal rate means 110 percent of the applicable Federal rate based on semiannual compounding, or any rate based on a different compounding assumption that is equivalent to 110 percent of the applicable Federal rate based on semiannual compounding.

(4) *Term of the section 467 rental agreement*—(i) *In general.* For purposes of determining 110 percent of the applicable Federal rate under this paragraph (e), the term of the section 467 rental agreement includes the lease term, any period before the lease term beginning with the first day an amount of fixed rent is payable under the terms of the rental agreement, and any period after the lease term ending with the last day an amount of fixed rent or interest thereon is payable under the rental agreement.

(ii) *Section 467 rental agreements with variable interest.* If a section 467 rental agreement provides variable interest on prepaid or deferred fixed rent, the term of the rental agreement for purposes of calculating 110 percent of the applicable Federal rate is determined in accordance with paragraph (e)(4)(i) of this section by substituting for the term of the rental agreement, the longest period between interest rate adjustment dates, or, if the rental agreement provides an initial fixed rate of interest on prepaid or deferred fixed rent, the period between the agreement date and the last day the fixed rate applies, if this period is longer. If, as described in § 1.1274–4(c)(2)(ii), the rental agreement provides for a qualified floating rate (as defined in § 1.1275–5(b)) that in substance resembles a fixed rate, 110 percent of the applicable Federal rate is determined by reference to the lease term.

(f) *Examples.* The following examples illustrate the application of this section. In each of these examples it is assumed that constant rental accrual does not apply:

Example 1. (i) C agrees to lease property from D for five years beginning on January 1, 1998, and ending on December 31, 2002. The section 467 rental agreement provides that rent of $100,000 accrues in each calendar year in the lease term and that rent of $500,000 plus $120,000 of interest is payable on December 31, 2002. Assume that the parties select the calendar year as the rental period and that 110 percent of the applicable Federal rate based on annual compounding is 10 percent.

(ii) The rental agreement has deferred rent under § 1.467- 1(c)(3)(i) because the fixed rent allocated to calendar years 1998, 1999, and 2000 is not paid until 2002. In addition, because the rental agreement does not state an interest rate, the rental agreement does not satisfy the requirements of paragraph (b)(1)(ii) of this section. Thus, the adequacy of interest must be determined under paragraph (b)(1)(iii) of this section.

(iii)(A) Because the rental agreement has deferred fixed rent and no prepaid rent, the agreement has adequate interest only if the present value rules provided in paragraph (b)(1)(iii) are met. The present value of all fixed rent and interest payable under the rental agreement is $384,971.22, determined as follows: $384,971.22 = $620,000/$(1.10)^5$. The present value of all fixed rent allocated under the rental agreement (discounting the amount of fixed rent allocated to a rental period from the last day of the rental period) is $379,078.68, determined as follows:

$$\$379{,}078.68 = \$100{,}000 \times \frac{1-(1.10)^{-5}}{.10}$$

(B) Accordingly, the sum of the present values of amounts payable exceeds the sum of the present values of fixed rent allocated. The rental agreement provides adequate interest on fixed rent.

(iv) For an example illustrating the computation of the yield on the rental agreement and the allocation of the interest and rent provided for under the rental agreement, see § 1.467–4(f), *Example 2.*

Example 2. (i) E and F enter into a section 467 rental agreement for the lease of equipment beginning on January 1, 1998, and ending on December 31, 2002. The rental agreement provides that rent of $100,000 accrues for each calendar month during the lease term. All rent is payable on December 31, 2002, together with interest on accrued rent at a qualified floating rate set at a current value (as defined in § 1.1275–5(a)(4)) that is compounded at the end of each calendar month and adjusted at the beginning of each calendar month throughout the lease term. Therefore, the rental agreement provides for variable interest within the meaning of paragraph (b)(2) of this section.

(ii) On the agreement date the qualified floating rate is 7.5 percent, and 110 percent of the applicable Federal rate, as defined in paragraph (e)(3) of this section, based on monthly compounding, is 7 percent. Under paragraph (b)(2) of this section, the fixed rate substitute for the qualified floating rate is 7.5 percent and the agreement is treated as providing for interest at this fixed rate for purposes of determining whether adequate interest is provided under paragraph (b) of this section. Accordingly, the requirements of paragraph (b)(1)(ii) of this section are satisfied, and the rental agreement has adequate interest.

Example 3. (i) X and Y enter into a section 467 rental agreement for the lease of real property beginning on January 1, 1998, and ending on December 31, 2000. The rental agreement provides that rent of $80,000 is allocable to 1998, $100,000 is allocable to 1999, and $120,000 is allocable to 2000. Under the rental agreement, Y must make a $300,000 payment on December 31, 2000. Assume that both X and Y choose the calendar year as the rental period, X and Y are calendar year taxpayers, and 110 percent of the applicable Federal rate is 8.5 percent compounded annually. Assume further that the rental agreement fails to provide adequate interest under paragraph (b)(1) of this section. Therefore, under § 1.467–1(d)(2)(ii), the fixed rent for each rental period is the proportional rental amount.

(ii)(A) The proportional rental amount is computed under paragraph (c) of this section. Because the rental agreement does not call for any fixed rent payments prior to the lease term, under paragraph (d) of this section, present value is determined as of the first day of the first rental period in the lease term. The sum of the present values of the amounts payable by the lessee under the rental agreement is computed as follows:

$$\$234,872.43 = \frac{\$300,000}{(1+.085)^3}$$

(B) The sum of the present values of the fixed rent allocated to each rental period (discounting the fixed rent allocated to a rental period from the last day of such rental period) is computed as follows:

$$\$252,627.22 = \frac{\$80,000}{(1+.085)} + \frac{\$100,000}{(1+.085)^2} + \frac{\$120,000}{(1+.085)^3}$$

(C) Thus, the fraction for determining the proportional rental amount is .9297194 ($234,872.43/$252,627.22). The section 467 fixed rents for the taxable years within the lease term are:

Taxable year	Section 467 rent
1998	$74,377.55 ($80,000 × .9297194)
1999	92,971.94 ($100,000 × .9297194)
2000	111,566.33 ($120,000 × .9297194)

§ 1.467–3 Disqualified leasebacks and long-term agreements.

(a) *General rule.* Under § 1.467–1(d)(2)(i), constant rental accrual (as described under paragraph (d) of this section) must be used to determine the fixed rent for each rental period in the lease term if the section 467 rental agreement is a disqualified leaseback or long-term agreement within the meaning of paragraph (b) of this section.

(b) *Disqualified leaseback or long-term agreement*—(1) *In general.* A leaseback (as defined in paragraph (b)(2) of this section) or a long-term agreement (as defined in paragraph (b)(3) of this section) is disqualified only if—

(i) The amount determined with respect to the section 467 rental agreement under § 1.467–1(c)(4) (relating to the exception for rental agreements involving total payments of $250,000 or less) exceeds $2,000,000;

(ii) A principal purpose for providing increasing or decreasing rent is the avoidance of Federal income tax (as described in paragraph (c) of this section); and

(iii) The Commissioner determines that it is appropriate to treat the section 467 rental agreement as a disqualified leaseback or long-term agreement.

(2) *Leaseback.* A section 467 rental agreement is a leaseback if the lessee (or a related person) had any interest (other than a de minimis interest) in the property at any time during the two-year period ending on the agreement date. For this purpose, interests in property include options and agreements to purchase the property (whether or not the lessee or related person was considered the owner of the property for Federal income tax purposes) and, in the case of subleased property, any interest as a sublessor.

(3) *Long-term agreement*—(i) *In general.* A section 467 rental agreement is a long-term agreement if the lease term exceeds 75 percent of the statutory recovery period for the property.

(ii) *Statutory recovery period*—(A) *In general.* The term *statutory recovery period* means—

(*1*) In the case of property depreciable under section 168, the applicable period determined under section 467(e)(3)(A);

(*2*) In the case of land, 19 years; and

(*3*) In the case of any other tangible property, the period that would apply under section 467(e)(3)(A) if the property were property to which section 168 applied.

(B) *Special rule for leases of properties having different statutory recovery periods.* In the case of a lease of two or more related properties that have different statutory recovery periods, the statutory recovery period for purposes of paragraph (b)(3)(ii)(A) of this section is the weighted average, based on the fair market values of the properties on the lease date, of the statutory recovery periods of each of the properties.

(c) *Tax avoidance as principal purpose for increasing or decreasing rent*—(1) *In general.* Whether tax avoidance is a principal purpose for providing increasing or decreasing rent in a leaseback or long-term agreement is based on all of the facts and circumstances. However, if either the lessee or the lessor is not subject to Federal income tax on its income or is a tax- exempt entity (within the meaning of section 168(h)(2)), the agreement will be closely scrutinized and clear and convincing evidence will be required to establish that tax avoidance is not a principal purpose for providing increasing or decreasing rent.

(2) *Safe harbors.* Tax avoidance is not considered to be a principal purpose for providing increasing or decreasing rent if—

(i) The rent allocated to each calendar year (determined without regard to any increase or decrease attributable to a provision described in paragraph (c)(2)(ii)(C) of this section) does not vary from the average rent allocated to all calendar years by more than 10 percent (for this purpose, the rent allocated to a partial calendar year is adjusted by

multiplying the rent by the number of partial years in a full calendar year); or

(ii) All of the increases and decreases in rent are attributable to one or more of the following provisions—

(A) A provision requiring an increase in rent equal to a percentage of the lessee's receipts (gross or net) if the percentage does not vary throughout the term of the lease;

(B) A provision requiring an adjustment based on a reasonable price index as described in § 1.467–1(h);

(C) A provision requiring the lessee to pay third-party costs as described in § 1.467–1(h); or

(D) A rent holiday provision allowing reduced rent (including no rent) for an interim period at the beginning of the lease term, but only if the duration of the rent holiday does not exceed the lesser of 24 months or 10 percent of the lease term and there is a substantial business purpose for the rent holiday provision.

(d) *Calculating constant rental amount*—(1) *In general.* Except as provided in paragraph (d)(2) of this section, the constant rental amount is the amount that, if paid at the end of each rental period, would result in a present value equal to the present value of all amounts payable under the disqualified leaseback or long-term agreement as rent and interest. In computing the constant rental amount, the rules for determining present value are the same as those provided in § l.467–2(d) for computing the proportional rental amount. If constant rental accrual is required, all rental periods (other than an initial or final short period of not more than one month) must be equal in length and satisfy the requirements of § 1.467–1(j)(5).

(2) *Initial or final short periods.* If a disqualified leaseback or long-term agreement has an initial or final short rental period, the constant rental amount for the initial or final short period may be determined under any reasonable method. However, the sum of the present values of all the constant rental amounts must equal the present values of all amounts payable under the disqualified leaseback or long-term agreement as rent and interest. Any adjustment necessary to eliminate the section 467 loan balance because of the method used to determine the constant rental amount for short periods must be taken into account as section 467 rent for the final rental period.

(3) *Method to determine constant rental amount; no short periods*—(i) *Step 1.* Determine the present value of amounts payable under the disqualified leaseback or long-term agreement as rent or interest.

(ii) *Step 2.* Determine the present value of $1 to be received at the end of each rental period during the lease term as of the first day of the first rental period during the lease term (or, if earlier, the first day a rent payment is required under the rental agreement).

(iii) *Step 3.* Divide the amount determined in paragraph (d)(3)(i) of this section (Step 1) by the number of dollars determined in paragraph (d)(3)(ii) of this section (Step 2).

(e) *Example.* The following example illustrates the application of paragraph (d) of this section:

Example. (i) X and Y enter into a disqualified leaseback for a 5-year lease of personal property beginning on January 1, 1998, and ending on December 31, 2002. The rental agreement provides that $0 of rent is allocated to years 1998, 1999, and 2000, and that rent of $17,500,000 is allocated to years 2001 and 2002. The rental agreement provides that the rent allocated to each year is payable on December 31 of that year. Assume all rental periods are the calendar year. Assume also that 110 percent of the applicable Federal rate based on annual compounding is 12 percent.

(ii) Step 1 in calculating the constant rental amount is to determine the present value of the two payments due under the rental agreement as follows:

$$\$21{,}051{,}536 = \frac{\$17{,}500{,}000}{(1.12)^4} + \frac{\$17{,}500{,}000}{(1.12)^5}$$

(iii) Because no amounts of rent are payable before the lease term, Step 2 in calculating the constant rental amount is to determine the present value as of the first day of the lease term of $1 to be received at the end of each rental period during the lease term. This results in a present value of $3.6047762. In Step 3 the amount determined in Step 1 is divided by the number of dollars determined in Step 2. Thus, the constant rental amount is $5,839,901 for each calendar year during the lease term computed as follows:

$$\$5{,}839{,}901 = \frac{\$21{,}051{,}536}{3.6047762}$$

§ 1.467–4 Section 467 loan.

(a) *In general*—(1) *Overview.* Except as provided in paragraph (a)(2) of this section, the section 467 loan rules of this section apply to a section 467 rental agreement if, as of the first day of that period, there is a difference between the amount of fixed rent payable under the rental agreement on or before the first day and the amount of fixed rent required to be accrued in accordance with § 1.467–1(d)(2) before the first day. Paragraph (b) of this section provides rules for computing the principal balance of a section 467 loan at the beginning of any rental period. The principal balance of a section 467 loan may be positive or negative. For purposes of the Code, if the principal balance is positive, the amount represents a loan from the lessor to the lessee and, if the principal balance is negative, the amount represents a loan from the lessee to the lessor.

(2) *No section 467 loan in the case of certain section 467 rental agreements.* Except as provided in paragraph (a)(3) and (4) of this section, this section does not apply to section 467 rental agreements that provide adequate interest under § 1.467–2(b)(1)(i) (agreements with no deferred or prepaid rent) or § 1.467–2(b)(1)(ii) (agreements with deferred or prepaid rent that provide adequate stated interest at a single fixed rate).

(3) *Rental agreements subject to constant rental accrual.* Notwithstanding the provisions of paragraph (a)(2) of this section, this section applies to rental agreements subject to constant rental accrual under § 1.467–3.

(4) *Special rule in applying the provisions of § 1.467–7(e) or (f).* Notwithstanding the provisions of paragraph (a)(2) of this section, this section applies to rental agreements that provide adequate interest under § 1.467–2(b)(1) (i) or (ii), but only for purposes of applying the provisions of

§ 1.467–7(e) (relating to dispositions of property subject to a section 467 rental agreement) or § 1.467–7(f) (relating to assignments by lessees and lessee-financed renewals) to a transaction described therein. Further, for section 467 rental agreements that provide adequate interest under § 1.467–2(b)(1)(i) or (ii), the section 467 interest that accrues on the section 467 loan balance after the sale, exchange, or other disposition under § 1.467–7(e) or the assignment or renewal under § 1.467–7(f) is the section 467 interest that accrues under the terms of the rental agreement (if any).

(b) *Principal balance*—(1) *In general.* Except as provided in paragraph (b)(2) of this section or in § 1.467–7(e) or (f), the principal balance of the section 467 loan at the beginning of a rental period equals the fixed rent accrued in preceding rental periods—

(i) Increased by the interest on fixed rent includible in the gross income of the lessor for preceding rental periods and any amount payable by the lessor on or before the first day of the rental period as interest on prepaid fixed rent; and

(ii) Decreased by the interest on prepaid fixed rent includible in the gross income of the lessee for preceding rental periods and any amount payable by the lessee on or before the first day of the rental period as fixed rent or interest thereon.

(2) *Section 467 rental agreements that provide for prepaid fixed rent and adequate stated interest.* If a section 467 rental agreement calls for prepaid fixed rent and provides adequate interest under § 1.467–2(b)(1)(iv), the principal balance of the section 467 loan at the beginning of a rental period equals the principal balance determined under paragraph (b)(1) of this section, plus the fixed rent accrued for that rental period.

(3) *Timing of payments.* For purposes of this paragraph (b), the day on which an amount is payable is determined under the rules of § 1.467–1(j)(2).

(c) *Yield*—(1) *In general*—(i) *Method of determining yield.* Except as provided in paragraph (c)(2) of this section, the yield of a section 467 loan is the discount rate at which the sum of the present values of all amounts payable by the lessee as fixed rent and interest on fixed rent, plus the sum of the present values of all amounts payable by the lessor as interest on prepaid fixed rent, equals the sum of the present values of the fixed rent that accrues in accordance with § 1.467–1(d)(2). The yield must be constant over the term of the section 467 rental agreement, and, when expressed as a percentage, must be calculated to at least two decimal places.

(ii) *Method of stating yield.* In determining the section 467 interest for a rental period, the yield of the section 467 loan must be stated appropriately by taking into account the length of the rental period. Section 1.1272–1(j) *Example 1* provides a formula for converting a yield based on a period of one length to an equivalent yield based on a period of a different length.

(iii) *Rounding adjustments.* Any adjustment necessary to eliminate the section 467 loan because of rounding the yield to two or more decimal places must be taken into account as section 467 interest for the final rental period determined as provided in paragraph (e) of this section.

(2) *Yield of section 467 rental agreements for which constant rental amount or proportional rental amount is computed.* In the case of a section 467 rental agreement to which § 1.467-1(d)(2) (i) or (ii) applies, the yield of the section 467 loan equals 110 percent of the applicable Federal rate (based on a compounding period equal to the rental period).

(3) *Determination of present values.* The rules for determining present value in computing the yield of a section 467 loan are the same as those provided in § 1.467–2(d) for computing the proportional rental amount.

(d) *Contingent payments.* Except as otherwise required under § 1.467–6, contingent payments are not taken into account in calculating either the yield or the principal balance of a section 467 loan.

(e) *Section 467 rental agreements that call for payments before or after the lease term.* If a section 467 rental agreement calls for the payment of fixed rent or interest thereon before the beginning of the lease term, this section must be applied by treating the period beginning on the first day an amount is payable and ending on the day before the beginning of the first rental period of the lease term as one or more rental periods. If a rental agreement calls for the payment of fixed rent or interest thereon after the end of the lease term, this section must be applied by treating the period beginning on the day after the end of the last rental period of the lease term and ending on the last day an amount of fixed rent or interest thereon is payable as one or more rental periods. Rental period length for the period before the lease term or after the lease term is determined in accordance with the rules of § 1.467–1(j)(5).

(f) *Examples.* The following examples illustrate the application of this section:

Example 1. (i)(A) A leases property to B for a three-year period beginning on January 1, 1998, and ending on December 31, 2000. The section 467 rental agreement has the following rent allocation schedule and payment schedule:

	Rent allocation	Payment
1998	$400,000	
1999	600,000	
2000	800,000	$1,800,000

(B) The rental agreement requires a $1.8 million payment to be made on December 31, 2000, but does not provide for interest on deferred rent. Assume A and B choose the calendar year as the rental period length. Assume further that 110 percent of the applicable Federal rate based on annual compounding is 10 percent.

(ii) The rental agreement is not a disqualified leaseback or long-term agreement because it does not provide for the payment of more than $2,000,000 in rent (determined pursuant to § 1.467–3(b)(1)(i)). Because the section 467 rental agreement does not provide adequate interest under § 1.467–2(b) and is not subject to constant rental accrual, the fixed rent that accrues during each rental period is the proportional rental amount as described in § 1.467–2(c). The proportional rental amounts for each rental period are as follows:

1998 $370,370.37
1999 555,555.56
2000 740,740.74

(iii) A section 467 loan arises at the beginning of the second rental period because the rent payable on or before that day (zero) is less than the fixed rent accrued under § 1.467–1(d)(2) in all preceding rental periods ($370,370.37). Under paragraph (c)(2) of this section, the yield of the loan is equal to 110 percent of the applicable Federal rate (10 percent compounded annually). Because no payments are treated as made on or before the first day of the second rental period, the principal balance of the loan at the beginning of the second rental period is $370,370.37. The interest for the second rental period on fixed rent is $37,037.04 (.10 x $370,370.37) and, under § 1.467–1(e)(3), is treated as interest income of the lessor and as an interest expense of the lessee.

(iv) Because no payments are made on or before the first day of the third rental period, the principal balance of the loan at the beginning of the third rental period is equal to the fixed rent accrued during the first and second rental periods plus the lessor's interest income on fixed rent for the second rental period ($962,962.97 = $370,370.37 + $555,555.56 + $37,037.04). The interest for the third rental period on fixed rent is $96,296.30 (.10 x $962,962.97). Thus, the sum of the fixed rent and interest on fixed rent for the three rental periods is equal to the total amount paid over the lease term (first year fixed rent accrual, $370,370.37, plus second year fixed rent and interest accrual, $555,555.56 + $37,037.04, plus third year fixed rent and interest accrual, $740,740.74 + $96,296.30, equals $1,800,000). B takes the amounts of interest and rent into account as expense and A takes such amounts into account as income for the

calendar years identified above, regardless of their respective methods of accounting.

Example 2. (i) The facts are the same as in *Example 1,* § 1.467–2(f).

(ii)(A) Pursuant to paragraph (c)(1) of this section, the yield of the section 467 loan is 10.775078%, compounded annually. The following is a schedule of the rent allocable to each rental period during the lease term, the balance of the section 467 loan as of the end of each rental period (determined, in the case of the calendar year 2002, without regard to the single payment of rent and interest in the amount of $620,000 payable on the last day of the lease term), and the interest on the section 467 loan allocable to each rental period:

Calendar year	Section 467 interest	Section 467 rent	Section 467 loan balance
1998	$0	$100,000.00	$100,000.00
1999	10,775.08	100,000.00	210,775.08
2000	22,711.18	100,000.00	333,486.26
2001	35,933.41	100,000.00	469,419.67
2002	50,580.33	100,000.00	620,000.00

(B) C takes the amounts of interest and rent into account as expense and D takes such amounts into account as income for the calendar years identified above, regardless of their respective methods of accounting.

§ 1.467–5 Section 467 rental agreements with variable interest.

(a) *Variable interest on deferred or prepaid rent*—(1) *In general.* This section provides rules for computing section 467 rent and interest in the case of section 467 rental agreements providing variable interest. For purposes of this section, a rental agreement provides for variable interest if the rental agreement provides for stated interest that is paid or compounded at least annually at a rate or rates that meet the requirements of § 1.1275–5(a)(3)(i) (A) or (B) and § 1.1275–5(a)(4). If a section 467 rental agreement provides for interest that is neither variable interest nor determined by reference to a fixed rate, the amount of any interest will be treated as a contingent payment subject to § 1.467–6.

(2) *Exceptions.* This section is not applicable to section 467 rental agreements that provide adequate interest under § 1.467–2(b)(1)(i) (agreements with no deferred or prepaid rent) or § 1.467–2(b)(1)(ii) (rental agreements with stated interest at a single fixed rate). The exceptions in this paragraph (a)(2) do not apply to rental agreements subject to constant rental accrual under § 1.467–3.

(b) *Variable rate treated as fixed*—(1) *In general.* If a section 467 rental agreement provides variable interest—

(i) The fixed rate substitutes (determined in the same manner as under § 1.1275–5(e) treating the agreement date as the issue date) for the variable rates of interest on prepaid or deferred fixed rent provided by the rental agreement must be used in computing the proportional rental amount under § 1.467–2(c), the constant rental amount under § 1.467–3(d), the principal balance of a section 467 loan under § 1.467–4(b), and the yield of a section 467 loan under § 1.467–4(c); and

(ii) The interest on fixed rent for any rental period is equal to the amount that would be determined under § 1.467–1(e)(2) if the section 467 rental agreement did not provide variable interest, using the fixed rate substitutes determined under paragraph (b)(1)(i) of this section in place of the variable rates called for by the rental agreement, plus the variable interest adjustment amount provided in paragraph (b)(2) of this section.

(2) *Variable interest adjustment amount*—(i) *In general.* The variable interest adjustment amount for a rental period equals the difference between—

(A) The amount of interest that, without regard to section 467, would have accrued during the rental period under the terms of the section 467 rental agreement; and

(B) The amount of interest that, without regard to section 467, would have accrued during the rental period under the terms of the section 467 rental agreement using the fixed rate substitutes determined under paragraph (b)(1)(i) of this section in place of the variable interest rates called for by the rental agreement.

(ii) *Sign of adjustment.* If the amount determined under paragraph (b)(2)(i)(A) of this section is greater than the amount determined under paragraph (b)(2)(i)(B) of this section, the variable interest adjustment amount is positive. If the amount determined under paragraph (b)(2)(i)(A) of this section is less than the amount determined under paragraph (b)(2)(i)(B) of this section, the variable interest adjustment amount is negative.

(3) *Section 467 loan balance.* The variable interest adjustment amount is not taken into account in determining the principal balance of a section 467 loan under § 1.467–4(b). Instead, the section 467 loan balance is computed as if all amounts payable under the section 467 rental agreement were based on the fixed rate substitutes determined under paragraph (b)(1)(i) of this section.

(c) *Examples.* The following examples illustrate the application of this section:

Example 1. (i) X and Y enter into a section 467 rental agreement for the lease of personal property beginning on January 1, 1998, and ending on December 31, 2000. It allocates $100,000 of rent to 1998, $200,000 to 1999, and $100,000 to 2000, and requires the lessee to pay all $400,000 of rent on December 31, 2000. The rental agreement requires the accrual of interest on unpaid accrued rent at two different qualified floating rates (as defined in § 1.1275–5(b)), one for 1999 and the other for 2000, such interest to be paid on December 31 of the year it accrues. The rental agreement provides that the qualified floating rate is set at a current value within the meaning of § 1.1275–5(a)(4). Assume that on the agreement date, 110 percent of the applicable Federal rate is 10 percent, compounded annually.

(ii) The rental agreement is not a disqualified leaseback or long-term agreement because it does not provide for the payment of more than $2,000,000 in rent (determined pursuant to § 1.467–3(b)(1)(i)). To determine if the section 467 rental agreement provides for adequate interest under § 1.467–2(b), § 1.467–2(b)(2) requires the use of fixed rate substitutes (in this example determined in the same manner as under § 1.1275–5(e)(3)(i) treating the agreement date as the issue date) in place of the variable rates called for by the rental agreement. Assume that on the agreement date the qualified floating rates, and therefore the fixed rate substitutes, relating to 1999 and 2000 are 10 and 15 percent compounded annually. Taking into account the fixed rate substitutes, the sum of the present values of all amounts payable by the lessee as fixed rent and interest thereon is greater than the sum of the present values of the fixed rent allocated to each rental period. Accordingly, the rental agreement provides adequate interest under § 1.467–2(b)(1)(iii) and the fixed rent accruing in each calendar year during the rental agreement is the fixed rent allocated under the rental agreement.

(iii) Because the section 467 rental agreement provides for variable interest on unpaid accrued fixed rent at qualified floating rates and the qualified floating rates are set at a current value, the requirements of § 1.1275–5(a)(3)(i)(A) and (4) are met and the rental agreement provides for variable

interest within the meaning of paragraph (a)(1) of this section. Therefore, under paragraph (b)(1)(i) of this section, the yield of the section 467 loan is computed based on the fixed rate substitutes. Under § 1.467–4(c), the constant yield (rounded to two decimal places) equals 13.63 percent compounded annually. Based on the fixed rate substitutes, the fixed rent, interest on fixed rent, and the principal balance of the section 467 loan, for each calendar year during the lease term, are as follows:

	Accrued rent	Accrued interest	Projected payment	Cumulative loan
1998	$100,000	$0	$0	$100,000
1999	200,000	13,630	(10,000)	303,630
2000	100,000	41,370	(445,000)	0

(iv) To compute the actual reported interest on fixed rent for each calendar year, the variable interest adjustment amount, as described in paragraph (b)(2) of this section, must be added to the accrued interest determined in paragraph (iii) of this *Example 1*. Assume that the variable rates for 1999 and 2000 are actually 11 and 14 percent, respectively. Without regard to section 467, the interest that would have accrued during each calendar year under the terms of the section 467 rental agreement, and the interest that would have accrued under the terms of the rental agreement using the fixed rate substitutes determined under paragraph (b)(1)(i) are as follows:

	Accrued interest under rental agreement	Accrued interest using fixed rate substitutes
1998	$0	$0
1999	11,000	10,000
2000	42,000	45,000

(v) Under paragraph (b)(2) of this section, the variable interest adjustment amount is $1,000 ($11,000 − $10,000) for 1999 and is −$3,000 ($42,000 − $45,000) for 2000. Thus, under paragraph (b)(1)(ii) of this section, the actual interest on fixed rent for 1999 is $14,630 ($13,630+$1,000) and for 2000 is $38,370 ($41,370 − $3,000).

Example 2. (i) The facts are the same as in *Example 1* except that 110 percent of the applicable Federal rate is 15 percent compounded annually and the section 467 rental agreement does not provide adequate interest under § 1.467–2(b). Consequently, the fixed rent for each calendar year during the lease is the proportional rental amount.

(ii) The sum of the present values of the fixed rent provided for each calendar year during the lease term, discounted at 15 percent compounded annually, equals $303,936.87.

(iii)(A) Paragraph (b)(1)(i) of this section requires the proportional rental amount to be computed based on the assumption that interest will accrue and be paid based on the fixed rate substitutes. Thus, the sum of the present values of the projected payments under the section 467 rental agreement equals $300,156.16, computed as follows:

$10,000/(1.15)^2	=	$7,561.44
445,000/(1.15)^3	=	292,594.72
		300,156.16

(B) The fraction for computing the proportional rental amount equals .9875609 ($300,156.16/$303,936.87).

(iv) Based on the fixed rate substitutes, the fixed rent, interest on fixed rent, and the balance of the section 467 loan for each calendar year during the lease term are as follows:

	Proportional rent	Accrued interest	Projected payment	Cumulative loan
1998	$98,756.09	$0.00	$0	$98,756.09
1999	197,512.18	14,813.41	(10,000)	301,081.68
2000	98,756.09	45,162.23	(445,000)	0.00

(v) The variable interest adjustment amount in this example is the same as in *Example 1*. Under paragraph (b)(1)(ii) of this section, the actual interest on fixed rent for 1999 is $15,813.41 ($14,813.41+$1,000) and for 2000 is $42,162.23 ($45,162.23 − $3,000).

§ 1.467–6 Section 467 rental agreements with contingent payments. [Reserved]

§ 1.467–7 Section 467 recapture and other rules relating to dispositions.

(a) *Section 467 recapture.* Notwithstanding any other provision of the Code, except as provided in paragraph (c) of this section, a lessor disposing of property in a transaction to which this section applies must recognize the recapture amount (determined under paragraph (b) of this section) and treat that amount as ordinary income. This section applies to any disposition of property subject to a section 467 rental agreement that—

(1) Is a leaseback (as defined in § 1.467–3(b)(2)) or a long-term agreement (as defined in § 1.467–3(b)(3));

(2) Is not disqualified under § 1.467–3(b)(1); and

(3) Allocates to any rental period fixed rent that, when annualized, exceeds the annualized fixed rent allocated to any preceding rental period.

(b) *Recapture amount*—(1) *In general.* The recapture amount for a disposition is the lesser of—

(i) The prior understated inclusions (determined under paragraph (b)(2) of this section); or

(ii) The section 467 gain (determined under paragraph (b)(3) of this section).

(2) *Prior understated inclusions*—(i) *In general.* The prior understated inclusions are the excess (if any) of—

(A) The aggregate amount of section 467 rent and section 467 interest for the period during which the lessor held the property, determined as if the section 467 rental agreement were a disqualified leaseback or long-term agreement; over

(B) The aggregate amount of section 467 rent and section 467 interest accrued by the lessor during that period.

(ii) *Partial rental periods.* For purposes of this paragraph (b)(2), the aggregate amounts described in paragraph (b)(2)(i)(A) and (B) of this section include a ratable portion of the section 467 rent and section 467 interest for any partial rental period during which the lessor held the property.

(3) *Section 467 gain*—(i) *In general.* Except as otherwise provided in paragraph (b)(3)(ii) of this section, the section 467 gain is the excess (if any) of—

(A) The amount realized from the disposition; over

(B) The sum of the adjusted basis of the property and the amount of any gain from the disposition that is treated as ordinary income under any provision of subtitle A of the Code other than section 467(c) (e.g., section 1245 or 1250).

(ii) *Certain dispositions.* In the case of a disposition that is not a sale, exchange, or involuntary conversion, the section 467 gain is the excess (if any) of the fair market value of the property on the date of disposition over the amount determined under paragraph (b)(3)(i)(B) of this section.

(c) *Special rules*—(1) *Gifts.* Paragraph (a) of this section does not apply to a disposition by gift. However, see paragraph (c)(4) of this section for dispositions by transferees.

(2) *Dispositions at death.* Paragraph (a) of this section does not apply to a disposition if the basis of the property in the hands of the transferee is determined under section 1014(a). In the case of items constituting income in respect of a decedent, see section 691.

(3) *Certain tax-free exchanges*—(i) *In general.* The recapture amount in the case of a disposition to which this paragraph (c)(3) applies is limited to the amount of gain recognized to the transferor (determined without regard to paragraph (a) of this section), reduced by the amount of any gain from the disposition that is treated as ordinary income under any provision of subtitle A of the Code other than section 467(c).

(ii) *Dispositions covered.* This paragraph (c)(3) applies to a disposition of property if the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 721, or 731.

(4) *Dispositions by transferee.* If the recapture amount with respect to a disposition of property (the first disposition) is limited under paragraph (c)(1) or (3) of this section and the transferee subsequently disposes of the property in a transaction to which this section applies, the amount described in paragraph (b)(2)(i)(A) of this section must be increased for purposes of determining the recapture amount for such subsequent disposition by the excess (if any) of—

(i) The recapture amount on the first disposition, determined without regard to the limitations of paragraphs (c)(1) and (3) of this section; over

(ii) The recapture amount on the first disposition determined after application of such limitations.

(5) *Like-kind exchanges and involuntary conversions.* If property is disposed of or converted and, before the application of paragraph (a) of this section, gain is not recognized in whole or in part under section 1031 or 1033, then the amount of section 467 gain taken into account by the lessor is limited to the sum of—

(i) The amount of gain recognized on the disposition or conversion of the property (determined without regard to paragraph (a) of this section); plus

(ii) The fair market value of property acquired that is not subject to a section 467 rental agreement and that is not taken into account under paragraph (c)(5)(i) of this section.

(6) *Installment sales.* In the case of an installment sale of property to which paragraph (a) of this section applies—

(i) The recapture amount is recognized and treated as ordinary income in the year of the disposition; and

(ii) Any gain in excess of the recapture amount shall be reported under the installment method of accounting if and to the extent that method is otherwise available under section 453.

(7) *Dispositions covered by sections 170(e), 341(e)(12), or 751(c).* For purposes of sections 170(e), 341(e)(12), and 751(c), amounts treated as ordinary income under paragraph (a) of this section must be treated in the same manner as amounts treated as ordinary income under section 1245 or 1250.

(d) *Examples.* The following examples illustrate the application of this section:

Example 1. (i) X and Y enter into a section 467 rental agreement for a 5-year lease of personal property beginning on January 1, 1997, and ending on December 31, 2001. The rental agreement provides that $0 of rent is allocated to 1997, 1998, and 1999, and $175,000 is allocated to each of the years 2000 and 2001. The rental agreement provides that the calendar year will be the rental period and that the rent allocated to each calendar year is payable on the last day of that calendar year. Assume that both X and Y are calendar year taxpayers and that 110 percent of the applicable Federal rate is 11 percent, compounded annually. Assume further that the rental agreement is a long-term agreement (as defined in § 1.467–3(b)(3)). The rental agreement is not a disqualified leaseback or long-term agreement because it does not provide for the payment of more than $2,000,000 in rent (determined pursuant to § 1.467–3(b)(1)(i)). Therefore, the fixed rent allocated under § 1.467–1(c)(2)(ii) is zero for the first three rental periods and $175,000 for the fourth and fifth rental periods.

(ii) On December 31, 1999, X sells the property subject to the section 467 rental agreement to an unrelated person for $990,000. At the time of the sale, X's adjusted basis in the property is $550,000. Thus, X's gain on the sale of the property is $440,000. Assume that none of this gain would be treated as ordinary income under any provision of the Internal Revenue Code other than section 467(c). Under paragraph (a) of this section, X is required to take the recapture amount into account as ordinary income. Under paragraph (b) of this section, the recapture amount is the lesser of the prior understated inclusions or the section 467 gain.

(iii) (A) In computing the prior understated inclusions under paragraph (b)(2), assume that the section 467 rent and section 467 interest (based on constant rental accrual) would be taken into account as follows if the section 467 rental agreement were a disqualified long-term agreement:

	Section 467 rent	Section 467 interest
1997	$59,290.59	$0
1998	59,290.59	6,521.96
1999	59,290.59	13,761.35
2000	59,290.59	21,797.06
2001	59,290.59	11,466.68

(B) The aggregate amount of the section 467 rent and section 467 interest (based on constant rental accrual) for 1997, 1998, and 1999 is $198,155.08 ((3 x $59,290.59) + $6,521.96 + $13,761.35). Since X did not take any section 467 rent or section 467 interest into account in 1997, 1998, and 1999, the prior understated inclusions are also $198,155.08. Since none of the gain is treated as ordinary income under any provision of the Code other than section 467(c), the entire amount of gain ($440,000) is section 467 gain. Accordingly, the recapture amount (, the lesser of the prior understated inclusions or the section 467 gain) treated as ordinary income is $198,155.08.

Example 2. (i) The facts are the same as in *Example 1* except that the section 467 rental agreement specifies that rents accrue and are paid in the following pattern:

	Allocation	Payment
1997	$60,000	$0
1998	65,000	0
1999	70,000	0
2000	75,000	175,000
2001	80,000	175,000

(ii) (A) Assume the section 467 rental agreement does not provide for adequate interest under § 1.467–2(b), and, therefore, the fixed rent for a rental period is the proportional rental amount. *See* § 1.467–1(d)(2)(ii). Assume that, under § 1.467–2(c), the following amounts would be required to be taken into account:

	Section 467 rent	Section 467 interest
1997	$51,585.97	$0
1998	55,884.80	5,674.46
1999	60,183.63	12,445.98
2000	64,482.46	20,435.23
2001	68,781.28	10,526.19

(B) The amount of section 467 rent and section 467 interest taken into account by A for 1997, 1998, and 1999 is $185,774.84. Thus, the prior understated inclusions are $12,380.24 (the excess of the aggregate amount of section 467 rent and section 467 interest, based on constant rental accrual, for these three years, , $198,155.08, over the aggregate amount of section 467 rent and section 467 interest actually taken into

account, $185,774.84). Since this amount is less than the section 467 gain, the recapture amount treated as ordinary income is also $12,380.24.

(e) *Other rules relating to dispositions*—(1) *In general.* If property subject to a section 467 rental agreement is sold, exchanged, or otherwise disposed of, the section 467 rent for a period is taken into account by the owner of the property during the period. The lessee, however, must continue to take section 467 rent and section 467 interest into account without regard to the change of ownership.

(2) *Treatment of section 467 loan.* If there is a sale, exchange, or other disposition of property subject to a section 467 rental agreement (the transfer), the following rules apply in determining the amount of the section 467 loan for the period after the transfer, the amount realized by the transferor, and the transferee's basis in the property:

(i) The beginning balance of the transferor's section 467 loan is equal to the net present value at the time of the transfer of all subsequent amounts payable as fixed rent and interest on fixed rent to the transferor and all subsequent amounts payable as interest on prepaid fixed rent by the transferor. The transferor must continue to take into account interest on the transferor's section 467 loan balance after the date of the transfer.

(ii) The beginning balance of the transferee's section 467 loan is equal to the principal balance of the section 467 loan immediately before the transfer reduced (below zero, if appropriate) by the beginning balance of the transferor's section 467 loan. Amounts payable to the transferor are not taken into account in adjusting the transferee's section 467 loan balance.

(iii) If the beginning balance of the transferee's section 467 loan is negative, the transferor and transferee must treat the balance as a liability that is either assumed in connection with the transfer of the property or secured by the property acquired subject to the liability. If the beginning balance of the transferee's section 467 loan is positive, the transferor and transferee must treat the balance as an additional asset acquired in connection with the transfer of the property. In the case of a positive beginning balance of the transferee's section 467 loan, the transferee will have an initial cost basis in the section 467 loan equal to the lesser of the beginning balance of the loan or the aggregate consideration for the transfer of the property subject to the section 467 rental agreement and the transfer of the transferor's interest in the section 467 loan.

(3) *Special rules for transfers in certain nonrecognition transactions.* [Reserved]

(f) *Treatment of assignments by lessee and lessee-financed renewals*—(1) *Substitute lessee use.* If a lessee assigns its interest in a section 467 rental agreement to a substitute lessee or a period when a substitute lessee has the use of property subject to a rental agreement is otherwise included in the lease term under § 1.467–1(h), the section 467 rent for a period is taken into account by the person having the use of the property during the period. In addition, the following rules apply in determining the amount of the section 467 loan for the period when the substitute lessee has use of the property and in computing the taxable income of the lessee and substitute lessee—

(i) The beginning balance of the lessee's section 467 loan is equal to the net present value, as of the date on which the substitute lessee first has use of the property, of all amounts subsequently payable by the lessee as fixed rent and interest on fixed rent and all amounts subsequently payable as interest on prepaid fixed rent to the lessee. For purposes of this paragraph (f), any amount otherwise payable by the lessee shall not be treated as an amount subsequently payable by the lessee to the extent that such payment, if made by the lessee, would give rise to a right of contribution or other similar claim against the substitute lessee or any other person. The lessee must continue to take into account interest on the lessee's section 467 loan balance after the substitute lessee first has use of the property.

(ii) The beginning balance of the substitute lessee's section 467 loan is equal to the principal balance of the section 467 loan immediately before the substitute lessee first has use of the property reduced (below zero, if appropriate) by the beginning balance of the lessee's section 467 loan. Amounts payable by the lessee to any person other than the substitute lessee (or a related person) or payable to the lessee by any person other than the substitute lessee (or a related person) are not taken into account in adjusting the substitute lessee's section 467 loan balance.

(iii) If the beginning balance of the substitute lessee's section 467 loan is positive, the beginning balance is treated as—

(A) Gross income of the lessee for the taxable year in which the substitute lessee first has use of the property; and

(B) A liability that is either assumed in connection with the transfer of the leasehold interest to the substitute lessee or secured by property acquired subject to the liability.

(iv) If the beginning balance of the substitute lessee's section 467 loan is negative—

(A) The beginning balance is treated as an amount incurred by the lessee for the taxable year in which the substitute lessee first has use of the property; and

(B) Repayments of the beginning balance are items of gross income of the substitute lessee in the taxable year in which the repayment occurs (determined by applying any repayment first to the beginning balance of the substitute lessee's section 467 loan).

(v) For purposes of paragraph (f)(1)(iv)(B) of this section, repayments occur as the negative balance is amortized through the net accrual of rent and negative interest.

(2) *Lessor use.* If a period when the lessor has the use of property subject to a section 467 rental agreement is included in the lease term under § 1.467–1(h), the section 467 rent for the period is not taken into account and the lessor is treated as a substitute lessee for purposes of paragraph (f)(1) of this section.

(3) *Special rules for transfers in certain nonrecognition transactions.* [Reserved]

§ 1.467–8 Effective date.

Sections 1.467–1 through 1.467–7 are effective for—

(a) Rental agreements entered into after the date these regulations are published as final regulations in the Federal Register; and

(b) Disqualified leasebacks and long-term agreements entered into after June 3, 1996.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–13719 Filed 5–31–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1904 and 1952

Recording and Reporting Occupational Injuries and Illnesses; Extension of Comment Period

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed Rule; Extension of comment period.

SUMMARY: OSHA published a Notice of Proposed Rulemaking covering the

recording and reporting of workplace deaths, injuries and illnesses, which appeared in the Federal Register on February 2, 1996 (61 FR 4030). At the request of stakeholders, OSHA is extending the end of the public comment period through July 1, 1996.

DATES: Written comments on the NPRM must be postmarked on or before July 1, 1996.

ADDRESSES: Written comments should be submitted in quadruplicate or one original (hardcopy) and 1 disk (5¼ or 3½) in Wordperfect 5.0, 5.1, 6.0 or ASCII to: Docket Officer, Docket No. R–02, Occupational Safety and Health Administration, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20210, telephone (202) 219–7894. Comments of 10 pages or less may be transmitted by facsimile to (202) 219–5046 provided the original and 4 copies of the comment are sent to the Docket Officer thereafter.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, U.S. Department of Labor, OSHA, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210, (202) 219–8148.

SUPPLEMENTARY INFORMATION: OSHA published a Notice of Proposed Rulemaking covering the recording and reporting of workplace deaths, injuries and illnesses along with announcing a public meeting which was held March 26–29, which appeared in the Federal Register on February 2, 1996 (61 FR 4030). OSHA published a second notice to provide the public with additional information regarding the economic analysis of the proposed rule in the Federal Register on February 29, 1996 (61 FR 7758–7760). OSHA published a third notice to announce a second public meeting and an extension of the comment period on April 8, 1996 (61 FR 15435). The second public meeting was held April 30 and May 1 to give the public another opportunity to provide OSHA with information on the proposed rule. The transcript of that meeting, along with additional material, has been placed in the docket by OSHA. The additional material consists of the following documents:

1. ''Subcontractor Safety as Influenced by General Contractors on Small and Medium Sized Projects''. University of Washington, Jimmie Hinze and Lori A. Figone, October 1988.
2. ''Assuring Accuracy in Employer Injury and Illness Records'', U.S. General Accounting Office (HRD–89–23), December 1988.
3. Various materials relating to OSHA inspection activity for significant occupational injury and illness recordkeeping cases.
4. Various OSHA and BLS letters to the public interpreting OSHA's occupational injury and illness recording and reporting regulations.
5. Various letters and documents describing OSHA's collection of 1995 workplace injury and illness information.
6. Documents relating to a pilot program to evaluate the accuracy of workplace injury and illness records, including ''Evaluating Workplace Injury and Illness Records; Testing a Procedure'' Monthly Labor Review, April 1988.
7. A July 21, 1978 Federal Register Notice announcing rule changes for ''Access to the Log of Occupational Injuries and Illnesses to Employees and their Representatives'' (43 FR 31324).
8. A December 28, 1982 Federal Register Notice announcing rule changes for ''Exemption From Requirements for Recording Occupational Injuries and Illnesses'' (47 FR 57699).

The transcripts of both public meetings, comments from the public and documentary evidence are available from the OSHA Docket Office (see Addresses) Docket No. R–02.

Signed in Washington, DC, this 29th day of May, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–13836 Filed 5–30–96; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF DEFENSE

48 CFR Parts 45 and 52

Federal Acquisition Regulation; Government Property

AGENCY: Department of Defense.

ACTION: Notice of public meetings.

SUMMARY: The next public meetings of the Government Property Rewrite Team are scheduled for June 19 and 20, 1996 (and might continue on June 21, 1996, if necessary). Discussion will focus on a draft revision of FAR Part 45—Government Property and associated contract clauses.

DATES: *Public Meetings:* The public meetings will be conducted at the address shown below from 9:30 a.m. to 5:00 p.m., local time, on June 19, 20, and, if necessary, June 21, 1996.

ADDRESSES: *Public Meetings:* The public meetings will be held in the 4th floor conference room, VSE Corporation, 2550 Huntington Ave., Alexandra, VA 22303.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, by telephone at (703) 695–1097/1098, or by FAX at (703) 695–7596.

SUPPLEMENTARY INFORMATION:

Draft Materials

Drafts of the materials to be discussed at the public meetings are available electronically in Microsoft Word 6.0 and ASCII text formats at the Major Policy Initiatives Internet Office Home Page—http://www.acq.osd.mil/dp/mpi/

Obtain paper copies from Ms. Angelena Moy, PDUSD (A&T) DP/MPI, Room 3C128, The Pentagon, Washington DC 20301–3060.

Background

The Director, Defense Procurement, is leading an Inter-Agency team that is considering revisions to the Federal Acquisition Regulation (FAR) Part 45, Government Property, which will reduce administrative burdens imposed by Part 45 on contractors and government personnel and improve government property management and disposal business processes. The Director, Defense Procurement, is providing a forum for an exchange of ideas and information with government and industry personnel by holding public meetings, soliciting public comments, and publishing notices of the public meetings in the Federal Register. The June 1996 public meetings are intended to obtain comments or suggestions regarding the current draft FAR Part 45 which includes new and revised material recommended by public and government sources during and subsequent to the November 1995 public meetings.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulation Council.

[FR Doc. 96–13805 Filed 5–31–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 960520141–6141–01; I.D. 042696A]

RIN 0648–AH05

Summer Flounder and Scup Fisheries; Amendment 8

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule and request for comments to

implement those provisions of Amendment 8 to the Fishery Management Plan (FMP) for the Summer Flounder and Scup Fisheries not initially disapproved. The amendment would implement management measures for the scup fishery in order to reduce fishing mortality and to allow the stock to rebuild.

DATES: Public comments must be received on or before July 18, 1996.

ADDRESSES: Comments on this proposed rule should be sent to Dr. Andrew A. Rosenberg, Director, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Summer Flounder and Scup Plan.''

Comments regarding burden-hour estimates for collection-of-information requirements contained in this proposed rule should be sent to the Northeast Regional Director at the address above and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20502 (Attention: NOAA Desk Officer).

Copies of Amendment 8, the final environmental impact statement (FEIS), the initial regulatory flexibility analysis (IRFA), the regulatory impact review, and other supporting documents are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) began the development of an FMP for scup in 1978. Although preliminary development work was done, the plan was not completed. In January 1990, the Council and the Atlantic States Marine Fisheries Commission (Commission) began to develop a management plan for scup as an amendment to the summer flounder FMP. However, its development was delayed by a series of amendments to the FMP, and work on a separate scup plan was not resumed until 1993.

The Council accelerated its work on scup measures after the release in March 1995 of the Plenary Report of the 19th Stock Assessment Workshop (19th SAW). The 19th SAW report established that the scup spawning stock biomass was at a record low level and warned that recruitment failure in a single year could collapse the fishery. The Council and the Commission adopted a scup FMP for NMFS review at their meeting in November 1995. Subsequently, NMFS requested that the scup regulations be incorporated into the Summer Flounder FMP, as an amendment, to reduce the number of separate regulations issued by the Federal government. As a result, scup management measures are submitted as Amendment 8 to the Summer Flounder and Scup FMP.

At that same November meeting, the Council also voted to request emergency implementation on January 1, 1996, of some of the management measures contained in the proposed scup FMP to provide some immediate protection to the stock. The efforts of the Council and NMFS to prepare and review the required documents associated with emergency action were delayed by the government shutdown from December 21, 1995, through January 7, 1996, and by additional shutdowns due to severe winter weather. An emergency interim rule implemented regulations on March 22, 1996 (March 27, 1996, 61 FR 13452) that imposed minimum fish size requirements of 9 inches (22.9 cm) total length (TL) for the commercial fishery, and 7 inches (17.8 cm) TL for the recreational fishery, and a minimum codend mesh size of 4 inches (10.2 cm) diamond for trawl vessels possessing 4,000 or more lb (1,814 or more kg) of scup. These emergency regulations remain in effect through June 25, 1996, at which time they would be extended for an additional 90 days at the request of the Council.

Amendment 8 was prepared by the Council and Commission, in consultation with the New England and South Atlantic Fishery Management Councils. A notice of availability for the proposed amendment was published in the Federal Register on May 7, 1996. Copies of Amendment 8 are available from the Council upon request (see **ADDRESSES**). The amendment revises the summer flounder (*Paralichthys dentatus*) FMP to include management measures for the scup fishery pursuant to the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act).

The management unit for this fishery is scup (*Stenotomus chrysops*) in U.S. waters of the western Atlantic Ocean from 35°15.3′ N. latitude, the latitude of Cape Hatteras Light, NC, northward to the U.S.-Canadian border. Implementing regulations are authorized by the Magnuson Act and are found at 50 CFR part 625, subparts C and D.

Status of the Stocks

Scup are currently overexploited and at a low biomass level. The status of this stock is fully explained in the emergency interim rule (March 27, 1996, 61 FR 13452) and, for the sake of brevity, is not repeated here. Overfishing for scup in Amendment 8 is defined in the FMP as fishing in excess of F_{max}. F_{max} is the biological reference point corresponding to an exploitation rate of 19 percent, and the level of fishing mortality (F) that produces maximum yield per recruit.

Disapproved Measures

NMFS, on behalf of the Secretary of Commerce, disapproved six measures proposed in Amendment 8 upon preliminary evaluation of the amendment as authorized in section 304(a)(1)(A)(ii) of the Magnuson Act. Thus, they are not included in this proposed rule. These provisions would have conferred moratorium permit eligibility upon vessels that were re-rigging on January 26, 1993, and landed scup prior to the implementation of Amendment 8; require vessels to keep scup catches of less than 4,000 lb (1,814 kg) (the level at which the minimum codend mesh requirement is triggered) in 100-lb (45.4-kg) containers to enhance enforcement; require NMFS to accept state dealer permits in lieu of the required Federal permit; require NMFS to deny access to the exclusive economic zone (EEZ) to vessels from states that do not implement recreational measures equivalent to those specified in Amendment 8; defer to state regulations to define scup pot requirements for the residents of that state; and require any landings in excess of the recreational harvest limit to be subtracted from the harvest limit of the following year. These provisions have been determined to be inconsistent with the national standards of the Magnuson Act or other applicable law.

As worded, the open-ended moratorium eligibility criterion would allow any vessel that could demonstrate ''re-rigging''—i.e., being made ''capable of catching scup''—on January 26, 1993, to qualify for a moratorium permit if it could demonstrate a landing of scup prior to the implementation date of this amendment. While the re-rigging provision reasonably addresses a fairness issue, the protracted aspect of the landing requirement is inconsistent with national standard 4. The landing requirement of this criterion allows a re-rigging vessel over 3 years to land scup in order to qualify for a moratorium permit. This fact is not reasonably calculated to promote conservation in

light of the severely overfished nature of the stock, and would allow more vessels into the fishery than would otherwise enter if a vessel owner were forced to demonstrate an intent to participate in the fishery by landing scup within a more reasonable time frame after re-rigging occurs.

The provision that would require fishing vessels using small mesh to box scup catches of less than 4,000 lb (1,814 kg) in standard 100-lb (45.4-kg) totes was proposed to facilitate enforcement of the mesh provisions. Potentially, a vessel could have up to 40 of these containers on board, while vessels possessing over 4,000 lb (1,814 kg) would not have to box their catch. Boxing up to 40 totes could prove infeasible for small vessels. There is nothing in the administrative record regarding the impact of this measure on the industry. This measure could be challenged as being arbitrary and capricious, and, therefore, may violate the Administrative Procedure Act (APA).

The measure that would require NMFS to recognize state dealer permits in lieu of Federal dealer permits, if the permits contain the necessary information and are forwarded to NMFS by the appropriate state, was proposed as a way of easing the administrative burden on dealers. However, as proposed, this measure could not be implemented effectively without imposing significant costs. The measure would require changes to state dealer permit requirements, and extensive modifications to both the state and Federal computer systems, to make them comparable in order for the measure to be implemented in a manner that would not undermine the data collection system in the Northeast Region. Thus, at this time, the measure is not consistent with national standard 7.

The provision that would require NMFS to prohibit the landing of scup from the EEZ by recreational vessels (party, charter, and private) of any state not in compliance with the recreational possession limit, size limits, and season was disapproved, because it discriminates between residents of different states and is inconsistent with national standard 4. The measure would penalize recreational harvesters by denying them access to fish in any portion of the EEZ based on the inaction of their state of residency.

The provision that would adopt the definition of scup pot or trap in the state regulations that apply to a vessel's principal port of landing is problematic from a number of perspectives. First, not all coastal states have a definition of a scup pot or trap. As the specified escape vent requirement is dependent upon a defined pot or trap, some fishermen would be subject to the escape vent requirement, while others landing principally in a state without a defined pot or trap would not. This inequitable provision is thus inconsistent with national standard 4, and is also not in accordance with the amendment's objective to reduce fishing mortality on immature scup.

Second, the administrative record provides no rationale for using the definition of scup pot or trap at a vessel's principal port of landing, as opposed to its home port, as a basis for imposing an escape vent requirement. Significant enforcement concerns arise from this provision and should have been addressed in the administrative record. For example, traps pulled, or vessels boarded, at sea to monitor compliance with the escape vent requirement would not identify a principal port of landing with the certainty necessary to prosecute an alleged violation. The FMP contains no definition of principal port of landing and even if the term were defined, verification of the principal port of landing would be unreasonably cumbersome. Therefore, the failure of the administrative record to discuss the rationale for the definition could cause adoption of this provision to violate the APA.

The provision that would deduct the annual recreational harvest in excess of the specified limit from the limit for the following year would base the deductions on the results of the Marine Recreational Fishery Statistics Survey (MRFSS). This measure impacts the annual allocation of the recreational sector of the fishery with no clear conservation benefit, in violation of national standard 4. The MRFSS is an excellent fishery management tool for the purpose for which it was designed, that is, giving an overall projection of recreational catch from the recreational fishery from Maine to Texas. However, the survey was not intended to be used as a basis for calculating an overage in the recreational fishery that would then be deducted from the quota established for the subsequent year. The survey variability becomes problematic, and this problem is further exacerbated if the fishery is managed on a regional quota basis as is a possibility in the scup fishery. In addition, the survey variability could affect residents of different states unevenly with respect to quota overages. These problems make the provision inconsistent with national standard 4.

Likewise, because the survey is based on contacts with recreational fishermen, it reflects a sampling variability in addition to variations in the stock. The effects of this sampling variability render its use to calculate overages inconsistent with national standard 6. In failing to account for these variations, the use of the survey affects the overall ability of the entire scup quota management process to achieve on a continuing basis, the optimum yield from this fishery. This raises concern regarding its consistency with national standard 1. Finally, it would take a significant expenditure of funds to reduce the survey variability, especially as the geographic area for which estimates are made is reduced, to render it consistent with national standard 2. This conflicts with national standard 7.

The Council may resubmit proposed measures under section 304(b)(3)(A) of the Magnuson Act that NMFS disapproved during preliminary evaluation. Such measures should address the deficiencies described by NMFS.

Additional Concerns

NMFS has concerns about the enforceability of the 4,000-lb (1,814-kg) threshold for triggering the minimum mesh requirement. The public is encouraged to submit comments about the feasibility of determining whether catches exceed the threshold level. NMFS is also concerned about the proposed minimum sizes for escape vents in scup pots or traps. The Council specified a minimum size of 3.1 inches (7.9 cm) in diameter for circular vents, a minimum size of 2.25 inches (5.7 cm) on each side for square vents, and an ''equivalent'' minimum size for rectangular vents. NMFS seeks public comments on the proposed minimum size specification for rectangular vents because the meaning of ''equivalent'' is unclear.

Proposed Measures

Vessel, Dealer, and Operator Permits

The Council proposes to establish a moratorium on commercial vessel permits for the directed fishery for scup. Any owner or operator of a vessel desiring to fish for scup within the EEZ for sale, or transport, or delivery for sale, of any scup taken within the EEZ would have to obtain a permit from NMFS for that purpose. Vessel owners would be required to demonstrate past participation in the fishery to obtain a commercial moratorium permit. The Council proposes to limit moratorium permits to vessels with documented

landings of scup for sale between January 26, 1988, and January 26, 1993.

The owner or operator of a party or charter boat (vessel for hire) desiring to fish for scup within the EEZ would have to obtain a charter/party boat permit from NMFS for that purpose. A party or charter boat could have both a charter/party boat permit and a commercial moratorium permit to catch and sell if the vessel meets the commercial vessel qualification requirements set forth in Amendment 8. However, such a vessel could not fish under any existing commercial rules if it were carrying passengers for a fee.

An operator of a vessel with any permit issued under this FMP would be required to have a Federal operator permit. The operator permits issued to operators in the Northeast multispecies, American lobster, Atlantic sea scallops and/or Atlantic mackerel, squids, and butterfish fisheries, would satisfy this requirement. The operator would be held accountable for violations of the fishing regulations and could be subject to a permit sanction. During the permit sanction period, the operator could not work in any capacity aboard a federally permitted fishing vessel.

Any dealer of scup would be required to have a NMFS dealer permit under the FMP. A dealer of scup would be defined as a person or firm that receives scup for a commercial purpose from the owner or operator of a vessel issued a moratorium permit pursuant to this FMP, other than solely for transport on land.

Reporting and Recordkeeping

The Council intends to institute recordkeeping and reporting requirements for scup that are identical to those required by the Atlantic Mackerel, Squid, and Butterfish, the Summer Flounder, the Northeast Multispecies, and the Atlantic Sea Scallop Fishery Management Plans. The logbooks in use for those fisheries would be used to meet this requirement, so vessels or dealers reporting under those FMPs would not be subject to any additional reporting burdens, if a given vessel also harvested scup.

Commercial logbooks would be submitted on a monthly basis by Federal moratorium and charter/party boat permit holders in order to monitor the fishery.

Dealers with permits issued pursuant to the FMP would submit weekly reports showing all species purchased in pounds, and the name and permit number of the vessels from which the species were purchased. Buyers that do not purchase directly from vessels would not be required to submit reports under this provision.

Minimum Fish Sizes

Amendment 8 would establish minimum fish sizes that could be adjusted annually by the FMP Monitoring Committee (Monitoring Committee). The initial minimum fish sizes would be 9 inches (22.9 cm) TL for the commercial fishery and 7 inches (17.8 cm) TL for the recreational fishery.

Minimum Mesh Size

The minimum mesh-size requirement for otter trawl vessels possessing a threshold catch of 4,000 lb or more (1,814 kg or more) of scup would be a minimum codend mesh size of 4.0 inches (10.2 cm) diamond mesh, inside measure, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net or, if the net is not long enough for such a measurement, the terminal ⅓ of the net, measured from the terminus of the codend to the head rope. The minimum net mesh size and the threshold level could be adjusted annually, following the Monitoring Committee process set forth in the amendment.

Maximum Roller Size

Amendment 8 would prohibit owners or operators of vessels issued moratorium permits from using roller rig trawl gear equipped with rollers greater than 18 inches (45.7 cm) in diameter. Maximum roller size could be changed annually following the Monitoring Committee process set forth in the amendment.

Pot and Trap Gear Requirements

Scup pots and traps would be required to have a circular escape vent with a minimum diameter of 3.1 inches (7.9 cm) or a square escape vent with a minimum of 2.25 inches (5.7 cm) for each side (or an equivalent rectangular escape vent). The escape vent provision would be implemented at the start of the first calendar year following approval of Amendment 8, so that fishermen would not be required to pull their pots and add vents in the middle of the season. Scup pots and traps would be required to have hinges and fasteners on one panel or door made of degradable materials.

The escape vent requirement could be adjusted annually following the Monitoring Committee process set forth in the amendment.

Seasonal and Area Closures

Gear-specific seasonal and area closures could be implemented upon the recommendation of the Monitoring Committee, if required to reduce discards in the commercial fishery and prevent quota overruns.

Commercial Quota and Recreational Harvest Limit

In the second year of implementation of the amendment, a coastwide harvest limit would be specified at a level that would reduce the exploitation rate to the level specified in the rebuilding schedule. This harvest limit would be allocated 78 percent to the commercial fishery, via a coastwide commercial quota, and 22 percent to the recreational fishery, via a recreational harvest limit. The coastwide harvest limit will be set annually following the Monitoring Committee process set forth in the amendment.

The Council and the Commission may, in the future, alter the system to distribute and manage the annual commercial quota. Coastwide, regional, and state-by-state quotas may be considered in combination with different fractions of the fishing year.

Recreational Measures

Beginning in the second year of implementation of the amendment, recreational landings would be compared to annual target harvest levels to determine if modifications to the recreational season, possession limit, and minimum size limit are required in the following year in order for the fishery to remain within specified harvest limits.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended, requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the amendment and proposed regulations. At this time, NMFS has not determined whether the measures in Amendment 8 that these rules would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. NMFS, in making that determination, will take into account the information, views, and comments received during the comment period.

The Council prepared an FEIS for Amendment 8, a copy of which may be obtained from the Council (see **ADDRESSES**). The Council has determined that this rule, if implemented, would be consistent to the maximum extent practicable with the approved coastal management programs of the Atlantic states. New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, and North Carolina agreed with this determination.

Maine, New York, and Virginia did not respond, and their concurrence is inferred.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration, that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Amendment 8, as indicated in the regulatory impact review prepared by the Council, may reduce gross revenues of some vessels by more than 5 percent, or increase operating costs by more than 5 percent as a result of increases in compliance costs. However, it is unlikely that these impacts would affect more than 20 percent of the small entities engaged in this fishery because of the large assortment of other species also harvested by most vessels that harvest scup. In addition, most of the industry already use the proposed 4-inch (10.2-cm) mesh size and would not be affected by the regulation. Therefore, this rule would not have a significant impact on a substantial number of small entities.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). Mandatory dealer reporting and the reporting of annual employment data under the Annual Processed Products Reports have been approved by OMB under control numbers 0648–0229, and 0648–0018, respectively. Dealer reporting responses are estimated to take 2 minutes and employment data responses 6 minutes. The proposed rule also contains new requirements that have been submitted to OMB for approval. These requirements and their estimated response times are: Vessel permits and permit appeals at 30 minutes per response, operator permits at 1 hour per response, observer notification requirement at 2 minutes per response, vessel marking (3 locations) at 15 minutes per marking, and requests for an experimental fishing exemption at 1.9 hours.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The response estimates shown include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding any of these burden estimates or any other aspect of the collection of information to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 625

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 28, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 625 is proposed to be amended as follows:

PART 625—SUMMER FLOUNDER AND SCUP FISHERIES

1. The authority citation for part 625 continues to read as follows:

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

2. The part heading is revised as set forth above and the headings for subparts A and B are revised to read, ''Subpart A—General Provisions, Summer Flounder'', and ''Subpart B—Management Measures, Summer Flounder'', respectively.

3. Subparts C and D, are revised to read as follows:

Subpart C—General Provisions, Scup

Sec.

Subpart C—General Provisions, Scup

§ 625.31 Purpose and scope.

The regulations in this part govern the conservation and management of scup in U.S. waters north of 35°15.3′ N. lat., (Cape Hatteras Light, NC), to the U.S./Canadian border.

§ 625.32 Definitions.

In addition to the definitions in the Magnuson Act and § 620.2 of this chapter, the terms used in this part have the following meanings:

Dealer means any person who receives scup for a commercial purpose from the owner or operator of a vessel issued a moratorium permit under § 625.33 other than solely for transport on land.

Fishery Management Plan (FMP) means the Fishery Management Plan for the Summer Flounder and Scup Fisheries and any amendments thereto.

Fishing commercially means retaining scup in excess of the possession limit specified in § 625.54.

Fishing year means the 12-month period beginning on January 1, and ending on December 31.

Scup means the species *Stenotomus chrysops.*

Scup Monitoring Committee (Monitoring Committee) means a committee made up of staff representatives of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, the Northeast Regional Office of NMFS, the Northeast Fisheries Science Center, and Commission representatives. The Council Executive Director or a designee chairs the Committee.

Total length (TL) means the straight-line distance from the tip of the snout to the end of the tail (caudal fin) while the fish is lying on its side.

§ 625.33 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraph (b) of this section.

(b) Nothing in these regulations supersedes more restrictive state management measures.

(c) Additional regulations governing fishing for scup by foreign vessels in the EEZ are set forth in 50 CFR Part 611, subparts A and C.

§ 625.34 Vessel permits.

(a) *General*—(1) *Requirement.* Subject to the eligibility requirements specified in paragraphs (b) and (c) of this section, the owner of a vessel of the United States, including a party or charter vessel, must obtain a permit issued under this part to fish for or retain scup in the EEZ.

(2) *Exemption.* Any vessel, other than a party or charter boat, that observes the possession limit, multiplied by the number of persons on board, in § 625.55 is exempt from the permit requirement.

(3) *Condition.* Vessel owners who apply for a fishing vessel permit under this section must agree, as a condition of the permit, that the vessel's fishing activities, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken or landed) will be subject to all requirements of this part. All such fishing activities, catch, and gear will remain subject to all applicable state requirements. If a requirement of this part differs from a management measure required by state law, any vessel owner permitted to fish in the EEZ must comply with the more restrictive

requirement. Owners and operators of vessels fishing under the terms of a moratorium permit issued pursuant to paragraph (b) of this section must also agree, as a condition of the permit, not to land scup in any state if the Regional Director has determined there is no longer commercial quota available.

(b) *Moratorium permit.* (1) A vessel is eligible for a moratorium permit to fish for and retain scup in excess of the possession limit in § 625.55 if it meets any of the following criteria:

(i) The vessel landed and sold scup between January 26, 1988, and January 26, 1993; or

(ii) The vessel is replacing a vessel of substantially similar harvesting capacity that involuntarily left the scup fishery during the moratorium, and both the entering and replaced vessels are owned by the same person. Vessel permits issued to vessels that involuntarily leave the fishery may not be combined to create larger replacement vessels.

(iii) Vessels that are judged unseaworthy by the U.S. Coast Guard for reasons other than lack of maintenance may be replaced by a vessel of substantially similar harvesting capacity.

(2) *Restriction.* No one may apply for the permit specified in paragraph (b)(1) of this section more than 12 months after the effective date of these regulations, or the events specified under paragraphs (h)(1) and (2) of this section. This section does not affect annual permit renewals.

(3) *Appeal of denial of permit.* (i) Any applicant denied a moratorium permit may appeal to the Regional Director within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Director erred in concluding that the vessel did not meet the criteria in paragraph (b)(1)(i) of this section. The appeal shall set forth the basis for the applicant's belief that the Regional Director's decision was made in error.

(ii) The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the Regional Director.

(iii) The hearing officer shall make a recommendation to the Regional Director.

(iv) The decision on the appeal by the Regional Director is the final decision of the Department of Commerce.

(c) *Party and charter boat permit.* Any party or charter boat is eligible for a permit to fish, other than a moratorium permit, if it is carrying passengers for hire, and is then subject to the possession limits specified in § 625.56.

(d) *Vessel Permit Application.* (1) An application for a permit under this section must be submitted and signed by the owner of the vessel on an appropriate form obtained from the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Director will notify the applicant of any deficiency in the application pursuant to this section. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned. Applicants for moratorium permits shall provide information with the application sufficient for the Regional Director to determine if the vessel meets the eligibility requirements. Dealer weighout forms and notarized statements from marine architects or surveyors or shipyard officials will be considered acceptable forms of proof.

(2) *Information requirements.* In addition to applicable information required to be provided by paragraph (d)(1) of this section, an application for a permit under this section must contain at least the following information, and any other information required by the Regional Director: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a valid copy of the vessel's U.S. Coast Guard documentation or, if undocumented, the vessel's state registration number and a copy of the current state registration; home port and principal port of landing; overall length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction and type of propulsion; approximate fish hold capacity; type of fishing gear used by the vessel; number of crew; permit category; if the owner is a corporation, a copy of the Certificate of Incorporation and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners having owned more than a 25-percent interest; the name and signature of the owner or the owner's authorized representative; permit number of any current or, if expired, previous Federal fishery permit issued to the vessel; a copy of charter/party boat license and number of passengers the vessel is licensed to carry (charter and party boats); and any other information required by the Regional Director to manage the fishery.

(e) *Fees.* The Regional Director may charge a fee to recover administrative expenses of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook (available from the Regional Director) for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (g) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(f) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit under this section within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a complete application as described in paragraph (f) of this section. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received;

(ii) The application was not received by the Regional Director by the deadlines set forth in paragraph (b)(3) of this section; or

(iii) The applicant has failed to comply with all applicable reporting requirements of § 625.37 during the 12 months immediately preceding the date of application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 625.37(b) during the 12 months immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Director's notification, the application will be considered abandoned.

(g) *Expiration.* Except as provided in paragraph (b)(1)(ii) of this section, a permit expires:

(1) When the owner retires the vessel from the fishery;

(2) Upon the renewal date specified on the permit; or

(3) When the ownership of the vessel changes. However, the Regional Director may authorize the continuation of a moratorium permit for the scup fishery if the new owner so requests. Applications for permit continuations must be addressed to the Regional Director.

(h) *Duration.* A permit is valid until it is revoked, suspended, or modified under 15 CFR Part 904, or until it otherwise expires or ownership changes or the applicant has failed to report any

change in the information on the permit application to the Regional Director as specified in paragraph (k) of this section.

(i) *Replacement.* Replacement permits for an otherwise valid permit may be issued by the Regional Director when requested in writing by the owner or authorized representative, stating the need for replacement, the name of the vessel, and the Federal fisheries permit number assigned. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged for issuance of the replacement permit.

(j) *Transfer.* Permits issued under this part are not transferable or assignable. A permit will be valid only for the fishing vessel and owner for which it is issued.

(k) *Change in application information.* Any change in the information specified in paragraph (d)(2) of this section must be submitted by the applicant in writing to the Regional Director within 15 days of the change. If the written notice of the change in information is not received by the Regional Director within 15 days, the permit is null and void.

(l) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display.* The permit must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(n) *Sanctions.* Procedures governing enforcement-related permit sanctions and denials are found at Subpart D of 15 CFR part 904.

§ 625.35 Operator permit.

(a) *General.* Any operator of a vessel issued a valid Federal scup permit under this part, or any operator of a vessel fishing for scup in the EEZ or in possession of scup in or harvested from the EEZ, must have and carry on board a valid operator's permit issued under this part. An operator permit issued pursuant to parts 649, 650, 651, or 655 shall satisfy the permitting requirements of this section.

(b) *Operator permit application.* Applicants for a permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Director. The application must be signed by the applicant and submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Director will notify the applicant of any deficiency in the application pursuant to this section.

(c) *Condition.* Vessel operators who apply for an operator's permit under this section must agree as a condition of this permit that the operator and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part while fishing in the EEZ or aboard a vessel permitted under § 625.34. The vessel and all such fishing, catch, and gear will remain subject to all applicable state or local requirements. Further, such operators must agree as a condition of this permit that, if the permit is suspended or revoked pursuant to 15 CFR part 904, the operator cannot be aboard any fishing vessel issued a Federal Fisheries Permit or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in offloading. If a requirement of this part and a management measure required by state or local law differ, any operator issued a permit under this part must comply with the more restrictive requirement.

(d) *Information requirements.* An applicant must provide at least all the following information and any other information required by the Regional Director: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional) and signature of the applicant. The applicant must also provide two recent (no more than 1 year old) color passport-size photographs.

(e) *Fees.* The Regional Director may charge a fee to recover the administrative expense of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (f) of the section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(f) *Issuance.* Except as provided in Subpart D of 15 CFR part 904, the Regional Director shall issue an operator's permit within 30 days of receipt of a completed application if the criteria specified herein are met. Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(g) *Expiration.* A Federal operator permit will expire upon the renewal date specified in the permit.

(h) *Duration.* A permit is valid until it is revoked, suspended or modified under 15 CFR part 904, or otherwise expires, or the applicant has failed to report a change in the information on the permit application to the Regional Director as specified in paragraph (k) of this section.

(i) *Replacement.* Replacement permits, for otherwise valid permits, may be issued by the Regional Director when requested in writing by the applicant, stating the need for replacement and the Federal operator permit number assigned. An applicant for a replacement permit must also provide two recent color passport-size photos of the applicant. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged.

(j) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the person to whom it is issued.

(k) *Change in application information.* Notice of a change in the permit holder's name, address, or telephone number must be submitted in writing to, and received by, the Regional Director within 15 days of the change in information. If written notice of the change in information is not received by the Regional Director within 15 days, the permit is void.

(l) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(n) *Sanctions.* Vessel operators with suspended or revoked permits may not be aboard a federally permitted fishing vessel in any capacity while the vessel is at sea or engaged in offloading. Procedures governing enforcement-related permit sanctions and denials are found at Subpart D of 15 CFR part 904.

(o) *Vessel owner responsibility.* Vessel owners are responsible for ensuring that their vessels are operated by an individual with a valid operator's permit issued under this section.

§ 625.36 Dealer permit.

(a) *General.* Any dealer must have a valid permit issued under this part in their possession.

(b) *Dealer application.* Applicants for a permit under this section must submit

a completed application on an appropriate form provided by the Regional Director. The application must be signed by the applicant and submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. The Regional Director will notify the applicant of any deficiency in the application pursuant to this section.

(c) *Information requirements.* Applications must contain at least the following information and any other information required by the Regional Director: Company name, place(s) of business, mailing address(es) and telephone number(s); owner's name; dealer permit number (if a renewal); and name and signature of the person responsible for the truth and accuracy of the report. If the dealer is a corporation, a copy of the Certificate of Incorporation must be included with the application. If the dealer is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners must be included with the application.

(d) *Fees.* The Regional Director may charge a fee to recover the administrative expense of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (b)(3) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(e) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit at any time during the fishing year to an applicant unless the applicant has failed to submit a completed application. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable reports specified in § 625.37(a). Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be deemed abandoned.

(f) *Expiration.* A permit will expire upon the renewal date specified in the permit.

(g) *Duration.* A permit is valid until it is revoked, suspended or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Director.

(h) *Replacement.* Replacement permits, for otherwise valid permits, may be issued by the Regional Director when requested in writing by the applicant, stating the need for replacement and the Federal dealer permit number assigned. An application for a replacement permit shall not be considered a new permit. An appropriate fee may be charged.

(i) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the person to whom, or other business entity to which, it is issued.

(j) *Change in application information.* Within 15 days after a change in the information contained in an application submitted under this section, a written report of the change must be submitted to, and received by, the Regional Director. If written notice of the change in information is not received by the Regional Director within 15 days, the permit is void.

(k) *Alteration.* Any permit that is altered, erased, or mutilated is invalid.

(l) *Display.* Any permit, or valid duplicate thereof, issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(m) *Federal versus state requirements.* If a requirement of this part differs from a fisheries management measure required by state law, any dealer issued a Federal dealer permit must comply with the more restrictive requirement.

(n) *Sanctions.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR Part 904.

§ 625.37 Recordkeeping and reporting requirements.

(a) *Dealers*—(1) *Weekly report.* Dealers must send by mail to the Regional Director, or official designee, on a weekly basis on forms supplied by or approved by the Regional Director, a report of fish purchases. If authorized in writing by the Regional Director, dealers may submit reports electronically or through other media. The following information and any other information required by the Regional Director, must be provided in the report: Name and mailing address of dealer; dealer number; name and permit number of the vessels from which fish are landed or received; dates of purchases; pounds by species; price by species; and port landed. If no fish are purchased during the week, a report so stating must be submitted. All report forms must be signed by the dealer or other authorized individual.

(2) *Annual report.* All persons required to submit reports under paragraph (a)(1) of this section are required to complete the ''Employment Data'' section of the Annual Processed Products Reports; completion of the other sections on that form is voluntary. Reports must be submitted to the address supplied by the Regional Director.

(3) *Inspection.* Upon the request of an authorized officer, or by an employee of NMFS designated by the Regional Director to make such inspections, the dealer must make immediately available for inspection copies of the required reports that have been submitted, or should have been submitted, and the records upon which the reports were based.

(4) *Record retention.* Copies of reports, and records upon which the reports were based, must be retained and be available for review for 1 year after the date of the last entry on the report. The dealer must retain such reports and records at his/her principal place of business.

(5) *Submitting reports.* Reports must be received, or postmarked if mailed, within 3 days after the end of each reporting week. Each dealer will be sent forms and instructions, including the address to which to submit reports, shortly after receipt of a dealer permit.

(6) *At-sea activities.* All persons purchasing, receiving, or processing any scup at sea, harvested in or from the EEZ, for landing at any port of the United States must submit information identical to that required by paragraphs (a)(1) and (2) of this section and provide those reports to the Regional Director or designee on the same frequency basis.

(b) *Vessel owners*—(1) *Fishing log reports.* The owner of any vessel issued a Federal scup permit under § 625.34 must maintain on board the vessel, and submit, an accurate daily fishing log report for all fishing trips regardless of species fished for or taken, on forms supplied by or approved by the Regional Director. If authorized in writing by the Regional Director, vessel owners may submit reports electronically. At least the following information, and any other information required by the Regional Director, must be provided: Vessel name, U.S. Coast Guard documentation number (or state registration number if undocumented);

permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a charter or party trip); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; pounds by species of all species landed or discarded; dealer permit number (if a commercial trip); dealer name; date sold; port and state landed; and vessel operator's name, signature, and operator permit number.

(2) *When to fill in the log.* Fishing log reports must be filled in, except for information required but not yet ascertainable, before offloading has begun. All information in paragraph (b)(1) of this section must be filled in for each fishing trip before starting the next fishing trip.

(3) *Inspection.* Upon the request of an authorized officer or an employee of NMFS designated by the Regional Director to make such inspections, at any time during or after a trip, owners and operators must make immediately available for inspection the fishing log reports currently in use or to be submitted.

(4) *Record retention.* Copies of the fishing log reports must be retained and available for review for 1 year after the date of the last entry on the report.

(5) *Submitting reports.* Fishing log reports must be received or postmarked, if mailed, within 15 days after the end of the reporting month. Each owner will be sent forms and instructions, including the address to which to submit reports, shortly after receipt of a Federal Fisheries Permit. If no fishing trip is made during a month, a report so stating must be submitted.

§ 625.38 Vessel identification.

(a) *Vessel name.* Each fishing vessel owner subject to this part must affix permanently the vessel's name on the port and starboard sides of the bow and, if possible, on its stern if the vessel is over 25 feet (7.6 m) in length.

(b) *Official number.* Each fishing vessel owner subject to this section must display its official number on the port and starboard sides of the vessel's deckhouse or hull, and on an appropriate weather deck, so as to be visible from above by enforcement vessels and aircraft if the vessel is over 25 feet (7.6 m) in registered length. The official number is the U.S. Coast Guard documentation number, or the vessel's state registration number for vessel not required to be documented under title 46 of the United States Code.

(c) *Numerals.* Except as provided in paragraph (e) of this section, the official number must be permanently affixed in block arabic numerals in contrasting color at least 18 inches (45.7 cm) in height for fishing vessels over 65 feet (19.8 m) in length, and at least 10 inches (25.4 cm) in height for all other vessels over 25 feet (7.6 m) in length.

(d) *Duties of owner.* Any vessel owner subject to this part will:

(1) Keep the vessel's name and official number clearly legible and in good repair.

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from any enforcement vessel or aircraft.

(e) *Nonpermanent marking.* Vessels carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for scup.

§ 625.39 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person owning or operating a vessel issued a valid Federal scup permit under § 625.34, or issued an operator permit under § 625.35, to do any of the following:

(1) Land or possess at sea any scup, or parts thereof, that fail to meet the minimum fish size specified in § 625.54.

(2) Fail to affix and maintain markings as required by § 625.38;

(3) Possess scup in excess of the threshold amount specified in § 625.53, unless the vessel meets the minimum mesh requirement specified in § 625.53(a);

(4) Fail to keep scup separate from other species if fishing with nets having mesh that does not meet the minimum mesh-size requirement specified in § 625.53(a);

(5) Land scup for sale in any state after the effective date published in the Federal Register notifying permit holders that commercial quota is no longer available;

(6) Possess nets or netting that do not meet the minimum mesh requirement or that are modified, obstructed or constricted, if subject to the minimum mesh requirement specified in § 625.53(a), unless the nets or netting are stowed in accordance with § 625.53;

(7) Fish with nets or netting that do not meet the minimum mesh requirement or that are modified, obstructed or constricted while in possession of scup in excess of the threshold amount specified in § 625.53;

(8) Sell or transfer to another person for a commercial purpose, other than transport on land, any scup, unless the transferee has a dealer permit issued under § 625.36;

(9) Carry passengers for hire, or carry more than three crew members for a charter boat or five crew members for a party boat, while fishing commercially pursuant to a moratorium permit issued pursuant to § 625.34;

(10) Refuse to embark a sea sampler if requested by the Regional Director;

(11) Sell any scup that fail to meet the minimum fish size specified in § 625.54(a);

(12) Use a scup pot or trap that does not have the hinges and fasteners made of degradable materials as specified in § 625.53;

(13) Use a scup trap or pot that does not have a minimum escape vent of the size specified in § 625.53;

(14) Use roller rig trawl gear equipped with rollers greater than the size specified in § 625.53; or

(15) Possess scup in, or harvested from the EEZ in an area closed, or before or after a season established under § 625.53.

(b) It is unlawful for the owner or operator of a party or charter boat issued a permit (including a moratorium permit) pursuant to § 625.34, when the boat is carrying passengers for hire or carrying more than three crew members if a charter boat or more than five members if a party boat, to:

(1) Possess scup in excess of the possession limit established pursuant to § 625.55;

(2) Possess scup smaller than the minimum size limit for recreational fishermen established pursuant to § 625.54(b);

(3) Fish for scup other than during a season specified pursuant to § 625.53;

(4) Refuse to embark a sea sampler if requested by the Regional Director; or

(5) Sell scup or transfer scup to another person for a commercial purpose.

(c) It is unlawful for any person to do any of the following:

(1) Possess scup in or harvested from the EEZ either in excess of the possession limit specified under § 625.55 or before or after the time period specified under § 625.53, unless the person is operating a vessel issued a moratorium permit under § 625.34, and the moratorium permit is on board the vessel and has not been surrendered, revoked, or suspended;

(2) Possess scup in or harvested from the EEZ in an area closed, or before or after a season established under § 625.53;

(3) Possess in or harvest from the EEZ scup that do not meet the minimum size specified in § 625.54(b);

(4) If subject to the permitting requirements in §§ 625.34, 625.35 or 625.36, to offload, cause to be offloaded, sell or buy any scup, whether on land or at sea, as an owner, operator, dealer, buyer or receiver in the scup fishery, without accurately preparing and submitting in a timely fashion the documents required by § 625.37;

(5) Purchase or otherwise receive, except for transport, scup from the owner or operator of a vessel issued a moratorium permit under § 625.34 unless in possession of a valid permit issued under § 625.36;

(6) If subject to the permitting requirements of § 625.36, to purchase or otherwise receive for commercial purposes scup caught by other than a vessel with a moratorium permit, unless the vessel has not been issued a permit under this part and is fishing exclusively within the waters under the jurisdiction of any state;

(7) If subject to the permitting requirements of § 625.36, to purchase or otherwise receive for a commercial purpose scup landed in any state after the effective date published in the Federal Register notifying permit holders that commercial quota is no longer available in that state;

(8) Make any false statement, oral or written, to an authorized officer, concerning the catching, taking, harvesting, landing, purchase, sale, possession, or transfer of any scup;

(9) Fail to report to the Regional Director within 15 days any change in the information contained in a permit application;

(10) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, coercion or refusal of reasonable assistance of an observer or sea sampler conducting his or her duties aboard a vessel; or

(11) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

(d) All scup possessed on board a party or charter boat issued a permit under § 625.34(c) are deemed to have been harvested from the EEZ.

(e) It is unlawful for any person to violate any terms of a letter authorizing experimental fishing pursuant to § 625.57 or to fail to keep such letter on board the vessel during the time period of the experimental fishing.

§ 625.40 Facilitation of enforcement

See § 620.8 of this chapter.

§ 625.41 Penalties.

See § 620.9 of this chapter.

Subpart D—Management Measures, Scup

Subpart D—Management Measures, Scup

§ 625.50 Catch quotas and other restrictions.

(a) *Annual review.* The Scup Monitoring Committee will review the following data on or before August 15 of each year to determine the allowable levels of fishing and other restrictions necessary to result in an exploitation rate of 47 percent in the second, third, and fourth years following Amendment 8 implementation, 33 percent in the fifth and sixth years following Amendment 8 implementation, and 19 percent in the seventh year following Amendment 8 implementation and thereafter.

(1) As a basis for establishing these specifications and restrictions, the Monitoring Committee will review available data pertaining to the following:

(i) Commercial and recreational catch data.

(ii) Current estimates of fishing mortality.

(iii) Stock status.

(iv) Recent estimates of recruitment.

(v) Virtual population analysis results.

(vi) Levels of noncompliance by fishermen or individual states.

(vii) Impact of size/mesh regulations.

(viii) Sea sampling and winter trawl survey data, or, if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses.

(ix) Impact of gear other than otter trawls on the mortality of scup.

(x) Any other relevant information.

(b) *Recommended measures.* Based on this review, the Monitoring Committee will recommend to the Demersal Species Committee of the Council and the Commission the following measures it determines are necessary to assure that the exploitation rate specified in paragraph (a) of this section is not exceeded:

(1) The coastwide commercial quota will be set from a range of 0 to the maximum allowed to achieve the exploitation rate specified in paragraph (a) of this section.

(2) Commercial minimum fish size.

(3) Minimum mesh size.

(4) The recreational possession limit will be set from a range of 0 to 50 scup to achieve the exploitation rate specified in paragraph (a) of this section.

(5) The recreational minimum fish size will be set from a range of 7 inches (17.8 cm) total length to 10 inches (25.4 cm) total length.

(6) Recreational season.

(7) Restrictions on gear other than otter trawls.

(8) Season and area closures in the commercial fishery.

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Scup Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the Council; the Council shall review these recommendations. Based on these recommendations, and any public comment, the Council shall make recommendations to the Regional Director with respect to the measures necessary to assure that the exploitation rates specified in paragraph (a) of this section are not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action. The Regional Director will review these recommendations and any recommendations of the Commission. After such review, the Regional Director will publish in the Federal Register a proposed rule on or before October 15 to implement a coastwide commercial quota and recreational harvest limit and additional management measures for the commercial fishery, and will publish in the Federal Register a proposed rule on or before February 15 to implement additional management measures for the recreational fishery, if he/she determines that these measures are necessary to assure that the exploitation rates specified in paragraph (a) of this section are not exceeded. After considering public comment on each proposed rule, the Regional Director will publish a final rule in the Federal Register to implement the annual measures.

(d) *Additional quota measures.* The commercial quota will be implemented as a coastwide quota. The Council and Commission may revise the system to distribute and manage the annual commercial quota allocations in accordance with the procedures set forth in this section. Vessel trip limits,

as well as coastwide, regional and state-by-state quotas may be considered in combination with different fractions of the fishing year. Any modification to the coastwide quota system shall be published as a proposed rule with a 45-day public comment period in the Federal Register. After considering public comment on the proposed rule, a final rule shall be published in the Federal Register to implement the modification.

§ 625.51 Closure.

(a) *EEZ Closure.* The Regional Director will monitor the coastwide commercial quota based on dealer reports, state data, and other available information and shall determine the date when the commercial quota is harvested. The Regional Director shall close the EEZ to fishing for scup by commercial vessels for the remainder of the calendar year by publishing an announcement in the Federal Register advising that, effective upon a specific date, the commercial quota has been harvested, and notifying vessel and dealer permit holders that no commercial quota is available for landing scup.

§ 625.52 Season and area restrictions.

If the Council determines through its annual review process that seasonal restrictions or area closures are necessary for the commercial or recreational sectors to achieve the exploitation rate specified or to attain other FMP objectives, such measures will be enacted through the procedure specified in § 625.50.

§ 625.53 Gear restrictions.

(a) *Trawl vessel gear restrictions.* (1) Otter trawlers whose owners are issued a scup moratorium permit under § 625.34 and that possess 4,000 or more lb (1,814 or more kg) of scup, must fish with nets that have a minimum mesh size of 4 inches (10.2 cm) diamond mesh applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net or, for codends with less than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension.

(2) Owners or operators of otter trawlers issued a scup moratorium permit under § 625.34 and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh requirements and that are not stowed in accordance with this section, may not retain 4,000 or more lb (1,814 or more kg) of scup. Scup on board these vessels shall be stored separately and kept readily available for inspection.

(3) *Mesh-size measurement.* Mesh sizes are measured by a wedge-shaped gauge having a taper of 2 cm to 8 cm and a thickness of 2.3 millimeters inserted into the meshes under a pressure or pull of 5 kilograms. The mesh size will be the average of the measurement of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.

(4) *Net modification.* The owner or operator of a fishing vessel subject to this part shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net. However, one splitting strap and one bull rope (if present), consisting of line or rope no more than 3 inches (7.2 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict in any manner the top of the regulated portion of the net, and one rope no greater that 0.75 inches (1.9 cm) in diameter extending the length of the net from the belly to the terminus of the codend along each of the following: The top, bottom, and each side of the net. ''Top of the regulated portion of the net'' means the 50 percent of the entire regulated portion of the net that (in a hypothetical situation) will not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes shall not be considered part of the top of the regulated portion of a trawl net. A vessel shall not use any means or mesh configuration on the top of the regulated portion of the net, as defined in § 625.53(e), if it obstructs the meshes of the net or otherwise causes the size of the meshes of the net while in use to diminish to a size smaller than the minimum specified in § 625.53(a).

(5) *Mesh obstruction or constriction.* (i) The owner or operator of a fishing vessel may not use any mesh configuration, mesh construction, or other means on or in the top of the net, as defined in paragraph (3) of this section, if it obstructs the meshes of the net in any manner.

(ii) No owner or operator of a fishing vessel may use a net capable of catching scup in which the bars entering or exiting the knots twist around each other.

(6) *Stowage of nets.* The owner or operator of an otter trawl vessel retaining 4,000 or more lb (1,814 or more kg) of scup and subject to the minimum mesh requirement may not have available for immediate use any net, or any piece of net, not meeting the minimum mesh size requirement, or mesh that is rigged in a manner that is inconsistent with the minimum mesh size. A net that conforms to one of the following specifications and that can be shown not to have been in recent use is considered to be not ''available for immediate use:''

(i) A net stowed below deck, provided:

(A) It is located below the main working deck from which the net is deployed and retrieved.

(B) The towing wires, including the ''leg'' wires, are detached from the net.

(C) It is fan-folded (flaked) and bound around its circumference.

(ii) A net stowed and lashed down on deck, provided:

(A) It is fan-folded (flaked) and bound around its circumference.

(B) It is securely fastened to the deck or rail of the vessel.

(C) The towing wires, including the leg wires, are detached from the net.

(iii) A net that is on a reel and is covered and secured, provided:

(A) The entire surface of the net is covered with canvas or other similar material that is securely bound.

(B) The towing wires, including the leg wires, are detached from the net.

(C) The codend is removed from the net and stored below deck.

(iv) Nets that are secured in a manner approved by the Regional Director, provided that the Regional Director has reviewed the alternative manner of securing nets and has published that alternative in the Federal Register.

(7) The minimum net mesh set forth in paragraph (a)(1) of this section may be changed following the procedures in § 625.50.

(b) *Scup pots or traps restrictions*—(1) *Degradable hinges.* The owner or operator of fishing vessels issued a scup moratorium permit under § 625.34 that are fishing with scup pots or traps, must fish with traps or pots that have degradable hinges and fasteners made of one of the following degradable materials:

(i) Untreated hemp, jute, or cotton string of 3⁄16 inches (4.8 mm) diameter or smaller;

(ii) Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or

(iii) Ungalvanized or uncoated iron wire of 0.094 inches (2.4 mm) diameter or smaller.

(2) *Escape Vents.* (i) The owners or operators of fishing vessels issued a scup moratorium permit under § 625.34 that are fishing with scup pots or traps, must fish with traps or pots that have a circular escape vent with a minimum of 3.1 inches (7.9 cm) in diameter, or a square escape vent with a minimum of 2.25 inches (5.7 cm) for each side, or an equivalent rectangular escape vent.

(ii) The minimum escape vent size set forth in paragraph (b)(2) of this section may be revised following the procedures in § 625.50.

§ 625.54 Minimum fish sizes.

(a) The minimum size for scup is 9 inches (22.9 cm) TL for all vessels issued a moratorium permit under § 625.34; if such a vessel is also issued a charter and party boat permit and is carrying passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat, then the minimum size specified in paragraph (b) of this section applies.

(b) The minimum size for scup is 7 inches (17.8 cm) TL for all vessels that do not qualify for a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

(c) The minimum size applies to whole fish or any part of a fish found in possession, e.g., fillets. These minimum sizes may be adjusted pursuant to the procedures in § 625.50.

§ 625.55 Possession limit.

(a) Pursuant to the procedures in § 625.50, the Regional Director may limit the number of scup that may be possessed in or harvested from the EEZ by persons aboard vessels that have not been issued a valid moratorium permit.

(b) If whole scup are processed into fillets, an authorized officer will convert the number of fillets to whole scup at the place of landing by dividing fillet number by 2. If scup are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole scup.

(c) Scup harvested by vessels subject to the possession limit with more than one person aboard may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of scup aboard by the number of persons on board other than the captain and crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

§ 625.56 At-sea observer coverage.

(a) The Regional Director may require observers for any vessel holding a permit issued under § 625.34.

(b) Owners of vessels selected for observer coverage must notify the appropriate Regional Director or Center Director, as specified by the Regional Director, before commencing any fishing trip that may result in the harvest of scup. Notification procedures will be specified in selection letters to vessel owners.

(c) An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer to inspect and copy any records associated with the catch and distribution of fish for that trip.

§ 625.57 Experimental fishery.

(a) The Regional Director, in consultation with the Executive Director of the Council, may exempt any person or vessel from the requirements of this part for the conduct of experimental fishing beneficial to the management of the scup resource or fishery.

(b) The Regional Director may not grant such exemption unless he/she determines that the purpose, design, and administration of the exemption is consistent with the objectives of the FMP, the provisions of the Magnuson Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the scup resource and fishery;

(2) Cause any quota to be exceeded; or

(3) Create significant enforcement problems.

(c) Each vessel participating in any exempted experimental fishing activity is subject to all provisions of this FMP except those necessarily relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Director to each vessel participating in the exempted activity. This letter must be carried on board the vessel seeking the benefit of such exemption.

§ 625.58 Protection of threatened and endangered sea turtles.

This section supplements existing regulations issued to regulate incidental take of sea turtles under authority of the Endangered Species Act under 50 CFR parts 217 and 227. In addition to the measures required under those parts NMFS will investigate the extent of take in flynet gear and if deemed appropriate, may develop and certify a Turtle Excluder Device (TED) for that gear.

[FR Doc. 96–13701 Filed 5–29–96; 1:02 pm]
BILLING CODE 3510–22–W

50 CFR Parts 650 and 651

[I.D. 052296A]

New England Fishery Management Council; Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will begin on Wednesday, June 5, 1996, at 10 a.m. and on Thursday, June 6, 1996, at 8:30 a.m.

ADDRESSES: The meeting will be held at the King's Grant Inn, Route 128 and Trask Lane, Danvers, MA; telephone (508) 774–6800. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097; telephone: (617) 231–0422.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, (617) 231–0422.

SUPPLEMENTARY INFORMATION:

June 5, 1996

After introductions, the June 5 session will begin with the Groundfish Committee Report. Issues associated with the implementation of Amendment 7 to the Council's Northeast Multispecies Fishery Management Plan (Multispecies FMP) will be discussed along with amendment measures disapproved by the Secretary of Commerce. The committee also will provide an update on several pending framework adjustments to the plan, including possible modification of

gillnet effort reduction measures, establishment of area closures in the Gulf of Maine to protect juvenile and spawning fish, the possession limit for haddock, and Southern New England mesh size rules. There will be an update on the development of a plan amendment to address management of the whiting fishery and informal industry meetings on the displacement of fishing effort to New England inshore areas.

During the afternoon session, a representative of the Office of Sustainable Development will brief the Council on Commerce's program to reduce fishing capacity in the groundfish fleet by paying vessel owners to retire vessels and their fishing privileges. The Marine Mammal Committee will then discuss a recommendation to initiate framework adjustment to the Multispecies FMP. If approved as an initial action, the Council would expand the timing of the Mid-coast Closure Area, currently in place to reduce the bycatch of harbor porpoise in the Gulf of Maine sink gillnet fishery, to include the period September 15 through October 31. The afternoon agenda will conclude with a discussion of the Monkfish Committee's recommendation for an overfishing definition and management alternatives to be reviewed at future public hearings.

June 6, 1996

The June 6 session will begin with reports from the Council Chairman, Executive Director, Director, Northeast Region, NMFS (Regional Director), and representatives from the Northeast Fisheries Science Center, Atlantic States Marine Fisheries Commission, U.S. Coast Guard, and the Mid-Atlantic Council. The Herring Committee will discuss mid-water trawl operations during the October 1 through 21 spawning closure period and a request for a herring fishery in the areas closed for groundfish conservation. The Large Pelagics Committee will discuss proposed regulations for Atlantic tunas, followed by the Gear Conflict Committee report. The Council will review recent public hearing comments on the development of a framework adjustment process to address gear conflicts through Council management plans. At the recommendation of the Sea Scallop Committee, the Council may take final action on Framework Adjustment 8 to the Atlantic Sea Scallop Fishery Management Plan (Scallop FMP). If approved, the action would allow some vessels fishing with dredges to also use nets to harvest sea scallops if they meet certain criteria. Scallop regulations currently prohibit dredge vessels from using nets to harvest scallops. The Council may also approve a new location for establishment of a temporary experimental use area 10 miles south of Martha's Vineyard for sea scallop research, enhancement, and aquaculture. The action would be submitted as Amendment 5 to the Scallop FMP. The meeting will conclude after the Council considers *Illex* squid management recommendations from the ad hoc Squid, Mackerel and Butterfish Committee and the conclusion of any other outstanding business.

Abbreviated Rulemaking—Atlantic Sea Scallops

At the recommendation of its Scallop Committee, the Council will consider final action on Framework Adjustment 8 to the Scallop FMP under the framework for abbreviated rulemaking procedure contained in 50 CFR 650.40. The Council proposes to allow vessels that have used a scallop dredge five times or less from 1988 through 1994 to continue to use nets to catch scallops. Options for determining whether it is impractical for vessels to use dredges include a change of owners, total refitting of the vessel, and horsepower limits.

Abbreviated Rulemaking Action—Northeast Multispecies

The Council will consider initial action on Framework Adjustment 15 to the Northeast Multispecies FMP under the framework for abbreviated rulemaking procedure contained in 50 CFR 651.40. The Council proposes to reduce further the bycatch of harbor porpoise in the Gulf of Maine sink gillnet fishery by expanding the closure period in the Mid-coast Area. Currently, the use of sink gillnets is prohibited from November 1 through December 31. This adjustment would add September 15 through October 31 to the existing closure period. No change in area is proposed although the Council may recommend an experimental fishery to continue the assessment of the use of acoustic deterrents to mitigate the porpoise bycatch.

The Council will consider public comments at a minimum of two Council meetings prior to making any final recommendations to the Regional Director, under the provisions for abbreviated rulemaking cited above. If the Regional Director concurs with the measures proposed by the Council, he will publish them as a final rule in the Federal Register.

The Council will address any other outstanding business at the conclusion of the agenda items described above.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 28, 1996.

Richard W. Surdi,

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

[FR Doc. 96–13746 Filed 5–31–96; 8:45 am]

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Notices

Federal Register
Vol. 61, No. 107
Monday, June 3, 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

Forest Service

Environmental Impact Statement for the Stibnite Mine Expansion Gold Mining Project on the Krassel Ranger District of the Payette National Forest, Valley County, ID

AGENCY: Forest Service, USDA.

ACTION: Revisednotice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare a revised draft environmental impact statement (DEIS) and final environmental impact statement (FEIS) for a modified proposal submitted by Stibnite Mine Inc. (SMI). The proposal is to expand SMI's existing open-pit gold mining operation located in Valley County, near Yellow Pine, Idaho. The expansion would be located adjacent to private lands, in the Krassel Ranger District of the Payette National Forest.

The Forest Service published a Notice of Intent to prepare an EIS for the proposed Stibnite Mine Expansion in the Federal Register April 21, 1992 (Vol. 57, No. 77, p. 14558–14559). That notice is hereby revised to show the following proposal changes: (1) mine four new pits instead of six, (2) backfill waste into pits instead of creating two exterior waste dumps.

The EIS will focus on: (1) Construction of four new mine pits in the Midnight Creek drainage, (2) partial backfilling each pit with waste rock, and (3) construction of haul road to connect the new pits with existing haul road in the West End area. The modified proposal will be called the Stibnite Mine Expansion Project.

The agency will accept written comments and suggestions on the scope of the analysis. Comments already submitted to the Payette National Forest on the 1994 DEIS or related scoping will be considered in the 1996 analysis.

DATES: Comments concerning the scope of the analysis must be received by July 1, 1996, to ensure timely consideration.

ADDRESSES: Submit written comments and suggestions related to the scope of the analysis to: Stibnite Expansion EIS, Payette National Forest, P.O. Box 1026, McCall, Idaho, 83638.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and DEIS to Fred Dauber, Krassel District Ranger, Krassel District Office, P.O. Box 1026, McCall, Idaho, telephone (208) 634–0600.

SUPPLEMENTARY INFORMATION: SMI currently operates a gold mine in the project area. In May of 1981, an Environmental Impact Statement (EIS) was prepared which analyzed the existing mining operations. In 1992 SMI proposed an expansion of five new pits. A DEIS was prepared since the proposed project exceeded the scope of the 1981 EIS. The Forest Service released the DEIS in November 1994 for public review. Because of concerns raised by the public and federal agencies, the Forest Service withdrew the DEIS in February, 1995. Early this year SMI modified their expansion proposal, and the Forest Service began work to revise the 1994 DEIS.

The new proposal would involve construction of four new mine pits and associated haul road located adjacent to the now-active West End mine area. Stibnite Mine Inc. would continue to use their existing heap leach facility and other ancillary facilities which were previously approved. SMI has recently upgraded their processing facility to comply with the State of Idaho, Rules Governing Ore Processing by Cyanidation.

The DEIS will consider a range of alternatives, including the no-action alternative. Other alternatives will be developed or modified to address issues and to mitigate impacts. Agencies and the public have expressed preliminary concerns regarding effects on: surface and ground water, fisheries and wildlife, biodiversity, vegetation, soils, wetlands, public safety and transportation, air quality, recreation and visual resources, socioeconomic and social impacts, and cultural resources.

The Forest Service will further expand and/or clarify issues based upon public input provided during this, and the previous, scoping processes. All interested and affected members of the public may participate in the scoping process. This process will include:

1. Identification or modification of new or additional issues.
2. Identification of issues to be analyzed in depth.
3. Exploring additional alternatives.
4. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

If requested, the Forest Service may make a copy of all comments provided in response to this Notice available to the public. This will include names, addresses, and any other personal information provided with the comments.

David Alexander, Forest Supervisor, Payette National Forest, McCall, Idaho, is the responsible official for this action. The DEIS is expected to be available for public review in December of 1996.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986),* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The FEIS is scheduled to be completed and available to the public by early 1997. The responsible official will document the decision and the reasons supporting it in a Record of Decision. That decision will be subject to appeal pursuant to 36 CFR 215.

Dated: May 16, 1996.

David F. Alexander,

Forest Supervisor, Payette National Forest.

[FR Doc. 96–13760 Filed 5–31–96; 8:45 am]

BILLING CODE 3410–11–M

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Blackstone River Valley National Heritage Corridor Commission; Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, June 27, 1996.

The Commission was established pursuant to Public Law 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 pm at the Corridor Office, One Depot Square, Woonsocket, RI for the following reasons:

1. Strategic Planning follow-up
2. Legislative Update
3. Commission Business

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Susan K. Moore, Executive Director, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762–0250

Further information concerning this meeting may be obtained from Susan K. Moore, Executive Director of the Commission at the aforementioned address.

Susan K. Moore,

Executive Director BRVNHCC.

[FR Doc. 96–13827 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–70–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: June 10, 1996; 8:30 a.m.

PLACE: RFE/RL, Inc., Vinohradska 1, Fifth Floor Conference Room, 110 00 Prague 1, Czech Republic.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)) The BBG meeting will be followed by a closed meeting of the Board of Directors of the RFE/RL, Inc., a nonprofit private corporation.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Barbara Floyd at (202) 401–3736.

Dated: May 30, 1996.

David W. Burke,

Chairman.

[FR Doc. 96–13919 Filed 5–30–96; 8:45 am]

BILLING CODE 6155–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/17/96–05/20/96

Firm name	Address	Date petition accepted	Product
Rand Machine Products, Inc	P.O. Box 72, Falconer NY 14733.	04/15/96	Metal Parts Of Bombs and Shock Absorbers for Railcars.
Lee Brass Company	Golden Springs Road, Anniston AL 36202.	04/24/96	Brass—Cast and Machined Plumbing Fittings and Cast, Machined and Assembled Water Meters.
Seal-Pac Professional Services, Inc.	6201 Bay Way Drive, Baytown TX 78520.	04/26/96	Gaskets (Marine, Industrial and Chemical), Joints (Packing and Chemical), and Mechanical Seals.
Wendell Textiles, Inc	8803 Kelso Drive, Baltimore MD 21221.	04/29/96	Fusible, Non-Woven Interlining.
F&M Hat Company, Inc	103 Walnut Street, Denver PA 17517.	04/30/96	Wool Hat Bodies, Finished Wool Hats and Finished Straw Hats.
Black River Plastics, Inc.	2600—20th Street, Port Huron MI 48060.	04/30/96	Thermal Injected Molded Plastic Products, Interior Lens, Door Panel Substrates and Window Insulators.
Miller Sports, Inc	136 Hakl Street, Tabor SD 57063.	05/07/96	Gold Bags.
Russell William Ltd	1710 Midway Road, Odenton MD 21113.	05/02/96	Display Units.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 04/17/96–05/20/96—Continued

Firm name	Address	Date petition accepted	Product
ATK America, Inc	1164 West 850 North, Centerville UT 84014.	05/02/96	Motorcycles.
Taylor Clothing, Inc	200 East High Street, Taylor PA 18517.	05/13/96	Men's and Women's Jackets.
Durodyne, Inc	P.O. Box 11740, Tucson AZ 85734–1740.	05/17/96	Hoses for Use in Air and Marine Refueling and for Chemical Use.
Casecraft Corporation	Manchester Industrial Park, Box 280, Manchester KY 40962.	05/20/96	Plaques, Award Products and Name Blocks of Wood and Retail Store Fixtures.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

(The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.)

Dated: May 28. 1996.

Lewis R. Podolske,

Director, Trade Adjustment Assistance Division.

[FR Doc. 96–13786 Filed 5–31–96; 8:45 am]

BILLING CODE 3510–24–M

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT:

Technical and licensing information on these inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 95–006

Title: Use of Pre-Ceramic Polymers in Fabrication of Interpenetrating Phase Composites.

Description: Ceramic composites are formed by a low cost, moderate temperature sintering process using a pre-ceramic precursor which, upon heating, decomposes to form ''necks'' between individual ceramic particles. The properties of the resulting porous ceramic bodies can be further modified to form a new class of composite materials.

NIST Docket No. 95–048D

Title: Methods For Welding Cryogenic Alloys.

Description: To weld metal parts intended for exposure to cryogenic temperatures, an austenitic welding electrode of nickel, chromium, molybdenum, manganese, nitrogen, and iron in specified amounts is used. This alloy and welding method form a weld metal with a superior tearing modulus, fracture toughness, and yield strength at temperatures of about 77 K to as low as 4 K.

Dated: May 29, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–13820 Filed 5–31–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council Open Meeting

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

SUMMARY: NOAA will conduct a meeting of the Sanctuary Advisory Council (SAC) for the Hawaiian Islands Humpback Whale National Marine Sanctuary on June 6, 1996, in Honolulu, Hawaii. The SAC was established to advise NOAA's Sanctuaries and Reserves Division regarding the development and management of the Hawaiian Islands Humpback Whale National Marine Sanctuary. The Advisory Council was established under the National Marine Sanctuaries Act.

TIME AND PLACE: The meeting will be held on Thursday, June 6, 1996, from 9:30 AM until 3:00 PM, at the Honolulu International Airport, Interisland Terminal, Ohia Room #1, 7th floor.

AGENDA: General issues related to the Hawaiian Islands Humpback Whale National Marine Sanctuary are expected to be discussed, including an update on recent meetings held in Washington, D.C., updates from the SAC subcommittees (boundary, regulatory and management), the SAC Charter, and an overview of current Sanctuary programs.

PUBLIC PARTICIPATION: The meeting will be open to the public, and interested persons will be permitted to present oral or written statements on agenda items. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT:

Allen Tom (808) 879–2818 or Brady Phillips at (301) 713–3141, ext. 169.

Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program.

Dated: May 24, 1996.

David L. Evans,

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

[FR Doc. 96–13813 Filed 5–31–96; 8:45 am]

BILLING CODE 3510–08–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:30 a.m., Friday, June 7, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–13971 Filed 5–30–96; 2:39 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Tuesday, June 11, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. Lobby Level Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Second Quarter Review, FY 1996.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–13972 Filed 5–30–96; 2:39 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:30 a.m., Tuesday, June 11, 1996.

PLACE: 1155 21st St., NW., Washington, DC, 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–13973 Filed 5–30–96; 2:39 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Thursday, June 27, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–13974 Filed 5–30–96; 2:39 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for the Disposal and Reuse of Naval Surface Warfare Center, Crane Division, Naval Ordnance Station Louisville, KY

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 as implemented in the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the Disposal and Reuse of Naval Ordnance Station Louisville (NOSL).

In accordance with the 1995 Base Closure and Realignment Act, the Navy intends to close NOSL and dispose of the property. NOSL is a depot-level maintenance facility that provides maintenance, overhaul, and repair of small to large caliber Naval guns, and on-board Navy weapons systems. It is the Navy's only remaining full-service gun and gun weapons system facility. It is located in the city limits of Louisville. The property occupies 142 acres of land surrounded by industrial and single family as well as multi-family residential areas. It includes 92 structures containing more than 1.63 million square feet of production, administrative, supply, and miscellaneous support facilities.

The objective of the EIS is to describe the existing conditions of NOSL and to evaluate the environmental impacts associated with the various reuse alternatives, including: (1) Privatizing the gun and gun weapons systems facilities of NOSL, so that the mission remains the same but the ownership of the equipment and facilities is transferred to the private sector, with the remainder of the base being disposed in accordance with the land use described in Louisville/Jefferson County Redevelopment Authority's Facility Privatization and Reuse Plan; or (2) disposing the property for purposes of mixed land use that does not include privatization.

The significant primary and secondary adverse and beneficial environmental effects that may result from the disposal and reuse of NOSL will be identified and fully discussed. Major environmental issues that will be addressed in the EIS include air quality, water quality, and impacts to wetlands, and endangered species, cultural resources, and socioeconomics.

In addition to compliance with NEPA, a cultural resources survey is being conducted to comply with Sections 106 and 110 of the National Historic Preservation Act of 1966, as amended. The survey will focus on the potential for properties, machinery, and equipment to be eligible for listing in the National Register of Historic Places.

The Navy will hold a public scoping meeting for the purpose of further identifying the scope of issues to be addressed in the EIS. It will be held on Tuesday, June 18, 1996 at 7:00 PM at the Navy and Marine Corps Reserve Center, 5401 Southside Drive, Louisville, Kentucky. Navy representatives will make a brief presentation, then members of the pubic will have the opportunity to provide their comments. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed in the EIS. In the interest of time, speakers will be asked to limit their comments to five minutes.

ADDRESSES: Agencies and the public are encouraged to provide written comments in addition, or, in lieu of, oral comments at the scoping meeting. To be most helpful, comments should clearly describe specific issues or topics which the EIS should address. Written comments must be postmarked by July 18, 1996, and should be mailed to Commanding Officer, Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, North Charleston, South Carolina 29419–9010

(Attn: Mr. Will Slogger), telephone (803) 820–5797. The scoping meeting will be conducted in English, and requests for language interpreters or other special communications needs should be made to Mr. Sloger at least one week prior to the meeting. The Navy will make every reasonable effort to accommodate these needs.

Dated: May 29, 1996.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–13808 Filed 5–31–96; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Acting Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 2, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Helene Deramond,

Acting Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Revision.
Title: Drug and Violence Prevention Program in Higher Education, The Institution-Wide Program Competition.
Frequency: One-time.
Affected Public: State, local or Tribal Gov't, SEAs and LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 10.
Burden Hours: 24.
Abstract: Safe and Drug-Free Schools and Communities National Programs (ESEA–A–2) legislation calls for drug and violence prevention programs that benefit college and university students. The Institution-Wide grant competition responds to the mandate by making federal funds available to colleges and universities through a competitive grant making process.

[FR Doc. 96–13627 Filed 5–31–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 3, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are

available from Patrick J. Sherrill at the address specified above.

Helene Deramond,

Acting Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Revision.

Title: Application for Approval To Participate in Federal Financial Aid Programs.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 2,219.

Burden Hours: 36,073.

Abstract: The Higher Education Act of 1965, as amended, requires postsecondary institutions to complete and submit this application as a condition of eligibility for any of the Title IV student financial assistance programs and for the other postsecondary programs authorized by the HEA. An institution must submit the form (1) initially when it first seeks to become eligible for the Title IV programs, (2) every four years after initial certification, (3) when it changes ownership, merges, or changes from a ''profit'' to a ''non-profit'' institution, and (4) to be reinstated to participate in the Title IV programs.

[FR Doc. 96–13628 Filed 5–31–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–236–000]

Williams Natural Gas Company; Notice of Section 4 Filing

May 28, 1996.

Take notice that on May 14, 1996, Williams Natural Gas Company (WNG) tendered for filing pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering services presently provided by WNG on facilities defined in Docket Nos. CP94–196–000 and CP94–197–000 as Oklahoma Hugoton, West Panhandle and Other.[1] WNG proposes that such termination of service be effective on the last day of the month in which the Commission issues an order approving the instant Notice of Termination.

Any person desiring to be heard or to protect this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed no later than June 3, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–13733 Filed 5–31–96; 8:45 am]

BILLING CODE 6717–01–M

[1] *See* Williams Natural Gas Co., 69 FERC ¶ 61,384 (1994), *order on reh'g and deferring action,* 72 FERC ¶ 61,101, *order on compliance filing and reh'g,* 74 FERC ¶ 61,103 (1996).

[Docket No. EL96–54–000, et al.]

U.S. Department of the Navy, et al.; Electric Rate and Corporate Regulation Filings

May 24, 1996.

Take notice that the following filings have been made with the Commission:

1. U.S. Department of the Navy

[Docket No. EL96–54–000]

Take notice that on May 14, 1996, the U.S. Department of the Navy tendered for filing a petition with the Federal Energy Regulatory Commission (Commission) requesting a declaratory ruling removing the uncertainty surrounding the classifications of the Department of Defense installations in the Commonwealth of Virginia as related to electric services.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Company of New Hampshire v. The New Hampshire Electric Cooperative, Inc.

[Docket No. EL96–53–000]

Take notice that on May 17, 1996, Public Service Company of New Hampshire (PSNH) tendered for filing a complaint against The New Hampshire Electric Cooperative, Inc. (NHEC) regarding the NHEC's rights and obligations in connection with a two-year ''Retail Competition Pilot Program'' ordered by the New Hampshire Public Utilities Commission pursuant to a series of orders.

Comment date: June 24, 1996, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall also be due on or before June 24, 1996.

3. DC Tie, Inc., Morgan Stanley Capital Group Inc., Howard Energy Company, Inc., IGM, Inc., Vantus Power Services, PowerMark LLC, Seagull Power Services, Inc.

[Docket Nos. ER91–435–019, ER94–1384–009, ER95–252–005, ER95–1439–002, ER95–1614–005, ER96–332–001, ER96–342–001, (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On May 13, 1996, DC Tie, Inc. filed certain information as required by the Commission's July 11, 1991, order in Docket No. ER91–435–000.

On April 29, 1996, Morgan Stanley Capital Group Inc. filed certain information as required by the Commission's November 8, 1994, order in Docket No. ER94–1384–000.

On May 9, 1996, Howard Energy Company, Inc. filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–252–000.

On May 10, 1996, IGM, Inc. filed certain information as required by the Commission's August 28, 1995, order in Docket No. ER95–1439–000.

On April 24, 1996, Vantus Power Services filed certain information as required by the Commission's October 20, 1995, order in Docket No. ER95–1614–000.

On May 22, 1996, PowerMark LLC filed certain information as required by the Commission's January 19, 1996, order in Docket No. ER96–332–000.

On April 29, 1996, Seagull Power Services, Inc. filed certain information as required by the Commission's February 15, 1996, order in Docket No. ER96–342–000.

4. Entergy Power, Inc.

[Docket No. ER91–569–007]

Take notice that on May 17, 1996, Entergy Power, Inc. (EPI) tendered for filing proposed amendments to its existing Rate Schedule FP. EPI states that Schedule FP, which was initially approved for market-based rates, has not been amended since it was filed in 1991. EPI states that this filing is made in response to the Commission's new policy regarding umbrella service agreements, announced in Southern Company Services, Inc., 75 FERC 61,130 (April 30, 1996).

EPI states that it proposes amendments that would add the condition contained in Southern Company Services, limiting pricing of non-power goods and services transactions between EPI and its Regulated Affiliates; and comport with the Commission's recent ruling in Southern Company Services, which permits EPI to file umbrella service agreements, within 30 days of commencement of service under those agreements, for short-term transactions of one year or less.

EPI requests a waiver pursuant to 18 CFR 35.11 of the Commission's Regulations, which permits an earlier effective date upon good cause shown. EPI contends that the changes proposed to Schedule FP are intended to conform with current Commission policy regarding competitive bulk power transactions. EPI requests that amended Rate Schedule FP become effective as of the date of filing, in order to permit EPI and its customers to more fully employ open access tariffs to be available within 60 days after publication of Order 888.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Oxbow Power Marketing Inc.

[Docket No. ER96–1196–000]

Take notice that on May 14, 1996, Oxbow Power Marketing, Inc. (Oxbow), a Delaware corporation, filed a Second Supplement to Petition for order Accepting Rate Schedule for Filing and Granting Waivers and Blanket Approvals with the Federal Energy Regulatory Commission for acceptance of Oxbow's Modified Rate Schedule FERC No. 1, providing the sale of electricity at market-based rates; the granting of certain blanket approvals; and the wavier of certain Commission Regulations.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. PECO Energy Company

[Docket No. ER96–1795–000]

Take notice that on May 13, 1996, PECO Energy Company (PECO) filed a Service Agreement dated May 6, 1996, with Rainbow Energy Marketing Corporation (REMC) under PECO's FERC Electric Tariff Original Volume No. 3 (Tariff). The Service Agreement adds REMC as a customer under the Tariff.

PECO requests an effective date of May 6, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to REMC and to the Pennsylvania Public Utility Commission.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER96–1815–000]

Take notice that on May 15, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Toledo Edison Company (TEC) dated May 13, 1995, providing for certain transmission services to TEC.

Copies of this filing were served upon TEC and the New York State Public Service Commission.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Niagara Mohawk Power Corporation

[Docket No. ER96–1816–000]

Take notice that on May 15, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and MidCon Power Services Corp. (MidCon) dated May 13, 1995, providing for certain transmission services to MidCon.

Copies of this filing were served upon MidCon and the New York State Public Service Commission.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER96–1817–000]

Take notice that on May 15, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and TransCanada Power Corp. (TransCanada). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows TransCanada to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 5, Rate Schedule STNF, under Docket No. ER95–1474.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing has been served on TransCanada, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Alliance Power Marketing, Inc.

[Docket No. ER96–1818–000]

Take notice that on May 15, 1996, Alliance Power Marketing, Inc. (Alliance), tendered for filing pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207 an application for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective July 14, 1996, or the date that the Commission issues an order in this proceeding, whichever is earlier. Alliance intends to engage in electric energy and capacity transactions as a marketer.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. ICC Energy Corporation

[Docket No. ER96–1819–000]

Take notice that on May 15, 1996, ICC Energy Corporation (ICC) applied to the Commission for acceptance of ICC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain Commission Regulations.

ICC is currently engaged in marketing natural gas. In addition to continuing this business, ICC intends to engage in wholesale electric power and energy purchases and sales as a power marketer. ICC is not in the business of generating, transmitting, or distributing electric power. ICC has no affiliates and is not a subsidiary or otherwise under the control of any other business entity.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Company

[Docket No. ER96–1820–000]

Take notice that on May 16, 1996, New England Power Company, tendered for filing a supplemental Service Agreement between New England Power Company and the Templeton Municipal Light Plant for transmission service under NEP's FERC Electric Tariff, Original Volume No. 3.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Company

[Docket No. ER96–1821–000]

Take notice that on May 16, 1996, New England Power Company, tendered for filing a Service Agreement between New England Power Company and L'Energia Limited Partnership for short-term firm transmission service under

NEP's FERC Electric Tariff, Original Volume No. 8.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Company

[Docket No. ER96–1822–000]

Take notice that on May 16, 1996, New England Power Company submitted for filing a letter agreement for transmission service to North American Energy Conservation, Inc.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Minnesota Power and Light Company

[Docket No. ER96–1823–000]

Take notice that on May 16, 1996, Minnesota Power and Light Company submitted for filing an application for authorization to engage in wholesale sales of electric power at rates to be negotiated with the purchaser, including sales not involving Minnesota Power's generation or transmission facilities.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Northern States Power Company (Minnesota Company)

[Docket No. ER96–1824–000]

Take notice that on May 16, 1996, Northern States Power Company (Minnesota) (NSP), tendered for filing a Transmission Service Agreement between NSP and City of New Ulm, MN.

NSP requests that the Commission accept the agreement effective April 19, 1996, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. MidAmerican Energy Company

[Docket No. ER96–1825–000]

Take notice that on May 16, 1996, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801 filed with the Commission Service Agreements with Illinova Power Marketing, Inc. (Illinova) dated April 30, 1966, and Industrial Energy Applications (Industrial Energy) dated April 30, 1996, entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5.

MidAmerican requests an effective date of April 30, 1996, for the Agreements with Illinova and Industrial Energy, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Illinova, Industrial Energy, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Florida Power Corporation

[Docket No. ER96–1826–000]

Take notice that on May 16, 1996, Florida Power Corporation (FPC), tendered for filing Amendment No. 2 to its contract for interchange service between itself and Jacksonville Electric Authority (JEA). The amendment provides for the addition of one service schedule to the contract.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the amendment to become effective on May 17, 1996. Waiver is appropriate because this filing does not change the rate under this Commission accepted, existing rate schedule.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Entergy Gulf States, Inc.

[Docket No. ER96–1827–000]

Take notice that on May 13, 1996, Entergy Services, Inc. on behalf of Entergy Gulf States, Inc. tendered for filing a Notice of Succession advising the Commission that effective as of April 22, 1996, Gulf States Utilities Company has changed its corporate name from Gulf States Utilities Company to Entergy Gulf States, Inc.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Entergy Louisiana, Inc.

[Docket No. ER96–1828–000]

Take notice that on May 13, 1996, Entergy Services, Inc. on behalf of Entergy Louisiana, Inc. tendered for filing a Notice of Succession advising the Commission that effective as of April 22, 1996, Louisiana Power & Light Company has changed its corporate name from Louisiana Power & Light Company to Entergy Louisiana, Inc.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Entergy Arkansas, Inc.

[Docket No. ER96–1829–000]

Take notice that on May 13, 1996, Entergy Services, Inc. on behalf of Entergy Arkansas, Inc., tendered for filing a Notice of Succession advising the Commission that effective as of April 22, 1996, Arkansas Power & Light Company has changed its corporate name from Arkansas Power & Light Company to Entergy Arkansas, Inc.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Entergy New Orleans, Inc.

[Docket No. ER96–1830–000]

Take notice that on May 13, 1996, Entergy Services, Inc. on behalf of Entergy New Orleans, Inc., tendered for filing a Notice of Succession advising the Commission that effective as of April 22, 1996, New Orleans Public Service Inc. has changed its corporate name from New Orleans Public Service Inc. to Entergy New Orleans, Inc.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Entergy Mississippi, Inc.

[Docket No. ER96–1831–000]

Take notice that on May 13, 1996, Entergy Services, Inc. on behalf of Entergy Mississippi, Inc., tendered for filing a Notice of Succession advising the Commission that effective as of April 22, 1996, Mississippi Power & Light Company has changed its corporate name from Mississippi Power & Light Company to Entergy Mississippi, Inc.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company

[Docket No. ER96–1832–000]

Take notice that on May 16, 1996, Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO), and West Texas Utilities Company (WTU) (jointly, the Companies) submitted for filing four Service Agreements, dated April 26, 1996, establishing ENRON Power Marketing Inc. (EPMI) as a customer under the terms of each of the Companies' umbrella Coordination Sales Tariffs CST–1 (CST–1 Tariffs).

The Companies request an effective date of April 26, 1996, and, accordingly, seek waiver of the Commission's notice requirements. Copies of this filing were served upon EPMI, the Oklahoma Corporation Commission, the Public Utility Commission of Texas, the Arkansas Public Service Commission, and the Louisiana Public Service Commission.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Central Vermont Public Service Corporation, Connecticut Valley Electric Company, Inc.

[Docket No. ER96–1833–000]

Take notice that on May 16, 1996, Central Vermont Public Service Corporation (CVPS) and its New Hampshire subsidiary, Connecticut Valley Electric Company, Inc. (CVEC), tendered for filing (1) a supplement to its FERC Rate Schedule No. 135 (RS–2 rate schedule) for all requirements service to CVEC, and (2) riders to the forms of service agreement under CVPS' FERC Electric Tariff Original Volume No. 6 for network and point-to-point transmission service. The supplement and riders are required to implement a retail electric competition pilot program (the Pilot) established by the New Hampshire Public Utilities Commission under which CVEC will release up to three percent of its 1994 peak load to alternative suppliers for a two-year period beginning May 28, 1996.

CVPS requests waiver of the 60-day notice requirement so that the amendment to the RS–2 rate schedule and the riders to the tariff service agreement may be permitted to become effective on May 28, 1996 when the Pilot will commence. CVPS requests waiver of the notice requirement in view of the purpose of the filing to implement the Pilot. In addition, the filing has no rate impact.

Comment date: June 7, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–13734 Filed 5–31–96; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: May 22, 1996, 61 FR 26895.

PREVIOUSLY ANNOUNCEMENT TIME AND DATE OF MEETING: May 29, 1996, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number and Item have been added on the Agenda scheduled for May 29, 1996

Item No., Docket No., and Company

CAG–6—RP96–140–002, Columbia Gas Transmission Corporation

E–1—RM95–8–000, Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities RM94–7–001, Recovery of Stranded Costs by Public Utilities and Transmitting Utilities

Lois D. Cashell,

Secretary.

[FR Doc. 96–13883 Filed 5–30–96; 1:09 pm]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00437; FRL–5373–2]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality & Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality & Pesticide Disposal will hold a 2–day meeting, beginning on Monday, June 3, 1996 and ending on Tuesday, June 4, 1996. This notice announces the location and times for the meeting and sets forth tentative agenda topics. The meetings are open to the public.

DATES: The SFIREG Working Committee on Water Quality & Pesticide Disposal will meet on Monday, June 3, 1996, from 8:30 a.m. to 4:30 p.m. and Tuesday, June 4, 1996 from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the DoubleTree Hotel, 300 Army-Navy Drive, Crystal City-Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1100, Crystal Mall #2, 1921 Jefferson-Davis Highway, Arlington, VA, (703) 305–5306, (703) 308–3259 (fax). E:mail address: Howard.shirleym@epamail.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Water Quality & Pesticide Disposal includes the following:

1. Summary of outcomes of the state management plan teleconferences.
2. Discussion of groundwater monitoring data sources.
3. Presentation on source water protection.
4. Update on the 1996 PREP program and course outline.
5. Discussion of SFIREG issue papers and committee reports.
6. Status reports on Acetochlor and Triazine registrations.
7. Status of the restricted-use rule.
8. Update on fiscal year 1996-1997 grant funding and discussion of performance partnerships grant implications for water programs.
9. Update on proposed national conference on state management plans.
10. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: May 23, 1996.

William L. Jordan,

Director, Field Operations Division, Office of Pesticide Programs.

[FR Doc. 96–13898 Filed 5–30–96; 1:39 pm]

BILLING CODE 6560–50–F

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.
Communications Enterprises, Inc.	Easley, South Carolina	BR–950809YB	96–118

(Seeking renewal of the license for WRAH(AM))

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 Communications Enterprises, Inc. has the capability and intent to expeditiously resume the broadcast operations of WRAH(AM), consistent with the Commission's Rules.

(b) To determine whether Communications Enterprises, Inc. 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. 96–13791 Filed 5–31–96; 8:45 am]

BILLING CODE 6712–01–P

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.
Hometown Media, Inc	Waynesboro, Virginia	BR–950601B9	96–116

(Seeking renewal of the license for WAYB(AM))

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 Hometown Media, Inc. has the capability and intent to expeditiously resume the broadcast operations of WAYB(AM), consistent with the Commission's Rules.

(b) To determine whether Hometown Media, Inc. 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. 96–13790 Filed 5–31–96; 8:45 am]

BILLING CODE 6712–01–P

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.
WPVG, Inc.	Funkstown, Maryland	BR–950601VH	96–117

(Seeking renewal of the license for WPVG(AM))

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 WPVG, Inc. has the capability and intent to expeditiously resume the broadcast operations of WPVG(AM), consistent with the Commission's Rules.

(b) To determine whether WPVG, Inc. 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. 96–13789 Filed 5–31–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Deregistration Form for Registered Transfer Agents.

Form Number: Unnumbered.

OMB Number: 3064–0027.

Expiration Date of OMB Clearance: June 30, 1996.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0027), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: An insured nonmember that functions as a transfer agent may withdraw from registration as a transfer agent by filing a written notice of withdrawal with the FDIC, as provided by the FDIC's regulations at 12 CFR 341.5

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–13778 Filed 5–31–96; 8:45 am]

BILLING CODE 6714–01–M

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Uniform Application/Uniform Termination Notice for Municipal Securities Principal or Representative.

Form Number: MSD–4/MSD–5.

OMB Number: 3064–0022.

Expiration Date of OMB Clearance: June 30, 1996.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0022), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: An insured state nonmember bank which serves as a municipal securities dealer must file Form MSD–4 or MSD–5, as applicable, to permit an employee to become associated or to terminate the association with the municipal securities dealer. The filing requirements are based on rules promulgated by the Municipal Securities Rulemaking Board under the authority of the 1975 Amendments to the Securities Exchange Act of 1934 (15 U.S.C. 78–o–4).

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–13779 Filed 5–31–96; 8:45 am]

BILLING CODE 6714–01–M

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Summary of Deposits.

Form Number: 8020/05.

OMB Number: 3064–0061.

Expiration Date of OMB Clearance: April 30, 1997.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0061), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Summary of Deposits (SOD) information collection system is an annual survey to obtain the amount of deposits held at each office of all banks with branches in the United States. The survey includes

both commercial and savings banks. The survey data provide a basis for measuring the competitive impact of bank mergers and has additional use in banking research. The data are collected as of close of business, June 30.

The proposed revisions to the SOD are described as follows: Financial institutions previously were required to report three (3) separate categories for deposits at each branch: (1) ''Individual, partnership and corporation'', (2) ''other'', and (3) ''total''. Now only one figure (total deposits) is required. This will lessen the reporting burden significantly. Reporters were always required to provide information on changes in address, relocations, new and purchased branches, and branches closed or sold. They were instructed to write the information on the form including type of facility and effective date of transaction. Reporting of changes has now been formalized by adding columns to report the effective date, type of transaction and type of facility. In addition to formalizing the reporting of changes, the new format will facilitate the automated interface of these changes to the Corporation's Structure database rather than doing them manually. The new SOD survey form will also facilitate electronic reporting of the Summary of Deposits survey in the future (1997) as well as be similar to the Thrift SOD survey provided in the Office of Thrift Supervision.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–13780 Filed 5–31–96; 8:45 am]

BILLING CODE 6714–01–M

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Activities and Investments of Savings Associations.

Form Number: None.

OMB Number: 3064–0104.

Expiration Date of OMB Clearance: June 30, 1996.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0104), Washington, DC 20503

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Section 28 of the FDIC Act (12 U.S.C. 1831e) imposes restrictions on the powers of savings associations which reduce the risk of loss to the insurance funds and eliminate some differences between the powers of state associations and those of federal associations. Some of the restrictions apply to all savings to all savings associations, some to state chartered associations only, and some to federally chartered associations only. The statute exempts some federal savings banks and associations from the restrictions, and provides for the FDIC to grant exemptions to other associations under certain circumstances. The applications for exemption constitute this collection of information.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–13781 Filed 5–31–96; 8:45 am]

BILLING CODE 6714–01–M

Agency Insurance Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Prompt Corrective Action.

Form Number: None.

OMB Number: 3064–0115.

Expiration Date of OMB Clearance: June 30, 1996.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0115), Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Prompt Corrective Actions provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA, section 131) require or permit the FDIC and other federal banking agencies to take certain supervisory actions when the FDIC-insured institutions fall within one of five capital categories. They also restrict or prohibit certain activities and require the submission of a capital restoration plan when an insured institution becomes undercapitalized. Various provisions of the statute and the FDIC's implementing regulations require the prior approval of the FDIC before an FDIC-supervised institution can engage in certain activities, or allow the FDIC to make exceptions to restrictions that would otherwise be imposed. This collection consists of the applications that are required to obtain the FDIC's prior approval.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–13782 Filed 5–31–96; 8:45 am]

BILLING CODE 6714–01–M

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Notification of Performance of Bank Services.

Form Number: FDIC 6120/06.

OMB Number: 3064–0029.

Expiration Date of OMB Clearance: June 30, 1996.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0029), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Insured state nonmember banks are required to notify the FDIC, under section 7 of the Bank Service Corporation Act (12 U.S.C. 1867), of any relationship with a bank service corporation. The form FDIC 6120/06, Notification of Performance of Bank Services, may be used by banks to satisfy the notification requirement. In lieu of the form, a bank may satisfy the notification requirement by submitting a letter stating the name of the servicer, the address at which the service is being performed, the service being performed, and the date service commenced. According to the Bank Service Corporation Act, the service becomes subject to examination and regulation by federal bank regulatory agencies to the same extent as if the services were performed by the bank on its own premises.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 96–13783 Filed 5–31–96; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability: Hopping Brook Park, Middlesex County, MA

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Hopping Brook Park, located in the southwestern portion of Holliston, Middlesex County, Massachusetts, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990 as specified below.

DATES: Written notice of serious interest to purchase or effect other transfer of all or any portion of this property maybe mailed or faxed to the FDIC until September 3, 1996.

ADDRESSES: Copies of detailed descriptions of this property, including maps, may be obtained from or are available for inspection by contacting the following person: Mr. Steve Greenberg, Federal Deposit Insurance Corporation, Franklin Consolidated Office, 124 Grove Street, Franklin, MA 02038, (508) 520–6104; Fax (508) 520–2688.

SUPPLEMENTARY INFORMATION: The Hopping Brook Park property is located in the southwestern portion of the Town of Holliston, Massachusetts, along the southerly side of Washington Street at the intersection of Hopping Brook Road. The site consists of approximately 232 acres of undeveloped land that is zoned for industrial uses and includes approximately 16 acres of improved and unimproved roads. The legal description of the Hopping Brook Park property is shown at the Middlesex District Registry of Deeds in Book 907 Page 117, Certificate 162467, Book 14185 Page 571, Book 14202 Page 474, Book 14945 Page 458, and Book 15290 Pages 34, 36, and 39. This property is mostly wooded, it contains wetlands covering about 20 percent of the site, and is bisected by Hopping Brook. The Hopping Brook Park property is contiguous with lands managed by the Town of Holliston for conservation purposes and lands managed by the U.S. Army Corps of Engineers for natural resource conservation purposes as a part of the Charles River Natural Valley Storage Area. This property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Pub. L. 101–591 (12 U.S.C. 1441a–3).

Written notice of serious interest in the purchase or other transfer of all or any portion of this property must be received on or before September 3, 1996, by the Federal Deposit Insurance Corporation at the appropriate address stated above.

ELIGIBLE ENTITIES: Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. ''Qualified organizations'' pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

FORM OF NOTICE: Written notices of serious interest must be submitted in the following form:

Notice of Serious Interest

Re: Hopping Brook Park

Federal Register Publication Date: June 3, 1996.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in the Coastal Barrier Improvement Act of 1990, P.L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)), including, for qualified organizations, a determination letter from the United States Internal Revenue Service regarding the organization's status under section 170(h)(3) of the U.S. Internal Revenue Code (26 U.S.C. 170(h)(3)).

3. Brief description of proposed terms of purchase or other offer for all or any portion of the property (e.g., price, method of financing, expected closing date, etc.).

4. Declaration of entity that it intends to use the property for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes (12 U.S.C. 1441a–3(b)(4)), as provided in a clear written description of the purpose(s) to which the property will be put and the location and acreage of the area covered by each purpose(s) including a declaration of entity that it will accept the placement, by the FDIC, of an easement or deed restriction on the property consistent with its intended conservation use(s) as stated in its notice of serious interest.

5. Authorized Representative (Name/Address/Telephone/Fax).

List of Subjects

Environmental protection.

Dated: May 22, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–13777 Filed 5–31–96; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, June 6, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 1996–13: J. Steven Hart on behalf of Townhouse Associates, L.L.C.
Advisory Opinion 1996–19: Congressman James T. Walsh.
Advisory Opinion 1996–22: Ross Clayton Mulford on behalf of Ross Perot and the Perot Reform Committee.
Administrative Matters.

DATE AND TIME: Thursday, June 6, 1996 will convene following the open meeting.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 96–13909 Filed 5–30–96; 1:10 pm]

BILLING CODE 6715–01–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 June 27, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. HNB Corporation, Arkansas City, Kansas; to acquire 100 percent of the voting shares of Home National Bank, a *de novo* bank, Scottsdale, Arizona.

Board of Governors of the Federal Reserve System, May 28, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–13744 Filed 5–31–96; 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 June 17, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. NationsBank Corporation, Charlotte, North Carolina, and NationsCredit Consumer Corporation, Allentown, Pennsylvania; to acquire Commerce Finance Company, Germantown, Tennessee, and thereby engage in making, acquiring, and servicing direct and indirect consumer

loans and acting as agent for the sale of credit and property insurance in connection with these loans, pursuant to §§ 225.25(b)(1)(i), (8)(i), and 8(ii) 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. Newnan Holdings, Inc., Newnan, Georgia; to acquire Citizens Mortgage Group, Inc., Newnan, Georgia, and thereby engage in originating mortgage loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The geographic scope for these activities is throughout the State of Georgia.

Board of Governors of the Federal Reserve System, May 28, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–13745 Filed 5–31–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 04/22/96 AND 05/03/96

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Red Lion, a California Limited Partnership, Robert W. Boykin, Berkeley Marina Associates, LP	96–1457	04/22/96
Saint Barnabas Corporation (a non-profit corporation), Mid-Atlantic Health Group (a non-profit corporation), Mid-Atlantic Health Group (a non-profit corporation)	96–1490	04/22/96
Saint Barnabas Corporation, North Jersey Meditech Corp., North Jersey Meditech Corp	96–1524	04/22/96
Saint Barnabas Corporation, Beth Health Care Services Corporation, Newark Beth Israel Medical Center	96–1528	04/22/96
Elan Corporation, plc (an Irish company), Athena Neurosciences, Inc., Athena Neurosciences, Inc	96–1540	04/22/96
Hughes Supply, Inc., Ray A. Sparks, Electric Laboratories and Sales Corporation and Elasco	96–1572	04/22/96
U.S. Office Products Company, School Specialty, Inc., School Specialty, Inc	96–1580	04/22/96
Air Express International Corporation, Lusk Shipping Company, Inc., Lusk Shipping Company, Inc	96–1581	04/22/96
Brightpoint, Inc., Robert Picow, Allied Communications, Inc	96–1583	04/22/96
Robert Picow, Brightpoint, Inc., Brightpoint, Inc	96–1584	04/22/96
Molten Metal Technology, Inc., Lockheed Martin Corporation, Lockheed Environmental Systems & Technologies Co.	96–1588	04/22/96
Hughes Supply, Inc., Jemison Investment Co., Inc., PVF Subsidiaries	96–1597	04/22/96
Atlas World Group Inc., Walter E. and Alicejo P. Saubert, Red Ball Corporation	96–1598	04/22/96
TCW Special Credits Fund V—The Principal Fund, Irwin L. Jacobs, The Bekins Company	96–1604	04/22/96
The FINOVA Group Inc., The LINC Group, Inc., LINC Finance Corporation VIII	96–1608	04/22/96
GS Capital Partners, L.P., Kaval Bajaj, I-NET, Inc	96–1614	04/22/96
Chattem, Inc., Jeffrey S. Himmel, Martin Himmel Inc	96–1618	04/22/96
Waters Corporation, The Chase Manhattan Banking Corporation, TA Instruments, Inc	96–1621	04/22/96
Inter-City Products Corporation, Mr. Michael R. Krupp, CDS Holdings, Inc. and GHC Holdings, Inc	96–1626	04/22/96
The Seagram Company Ltd. (a Canadian company), Interplay Productions, Inc., Interplay Productions, Inc	96–1475	04/23/96
WorldCom, Inc., Jonathan Kaufman Target Telecom, Inc	96–1518	04/23/96
ProNet Inc., Motorola, Inc., Embarc Communications Services, Inc	96–1556	04/23/96
The Interpublic Group of Companies, Inc., Barrie K. Hedge, Angotti, Thomas, Hedge, Inc	96–1562	04/23/96
The Interpublic Group of Companies, Inc., Anthony J. Angotti, Angotti, Thomas, Hedge, Inc	96–1563	04/23/96
Nationwide Mutual Insurance Company, Dr. Gary B. Knapp, Roy H. Park Broadcasting of Lake Country, Inc	96–1567	04/23/96
Nationwide Mutual Insurance Company, Tomlin Family Trust II, Steven I. Burr, Esq., Trustee, Roy H. Park Broadcasting of Lake Country, Inc	96–1568	04/23/96
Compagnie de Saint-Gobain, Bird Corporation, Bird Corporation	96–1579	04/23/96
Emerson Electric Co., Kop-Flex, Inc., Kop-Flex, Inc	96–1619	04/23/96
Iowa Health System, St. Luke's Health System, Inc., St. Luke's Health System, Inc	96–1496	04/24/96
Jordan Industries, Inc., Allen Rabinow, Seabord Folding Box Corporation, A & R Sales, Inc. and	96–1504	04/24/96
Champion Enterprises, Inc., Homes of Legend, Inc., Homes of Legend, Inc	96–1549	04/24/96
Curtiss-Wright Corporation, Aviall, Inc., Aviall, Inc	96–1560	04/24/96
Kenneth R. Thomson, EVEREN Capital Corporation, BETA Systems, Inc	96–1577	04/24/96
Ben Venue Laboratories, Inc., Chiron Corporation, Cetus-Ben Venue Therapeutics, a general partnership	96–1589	04/24/96
New Talegen, LLC, Xerox Corporation, Telegen Holdings, Inc	96–1591	04/24/96
New TRG, Inc., Xerox Corporation, The Resolution Group, Inc	96–1599	04/24/96
Yokogawa Electric Corporation, Terence J. Gooding, Wavetek Corporation	96–1611	04/24/96
Richard M. Fairbanks & Virginia B. Fairbanks (spouses), Adrienne Arsht and Myer Feldman (spouses), Ardman Broadcasting Corporation of Florida	96–1585	04/25/96
Sinclair Broadcast Group, Inc., Myron Jones, KRRT, Inc	96–1627	04/25/96
Health Partners of Southern Arizona, Samaritan Health System, Samaritan Health System	96–1640	04/25/96
Service Corporation International, Estate of R. Julian Lackey, Sr., Jules, Inc. and Ridout's-Brown-Service Inc	96–0934	04/26/96
Veterinary Centers of America, Inc., Pets' RX, Inc., Pets' Rx, Inc	96–1624	04/26/96
Code, Hennessy & Simmons II, L.P., Loren M. Smith, Loren Smith Enterprises, Inc	96–1659	04/26/96
Sisters of St. Joseph of Nazareth, Saratoga Community Hospital, Saratoga Community Hospital	96–1519	04/29/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 04/22/96 AND 05/03/96—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Ashland Inc., Ronald D. Limpus & Linda K. Limpus, Limpus Quarries, Inc	96–1582	04/29/96
Ashland, Inc., Harlan L. Limpus, Limpus Quarries, Inc	96–1607	04/29/96
Tele-Communications, Inc., Knight Ridder Inc., TKR Cable Company	96–1629	04/29/96
Tele-Communications, Inc., Tele-Communications, Inc., TKR Cable Company, L.P	96–1630	04/29/96
Texaco Inc., Mr. & Mrs. Robert L. Ragel, Ragel Family Limited Partnership	96–1633	04/29/96
Dames & Moore, Inc., BRW Group, Inc., BRW Group, Inc	96–1635	04/29/96
Randolph K. Repass, E&B Marine Inc., E&B Marine Inc	96–1636	04/29/96
Elkay Manufacturing Company, Landmark Equity Partners III, L.P., St. Charles Acquisition Limited Partnership	96–1646	04/29/96
Apache Corporation, The Phoenix Resource Companies, Inc., The Phoenix Resource Companies, Inc	96–1647	04/29/96
Kidd, Kamm Equity Partners, L.P., Richard W. Good, Good's Furniture, Inc	96–1650	04/29/96
CUC International Inc., Sierra On-Line, Inc., Sierra On-Line, Inc	96–1653	04/29/96
Edward L. Mercaldo, Inco Limited, Inco Limited	96–1655	04/29/96
Robert M. Friedland, Inco Limited, Inco Limited	96–1656	04/29/96
AGCO Corporation, Linamar Corporation, Western Combine Corporation and Portage Manufacturing	96–1662	04/29/96
Hicks, Muse, Tate & Furst Equity Fund II, L.P., Steven Dinetz, Chancellor Broadcasting Company	96–1665	04/29/96
Unicco Service Company, Ogden Corporation, assets and v/s of Ogden Services Corp. subsidiaries	96–1671	04/29/96
Alco Standard Corporation, Conifer Crent Company, Conifer Crent Company	96–1609	04/30/96
Bruce G. Robert, Northern Acquisition Partners, L.P., Systemation Engineered Products, Inc	96–1678	04/30/96
Siebe plc (a British company), Unitech plc (a British company), Unitech plc	96–1555	05/01/96
Renters Choice, Inc., ColorTyme, Inc., ColorTyme, Inc	96–1441	05/02/96
Wang Laboratories, Inc., BellSouth Corporation, Dataserv Computer Maintenance, Inc	96–1466	05/02/96
Danielson Holding Corporation, Midland Financial Group, Inc., Midland Financial Group, Inc	96–1473	05/02/96
WMX Technologies, Inc., Robert K. Glegg, Glegg Industries, Inc	96–1514	05/02/96
Medtronic, Inc., InStent Inc., InStent Inc	96–1538	05/02/96
Masayoshi Son (a Japanese person), Steve Harris, Sendai Publishing Group, Inc	96–1590	05/02/96
Fisher Companies, Inc., Tomlin Family Trust II, Stephen I. Burr, Esq., Trustee, Roy H. Park Broadcasting of Oregon, Inc	96–1600	05/02/96
Fisher Companies, Inc., Dr. Gary B. Knapp, Roy H. Park Broadcasting of Oregon, Inc	96–1601	05/02/96
FMR Corp., Broadway & Seymour, Inc., Bancorp Systems, Inc	96–1625	05/02/96
Regal Cinemas, Inc., George Krikorian, Del Rosa Cinema 8, Inc	96–1649	05/02/96
United States Filter Corporation, The 1990 Family Trust, Zimpro Environmental, Inc	96–1675	05/02/96
Steven G. Papermaster and Katherine L. Papermaster, Medaphis Corporation, Medaphis Corporation	96–1443	05/03/96
Raymond J. Noorda and Lewena Noorda, Medaphis Corporation, Medaphis Corporation	96–1444	05/03/96
Medaphis Corporation, Steven J. Noorda and Lewena Noorda, BSG Corporation	96–1445	05/03/96
The Southern Company, National Power plc, National Power plc	96–1648	05/03/96
Reebok International Ltd., William C. Baker, Ralph Lauren Footwear, Inc	96–1669	05/03/96
Reebok International Ltd., Bruce A. Baker, Ralph Lauren Footwear, Inc	96–1670	05/03/96
Englehard Corporation, The Mearl Corporation, The Mearl Corporation	96–1680	05/03/96
Bob Marbut, Robert E. Hernreich, Sigma Broadcasting, Inc	96–1682	05/03/96
Carolyn Louise Adams Trust, Enron Corp., Transwestern Gatheing Company	96–1684	05/03/96
Cliffs Drilling Company, Christen Sveaas (a resident of Norway), Viking Supply Ships A.S	96–1685	05/03/96
Christen Sveaas (a resident of Norway), Cliffs Drilling Company, Cliffs Drilling Company	96–1686	05/03/96
James W. Cabela, Gander Mountain, Inc., Gander Mountain, Inc., and GMO, Inc	96–1687	05/03/96
Richard N. and Mary A. Cabela, Gander Mountain, Inc., Gander Mountain, Inc., and GMO, Inc	96–1688	05/03/96
Shoney's, Inc., TPI Enterprises, Inc., TPI Restaurants, Inc	96–1694	05/03/96
National City Corporation, Stone & Thomas, S & T Financial Corp	96–1697	05/03/96
Benchmark Electronics, Inc., EMD Technologies, Inc., EMD Technologies, Inc	96–1714	05/03/96
Michael E. Heisley, Paul S. Brenia, Ancra International Corp. Debtor-In-Possession	96–1733	05/03/96

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Renee A. Horton, contact representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580 (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–13812 Filed 5–31–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 621]

Coordinated Community Responses To Prevent Intimate Partner Violence; 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 agreements establishing community demonstration projects to: (1) establish and enhance community coalitions and coordinated community responses for addressing intimate partner violence; (2) establish and enhance community programs directed at the primary prevention of intimate partner violence; (3) enhance services directed at victims of intimate partner abuse and their families; and (4) evaluate the process and impact of the coordinated community response on reducing intimate partner violence.

CDC is committed to achieving the health promotion and disease prevention objectives described in ''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 Violent and Abusive Behavior. (For ordering a copy of ''Healthy People 2000,'' see the Section, ''Where to Obtain Additional Information.'')

Authority

This program announcement is authorized under sections 393 and 394 of the Public Health Service Act (42 U.S.C. 280b-1a and 280b-2) as amended.

Smoke-Free Workplace

CDC strongly encourages all grant 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

Assistance will be provided only to nonprofit private organizations for projects in local communities focusing on the prevention of intimate partner violence in towns, cities, and rural America (communities which contain fewer than 25,000 people and are not part of a standard metropolitan statistical area). Applicants may apply for either Part 1 funding or Part 2 funding but not both. Applicants must provide evidence of how various sectors of the community will be participating (see Part 1 applications), or are presently participating (see Part 2 applications) in a community coalition to prevent intimate partner violence (see Definitions and Program Requirements sections). (The eligible applicants are limited based upon language in Public Law 103–222—September 13, 1994, Chapter 6.)

Part 1: Funding under Part 1 is for applicants from rural communities, American Indian populations, and tribes and tribal councils.

Part 2: Funding under Part 2 is for applicants from towns, cities, and rural communities. The applicants must provide evidence of a functioning intimate partner violence prevention coalition that is broad-based in the community, represents a cross-section of community sectors and underserved populations including American Indians, Alaska Natives, Asian/Pacific Islanders, Blacks and Hispanics, and whose participants' roles, responsibilities, and activities are well-defined and documented. In addition, applicants under Part 2 must address how an award under this program announcement will enhance the community coalition and broaden the existing prevention efforts, activities, and services.

Availability of Funds

Approximately $3,000,000 is available in FY 1996 to fund up to five projects. Approximately 2 awards will be made under Part 1 and are expected to range from $200,000 to $250,000 with an average award of $225,000 for year 1. Approximately 3 awards will be made under Part 2 and are expected to range from $800,000 to $900,000 with an average award of $850,000 for year 1. Projects are expected to begin on or about September 30, 1996. Awards will be made for a 12-month budget period within a project period of 3 years. Funding estimates may vary and are subject to change. These projects will be awarded to organizations in communities geographically dispersed throughout the country. Noncompeting continuation awards for new budget periods within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and site visits and the availability of funds.

Note: At the request of the applicant, Federal personnel may be assigned to a project area in lieu of a portion of the financial assistance.

Definitions

Intimate partner violence is threatened or actual use of physical force against an intimate partner that either results in or has the potential to result in injury or death. Violence of this type includes the physical, sexual, or psychological assault by partners or acquaintances. Some commonly used terms that are used to describe intimate partner violence include domestic violence, spouse abuse, woman battering, courtship violence, sexual assault, and date and partner rape. In addition, child abuse is closely associated with intimate partner violence.

Coordinated community responses incorporate various *community sectors* (see definition of Community Coalition) and employ strategies and interventions aimed at preventing the incidence of intimate partner violence, delivering services to victims, and reducing resulting injuries or death. Coordinated community responses should employ an effective coalition-building component to create, refine, or expand ongoing prevention strategies and services through increased communication, cooperation, and coordination among all participating sectors. Critical to the coalition-building process is: (1) clear identification of roles and responsibilities for those sectors represented in the coalition, (2) explicit commitments to fulfill those responsibilities by providing services, conducting specific prevention activities, and providing both human and financial resources, and (3) clear and open communication among coalition working partners.

Primary Prevention: Successful primary prevention programs would prevent intimate partner violence from occurring in the first place. Primary prevention may work by modifying the events, conditions, situations, or exposure to influences that result in the initiation of intimate partner violence and associated injuries, disabilities, and deaths. Examples of primary prevention could include: school-based violence prevention curricula, programs aimed at mitigating the effects on children of witnessing intimate partner violence, community campaigns designed to alter norms and values conducive to intimate partner violence, worksite prevention programs, and training and education in parenting skills and self-esteem enhancement.

Community coalition is a working team of persons drawn from various *community sectors;* the *sectors* may include (but are not limited to): State and local health departments, representatives from the health care community, the law enforcement and criminal justice system, State and local domestic violence and rape prevention programs, State sexual assault prevention coalitions, the education community (public and private schools, colleges and universities), the religious community, human service entities such as child welfare agencies, substance abuse programs, mental health programs, business and civic leaders, and the media. A female victim of intimate violence should also be included as a full participating team member. The coalition will serve a community leadership function, bringing together leaders from each sector of the community to develop a coordinated response to the prevention of intimate partner violence. The community coalition may also identify, select, and oversee a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the coalition focusing on specific intimate partner violence prevention and service delivery strategies. See Application Content section of the program announcement included in the application kit for greater detail.

Comparison community is one that closely resembles the applicant's community in the following areas: population size and community setting (urban/suburban/rural), ethnic composition, socioeconomic

characteristics, and reported rates of intimate partner violence (number of reported cases per 1,000 women in the community ages 12–45). Sources of data must be consistent between both the comparison and applicant communities.

Purpose

The purposes of this program are to:

1. Establish and enhance community coalitions and coordinated community responses for addressing intimate partner violence;

2. Establish and enhance community programs directed at the primary prevention of intimate partner violence;

3. Enhance services directed at victims of intimate partner abuse and their families; and

4. Evaluate the process and impact of the coordinated community response on reducing intimate partner violence.

Part 1: The purpose of funding is to help designated communities lacking intimate partner violence prevention coalitions, or whose coalitions are in the early stages of development, build their coalitions and begin to develop a coordinated community response to the problem of intimate partner violence. Developing the coalition will establish networking and communication that will enhance the funding recipient community's ability to respond to intimate partner violence. In addition, all recipients of this funding will collaborate with CDC and co-recipients, throughout the entire 3-year program period to evaluate the process of organizing intimate partner violence prevention coalitions and the resulting coordinated community responses.

Part 2: The purpose of funding under Part 2 is to (1) enhance and broaden in designated communities already existing community coalitions and coordinated community responses aimed at reducing intimate partner violence; (2) implement coalition-initiated primary prevention programs to prevent intimate partner violence; and (3) evaluate the impact of these activities on members of the applicant's community as compared to persons in comparison communities lacking coordinated community responses. This evaluation will be accomplished in part by means of a cross-site survey among all recipients of Part 2 funding and requires applicants to identify and assure the participation of a matched comparison community (see Definitions, Program Requirements, and Application Content (in the program announcement) sections). In addition, applicants will conduct an inventory of new and existing programs in both intervention and comparison sites.

Applicants receiving funding will be collaborating with CDC and the other recipients throughout the entire program period (3 years) in developing core process evaluation protocols and instruments (Parts 1 and 2 recipients), outcome protocols and instruments (Part 2 recipients), and the inventory data collection protocol (Parts 1 and 2 recipients). Efforts to address intimate partner violence should effectively reach racial, cultural, ethnic and language minorities.

Comprehensive efforts may include, but are not limited to the following strategies:

Primary Prevention Programs

1. Outreach, public awareness campaigns, and community education to dispel misconceptions about intimate partner violence and change knowledge, attitudes, beliefs, and behaviors that cause or promote intimate partner violence.

2. School-based interventions designed to promote healthy relationships and prevent dating violence.

3. School-based protocols to identify and assist school-age children who witness partner violence in the home.

4. Strategies aimed at improving parenting skills, improving job skills, increasing self-esteem, and bringing persons at risk for intimate partner violence into community programs.

5. Worksite violence prevention education programs.

Service Provision

1. Expansion of emergency shelter and support services for victims.

2. Coordination of programs, services, and working relationships among various community sectors.

3. Victim identification and referral protocols in settings such as managed care facilities, hospitals, health departments, social services facilities, and the workplace.

4. The application of community policing to the prevention of intimate partner violence and rape (with enhanced arrest procedures).

Treatment

1. Expansion of court-ordered treatment programs for batterers and rapists.

2. Therapeutic interventions for battered women, and for children who witness intimate partner violence in the home.

Training, Education, and Information

1. Training about intimate partner violence and rape for justice and law enforcement personnel, health care providers, social services personnel, etc.

2. Media campaigns on the availability of and access to community services for intimate partner violence.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities listed under B. (CDC Activities).

A. Recipient Activities

Recipient activities should include but are not limited to the following:

1. Convene the community coalition composed of representatives of the pertinent community sectors.

2. Develop protocols and data collection instruments for implementing and evaluating the selected primary prevention programs and activities comprising the program including the cross-site survey.

3. Develop, implement, monitor, and evaluate a coordinated community response for reducing intimate partner violence in the community.

4. Conduct the evaluation of the overall project in collaboration with the other funding recipients.

B. CDC Activities

1. Provide consultation in establishing baseline data, defining target populations, designing program protocols, and evaluating the cost, process(es), and outcomes of the program.

2. Provide consultation on developing standardized data collection instruments and procedures for the cross-site survey.

3. Provide consultation in the management of the cross-site survey.

4. Provide consultation in establishing standardized reporting systems to monitor program activities.

5. Provide up-to-date scientific and programmatic information about intimate partner violence prevention.

6. Compile and disseminate results from the cross-site survey and project evaluation.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (maximum 100 total points):

Part 1 Applications Will Be Scored According to Criteria A Through G:

A. Needs Assessment: (5 points)

1. The extent to which the applicant documents that the community and target population are victims of or are at risk for intimate partner violence and associated injuries and deaths.

2. The extent to which the applicant provides statistical summaries of the target population and community, including demographics.

3. The availability of existing intimate partner violence primary prevention programs, and services, as well as gaps in their delivery.

B. Community Access: (15 points)

1. The extent to which the applicant has demonstrated an understanding of the target population.

2. The extent to which the applicant or coalition members have access to the target population.

C. Collaboration: (20 points)

1. The extent to which the pertinent sectors of the community are included on the coalition and have specific program responsibilities.

2. The extent to which the applicant provides evidence of other beneficial collaborative relationships between service providers and researchers, and between government, health, and community-based organizations who are or will be involved in the design, implementation, and evaluation of the project.

3. Inclusion of letters of support from proposed coalition members and delineation of specific responsibilities and commitment of time and resources.

4. Inclusion of organizational charts of collaborating agencies and institutions.

5. Establishment of culturally relevant and linguistically appropriate linkages within the community.

D. Goals and Objectives: (10 points)

The extent to which the applicant's goals are clearly articulated and objectives are time-phased, specific, measurable, and achievable; the extent to which the outcome objectives will achieve the desired program results.

E. Plan of Operations, Project Management, and Staffing: (30 points)

1. Specificity of the proposed program plan to establish the community coalition as well as deliver prevention program interventions and services to prevent injuries and deaths associated with intimate partner violence.

2. A program planning time line should provide sufficient detail about who will do what and when.

3. The applicant's chances of achieving the stated program objectives and for successfully delivering prevention programs and services at the community level should be realistic.

4. The proposed primary prevention programs and services should meet the intended purposes of the funding.

5. The applicant indicates its willingness to collaborate with CDC and other funding recipients in the design of evaluation protocols and instruments and to collaborate in the publication of program findings.

6. The extent to which the management staff and their working partners are clearly described, appropriately assigned, and have appropriate skills and experiences.

7. The extent to which the applicant and working partners have the capacity and facilities to design, implement, and evaluate the project.

8. The extent to which the applicant provides details regarding the level of effort and allocation of time for each staff position.

9. The applicant should provide evidence that a full-time program manager and a full-time evaluation specialist are or will be available.

10. The applicant should submit an organizational chart and curriculum vitae for each proposed key staff member that indicates the applicant's ability to manage this project.

11. The applicant should provide details of involving personnel who reflect the racial and ethnic composition of the target group.

12. The applicant should include a chart of the proposed coordination plan.

F. Evaluation Plan: (20 points)

1. The applicant's plan to (a) evaluate program processes such as operational capacity of the coalition, and (b) conduct the inventory of existing programs and services to identify the magnitude and scope of primary prevention programs and services should be clear.

2. The applicant clearly describes its evaluation methods and statistical techniques.

3. The applicant should address the coalition's capacity for data collection, storage, and retrieval.

4. The applicant should address its willingness to collaborate with CDC and fellow funding recipients.

G. Proposed Budget: (Not scored)

The extent to which the budget request is clearly explained, adequately justified, reasonable, sufficient for the proposed project activities, and consistent with the intended use of the cooperative agreement funds.

Part 2 Applications Will Be Scored According to Criteria A Through G:

A. Needs Assessment: (5 points)

1. The extent to which the applicant documents that the community and target population are victims of or are at risk for intimate partner violence and associated injuries and deaths.

2. The extent to which the applicant provides statistical summaries of the target population and community, including demographics.

3. The availability of existing intimate partner violence primary prevention programs services, as well as gaps in their delivery.

B. Community Access: (10 points)

1. The extent to which the applicant has demonstrated an understanding of the target population.

2. The extent to which the applicant or coalition members have access to the target population and experience in the management and delivery of intimate partner violence primary prevention programs and services at the community level.

C. Collaboration: (20 points)

1. The extent to which the applicant describes how funding under this program announcement will enhance and strengthen existing community intimate partner violence primary prevention efforts.

2. The extent to which the applicant provides details of the community coalition as well as the design, implementation, and evaluation of the project.

3. The extent to which the pertinent sectors of the community are included on the coalition and have specific program responsibilities.

4. The extent to which the applicant provides evidence of other beneficial collaborative relationships between service providers and researchers, and between government, health, and community-based organizations who are or will be involved in the design, implementation, and evaluation of the project.

5. The applicant should include letters of support from proposed coalition members and the letters mention specific responsibilities and commitment of time and resources.

6. The applicant should submit organizational charts of collaborating agencies and institutions.

7. The applicant should show evidence of having established culturally relevant and linguistically appropriate linkages within the community.

D. Goals and Objectives: (10 points)

1. The extent to which the applicant's goals are clearly articulated and objectives are time-phased, specific, measurable, and achievable; the extent to which the outcome objectives will achieve the desired program results.

2. The objectives should reflect an enhancement of existing primary prevention programs and services.

E. Plan of Operations, Project Management, and Staffing: (30 points)

1. The extent to which the applicants program plan (1) to enhance or expend the existing community coalition and, (2) deliver expanded and enhanced primary prevention programs and services to prevent injuries and deaths associated with intimate partner violence are detailed and specific.

2. The extent to which the program planning time line provide sufficient detail about who will do what and when.

3. The extent to which the applicant's chances of achieving the stated program objectives and for successfully delivering services and interventions at the community level.

4. The extent to which the proposed services and interventions meet the intended purposes of the funding.

5. The extent the applicant indicates its willingness to collaborate with CDC and other funding recipients in the design of evaluation protocols and instruments and to collaborate in the publication of program findings.

6. The extent to which the management staff and their working partners are clearly described, appropriately assigned, and have appropriate skills and experiences.

7. The extent to which the applicant and working partners have the capacity and facilities to design, implement, and evaluate the project.

8. The extent to which the applicant provides details regarding the level of effort and allocation of time for each staff position.

9. The extent to which the applicant provides evidence that a full-time program manager and a full-time evaluation specialist are or will be available.

10. The applicant should submit an organizational chart and curriculum vitae for each proposed key staff member that indicates the applicant's ability to manage this project.

11. The extent to which the applicant provides details of involving personnel who reflect the racial and ethnic composition of the target group.

12. The applicant should provide a chart of the proposed coordination plan.

F. Evaluation Plan: (25 points)

1. The extent to which the applicant describes its methods for identifying and selecting a comparison community. The extent to which the methods and participation in the comparison community are assured.

2. The applicant should address its willingness to collaborate with CDC and the other funded projects and participate in the community-wide survey and post-project publications.

3. The applicant's plan to (a) evaluate program processes such as operational capacity of the coalition, and (b) conduct the inventory of existing programs and services within the community to identify the magnitude and scope of primary prevention programs and services should be clear.

4. The applicant should clearly describe its evaluation methods and statistical techniques.

5. The applicant should address the coalition's capacity for data collection, storage, and retrieval.

G. Proposed Budget: (Not scored)

The extent to which the budget request is clearly explained, adequately justified, reasonable, sufficient for the proposed project activities, and consistent with the intended use of the cooperative agreement funds.

Funding Priorities

Funding priority under this announcement will be given to: (a) those applicants whose primary interest is in preventing violence against adolescent (12+ years of age) and adult women by persons known to the victim rather than by strangers, (b) those applicants that will undertake coalition-building activities, and (c) those applicants that will enhance or expand existing coalitions and associated primary prevention activities and services. Geographic distribution of awards will also be considered.

Interested persons are invited to comment on the proposed funding priority. All comments received on or before July 3, 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, NE., Room 300, Mailstop E–13, Atlanta, GA 30305.

Executive Order 12372 Review

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 of 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 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, Georgia 30305, no later than 60 days after the application deadline date. The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date.

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 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, Georgia 30305, no later than 60 days after the application deadline date. The granting agency does not guarantee to ''accommodate or explain'' tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental 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 (SF424).

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 (CFDA) number for this project is 93.262.

Other Requirements

A. Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by this cooperative agreement program will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

B. Accounting System

The services of a certified public accountant licensed by the State Board of Accountancy or equivalent must be retained throughout the project period as a part of the recipient's staff or as a consultant to the recipient's accounting personnel. These services may include the design, implementation, and maintenance of an accounting system that will record receipts and expenditures of Federal funds in accordance with accounting principles, Federal regulations, and terms of the cooperative agreement.

C. Audits

Funds claimed for reimbursement under this cooperative agreement must be audited annually by an independent certified public accountant (separate and independent of the consultant referenced above or recipient's staff certified public accountant). This audit must be performed within 60 days after the end of the budget period; or at the close of an organization's fiscal year. The audit must be performed in accordance with generally accepted auditing standards (established by the American Institute of Certified Public Accountants (AICPA)), governmental auditing standards (established by the General Accounting Office (GAO)), and Office of Management and Budget (OMB) Circular A–133.

D. State and Local Requirements

Recipients must comply with prevailing State and local regulations and laws regarding the delivery of social and health services to the public and mandatory reporting of sexual or physical abuse.

E. Confidentiality

All personal identifying information obtained in connection with the delivery of services provided to any person in any program carried out under this cooperative agreement cannot be disclosed unless required by a law of a State or political subdivision or unless such a person provides written, voluntary informed consent.

1. Nonpersonally identifying, unlinked information, which preserves the individual's anonymity, derived from any such program may be disclosed without consent:

a. In summary, statistical, or other similar form, or

b. For clinical or research purposes.

2. Personal identifying information: Recipients of CDC funds who must obtain and retain personally identifying information as part of their CDC-approved work plan must:

a. Maintain the physical security of such records and information at all times;

b. Have procedures in place and staff trained to prevent unauthorized disclosure of client-identifying information;

c. Obtain informed client consent by explaining the risks of disclosure and the recipient's policies and procedures for preventing unauthorized disclosure;

d. Provide written assurance to this effect including copies of relevant policies; and

e. Obtain assurances of confidentiality by agencies to which referrals are made.

Assurance of compliance with these and other processes to protect the confidentiality of information will be required of all recipients. A DHHS certificate of confidentiality may be required for some projects.

F. Capability Audit

Some applicants may be required to participate in a fiscal Recipient Capability Audit prior to the award of funds.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted 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, NE., Room 300, Mailstop E–13, Atlanta, Georgia 30305, on or before August 2, 1996.

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 committee. For proof of timely mailing, applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will 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. 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 written information call (404) 332–4561. You will be asked your name, address, and phone number and will need to refer to Announcement 621. In addition, this announcement is also available through the CDC Home Page on the Internet. The address for the CDC Home Page is http://www.cdc.gov. A complete program description and information on application procedures are contained in the application package. Business management technical assistance and an application package may be obtained from Georgia Jang, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Atlanta, Georgia 30305, telephone (404) 842–6814, Internet: glj2@opspgo1.em.cdc.gov.

Programmatic assistance may be obtained from Chester L. Pogostin, D.V.M., M.P.A., Centers for Disease Control and Prevention (CDC), National Center for Injury Prevention and Control, Division of Violence Prevention, Mailstop K–60, Atlanta, Georgia 30333, telephone (770) 488–4410, Internet: clp3@cipcod1.em.cdc.gov.

Please refer to Announcement Number 621 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 DC 20402–9325, telephone (202) 512–1800.

Dated: May 28, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–13796 Filed 5–31–96; 8:45 am]

BILLING CODE 4163–18–P

Administration for Children and Families

[Program Announcement No. ACF/ACYF/HS-URP&RS 96–1]

Fiscal Year 1996 Discretionary Announcement for Head Start/University Research Projects and Head Start Research Scholars; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Announcement of the availability of funds and request for applications for two priority areas related to Head Start.

SUMMARY: The Administration for Children and Families, Administration on Children Youth and Families announces the availability of funds to support research activities in two research areas, Head Start/University Partnerships and Head Start Research Scholars.

DATES: The closing time and date for receipt of applications is 5:00 p.m. (Eastern Time Zone) August 2, 1996. Applications received after 5:00 p.m. will be classified as late.

ADDRESSES: Mail applications to: Head Start Discretionary Research Grants Department of Health and Human Services ACF/Division of Discretionary Grants 6th floor, 370 L'Enfant Promenade, S.W. Washington, D.C. 20447 Mail Stop 6c–462 Attn: Application for Head Start Discretionary Research: (Head Start/University Partnerships or Head Start Research Scholars)

HAND DELIVERED, COURIER OR OVERNIGHT DELIVERY applications are accepted during the normal working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, on or prior to the established closing date at: Program Announcement: ACYF/HS, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center, Technical Assistance Team (1–800–351–2293), is available to answer questions regarding application requirements and to refer you to the appropriate contact person in ACYF for programmatic questions.

In order to determine the number of expert reviewers that will be necessary, if you are going to submit an application, you must send a post card or call with the following information: the name, address, telephone and fax number, and e-mail address of the principal investigator and the name of the university at least four weeks prior to the submission deadline date to: Administration on Children, Youth and Families, Operations Center, Ellsworth Associates, Inc., 3030 Clarendon Blvd., Suite 240, Arlington, VA 22201, (1–800–351–2293).

Part I. General Information

A. Table of Contents

This announcement is divided into four parts, plus appendices:

Part I provides information on the purpose of the discretionary research effort and a discussion of issues particularly relevant to the research under this announcement.

A. Table of Contents
B. Purpose
C. Background

Part II contains key information on the statutory authority and each of the two priority areas such as eligible applicants, project periods, special conditions and other information. Each priority area description is composed of the following sections:

- Eligible Applicants—This section specifies the type of organization which is eligible to apply under the particular priority area.
- Purpose—This section presents the basic focus and/or broad goal(s) of the priority area.
- Background Information—This section briefly discusses the legislative background and/or the social context that supports the need for this particular priority area.
- Special Conditions—This section lists any special conditions with which the applicant must comply in order for the application to be considered for review.
- Project Duration—This section specifies the maximum allowable length of time for the project period; it refers to the amount of time for which Federal funding is available.
- Federal Share of Project Costs—This section specifies the maximum amount of Federal support for the project.
- Matching Requirement—This section specifies the minimum non-Federal contribution, either through cash or in-kind match.
- Anticipated Number of Projects to be Funded—This section specifies the number of projects that ACYF anticipates it will fund in the priority area.
- CFDA—This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in this priority area will be funded.

Part III presents the criteria upon which the proposals will be reviewed and evaluated.

A. Criteria
B. Review Process

- Part IV contains information for preparing the fiscal year 1996 application.

A. Availability of Forms
B. Proposal limits
C. Check List for a Complete Application
D. Due Date
E. Paperwork Reduction Act of 1995
F. Required Notification of State Single Point of Contact

Appendix A includes the relevant forms necessary for completing the application.

Appendix B lists the Single Points of Contact for Each State and Territory.

Appendix C list the 53 Early Head Start programs that do not not have Early Head Start Local Research cooperative agreements.

B. Purpose

The purpose of this announcement is to support research conducted by universities on behalf of faculty or doctoral-level graduate students who form partnerships with Head Start or Early Head Start programs in their communities for the purposes of contributing new knowledge or testing research applications which will improve services for low-income young children and their families. Priority Area 1.01 Head Start/University Partnerships supports faculty members in universities and 1.02 Head Start Research Scholars supports doctoral-level graduate students.

C. Background

Part of Head Start's mission is to serve as a national laboratory for exploring new ideas, testing and demonstrating state-of-the-art techniques, and disseminating research findings for the purpose of improving services for low-income children and their families. In order to accomplish that mission, Head Start supports and encourages partnerships between Head Start programs (including Early Head Start) and universities. These partnerships present new opportunities to learn from each other, to test practical applications of theoretical concepts and translate research into practice.

Past competitions for either Head Start/University partnership or Head Start Research Scholars grants have been limited to Head Start programs that serve mostly three and four-year old children. However, in fiscal year 1995 Head Start initiated a new program, Early Head Start, which serves children and their families from the prenatal period to age three. Therefore, new opportunities are available to conduct research with this younger age group. Presently, there are 68 Early Head Start programs. Of these, 15 are participating in both the national research study and local research studies. These 15 sites will not be available for priority area 1.01 under this announcement. However, partnerships may be formed with the other 53 Early Head Start sites that are presently funded by Head Start (See Appendix C) or any Head Start program that serves preschool children. For the purposes of this announcement, any further reference to Head Start is meant to include both Head Start and Early Head Start.

Major issues for Head Start include improving the quality of all Head Start services and gathering recent information on the long-term effects of Head Start. Improvement in quality includes the application of-state-of-the-art techniques that have evolved from advanced theoretical concepts and new research findings. It also involves the conduct of new research to ensure that Head Start services remain at the cutting edge.

Longitudinal research involves forming partnerships with Head Start programs to identify Head Start graduates and track their progress into elementary school. With new opportunities for research with younger populations, ACYF's interest in longitudinal research on Head Start graduates, and testing or demonstrating state-of-the-art techniques in all Head Start services, Head Start's FY'96 research priorities present a number of interesting research challenges.

Part II. Priority Areas

Statuatory Authority. The Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*

1.01 Head Start/University Partnerships—Translating Research Into Practice

Eligible Applicants: Universities and four-year colleges.

Purpose: (1) To test applications of theory-based research or state-of-the-art techniques which have not been tested on Head Start or Early Head Start populations; (2) to improve the quality of Head Start practices, particularly with regard to children's cognitive or social-emotional development; or (3) to conduct longitudinal research on Head Start graduates' status after entry into school.

Background and Information: In addition to Head Start's primary role as a national program of comprehensive services for young low-income children and their families, it also serves as a national laboratory which develops, demonstrates, and tests best practices which are based on scientifically sound research, and encourages and supports both new research and the methods for conducting research. Because of its recognition as a national, federally-sponsored program, and the access it provides to a multi-cultural, low-income population, Head Start has been a major source of research. This research, which has been conducted both with federal support and other resources, constitutes a significant portion of the child development research literature that includes low-income and multi-cultural populations.

In the main, this ever-increasing body of literature contains studies that fall into the domains of basic research and evaluation. Although these studies have made a significant contribution to our scientific, policy and general program knowledge, very little has reached service providers in terms of implementable applications within the context of their programs. Therefore, with the increase in our knowledge base, there is a concomitant increase in the gap between research and its translation into practice. Within this priority area, ACYF is interested in funding projects that translate theory-driven research into programmatic applications in partnership with the staff and families of Head Start programs. In addition to the translation of research into practice, these partnerships are intended to demonstrate new ways of conducting research where the researchers, the program staff and program families work as a cooperative research team. Projects under this priority area will test theory-driven approaches intended to enhance children's cognitive and/or social-emotional development. These approaches may include those that focus on the child or on the primary caregiver as the mediating influence of child outcomes, or where the primary caregiver and the child as a diad is the focus. However, if the primary caregiver or the family is the focus of the research, then the research must clearly demonstrate how the effects on the primary caregiver or the family mediate child outcomes. The chosen approach should reflect theory and previous research and be documented through a review of the literature. In addition, the approach may be developed for appropriate use with either infants and toddlers or preschool children.

A second area of major concern is longitudinal data on Head Start graduates. Although Head Start is over thirty years old, little research has been accumulated on Head Start graduates' experiences and status after they enter school. Although the Head Start population of today is very different from the population thirty years ago, the data that exists on Head Start children's status as they enter school and their subsequent experiences is primarily based on the earlier population. What are the effects of Head Start children's status at kindergarten entry on their later school performance? How is Head Start children's performance in school influenced by the socio-economic environment of the school and the classroom? What factors within the child, family and community mediate success in school? These and other longitudinal questions are important areas for research.

Special Conditions

- The applicant must enter into a partnership with a Head Start or Early Head Start program for the purposes of conducting the research.
- The application must contain a letter from the Head Start or Early Head Start program certifying that they have entered into a partnership with the applicant and the application has been reviewed and approved by the Policy Council.
- The applicant must agree to attend one meeting of the research grantees each year and Head Start's Fourth National Research Conference in July of 1998. The budget should reflect travel funds for such purposes.
- The applicant must apply the University's off-campus research rates for indirect costs.

Project Duration: The announcement for priority area 1.01 is soliciting applications for project periods up to three years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

Federal Share of Project Costs: The maximum Federal share is not to exceed $150,000 for the first 12-month budget period or a maximum of $450,000 for a 3-year project period. The Federal share is *inclusive* of indirect costs.

Matching Requirement: There is no matching requirement.

Anticipated Number of Projects to be Funded: It is anticipated that 4 projects will be funded.

CFDA: 93.600 Head Start: Head Start Act, as amended

1.02 Support for Graduate Students: The Head Start Research Scholars Program

Eligible Applicants: Institutions of higher education on behalf of qualified doctoral candidates enrolled in the sponsoring institution. To be eligible to administer the grant on behalf of the student, the institution must be fully accredited by one of the regional accrediting commissions recognized by the Department of Education and the Council on Post-Secondary Accreditation. In addition, the specific graduate student on whose behalf the application is made must be identified and any resultant grant award is not transferable to another student. Funds from this grant may not be used to make any payments to other students at the university.

Purpose: To provide support for graduate students to encourage the conduct of research with Head Start populations which will contribute to the knowledge base for improving services for Head Start children and families.

Background and Information: A large body of literature exists on the early years of the Head Start program. A significant number of these studies are dissertations and other research conducted by graduate students. Many of these graduate students continued to make significant contributions to Head Start as they pursued their careers. As Head Start has continued to grow, its population has become more diverse and societal problems have become more complex. In order to meet the challenges Head Start faces today, it is more than ever in need of the information that only sophisticated research conducted by well trained researchers can provide. Therefore, as part of a research capacity building effort, Head Start is interested in supporting graduate students with diverse backgrounds and from diverse fields to conduct research in Head Start programs.

A new generation of Head Start research is needed that recognizes the great diversity among Head Start programs and the populations which it serves. Although Head Start delivers a core set of services which are defined by the Head Start Program Performance Standards, there is wide variability across programs in terms of the methods by which these services are delivered. Within programs, moreover, children and families vary in their levels of functioning, ethnicity and other variables which interact with program interventions. The Head Start population offers a unique opportunity for research which will contribute to understanding the differences in this diverse population and how to effectively tailor services and interventions for children and families with different characteristics. Research is needed on the particular learning styles, the cognitive and social development, and the developmental trajectories of children as well as on indicators of family functioning as they are manifested in specific cultural and/or linguistic groups, children with specific disabilities, and families at different levels of functioning. In addition, suitable measures of child, adult and family functioning must be identified and adapted for specific subgroups of this diverse population. ACYF is interested in supporting doctoral-level students, through their sponsoring institutions, who are now conducting or wish to conduct research on the Head Start population, and which will contribute to our knowledge about the best approaches for delivering services to diverse populations. Doctoral-level graduate students who are representative of Head Start's diverse populations are particularly encouraged to apply.

Research projects include independent studies conducted by the graduate students or well-defined portions of a larger study currently being conducted by a principal investigator holding a faculty position and for which the graduate student will have primary responsibility.

Special Conditions.

- The applicant must enter into a partnership with a Head Start or Early Head Start program for the purposes of conducting the research.
- The application must contain a letter from the Head Start program certifying that they have entered into a partnership with the applicant and the application has been reviewed and approved by the Policy Council.
- The applicant must agree to attend one meeting of the research grantees each year and Head Start's Fourth National Research Conference in July of 1998. The budget should reflect travel funds for such purposes.
- Considering the size of the grant, the university must waive indirect costs.
- A university faculty member must serve as a mentor to the graduate student. The application must include a letter from the faculty member stating that s/he has reviewed and approved the proposal and a description of how the faculty member will monitor the student's work.

Project Duration: The announcement for priority area 1.02 is soliciting applications for project periods up to two years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for two years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within the two-year project period, will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

Federal Share of Project Costs: The maximum Federal share is not to exceed $15,000 for the first 12-month budget period or a maximum of $30,000 for a 2-year project period.

Matching Requirement: There is no matching requirement.

Anticipated Number of Projects to be Funded: It is anticipated that 10 projects will be funded. No individual university will be funded for more than one candidate.

CFDA: 93.600 Head Start: Head Start Act, as amended

Part III. Criteria

The criteria presented below will be applied by the reviewers to the applicant's submission in both priority areas in order to select the successful applicants.

A. Criteria

1. Objectives and Significance—25 points

- The extent to which the objectives of the research are important and relevant to Head Start and the field of early childhood.
- The extent to which the research study makes a significant contribution to the broader field.
- The extent to which the related literature review supports the study objectives, the questions to be addressed or the hypotheses to be tested.
- The extent to which the questions that will be addressed or the hypotheses that will be tested are sufficient for meeting the stated objectives.

2. Approach—40 points

- The extent to which the planned approach reflects sufficient input from and partnership with the Head Start or Early Head Start program.
- The extent to which the research design is appropriate and sufficient for addressing the questions of the study.
- The extent to which the planned approach allows for the identification specific outcomes.
- The extent to which the planned research includes quantitative and qualitative methods.
- The extent to which the planned measures and analyses both reflect knowledge and use of state-of-the-art measures and analytic techniques and advance the state-of-the art.
- The extent to which the choice of the statistical approaches are appropriate for the question under consideration.
- The adequacy of the anticipated research sample size for the requirements of the study.
- For longitudinal studies the extent to which the site in which the research will be conducted has a method of tracking Head Start or Early Head Start graduates.
- The applicant has provided all required assurances.
- The reasonableness of the budget for the work proposed.

3. Staffing—35 points

- The extent to which the principal investigator and other key research staff possess the research expertise necessary to conduct the study as demonstrated in the application and information contained in their vitae.
- The extent to which the proposed staff reflect an understanding of and sensitivity to the issues of working in a community setting and in partnership with program staff and parents.
- The adequacy of the time devoted to this project by the principal investigator and other key staff in order to ensure a high level of professional input and attention.
- For graduate students, the adequacy of the supervision provided by the graduate student's mentor.

B. The Review Process

Applications received by the due date will be reviewed and scored competitively. Experts in the field, generally persons from outside the Federal government, will use the evaluation criteria listed in Part III of this announcement to review and score the applications. The results of this review are a primary factor in making funding decisions. ACYF may also solicit comments from ACF Regional Office staff and other Federal agencies. These comments, along with those of the expert reviewers, will be considered in making funding decisions. In selecting successful applicants, consideration may be given to other factors which at the time of funding, may cause ACYF to consider certain research topics of higher priority or give less priority to current or past principal investigators who were recipients of Head Start discretionary research funds, or for Priority Area 1.02, universities which are current grant recipients in behalf of graduate students.

Part IV. Instructions for Submitting Applications

A. Availability of Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms included at the end of this program announcement in Appendix A. In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 (approved by the Office of Management and Budget under Control Number 0348–0043). A copy has been provided. Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, Assurances: Non-Construction Programs (approved by the Office of Management and Budget under control number 0348–0340). Applicants must sign and return the Standard Form 424B with their application. Applicants must provide a certification concerning lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by the Office of Management and Budget under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must also understand that they will be held accountable for the smoking prohibition included within P.L. 103–227, Part C Environmental Tobacco Smoke (also known as The Pro-Children's Act of 1994). A copy of the Federal Register notice which implements the smoking prohibition is included with the forms. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

All applicants for research projects must provide a Protection of Human Subjects Assurance as specified in the policy described on the HHS Form 596 (approved by the Office of Management and Budget under control number 0925–0137) in Appendix A. If there is a question regarding the applicability of this assurance, contact the Office for Protection from Research Risks of the National Institutes of Health at (301)-496–7041. Those applying for or currently conducting research projects are further advised of the availability of a Certificate of Confidentiality through the National Institute of Mental Health of the Department of Health and Human Services. To obtain more information and to apply for a Certificate of Confidentiality, contact the Division of Extramural Activities of the National Institute of Mental Health at (301) 443–4673.

B. Proposal limits

The proposal should be double-spaced and single-sided on 8½″ × 11″ plain white paper, with 1″ margins on all sides. Use only a standard size font such as 10 or 12 pitch throughout the proposal. All pages of the proposal (including appendices, resumes, charts, references/footnotes, tables, maps and exhibits) must be sequentially numbered, beginning on the first page after the budget justification, the

principal investigator contact information and the Table of Contents. The project summary should also not be counted in the 60 pages. Applicants should not submit reproductions of larger sized paper that is reduced to meet the size requirement. Applicants are requested not to send pamphlets, brochures, or other printed material along with their applications as these pose copying difficulties. These materials, if submitted, will not be included in the review process. In addition, applicants must not submit any additional letters of endorsement beyond any that may be required.

The length of the proposal starting with page 1 as described above and including appendices and resumes must not exceed 60 pages. Anything over 60 pages will be removed and not considered by the reviewers. Applicants are encouraged to submit curriculum vitae using ''Biographical Sketch'' forms used by some government agencies.

Please note that applicants that do not comply with the requirements in the section on ''Eligible Applicants'' will not be included in the review process.

C. Checklist for a Complete Application

The checklist below is for your use to ensure that the application package has been properly prepared:

—One original, signed and dated application plus two copies.
—Attachments/Appendices, when included, should be used only to provide supporting documentation such as resumes, and letters of agreement/support.
—A complete application consists of the following items in this order:

(1) Application for Federal Assistance (SF 424, REV. 4–88);

(2) Budget information-Non-Construction Programs (SF424A&B REV. 4–88);

(3) Budget Justification, including subcontract agency budgets;

(4) Letter from the Head Start or Early Head Start program certifying that the program is a research partner of the respective applicant and that the Policy Council had reviewed and approved the application;

(5) Application Narrative and Appendices (not to exceed 60 pages);

(6) Proof of non-profit status. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit organization can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of incorporation of the State in which the corporation or association is domiciled.

(7) Assurances Non-Construction Programs;

(8) Certification Regarding Lobbying;

(9) Where appropriate, a completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424, REV. 4–88;

(10) Certification of Protection of Human Subjects.

D. Due Date for the Receipt of Applications

1. *Deadline:* Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Mail Stop 6c-462, Washington, D.C. 20447, Attention: Head Start Discretionary Grants Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date. Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 5:00 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, between Monday and Friday (excluding Federal Holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.) ACF cannot accommodate transmission of applications by fax or e-mail. Therefore, applications faxed or e-mailed to ACF will not be accepted regardless of date or time of submission and time of receipt.

2. *Late applications:* Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. *Extension of deadlines:* ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., widespread disruption of the mails or when it is anticipated that many of the applications will come from rural or remote areas. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

E. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to OMB for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those currently approved under OMB Control Numbers 0348–0043, 0348–0044, 0348–00400, 0348–0046 and 0925–0137.

F. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the accommodate or explain rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447. A list of the Single Points of Contact for each State and Territory is included as an Appendix to this announcement.

Dated: May 15, 1996.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

BILLING CODE 4184–01–P

Appendix A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code):*	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐.☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.):*

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
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BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B,C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and charges to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase of decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in

accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed purusant to the following: (a) institution of envrionmental quality control measures under the National Enviornmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flooplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. § § 11451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1995, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. § § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisioning Prevention Act (42 U.S.C. § § 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

BILLING CODE 4184–01–P

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184–01–C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) Are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial or participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principles:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known*: **Congressional District,** *if known*:	 **Congressional District,** *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

Federal Use Only: **Authorized for Local Reproduction**
Standard Form - LLL

BILLING CODE 4184–01–C

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

Appendix B—OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX: (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone (501) 682–1074, FAX: (501) 682–5206

Alabama

Jon C. Strickland, Alabama Department of Economic and Community Affairs, Planning and Economic Development Division, 401 Adams Avenue, Montgomery, Alabama 36103–5690, Telephone (205) 242–5483, FAX: (205) 252–5515

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid, III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Barbara Beard, State Single Point of Contact, Department of Commerce and Community Affairs, 620 East Adams, Springfield, Illinois 62701, Telephone (217) 782–1671, FAX: (217) 534–1627

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155, FAX: (603) 271–1728

New Jersey

Gregory W. Adkins, Assistant Commissioner, New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to: Andrew J. Jackolka, State Review Process, Intergovernmental Review Unit CN 800, Room 813A, Trenton, New Jersey 08625–0800, Telephone: (609) 292–9025, FAX: (609) 633–2132

New Mexico

Robert Peters, State Budget Division, Room 190 Battan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernment Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to: Linda Wise, Telephone: (614) 466–0698, FAX: (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration/Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0385

Texas

Tom Adams, Governor's Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone: (802) 828–3326, FAX: (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, FAX: (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone: (307) 777–7574, FAX: (307) 638–8967

Territories

Gaum

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950 Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444; (809) 723–6190, FAX: (809) 724–3270; (809) 724–3103

North Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802
Please direct all questions and correspondence about, intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

Appendix C—List of Early Head Start Grantees

Alaska

Rural CAP Child Development, Karen King, P.O. Box 200908, Anchorage, AK 99520–0908, Telephone: (907) 279–2511, Fax: (907) 279–6343, E-mail: None

Arizona

Southwest Human Development, Ginger Ward, 202 E. Earll, Suite 140, Phoenix, AZ 85012, Telephone: (602) 266–5976, Fax: (602) 274–8952, E-mail: SWHD@PRIMENET.COM

California

Northcoast Children's Services (NCS), Siddiq Kilkenny, P.O. Box 1165, Arcata, CA 95521, Telephone: (707) 822–7206, Fax: (707) 822–7962, E-mail: None
Sacramento Employment Training Agency (SETA), Head Start, Catherine Goins, 3750 Rosin Court, Suite 100, Sacramento, CA 95834, Telephone: (916) 263–5342, Fax: (916) 263–3779, E-mail: None

Colorado

Community Partnership for Child Development, Terry Schwartz, 2132 E. Bijou, Colorado Springs, CO 80909, Telephone: (719) 635–1536 x217, Fax: (719) 634–8086, E-mail: Later date
Family Star, Lereen Castellano/Alicia Sheridan, 1331 E. 33rd Avenue, Denver, CO 80205, Telephone: (303) 295–7711, Fax: (303) 295–0958, E-mail: None

District of Columbia

Edward C. Mazique Parent Child Center, Cynthia Faust, 1719 - 13th Street, NW, Washington, DC 20009, Telephone: (202) 462–3375, Fax: (202) 939–8696, E-mail: None

Florida

Alachua County School District, Donna Omer, School Board of Alachua County, 620 East University Avenue, Gainesville, FL 32601, Telephone: (904) 955–7605, Fax: (904) 955–6700, E-mail: None
Metro Dade Community Action Agency, Regina M. Grace, 395 N.W. 1st Street, Miami, FL 33128, Telephone: (305) 347–4640, Fax: (305) 372–8745, E-mail: None

Georgia

Berry Chattooga Early Development Center, Nancy Daniel, 702 South Congress Street, Summerville, GA 30747, Telephone: (706) 857–1651, Fax: (706) 857–6610, E-mail: None
Clark Atlanta University Head Start, Linda Hassan, 350 Autumn Lane, S.W., Atlanta, GA 30314, Telephone: (404) 696–9585 x104, Fax: (404) 696–9524, E-mail: None
Georgia Early Head Start Network, Donna Overcash, Save the Children Child Care Support Ctr., 1447 Peachtree Street, NE, Suite 700, Atlanta, GA 30309, Telephone: (404) 885–1578, Fax: (404) 874–7427, E-mail: ATLANTA @ SAVECHILDREN. ORG

Illinois

City of Chicago, Dept. of Human Services, Frank McGehee, 510 North Peshtigo Court, 8th Floor, Chicago, IL 60611, Telephone: (312) 744–0251, Fax: (312) 744–7530, E-mail: None
The Ounce of Prevention Fund, Portia Kennel, 188 W. Randolph Street, #2200, Chicago, IL 60601, Telephone: (312) 853–6080, Fax: (312) 853–3337, E-mail: None
Wabash Area Development, Inc., Donna Emmons, 100 N. Latham, Enfield, IL 62835, Telephone: (618) 963–2387, Fax: (618) 963–2525, E-mail: None

Indiana

Healthy Beginnings, Hamilton Center, Anita Lascelles, 620 8th Avenue, Terre Haute, IN 47804, Telephone: (812) 231–8335, Fax: (812) 232–8228, E-mail: None

Iowa

Upper Des Moines Opportunity, Inc., Mary Jo Madvig, P.O. 519, 101 Robbins Avenue, Graettinger, IA 51342–0519, Telephone: (712) 859–3885, Fax: (712) 859–3892, E-mail: None

Kansas

Head Start Parent & Child Center, Glenda Wilcox, 931 South St. Francis, Wichita, KS 67211, Telephone: (316) 267–8314, Fax: (316) 267–7185, E-mail: None
Salina USD #305, Korey Powell-Hensley, 700 Jupiter, Salina, KS 67401 Telephone: (913) 826–4868, Fax: (913) 826–4867, E-mail: None

Kentucky

Breckinridge-Grayson Programs, Inc., Cleo Lowery, P.O. Box 63, Lietchfield, KY 42755, Telephone: (502) 259–4054, Fax: (502) 259–4055, E-mail: None
Murray Head Start, Judy Whitten, 208 S. 13th Street, Murray, KY 42074, Telephone: (502) 753–6031, Fax: (502) 759–4906, E-mail: None

Maryland

The Family Services Agency, Inc., Mary C. Jackson, 640 E. Diamond Avenue, Suite A, Gaithersburg, MD 20877, Telephone: (301) 840–2000 x205, Fax: (301) 840–9621, E-mail: None
Friends of the Family, Inc., Linda R. Gaither, 1001 Eastern Avenue—2nd Floor, Baltimore, MD 21202–4364, Telephone: (410) 659–7701, Fax: (410) 783–0814, E-mail: None

Michigan

Mississippi

Friends of Children of Mississippi, Inc., Cathy Gaston/Marvin Hogan, 4880 McWillie Drive, Jackson, MS 39206, Telephone: (601) 362–1541, Fax: (601) 362–1613, E-mail: None

Missouri

Human Development Corporation, Lois A. Harris, 929 North Spring Avenue, St. Louis, MO 63108, Telephone: (314) 652–5100 x285, Fax: (314) 652–0813, E-mail: None

Nebraska

Central Nebraska Community Services, Suzan Obermiller, P.O. Box 509, Loup City, NE 68853, Telephone: (308) 745–0780, Fax: (308) 745–0824, E-mail: None

New Hampshire

Community Action Program Belknap-Merrimack Counties, Inc., Rebecca Johnson, P.O. Box 1016, Concord, NH 03302–1016, Telephone: (603) 225–3295, Fax: (603) 228–1898, E-mail: None

New Jersey

Babyland Nursery, Inc., Mary Smith/Martin Schneider, 755 South Orange Avenue, Newark, NJ 07106, Telephone: (201) 399–3400, Fax: (201) 399–2076, E-mail: None

NORWESCAP Head Start Administration, Linda Kane, 481 Memorial Parkway, Phillipsburg, NJ 08865, Telephone: (908) 454–8830, Fax: (908) 859–0729, E-mail: None

New York

The Astor Home for Children, Elizabeth Colkin, 50 Delafield Street, Poughkeepsie, NY 12601, Telephone: (914) 452–4167, Fax: (914) 452–0718, E-mail: None

Chautauqua Opportunities, Inc. Head Start, Grace Knaak, Municipal Bldg—5th Floor, 200 E. Third Street, Jamestown, NY 14701, Telephone: (716) 661–9430, Fax: (716) 661–9436, E-mail: GKNAAK@EPI

Parent & Child Center, Coleen A. Meehan, 175 Hudson Street, Syracuse, NY 13204, Telephone: (315) 470–3324, Fax: (315) 474–6863, E-mail: None

Project Chance Early Head Start, Bart O'Conner, 136 Lawrence Street, Brooklyn, NY 11201, Telephone: (718) 330–0845, Fax: (718) 330–0846, E-mail: None

North Carolina

Asheville City Schools Preschool and Family Literacy Center, Robbie H. Angell, 441 Haywood Road, Asheville, NC 28806, Telephone: (704) 255–5423, Fax: (704) 251–4913, E-mail: None

North Dakota

Little Hoop Community College, Beverly Graywater, P.O. Box 89, Fort Totten, ND 58335, Telephone: (701) 766–4070, Fax: (701) 766–1357, E-mail: None

Ohio

Child Focus—Clermont County Head Start, Terrie Hare, 1088 Hospital Drive, Suite A, Batavia, OH 45103, Telephone: (513) 732–5432, Fax: (513) 732–5440, E-mail: None

Cincinnati-Hamilton County Community Action Agency, Verline Dotson, 2904 Woodburn Avenue, Cincinnati, OH 45206, Telephone: (513) 569–1840, Fax: (513) 569–1251, E-mail: None

Oregon

Southern Oregon Child and Family Council, Inc., Blair Johnson, 505 Oak Street, P.O. Box 3819, Central Point, OR 97502, Telephone: (503) 664–4730; 857–9255, Fax: (503) 664–6620, E-mail: Pending

Pennsylvania

Philadelphia Parent Child Center, Inc. Jewel Morrissette-Ndulula, 2515 Germantown Avenue, Philadelphia, PA 19133, Telephone: (215) 229–1800, Fax: (215) 229–5860, E-mail: None

Puerto Rico

Aspira Inc. of Puerto Rico, Edmé Ruiz Torres, Box 29132, 65th Infantry Station, Rio Piedras, PR 00929, Telephone: (809) 768–1968, Fax: (809) 257–2725, E-mail: None

New York Foundling Hospital, Zaida Fernandez, P.O. Box 191274, San Juan, PR 00919–1274, Telephone: (809) 753–9082; 753–1321; 753–9080, Fax: (809) 763–9209, E-mail: None

South Carolina

SHARE Greenville-Pickens Head Start, Rubye H. Jones, 652 Rutherford Road, Greenville, SC 29609, Telephone: (803) 233–4128, Fax: (803) 233–4019, E-mail: None

Tennessee

Chattanooga Human Services Head Start/PCC, Donna Ginn, 2302 Ocoee Street, Chattanooga, TN 37406, Telephone: (423) 493–9750, Fax: (423) 9754, E-mail: None

Tennessee CAREs, Barbara Nye, Tennessee State University, 330 Tenth Avenue N., Box 141, Nashville, TN 37203, Telephone: (615) 963–7231, Fax: (615) 963–7214, E-mail: None

Texas

Avance San Antonio Inc., Rebecca C. Cervantez, 2300 W. Commerce, Suite 304, San Antonio, TX 78207, Telephone: (210) 220–1788, Fax: (210) 220–3795, E-mail: None

Head Start of Greater Dallas, Inc., Rob Massonneau, 1349 Empire Central, Suite 900, Dallas, TX 75247, Telephone: (214) 634–8704 x484, Fax: (214) 631–5417

[FR Doc. 96–13720 Filed 5–31–96; 8:45 am]

BILLING CODE 4184–01–P

Health Resources and Services Administration

National Practitioner Data Bank: Availability of and Cost Options for Copies of Public Use Data File

The Health Resources and Services Administration (HRSA), Department of Health and Human Services (DHHS), announces the availability of a public use data file which includes selected information from over 120,000 reports submitted to the National Practitioner Data Bank between September 1, 1990 and December 31, 1995. HRSA is considering making updated versions of the file available every 6 months. The file contains information concerning (1) malpractice payments made for the benefit of physicians, dentists, and other health care practitioners and (2) adverse licensure, clinical privileges, and professional society membership actions concerning physicians and dentists.

Selected variables in the file include: type of practitioner, type of reporting entity, practitioner's State, malpractice payment amount, reasons for malpractice payment, date of payment, and whether payment is a result of judgment or settlement. The file also includes information on the reason for licensure and clinical privileges adverse action, the type of action taken, and the duration of such action.

The file does *not* contain information which would allow identification of individual physicians, dentists, or other health care practitioners. Accordingly, hospitals cannot use this file to meet their obligation under section 425 of Public Law 99–660 (42 U.S.C. 11135) to query the National Practitioner Data Bank on individual practitioners. The file also does *not* contain information identifying either entities which filed reports with the National Practitioner Data Bank or patients. This information is being made available pursuant to section 427(b) of Public Law 99–660 (42 U.S.C. 11137(b)).

The public use file is in ASCII format and is approximately 19 megabytes in size. It is available only in compressed form on IBM–PC compatible high density 3.5 inch diskettes. In addition to the data itself, a complete file description in ASCII text format is included on the diskettes. An introductory copy of the file may be obtained at no charge by calling the National Practitioner Data Bank ''Help Line'' at 1–800–767–6732.

HRSA will be establishing appropriate charges for subsequent editions of the file. Charges will be based on associated administrative costs, file preparation costs, distribution costs, processing costs, etc.

We would like to receive comments on your potential use of this file. Please send comments to: Thomas C. Croft, Director, Division of Quality Assurance, Room 8A–55, 5600 Fishers Lane, Rockville, Maryland 20857 and mark ''Attention: Public Use File.''

Dated: May 25, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–13788 Filed 5–31–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Cancer Institute; Notice of Meeting

Notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors Prevention Program Working Group, June 13, 1996 at The DoubleTree Hotel, 1750 Rockville Pike, Rockville, Maryland.

This meeting will be open to the public on June 13, from 8:30 a.m. to 9:30 a.m. for overview and discussion of the Institute's Prevention Program.

The meeting will be closed to the public on June 13, from 9:30 a.m. to adjournment for discussion of confidential issues relating to the review, discussion and evaluation of individual programs and projects conducted by the Clinical Trials Extramural Program. These discussions will reveal confidential trade secrets or commercial property such as patentable material, and personal information including consideration of personnel qualifications and performance, the competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Information pertaining to the meeting may be obtained from Dr. Jack Gruber, Executive Secretary, National Cancer Institute Prevention Program Working Group, National Cancer Institute, 6130 Executive Blvd., EPN, Rm 540, Bethesda, MD 20892, (301–496–9740). Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Dr. Jack Gruber in advance of the meeting.

Dated: May 23, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13735 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Center for Research Resources Special Emphasis Panel (SEP) meeting:

Name of SEP: Biomedical Research Technology.

Date: June 28, 1996.

Time: 8:00 a.m.

Place: Doubletree Hotel, Halpin Room, 1750 Rockville Pike, Rockville, Maryland 20892, (301) 468–1100.

Contact Person: Dr. Charles G. Hollingsworth, Scientific Review Administrator, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, (303) 435–0818.

Purpose/Agenda: To evaluate and review grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.371, Biomedical Research Technology, National Institutes of Health, HHS)

Dated: May 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13737 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities, on June 18–19, 1996, Holiday Inn, Georgia Room, 8120 Wisconsin Avenue, Bethesda, MD 20814, which was published in the Federal Register on May 7, 1996, 61 FR 20533.

The committee was to have convened June 18–19, 1996, but will now meet June 18–20, 1996.

The meeting will be open to the public on June 18, from 8:00 a.m. to 8:30 a.m. The meeting will be closed on June 18, from 8:30 a.m. until adjournment on June 20.

Dated: May 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13816 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.

Date: June 17, 1996.

Time: 8:30 a.m.

Place: Holiday Inn Gaithersburg.

Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (301) 496–5561.

Purpose/Agenda: Review of Grant Applications.

The meeting will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research: National Institutes of Health)

Dated: May 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13740 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel (SEP) meetings:

Name of SEP: Diabetes and Endocrinology Research Centers (DERCs).

Date: June 25–26, 1996.

Time: 8:30 a.m.—adjournment on June 26.

Place: Renaissance Mayflower Hotel, New York Room, 1127 Connecticut Ave., N.W., Washington, D.C. 20036.

Contact Person: Roberta J. Haber, Ph.D., Natcher Building, Room 6AS–25N, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8898.

Purpose/Agenda: To review and evaluate research grant applications.

Name of SEP: Pathobiology of Macrovascular Disease in Diabetes.

Date: July 1–3, 1996.

Time: 7:30 p.m.—adjournment on July 3.

Place: Silver Cloud Inn (room to be announced), Seattle, Washington.

Contact Person: Francisco O. Calvo, Ph.D., Natcher Building, Room 6AS–37E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: 301–594–8897.

Purpose/Agenda: To review and evaluate research grant application.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: May 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13736 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of Panel: National Institute on Aging Special Emphasis Panel (Telephone Conference Call).
Date of Meeting: June 12, 1996.
Time of Meeting: 1:00 p.m.—EDT.
Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.
Purpose/Agenda: To review grant applications.
Contact Person: Paul H. Lenz, Ph.D., Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Panel: National Institute on Aging Special Emphasis Panel (Telephone Conference Call).
Date of Meeting: June 25, 1996.
Time of Meeting: 2:00 p.m.—EDT.
Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.
Purpose/Agenda: To review a grant application.
Contact Person: Paul H. Lenz, Ph.D., Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Panel: National Institute on Aging Special Emphasis Panel (Telephone Conference Call).
Date of Meeting: July 9, 1996.
Time of Meeting: 1:00–2:00 p.m.—EDT.
Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.
Purpose/Agenda: To review a grant application.
Contact Person: Arthur D. Schaerdel, DVM, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: May 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13739 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Vaccine Production Facility.
Date: June 11, 1996.
Time: 9:00 a.m.
Place: Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814, (301) 654–1000.
Contact Person: Dr. Madelon C. Halula, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C16, Bethesda, MD 20892, (301) 402–2636.
Purpose/Agenda: To evaluate contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: May 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13741 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute on Drug Abuse Initial Review Group.

Purpose/Agenda: To review and evaluate grant applications.
Name of Committee: Molecular, Cellular and Chemical Neurobiology Research Subcommittee.
Date: June 3–5, 1996.
Time: 8:30 a.m.
Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.
Contact Person: Rita Liu, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neuropharmacology Research Subcommittee.
Date: June 3–5, 1996.
Time: 8:30 a.m.
Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.
Contact Person: Syed Husain,, Ph.D, Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neurophysiology and Neuroanatomy Research Subcommittee.
Date: June 3–5, 1996.
Time: 8:30 a.m.
Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.
Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Human Development Research Subcommittee.
Date: June 11–12, 1996.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: William C. Grace, Ph.D. Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: Epidemiology and Prevention Research Subcommittee.
Date: June 11–13, 1996.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

The meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals

associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated: May 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13742 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Initial Review Group, Neuropharmacology and Neurochemistry Review Committee, which was published in the Federal Register on May 7, 1996 (61 FR 20536).

This committee was to have convened at 8 a.m. on June 12 at the Chevy Chase Holiday Inn in Chevy Chase, MD. The starting date and time has been changed to June 13 at 8:30 a.m.

Dated: May 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13817 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: June 19, 1996.

Time: 1 p.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Angela L. Redlingshafer, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: May 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13818 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: June 4, 1996.

Time: 3:30 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: June 7, 1996.

Time: 9 a.m.

Place: Hampshire Hotel, 1310 New Hampshire Ave., N.W., Washington, DC 20036.

Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: May 29, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13819 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: June 4, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4110, Telephone Conference.

Contact Person: Dr. Gertrude McFarland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4110, Bethesda, Maryland 20892, (301) 435–1784.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limations imposed by the review and funding cycle.

Name of SEP: Biological and Physiological Sciences.

Date: June 13, 1996.

Time: 8:30 a.m.

Place: Embassy Suites, Washington, DC.

Contact Person: Dr. Paul Strudler, Scientific Review Administrator, 6701 Rockledge Drive, Room 4144, Bethesda, Maryland 20892, (301) 435–1716.

Name of SEP: Multidisciplinary Sciences.

Date: June 21, 1996.

Time: 8:00 a.m.

Place: NIH, Rockledge 2, Room 5118, Telephone Conference.

Contact Person: Dr. Paul Parakkal, Scientific Review Administrator, 6701 Rockledge Drive, Room 5118, Bethesda, Maryland 20892, (301) 435–1172.

Name of SEP: Biological and Physiological Sciences.

Date: June 23, 1996.

Time: 6:30 p.m.

Place: Double Tree Hotel, Rockville, MD

Contact Person: Dr. Sooja Kim, Scientific Review Administrator, 6701 Rockledge Drive, Room 4120, Bethesda, Maryland 20892, (301) 435–1780.

Name of SEP: Biological and Physiological Sciences.

Date: June 25–26, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Sandy Warren, Scientific Review Administrator, 6701 Rockledge Drive, Room 5134, Bethesda, Maryland 20892, (301) 435–1019.

Name of SEP: Multidisciplinary Sciences.

Date: July 15, 1996.

Time: 8:00 a.m.

Place: Georgetown Inn, Washington, DC.

Contact Person: Dr. Eileen Bradley, Scientific Review Administrator, 6701 Rockledge Drive, Room 5120, Bethesda, Maryland 20892, (301) 435–1179.

Name of SEP: Chemistry and Related Sciences.

Date: August 1–3, 1996.

Time: 8:00 p.m.

Place: Hyatt Regency Hotel, Bethesda, MD.

Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, Maryland 20892, (301) 435–1166.

Purpose/Agenda To review Small Business Innovation Research.

Name of SEP: Multidisciplinary Sciences.
Date: June 24, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Multidisciplinary Sciences.
Date: June 25, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5116, Telephone Conference.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Chemistry and Related Sciences.
Date: June 30–July 1, 1996.
Time: 8:00 p.m.
Place: Ritz Carlton Hotel, Arlington, VA.
Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda Maryland 20892, (301) 435–1166.

Name of SEP: Multidisciplinary Sciences.
Date: July 1, 1996.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5116, Telephone Conference.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda Maryland 20892, (301) 435–1171.

Name of SEP: Multidisciplinary Sciences.
Date: July 1, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda Maryland 20892, (301) 435–1175.

Name of SEP: Chemistry and Related Sciences.
Date: July 11–13, 1996.
Time: 6:00 p.m.
Place: State Plaza Hotel, Washington, DC.
Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda Maryland 20892, (301) 435–1166.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–13738 Filed 5–31–96; 8:45 am]

BILLING CODE 4140–01–M

Office of Refugee Resettlement

Request for applications for Fiscal Year 1996 Community and Family Strengthening Discretionary Social Service Grants Program

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Request for applications to support projects under the Office of Refugee Resettlement's Fiscal Year 1996 Community and Family Strengthening Discretionary Social Service Grants Program for services to refugees.[1]

SUMMARY: This program announcement governs the availability of and award procedures for approximately $1,500,000 in FY 1996 Social Services discretionary grants. The Office of Refugee Resettlement (ORR) will accept competing applications for grants pursuant to the Director's discretionary authority under section 412(c)(1) of the Immigration and Nationality Act (INA), as amended by section 311 of the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c) of the INA, as cited above; and the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605).

Applications may request a project period of up to three years, with an initial budget period of one year. Where awards are for multiple year project periods, applications for continuation grants will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, successful progress of the project, and ACF's determination that this would be in the best interest of the government. This announcement contains forms and instructions for submitting an application.

CLOSING DATES: The closing dates for submission of applications is August 2, 1996. Applications postmarked after the closing date will be classified as late and will not be considered in the current competition.

FOR FURTHER INFORMATION REGARDING THIS ANNOUNCEMENT, CONTACT: Anna Mary Portz, Project Officer, telephone (202) 401–1196, or E-mail at aportz@dhhs.acf.gov. You may address correspondence to the contact person as follows: Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447.

SUPPLEMENTARY INFORMATION:

Legislative Authority

Section 412(c)(1)(A) of the INA authorizes the Director ''to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) To assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.''

Eligible Applicants

Eligible applicants are States and other public or private, nonprofit organizations and institutions. Current CFS grantees may participate in coalition applications under this announcement but are discouraged from being the lead applicant.

Availability of Funds

Approximately $1.5 million will be awarded in FY 1996. Individual grants are expected to range from $80,000 to $250,000 per budget period. The Director reserves the right to award less, or more, than the funds described, in the absence of worthy applications, or under such other circumstances as may be deemed to be in the best interest of the government. Applicants may be required to reduce the scope of selected

[1] In addition to persons who meet all requirements of 45 CFR 400.43, eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. No. 100–461), 1990 (Pub. L. No. 101–167) and 1991 (Pub. L. No. 101–513). For convenience, the term ''refugee'' is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

projects to accommodate the amount of the grant award approved.

Length of Application

Applicants are encouraged to limit project descriptions (Part IV of the application for each component) to 20 pages (typewritten, double spaced on standard, letter-size paper) plus no more than 20 pages of appended material. This limitation of 20 pages per component should be considered as a maximum, and not necessarily a goal to be achieved.

Cost-Sharing Requirement

In applications making provision for cost-sharing funds, applicants will be held accountable for commitments of non-Federal resources. Failure to provide required cost-sharing resources may result in disallowance of Federal funds and/or cancellation of future budget periods.

Background: Community and Family Strengthening

As with all programs funded by appropriations pursuant to the Refugee Act, services may be provided only to refugees (see definition in footnote 1, above) and may not be provided to refugees who have become citizens (except for those Amerasians listed in footnote 1). Further, the intent of this announcement is to target primarily refugees who have arrived within the last five years and give special consideration to the needs of refugees who have experienced long stays in overseas camps. Therefore, applicants are advised to consider the needs of recently arrived families and of their communities in responding to the particulars of this announcement.

Many American communities with high concentrations of refugees also experience urban sprawl, increased specialization of services, and a diversity of local services and providers. These considerations have increased the need for better communication and cooperation among agencies in order to enhance program effectiveness, provide services that meet the current needs of the refugee population, and avoid duplication or fragmentation of services. These large communities have experienced a broad range of social and economic problems among some refugee populations, particularly with regard to refugee women, youth, elderly, and in those sectors characterized by a high incidence of crime, violence, and neighborhood deterioration.

Most newly arriving refugees join family members already residing in the larger community. This concentration has the potential for a highly supportive environment for new arrivals. Human service systems tend to be strong in these areas. The larger communities are also environments in which resources can be organized through refugee mutual assistance associations (MAAs), as well as other refugee community religious and social services organizations, to support and expand the economic and social infrastructure of the community. Conversely, in some areas, a mix of ethnic groups among arrivals also contributes to reduced capacity for local self-help activity in each ethnic community of newcomers.

While employment and economic independence continue to be ORR's primary concern and the focus of the formula social services and targeted assistance funding, this announcement provides an opportunity for local organizations to request funding for activities which supplement and complement employment-related services by strengthening refugee families and communities.

Coalitions

Local organizations, which have not already done so, are encouraged to build coalitions for the purpose of applying under this announcement. The activities funded by these grants are intended to serve as a catalyst to bring the community together to address the economic and social problems of refugee families and the refugee community. The goal in all cases should be to build and strengthen the community's capacity to serve its members in improving the quality of life and standard of living for refugee families. While activities proposed do not have to be directly employment related, applicants should be guided by the overarching goal of improving the economic condition of refugee families and of gearing them to adjust socially and economically to their new country and their new communities.

This announcement strongly encourages partnerships or consortia of three or more eligible organizations to submit joint applications for grants. In each application, *one* organization must be clearly identified as the grant recipient (grantee) with primary administrative and fiscal responsibilities. Applications from consortia which do not clearly specify which organization will serve as grantee *cannot be considered*. In all cases the applicant must demonstrate that wherever potential partners for collaboration exist, the applicant, at a minimum, has planned the proposed activities in collaboration with these potential partners, whether they are in the refugee services provider community of organizations and institutions or in mainstream services organizations, e.g., adult basic education providers, senior citizens organizations, women's shelters. Consultation might also include the Mayor's office, school parent-teacher groups, local police departments, and other mainstream community service organizations.

This announcement is intended to encourage service planners and providers to consider the various unmet needs of refugee families and communities relative to existing services, the capacity of the service-providing network, and ultimately the community's capacity to continue the activity without additional ORR resources beyond the three-year project period of this announcement. Long-range viability may depend on: linkages to activities funded by other sources, the availability of expertise in the community, the relatedness of proposed activities to existing activities, the willingness of the community to participate actively in assuring the success of the activity—including volunteer commitment, and the likelihood of tangible results.

The scoring in the review criteria is heavily weighted to encourage coalition projects. To receive maximum consideration, the applicant should represent a coalition of a minimum of three participating organizations in the local project area.

Service Compatibility

Applicants also are more likely to be successful in obtaining a grant if they describe the refugee community, family, and service capacity concerns under consideration. It should be clear how the proposed activity fits into the existing network of services; how it responds to the particular needs of families in that community or to a broader need of the community of families; who is committed to do what in order to accomplish this goal; and what the goal or expected outcome of the activity is.

The process of coalition-building is key to strengthening cooperation and coordination among the local service providers, community leaders, Mutual Assistance Associations, voluntary agencies, churches, and other public and private organizations involved in refugee resettlement and/or community service. ORR intends that this process will be part of local efforts to build strategic partnerships among these groups to expand their capacity to serve the social and economic needs of refugees and to give support and direction to ethnic communities facing

problems in economic independence and social adjustment.

In all cases, regardless of the nature of the organization proposed to provide services or conduct activities funded under this announcement, the services/activities must be conducted by staff linguistically and culturally compatible with the refugee families or communities to be served. In addition, the applicant must describe how proposed providers will have access to the families and to the community to be served.

Where the application represents a coalition of providers, the applicant should include in the application package a signed partnership agreement which includes a commitment or statement of intent to commit resources from the prospective partner(s) contingent upon receipt of ORR funds. The agreement should state how the partnership arrangement relates to the objectives of the project. The applicant should also include: supporting documentation identifying the resources, experience, and expertise of the partner(s); evidence that the partner(s) has been involved in the planning of the project; and a discussion of the role of the partner(s) in the implementation and conduct of the project. In this context, ORR is defining partnership as a formal negotiated arrangement among organizations that provides for substantive collaborative roles for each of the partners in the planning and conduct of the project.

All applicants should demonstrate existing refugee community support for their agency and their proposed project. If the applicant works in an area where no other organizations work with refugees, and a coalition with other organizations is not possible, this should be explained and documented. Applicants and their partners should provide evidence that their governing bodies, boards of directors, or advisory bodies are representative of the refugee communities being served, and have both male and female representation.

Because funding under this program announcement is limited, applicants are urged to plan for the use of these funds in conjunction with other Federal, State, and private funds available to assist the target populations and to carry out similar programs and activities (cost-sharing). In subsequent year continuation applications, the grantee will be asked to document receipt of non-Federal funds from other sources. The requirement will be not less than 20% of the full budget for the second year award, and 40% for the third year award. For example, if the original budget is $150,000, the federal share for that year may be 100%. The second year the federal award might be $120,000 and the grantee would be required to provide at a minimum cost-sharing of 20% of the full budget, or in the amount of $30,000 cash or in-kind support. The third year federal award might be $90,000 and the grantee would be required to provide cost-sharing of 40% of the full budget. Only in unusual circumstances will the Director of ORR entertain a request from the grantee to reduce or waive the cost-sharing requirement which may be determined to be in the best interest of the government.

Allowable Services/Activities for Community Support Grants

ORR will consider applications for services which an applicant justifies, based on an analysis of service needs and available resources, as necessary to address the social and economic problems of refugee families and of the refugee community.

The specific services proposed may be as diverse as the communities themselves. Some examples follow which are not intended to be a comprehensive list but are intended to stimulate planning and community discussion. The examples do not include the more traditional employment and English language services for which the States predominantly contract with the formula social services and targeted assistance funds—not because these services are discouraged or disallowed under this announcement, but because repetition here is not necessary. It will be the task of the local planning processes to determine what is needed to address the economic and social adjustment needs of families and the community and to make the case for what is being proposed in the application. Activities and services proposed should be planned in conjunction with existing services and should supplement and complement these services. Special attention should be given in the planning process to the services available to all citizens, including community institutions which serve the elderly, youth and special needs populations.

Non-Allowable Activities

Funds will not be awarded to applicants who propose to engage in activities of a distinctly political nature or which are designed primarily to promote the preservation of cultural heritage, or which have an international objective. ORR supports refugee community efforts to preserve cultural heritage, but believes these are activities which communities should conduct without recourse to ORR resources.

Some Examples of Allowable Activities

Orientation and Community Education

—Activities designed to inform the refugee community about issues essential to effective participation in the new society.
—Classes in parenting skills, including information about U.S. cultural and legal issues, e.g., related to corporal punishment, generational conflict, and child abuse.
—Orientation and assistance to parents in connecting with the school system and other local community organizations.
—Information services on health care: information on access to health care for the uninsured, on health insurance, on health maintenance organizations, on the importance of preventive health, and on available universal coverage services, e.g., immunizations.

Specialized English Language Training

—Specialized classes for specific industries in conjunction with employers.
—Specialized classes for groups outside the regular classes, e.g., homebound women, elderly. Use of volunteers is encouraged. Accessibility of site and time is important.

Leadership Training

—Potential participants should be involved in designing the training. Activities might include community organizing, fund raising, non-profit management, other needs identified by potential participants.

Mentoring Programs

—Pairing participant individuals or families with community volunteers. Programs should target refugees who are not otherwise receiving core services, and mentoring should target needs they identify.

Peer Support Groups

—Assisting subgroups to form a common bond for resolution of peer-specific problems. The purposes are to solve individual, family, and community problems with the support of peers and to solve common problems through group action.

Citizenship Education

—Education and training designed to prepare refugees to become citizens.

Combating Violence in Families

—Information and training against domestic violence, child abuse, sexual

harassment and coercion, roles of men and women in U.S. culture, techniques for protection. Bi-lingual staff for women's shelters.

Crime Prevention/Victimization

—Activities designed to improve relations between refugees and the law enforcement communities: (a) public service officers or community liaisons; (b) neighborhood storefronts and/or watch programs; (c) refugee business watch program; (d) cross cultural training for the law enforcement community (police departments, court system, mediation/dispute resolution centers).

Note: Law enforcement activities, such as hiring sworn police officers (except those who are public service officers or community liaison officers), fingerprinting, incarceration, etc., are outside the scope of allowable services under the Refugee Act and will not be considered for funding. Other unallowable activities are those limited to, or principally focused on, parole counseling, court advocacy, and child protection services.

Refugee Community Centers

—Developing and operating community centers for delivering services to refugee individuals and families. Centers may also be used for recreation, information and referral services and community gatherings. (Costs related to construction or renovation will not be considered, nor will costs for food or beverages).

Community Organizing

—Communities might be organized for housing cooperatives, for youth activities, for services to elderly, for volunteer mentoring services, for crime prevention.

The above are only examples of services. They are not intended to limit potential applicants in community planning.

These examples are listed and generically described without regard to the population to be served. It will be necessary in the application to describe more specifically the target population. For example, one activity might be appropriately designed to serve only homebound women. Another might be designed for teen-agers and their parents. Another might be for elderly. Some might be targeted for all members of the family. Applications should correlate a planned activity with specific target audiences and discuss the relationship between the proposed activities and the target population.

Application Content and Review Criteria

Application Content

A. Need and Scope

Applicants should submit a detailed profile of the target community or communities to include the following:

—*Refugee Community:* A description by geographic area or ethnic group of the refugee community to be served, including numbers, ethnicity, welfare utilization pattern, number of refugee families in the community, family characteristics, and an assessment of attitudes of the refugees and the general community toward each other.

—*Target Population:* Applicants must submit a profile of the specific target population to be served. The applicant must describe the target population, reflecting ethnicity, age makeup, and length of time in the United States. All discrete refugee target populations may be considered. A target population may include, but is not limited to: an ethnic group, refugee families, women, youth, older workers, two-parent families on public assistance, or the aged. The applicant must provide justification for the selection of the target population.

Include a description of the problem(s) which the applicant/coalition has identified and for which funds are being requested, and a broad overview of the refugee resettlement picture in the community in which the applicant is proposing to conduct activities.

The applicant shall describe the existing service delivery systems(s) and existing community networks and explain how the activities proposed complement and do not supplant existing services.

B. Strategy and Program Design

Project design must include representatives of the target population. For example, a project designed to assist single mothers needs to be designed in consultation with single mothers. *Input by the target population is viewed as particularly important.*

The description of strategy and program design should also include:

—The proposed strategy for addressing the needs identified for the target population.

—The activities proposed to be funded under this grant application, including locations proposed for services, time of service vis-a-vis normal workday, and any special cultural considerations.

—Identification of projected performance outcomes and proposed milestones measuring progress, as appropriate to the services proposed by the end of the first budget period and over the entire requested project period. While ORR recognizes that in many family and community services outcomes may be difficult to quantify, ORR encourages applicants, to the extent possible, to develop innovative quantifiable measures related to the desired outcomes for purposes of monitoring and project assessment.

—The extent to which the award is projected to be augmented or supplemented by other funding during and beyond (i.e. in the second and any subsequent year of) the grant period, or can be integrated into other existing service systems.

C. Capability Statement

A list of the organizations participating in the applicant coalition, a clear statement of which agency will serve as grantee in the event of an award, a description of the role of each member of the coalition in the project's proposed activities, and a memorandum detailing collaboration signed by all parties must be submitted.

Applications representing coalitions of local organizations shall describe the nature of the agreement among collaborating agencies and include a copy of a signed agreement attesting to a common understanding of how the partners will relate to each other administratively and programmatically in carrying out the proposed activities under the grant. Document resources, experience, and expertise. In addition, proposed linkages with other refugee/entrant service agencies and/or organizations, and with human service agencies should be detailed.

The applicant shall discuss the gender balance and constituent representation of the board members of the participating organizations or of the proposed project's advisory board.

The applicant shall describe how this project will gain access to the target population and ensure that services are linguistically and culturally appropriate.

The applicant shall describe the administrative and management features of the project. The administrative description should detail each of the following:

—Qualifications of the applicant organization and any partners.

—A description of the applicant's plan for fiscal and programmatic management of each activity, including proposed start-up time, ongoing timelines, major milestones

or benchmarks, a component/project organization chart, and a staffing chart.

—A description of information collection (participant and outcome data) and monitoring proposed.

D. Budget and Funding

—Budget, by line item, with narrative justification.

—A description of how the need for the ORR funding requested will be phased out over the life of the project and a description of the cost-sharing plan for any subsequent budget periods (e.g. how other resources will be leveraged to maintain the full budget during the overall project period of the ORR grant).

Criteria for Evaluating Grant Applications

Each application will be rated individually on the following:

A. Need and Scope—(25 points)

—Profile of refugee community and target population. Clarity of description and soundness of rationale for selection of targeted community or population.

—Adequacy and quality of data provided and quality of the analysis of data provided in the application.

—Clarity and comprehensiveness of needs identification and problem statement and of the description of the local context in which grant activities are proposed.

—Comprehensiveness of description of existing services and community network and explanation of how the proposed services complement what is already in place.

—Evidence of consultation with target population.

B. Proposed Strategy and Program Design (25 points)

—Soundness of strategy and program design for meeting identified needs.

—The quality of the outcomes proposed and the component's potential for achieving the outcomes within the grant's project period. The potential of the project to have a positive impact on the quality of the lives of refugee families and communities.

—Adequate detail in the description of linkages with other providers and roles of collaborating agencies in project implementation.

—Extent to which the need described is expected to be met and/or to which the services will be augmented, supplemented, or integrated with existing services.

C. Applicant/Coalition Capability—(30 points)

—Validity and reasonableness of the proposed coalition arrangement to perform the proposed activities. Commitment of coalition partners in implementing the activities as demonstrated by letters or the language of the signed agreement among participants. (Where no potential coalition partners are documented to be available, the applicant will not be penalized under this criteria. The applicant shall still describe any consultation efforts undertaken and its consultation with the refugee community.)

—Experience of the applicant/coalition in performing the proposed services.

—Adequacy of gender balance and constituent representatives of board members of participant organizations or of the proposed project's advisory board.

—Adequacy of assurance that proposed services will be linguistically and culturally appropriate to the target population.

—Qualifications of the individual organization staff and any volunteers.

D. Budget and Financial Management—(20 points)

—Reasonableness of budget in relation to the proposed activities and anticipated results.

—Adequacy of proposed monitoring and information collection.

—Realistic plan for the continuation of services with a phase-out of ORR grant funding over the multi-year project period. Extent to which the application makes provision for cost-sharing (e.g. leveraging ORR funds with non-Federal funds or in-kind support) to maintain the full budget during the overall project. If available, the value of such leveraged funds or in-kind support and any preliminary commitments.

Total: 100 points

General Procedure for Competitive Review of Applications

Applicants will be reviewed competitively and scored by an independent review panel of experts in accordance with ACF grants policy and the criteria stated below. The results of the independent review panel scores and explanatory comments will assist the Director of ORR in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by the reviewers. However, during the federal assessment process, lead applicants who are current recipients of Community and Family Strengthening funds in these areas may receive less consideration than new lead applicants. Highly ranked applications are not guaranteed funding since other factors are taken into consideration, including: comments of reviewers and of ACF/ORR officials; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; and investigative reports. Final funding decisions will be made by the Director of ORR.

Application Preparation and Submission

Availability of Forms

Attachments contain all of the standard forms necessary for the application for awards under this announcement. Further, copies of the Federal Register containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the following office: Office of Refugee Resettlement, 370 L'Enfant Promenade SW., Washington, DC 20447 Telephone: (202) 401–1196.

Forms, Certifications, Assurances, and Disclosure

1. Applications for financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs. The instructions and forms required for submission of applications are included. The forms may be reproduced for use in submitting applications. An application with an original signature and two copies is required.

2. Applicants must provide the following certifications. Copies of the forms and assurances are located at the end of this announcement.

Certification regarding lobbying if your anticipated award exceeds $100,000.

Certification regarding environmental tobacco smoke.

3. Applicants must make the appropriate certification of compliance with the following three items. In each, by signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Certification regarding debarment, suspension, and other responsibility matters.

Certification of compliance with the Pro-Children Act of 1994.

Certification of their compliance with the Drug-Free Workplace Act of 1988.

4. (a) *Deadline:* Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447, Attention: Application for New Community and Family Strengthening

Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to 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.

Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

b. *Late applications:* Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

c. *Extension of deadlines:* ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., widespread disruption of the mails, or when it is anticipated that many of the applications will come from rural or remote areas. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

d. Once an application has been submitted, it is considered as final and no additional materials will be accepted by ACF.

Non-Profits Status

Applicants other than public agencies must provide evidence of their nonprofit status with their applications. Any of the following is acceptable evidence: (1) a copy of the applicant organization's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code; or (2) a copy of the currently valid IRS tax exemption certificate.

Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Service Programs and Activities.''

As of February, 1996, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions need take no action in regard to E.O. 12372: Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Virginia, Washington, American Samoa, and Palau.

All remaining jurisdictions participate in the E.O. process and have established Single Points of Contact (SPOCs). A list of the Single Points of Contact for each State and Territory is included as Appendix A of this announcement.

Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them to the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Pub. Law 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations, including program announcements. All information required by this is covered under the following OMB Approval Nos:

- SF 424 (OMB Clearance No. 0348–0043) Application for Federal Assistance.
- SF 424A (OMB Clearance No. 0348–044) Budget Information.
- SF 424B (OMB Clearance No. 0348–040) Assurances—Non Construction Programs.
- SF ORR–6 (Revised 9/05/95; OMB Clearance No. 0970–0036) Quarterly Performance Report.

I. Applicable Regulations

Applicable HHS regulations will be provided to grantees upon award.

J. Reporting Requirements

Grantees are required to file Financial Status (SF–269) semi-annually and Program Progress Reports on a quarterly basis. Funds issued under these awards must be accounted for and reported upon separately from all other grant activities.

Although ORR does not expect the proposed components/projects to include evaluation activities, it does expect grantees to maintain adequate records to track and report on project outcomes and expenditures by budget line item.

The official receipt point for all reports and correspondence is the Division of Discretionary Grants. The original copy of each report shall be submitted to the Grants Management Specialist, ACF, with a copy being sent simultaneously to the ORR Project Officer. The mailing address for both the Division of Discretionary Grants and the Office of Refugee Resettlement is: Aerospace Building, Sixth Floor, 370

L'Enfant Promenade, S.W., Washington, D.C. 20447.

The final Financial and Program Progress Reports shall be due 90 days after the budget expiration date or termination of grant support.

(The Catalog of Federal Domestic Assistance (CFDA) number assigned to this announcement is 93.576)

Dated: May 28, 1996.

Lavinia Limon,

Director, Office of Refugee Resettlement.

BILLING CODE 4184–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	*Preapplication*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐.☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the government body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections, A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in

accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office of Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

BILLING CODE 4184–01–P

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participate shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. **Type of Federal Action:** ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. **Status of Federal Action:** ☐ a. bid/offer/application b. initial award c. post-award	3. **Report Type:** ☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. **Name and Address of Reporting Entity:** ☐ Prime ☐ Subawardee Tier _____, *if known:* **Congressional District,** *if known:*	5. **If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:** **Congressional District,** *if known:*
6. **Federal Department/Agency:**	7. **Federal Program Name/Description:** CFDA Number, *if applicable:* _____
8. **Federal Action Number,** *if known:*	9. **Award Amount,** *if known:* $
10. a. **Name and Address of Lobbying Entity** *(if individual, last name, first name, MI):*	b. **Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. **Amount of Payment** *(check all that apply):* $ _____ ☐ actual ☐ planned	13. **Type of Payment** *(check all that apply):* ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. **Form of Payment** *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. **Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:**

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. **Continuation Sheet(s) SF-LLL-A attached:** ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

Federal Use Only: **Authorized for Local Reproduction**
Standard Form - LLL

BILLING CODE 4184–01–C

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX: (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

Alabama

Jon C. Strickland, Alabama Department of Economic and Community Affairs, Planning and Economic Development Division, 401 Adams Avenue, Montgomery, Alabama 36103–5690, Telephone: (205) 242–5483, Fax: (205) 242–5515

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid, III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Barbara Beard, State Single Point of Contact, Department of Commerce and Community Affairs, 620 East Adams, Springfield, Illinois 62701, Telephone: (217) 782–1671, FAX: (217) 534–1627

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Jersey

Gregory W. Adkins, Assistant Commissioner, New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to: Andrew J. Jaskolka, State Review Process, Intergovernmental Review Unit CN 800, Room 813A, Trenton, New Jersey 08625–0800, Telephone: (609) 292–9025, FAX: (609) 633–2132

New Mexico

Robert Peters, State Budget Division, Room 190 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to: Linda Wise, Telephone: (614) 466–0698, FAX: (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration/Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870,

Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0385

Texas

Tom Adams, Governor's Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone: (802) 828–3326, FAX: (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, FAX: (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone: (307) 777–7574, FAX: (307) 638–8967

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 4119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444, (809) 723–6190, FAX: (809) 724–3270, (809) 724–3103

North Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about, intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

[FR Doc. 96–13804 Filed 5–31–96; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3917–N–74]

Office of the Assistant Secretary for Community Planning and Development; Notice of Proposed Information Collection for Public Comment, OMB Approval No. 2506–0020

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice and request for comments.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject information collection.

DATES: Comments due: August 2, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Sheila E. Jones, Department of Housing & Urban Development, 451— 7th Street, SW, Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Clifton Barnhill, telephone number (202) 708–1322 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of HUD, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, such as using appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Small businesses or other small entities are not impacted by this information collection request.

This Notice lists the following information.

Title of Proposal: Application for CDBG Funds (HUD Form 4124) and Performance Assessment Report (HUD Form 4052).

OMB Control Number: 2506–0020.

Description of the need for the information and proposed use: Title I of the Housing and Community Development Act of 1974 established the Community Development Block Grant (CDBG) Program. The Program has two components—an entitlement component for metropolitan cities and urban counties and a nonentitlement component for small communities and rural areas. The Omnibus Budget Reconciliation Act of 1981 gave states the opportunity to assume administration of the nonentitlement component. Currently, 49 states (including Puerto Rico) administer the nonentitlement, or State CDBG Program. Only two states, New York and Hawaii, have not elected to assume administrative responsibility for the program. HUD is statutorily required to administer a nonentitlement program (commonly known as the ''Small Cities Program'') in any state which does not assume administration of the program.

Two forms are used for administration of the HUD-administrated Small Cities Program. These forms for which this information collection extension is requested are: (1) the application form for funds; and (2) the annual Performance Assessment Report (PAR) submitted annually by the grantees which enables HUD to track program progress.

HUD Form 4124 (the application) is used by units of general local government (jurisdictions) in New York to apply for funds and by HUD to rate and rank proposed projects for funding. In the New York Small Cities Program, the program is operated on a competitive basis and the application form is essential for the rating and ranking process to take place. The lack of an approved application form would

mean that nonentitled units of general local government in New York could not obtain fiscal year CDBG funds.

Funds are made available to jurisdictions in the State of Hawaii by formula which is set forth at 24 CFR 570.429. Only three jurisdictions in the State of Hawaii are eligible for the HUD-administered CDBG Small Cities Program; the three counties (islands) of Maui, Hawaii, and Kauai. The City of Honolulu is an entitlement city.

HUD Form 4052 is the Performance Assessment Report (PAR) which successful applicants (grantees) are required to submit to HUD on an annual basis in order to report program progress. HUD is statutorily required to monitor program participants for timely program progress and to annually report to Congress. Form 4052 is used in administration of both the Hawaii and New York Small Cities Programs. Failure to have an approved reporting format would hamper HUD's ability to carry out the required monitoring/reporting responsibilities in New York and Hawaii. The information to be collected under this request is not available through any other source.

There are currently no information collection technologies uniformly on-line and available which would reduce the application and reporting burdens on all affected units of general local government. The information collection requirements have been reduced to the minimum necessary to meet statutory requirements.

HUD will not require participants to duplicate information that has been submitted in electronic formats (including the Consolidated Plan), except where current regulations continue to require paper copies. Where the required information has been submitted in ''other official HUD reports'', the requirements can be satisfied by referencing the appropriate section(s) and providing a copy (either electronic and/or hard copy).

Technologies are being developed to achieve a uniform on-line electronic ability to collect performance data as well as disburse payments under current accounting guidelines. This will further reduce duplication of effort by providing localities the means to extract and use data from their own local data sources.

Agency form numbers: HUD Form 4124 & HUD Form 4052.

Members of affected public: The information collected under this request does not include information from individuals. The respondents are ''local governments''.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

BURDEN OF COLLECTION

	Frequency	Number of respondents	Total hours per response	Total hours
Form 4124:				
Local	1	250	40	10,400
Federal	1	250	8	2,000
Form 4052:				
Local	1	585	8	4,680
Federal	1	585	8	4,680
Total		1,670		21,760

TOTAL ANNUALIZED COST

	Frequency	Number of respondents	×	Total hours per response	Total dollars
Form 4124:					
Local	1	$23.8		10,400	$247,520.00
Federal	1	23.8		2,000	47,600.00
Form 4052:					
Local	1	23.8		4,680	109,480.00
Federal	1	23.8		4,680	109,480.00
Total (including overhead expenses)					514,080.00

Over the next three years there will be 584 estimated total projects in active status under the New York Small Cities Program. An estimated 250 applications (form 4124) for funds were submitted in FY 95. The Small Cities Program for Hawaii provides grants to only three eligible grantees: the counties of Maui, Hawaii, and Kauai. These figures are based on recent experience and field projections of local applicants and the most current estimates of the number of open/active (and not expected to close-out) grants over the next three (3) years.

Status of the proposed information collection:

Type of Review: Continuation, without change, of a previously approved collection. The forms are unchanged over the past fifteen years.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 28, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 96–13756 Filed 5–31–96; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. FR–3917–N–87]

Office of the Assistant Secretary for Housing—Federal Housing Commission; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 2, 1996.

ADDRESSES: Interesested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20401.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, Telephone number (202) 708–1672 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Mortgagee Questionnaire.

OMB Control Number: 2502–0121.

Description of the need for the information and the proposed use: Information collected by this form provides an overview of the mortgagee's operations for servicing HUD-insured single-family mortgages. HUD field office personnel use this information to forecast possible weaknesses in a servicing operation prior to an on-site review of the mortgagee's office procedures.

Agency form numbers: HUD–9800.

Members of affected public: Mortgagees.

An estimation of the total numbers of hours needed to prepare the information collection is 600, the number of respondents is 2,800, frequency of response is 1/7, and the hours of response is 400.

Status of the proposed information collection: Extension without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 28, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–13758 Filed 5–31–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–88]

Office of Administration; Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 3, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35)

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of proposal: Administrative Use Agreement for Proceeds of Sales of Homeownership Projects.

Office: Public and Indian Housing.

OMB approval number: 2577–0172.

Description of the need for the information and its proposed use: The Administrative Use Agreement, executed by HUD and the Public Housing Agency/Indian Housing Authority (HA), establishes the rights and responsibilities of the HAs with respect to the use of proceeds of sale. HAs enter into this contractual Agreement by providing certain information to HUD that describes how proceeds from the sale of homeownership units will be used. HUD needs this information to monitor fund usage.

Form number: HUD–53010–T.

Respondents: State, Local, or Tribal Government.

Frequency of submission: On Occasion and Recordkeeping.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Section 5	550		3		1		1,650
Section 6	550		3		3		4,950
Section 8	550		1		1		550
Exhibit A	550		3		16		26,400
Recordkeeping	550		2		1		1,100

Total estimated burden hours: 34,650.

Status: Reinstatement without changes.

Contact: Debbie Lalancette, (202) 755–0088, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 22, 1996.

BILLING CODE 4210–01–M

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: **Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW Washington, DC 20503.**

1. Agency/Subagency originating request
Department of Housing and Urban Development
Assistant Secretary for Public and Indian Housing

2. OMB control number
a. 2577-0172 b. ☐ None

3. Type of information collection *(check one)*
a. ☐ New collection
b. ☐ Revision of a currently approved collection
c. ☐ Extension of a currently approved collection
d. ☒ Reinstatement, **without change**, of a previously approved collection for which approval has expired
e. ☐ Reinstatement, **with change**, of a previously approved collection for which approval has expired
f. ☐ Existing collection in use without an OMB control number
For b–f, note Item A2 of Supporting Statement instructions

4. Type of review requested *(check one)*
a. ☒ Regular
b. ☐ Emergency - Approval requested by: ____/____/____
c. ☐ Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? ☐ Yes ☒ No

6. Requested expiration date
a. ☒ Three years from approval date b. ☐ Other Specify: ____/____

7. Title
Administrative Use Agreement for Proceeds of Sales of Homeownership Projects

8. Agency form number(s) *(if applicable)*
HUD-53010-T

9. Keywords
'Housing, low-income housing, Indian housing, administrative use Agreement, Homeownership Projects, proceeds of sales'

10. Abstract
Housing Authorities execute this agreement with HUD to establish the rights and responsibilities with respect to the use of proceeds of sale of homeownership projects. The information is provided to plan for use of funds.

11. Affected public *(Mark primary with "P" and all others that apply with "X")*
a. ___ Individuals or households
b. ___ Business or other for-profit
c. ___ Not-for-profit institutions
d. ___ Farms
e. ___ Federal Government
f. P State, Local or Tribal Government

12. Obligation to respond *(Mark primary with "P" and all others that apply with "X")*
a. ☐ Voluntary
b. P Required to obtain or retain benefits
c. ☐ Mandatory

13. Annual reporting and recordkeeping hour burden
a. Number of respondents 550
b. Total annual responses 1,650
1. Percentage of these responses collected electronically 0 %
c. Total annual hours requested 34,650
d. Current OMB inventory -0-
e. Difference 34,650
f. Explanation of difference
1. Program change +34,650
2. Adjustment

14. Annual reporting and recordkeeping cost burden (*in thousands of dollars*)
a. Total annualized capital/startup costs
b. Total annual costs (O&M)
c. Total annualized cost requested
d. Current OMB inventory
e. Difference
f. Explanation of difference
1. Program change
2. Adjustment

15. Purpose of information collection *(Mark primary with "P" and all others that apply with "X")*
a. ___ Application for benefits
b. ___ Program evaluation
c. ___ General purpose statistics
d. ___ Audit
e. X Program planning or management
f. ___ Research
g. P Regulatory or compliance

16. Frequency of recordkeeping or reporting *(check all that apply)*
a. ☒ Recordkeeping b. ☐ Third party disclosure
c. ☒ Reporting
1. ☒ On occasion 2. ☐ Weekly 3. ☐ Monthly
4. ☐ Quarterly 5. ☐ Semi-annually 6. ☐ Annually
7. ☐ Biennially 8. ☐ Other (describe)

17. Statistical methods
Does this information collection employ statistical methods?
☐ Yes ☒ No

18. Agency contact *(person who can best answer questions regarding the content of this submission)*
Name: Debbie Lalancette
Phone: (202) 755-0088

OMB 83-I 10/95

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9.

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8 (b) (3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

(a) It is necessary for the proper performance of agency functions;

(b) It avoids unnecessary duplication;

(c) It reduces burden on small entities;

(d) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;

(e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;

(f) It indicates the retention periods for recordkeeping requirements;

(g) It informs respondents of the information called for under 5 CFR 1320.8 (b) (3):

- (i) Why the information is being collected;
- (ii) Use of information;
- (iii) Burden estimate;
- (iv) Nature of response (voluntary, required for a benefit, or mandatory);
- (v) Nature and extent of confidentiality; and
- (vi) Need to display currently valid OMB control number;

(h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of the instructions);

(i) It uses effective and efficient statistical survey methodology; and

(j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of these provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Authorized Program Official	Date
[signature]	3/27/96
Signature of Senior Official or designee	Date

OMB 83-I 10/95

[FR Doc. 96–13759 Filed 5–31–96; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. FR–4042–N–03]

Office of the Assistant Secretary for Community Planning and Development; Notice of Funding Availability for Continuum of Care Homeless Assistance; Clarification; Supportive Housing Program (SHP); Shelter Plus Care (S+C); Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals (SRO)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA); clarification.

SUMMARY: On March 15, 1996 (61 FR 10866), HUD published a notice announcing the availability of fiscal year (FY) 1996 funding for three of its programs which assist communities in combatting homelessness. The three programs are: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals. The Congress had not yet enacted a FY 1996 appropriation for HUD at the time of publication of the March 15, 1996 notice of funding availability (NOFA). Accordingly, the March 15, 1996 NOFA set forth HUD's estimate of the FY 1996 funding that the Congress would make available. The Congress has since enacted a FY 1996 appropriation for HUD.

On May 22, 1996 (61 FR 25684), HUD published a notice in the Federal Register stating that $675 million in FY 1996 funds is being made available under the March 15, 1996 NOFA. However, since the amount made available under the NOFA may also include unobligated funds from previous competitions and deobligations or recaptures from previous awards, the May 22, 1996 notice should have used the term ''approximately $675 million.'' This notice, which supersedes the May 22, 1996 notice, makes the necessary correction. For the convenience of readers, HUD is republishing the entire text of the May 22, 1996 notice, but incorporating the correction made by this notice.

DEADLINE DATES: The original application deadline date is not changed. All applications are due in HUD Headquarters before midnight Eastern Time on *June 12, 1996*. HUD will treat as ineligible for consideration applications that are received after that deadline. *Applications may not be sent by facsimile (FAX).*

ADDRESSES: For a copy of the application package and supplemental information please call the Community Connections information center at 1–800–998–9999 (voice) or 1–800–483–2209 (TTY), or contact by internet at gopher://amcom.aspensys.com:75/11/funding. Also, you can purchase, for a nominal fee, a video that walks you through the application package and provides general background that can be useful in preparing your application. The fee for the video may be waived in cases of financial hardship. For copies of the relevant portions of your community's Consolidated Plan, please contact the local or State official responsible for that Plan. If you need assistance in identifying this person, please call your local HUD Field Office.

Before close of business on the deadline date completed applications will be accepted at the following address: Special Needs Assistance Programs, Room 7270, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410, Attention: Continuum of Care Funding. On the deadline date, hand-carried applications will be received at the South lobby of the Department of Housing and Urban Development at the above address. Two copies of the application must also be sent to the HUD Field Office serving the State in which the applicant's projects are located. A list of Field Offices appears in an appendix of the March 15, 1996 NOFA. Field Office copies must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at HUD Headquarters in Washington.

ELECTRONIC SUBMISSION: In addition to submitting the application narratives and forms in the traditional manner, you may also include an electronic version of your materials on a 3½″ computer diskette. The inclusion of the computer version this year is strictly an optional supplement to the standard application.

If you use HUD's Consolidated Planning software to generate supplemental maps, charts, or project lists, please include these files on the diskette as well.

FOR FURTHER INFORMATION CONTACT: The Community Connections information center at 1–800–998–9999 (voice) or 1–800–483–2209 (TTY), or by internet at gopher://amcom.aspensys.com:75/11/funding.

SUPPLEMENTARY INFORMATION:

A. The March 15, 1996 NOFA

On March 15, 1996 (61 FR 10866), HUD published a NOFA announcing the 1996 homeless assistance competition to help communities develop Continuum of Care systems to assist homeless persons. These funds are available under three HUD programs to create community systems for combatting homelessness. The three programs are: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals. The March 15, 1996 NOFA contained information concerning the Continuum of Care approach, eligible applicants, eligible activities, application requirements, and application processing.

Congress had not yet enacted a FY 1996 appropriation for HUD at the time of publication of the March 15, 1996 NOFA. Accordingly, the March 15, 1996 NOFA set forth HUD's estimate of the FY 1996 funding that the Congress would make available. HUD published the NOFA in order to give potential applicants adequate time to prepare applications. The purpose of this notice is to publish the final FY 1996 amount made available under the March 15, 1996 NOFA.

B. Final FY 1996 Funding Amount Under the March 15, 1996 NOFA

On April 26, 1996, the President signed the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (OCRA) (Pub. L. 104–134, approved April 26, 1996). The OCRA makes $823,000,000 in FY 1996 funds available for HUD's homeless assistance grants programs. Therefore, approximately $675 million is being made available under the March 15, 1996 NOFA. Of the remaining amount, HUD is making $115 million available for the Emergency Shelter Grants Program, and $33 million for the renewal of previously awarded grants.

C. Revised Pro Rata Need Estimates

Appendix B to the March 15, 1996 NOFA set forth two columns of pro rata need estimates for use by eligible jurisdictions. These figures were based on different HUD estimates of the FY 1996 funding amount that the Congress would make available. Estimate A, which provides approximately $675 million, was based on Congressional action authorizing interim spending, referred to as a Continuing Resolution. Estimate B, which totalled $925 million, reflected the Administration's FY 1996 Budget request (published February

1995). As explained above, the final FY 1996 amount made available under the March 15, 1996 NOFA is approximately $675 million. Applicants should therefore utilize Estimate A in determining their relative need estimates. Estimate B should be disregarded.

Dated: May 24, 1996.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 96–13755 Filed 5–31–96; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–921–06–1320–01–P; MTM 85105]

Coal Exploration License Application MTM 85105; Notice of Invitation

AGENCY: Bureau of Land Management, Montana State Office.

Members of the public are hereby invited to participate with Decker Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following-described lands located in Big Horn County, Montana:

T. 8 S., R. 40 E., P.M.M.
Sec. 27: S½SW¼SW¼
Sec. 28: S½SW¼SW¼, NE¼SE¼NE¼
Sec. 34: W½W½NE¼, W½
T. 8 S., R. 41 E., P.M.M.
Sec. 29: SW¼NE¼SW¼
T. 9 S., R. 40 E., P.M.M.
Sec. 3: W½ of Lot 2, W½SW¼NE¼, W½NW¼SE¼, SE¼NW¼SE¼, N½SW¼SE¼, SW¼SW¼SE¼, W½SE¼SE¼, SE¼SE¼SE¼
Sec. 4: Lot 4, SW¼NW¼
Sec. 5: Lots 3, 4, S½NW¼, N½SW¼
870.55 acres

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107–6800; and Decker Coal Company, P.O. Box 12, Decker, Montana 59025. Such written notice must refer to serial number MTM 85105 and be received no later than 30 calendar days after publication of this Notice in the Federal Register or 10 calendar days after the last publication of this Notice in the Big Horn County News, whichever is later. This Notice will be published once a week for 2 consecutive weeks in the Big Horn County News.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. The exploration plan, as submitted by Decker Coal Company, is available for public inspection at the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana, during regular business hours (9 a.m. to 4 p.m.) Monday through Friday.

Dated: May 22, 1996.

Larry E. Hamilton,

State Director.

[FR Doc. 96–13763 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–DN–P

[CA–990–0777–68]

Postponement of Relocation/Change of Address/Office Closure; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On May 10, 1996, the Bureau of Land Management published a notice in the Federal Register announcing its California State Office was planning to move to a new location, starting on June 6, 1996. That notice is cancelled and the move has been postponed indefinitely.

EFFECTIVE DATE: June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Lou West, BLM California State Office (CA–912), 2800 Cottage Way, Room E–2845, Sacramento, California 95825–1889; telephone number 916–979–2835.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register on May 10, 1996 at page 21478 (61 FR 21478), the Bureau of Land Management (BLM) announced its California State Office was planning to move to a new location, starting on June 6, 1996. That notice is cancelled and the move has been postponed indefinitely. When a new date for the move has been determined, another notice will be published in the Federal Register. In the meanwhile, BLM will continue to provide all of its customary and usual services at its current location at 2800 Cottage Way, Sacramento, California 95825–1889. Until further notice, all correspondence should be sent to BLM at that address. Existing telephones numbers remain the same.

Dated: May 24, 1996.

Ronald R. Fox,

Deputy State Director, Administration.

[FR Doc. 96–13795 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–40–P

[AZ–024–06–1430–01; AZA–29355, AZA–29606, AZA–29639, AZA–1217]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; and Termination of Existing RS 2455 Classification; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands, are located in the state of Arizona, and found suitable for lease or conveyance under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 839 *et seq.*). The lands are not needed for federal purposes. Lease or conveyance is consistent with current Bureau of Land Management (BLM) land use planning and would be in the public interest.

A. AZA–29355

The following described lands, located in the City of Phoenix, Maricopa County, have been found suitable for lease or conveyance to the City of Phoenix for an open space city park.

Gila and Salt River Meridian, Arizona

T. 1 N., R. 4 E.,
Sec. 4, lot 3 and portions of lot 4;
Sec. 5, portions of lot 1.
T. 2 N., R. 4. E.,
Sec. 33, lot 2.
Containing approximately 59 acres.

The lands are presently withdrawn under the Act of Congress April 7, 1930, which withdraws the lands for use by the Arizona National Guard for military purposes. It has been determined that the two uses (R&PP lease or conveyance and the withdrawal) are compatible uses. The lease or conveyance would be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all regulations of the Secretary of the Interior.
2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.
3. A right-of-way for ditches and canals constructed by the authority of the United States.
4. Those rights for road purposes granted to the Arizona Department of Transportation by Right-of-Way AZAR–04330.
5. All rights reserved by the Act of Congress April 7, 1930 to the Arizona National Guard.

B. AZA–29606

The following described lands, located near the Town of Prescott Valley, Yavapai County, have been found suitable for lease or conveyance to the Town of Prescott Valley for an open space city park.

Gila and Salt River Meridian, Arizona

T. 14 N., R. 1 W.,
Sec. 28, NE¼NE¼.

Containing approximately 40 acres.

The lease or conveyance would be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all regulations of the Secretary of the Interior.
2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.
3. A right-of-way for ditches and canals constructed by the authority of the United States.
4. Those rights for power lines purposes granted to the Arizona Public Service Company by Right-of-Way AZA–23850.

C. AZA–29639

The following described lands, located near the Town of Wickenburg, Maricopa County, have been found suitable for lease or conveyance to the Wickenburg Unified School District #9, for a public school complex.

Gila and Salt River Meridian, Arizona

T. 7 N., R. 4 W.,
Sec. 5, lots 2 and 3, SW¼NE¼, SE¼NW¼, E½SW¼NW¼.

Containing approximately 180.66 acres.

The lease or conveyance would be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all regulations of the Secretary of the Interior.
2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.
3. A right-of-way for ditches and canals constructed by the authority of the United States.
4. Those rights for power line purposes granted to the Arizona Public Service Company by Right-of-Way AZA–23850.
5. Those rights as Dudley Lewis, his heirs or assigns, may have as to that portion of the Little Jewell #2 mining claim (Serial Number AMC 122740) as it affects the N½ of sec. 5, T. 7 N., R. 4 W.
6. Those rights as Jim Fry, Dianne Terry, and Hartland Mining Company, their heirs or assigns, may have as to that portion of the MTM Placer mining claim (Serial Number AMC 32902) as it affects the NW¼ of sec. 5, T. 7 N., R. 4 W.
7. Those rights as Earl Hart, Dianne Terry, and Tim Travelstead, their heirs or assigns, may have as to that portion of the MTM Placer mining claim (Serial Number AMC 335320) as it affects the NW¼ of sec. 5, T. 7 N., R. 4 W.

D. AZA–1217

This notice hereby terminates the existing RS 2455 Classification on the following described lands:

T. 14 N., R. 1 W.,
Sec. 28, NE¼NE¼.

Containing 40 acres.

FOR FURTHER INFORMATION CONTACT: Jim Andersen at the Phoenix Resource Area Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027, (602) 780–8090.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this Notice, interested parties may submit comments regarding the proposed lease, conveyance or classification of the lands to the District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027.

Classification Comments

Interested parties may submit comments involving the suitability of the land for: an open space park, for the City of Phoenix, an open space park for the Town of Prescott Valley and a public school complex for the Wickenburg Unified School District #9. Comments on the classification are restricted to whether the land is physically suited for the proposals, whether the uses will maximize the future use or uses of the land, whether the uses are consistent with local planning and zoning, or if the uses are consistent with state and federal programs.

Application Comments

Interested parties may submit comments regarding the specific uses proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for proposed uses.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication in the Federal Register.

Dated: May 22, 1996.

Kirby Boldan,

Acting District Manager.

[FR Doc. 96–13762 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–32–P–M

[CO–076–1230–00–257D]

Recreation Management; Visitor Use Restrictions and Travel Restrictions for the Potholes Recreation Site

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of supplementary visitor use restrictions and travel restrictions.

SUMMARY: This order, issued under the authority of 43 CFR 8364.1, and 8342, limits motorized vehicle travel on identified public lands in the vicinity of the Potholes Recreation Site. The only authorized route will be the main access route into the recreation site itself. This order also prohibits any open campfires, overnight camping or shooting of firearms on public lands in the vicinity of the Potholes Recreation Site.

The identified public land is in Colorado, Mesa County, under the management jurisdiction of the Bureau of Land Management, Grand Junction Resource Area, Grand Junction District. The area is located in T. 12 S., R. 103 W., Section 35.

EFFECTIVE DATES: The restrictions shall be in effect year round beginning June 15, 1996 and shall remain in effect until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: The Potholes Recreation Site has for many years experienced undirected and uncontrolled recreational use. Dominant recreational pursuits include picnicking, camping and swimming and diving into the Little Dolores River. The unrestricted nature of the use has caused severe resource damage in many areas. Problems include frequent unattended campfires and frequent unsafe discharge of firearms. The number of nearby year round residents has increased in recent years and is causing frequent conflicts between recreationists and landowners. This order implements visitor use restrictions mandated in the Potholes Recreation Site Action Plan, with the Decision

Record signed on January 31, 1996. The restrictions consist of:

1. The site will be limited to day use only. No overnight camping will be allowed.

2. Open campfires will be prohibited. Charcoal fires contained within grills will still be allowed.

3. No shooting zone to include all of section 35.

4. Motorized vehicle use limited to the main access road into the site only. No vehicle use allowed within 450 feet of the Potholes. Persons who are exempt from the restrictions include: (1) Any Federal, State, or local officers engaged in fire, emergency and law enforcement activities; and (2) BLM employees engaged in official duties.

The area affected by this order will be posted with appropriate regulatory signs.

Penalties: Violations of this order are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Area Manager, Grand Junction Resource Area, 2815 H Road, Grand Junction, Colorado 81506; (970) 244–3000.

Elizabeth J. Sullivan,

Acting Grand Junction District Manager.

[FR Doc. 96–13761 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–JB–P

[CA–930–06–2700 WARD]

Change of Dates and Locations for Ward Valley Public Scoping Workshops

AGENCY: Bureau of Land Management, Interior.

ACTION: Change to May 17, 1996; notice of intent.

SUMMARY: The Bureau of Land Management (BLM) in California announces a change of dates and locations for the Ward Valley public scoping workshops. The new dates and times will change those identified in BLM's May 17, 1996 Notice of Intent to prepare a Supplemental Environmental Impact Statement (SEIS) for a proposed land transfer to the State of California for the purpose of developing a low-level radioactive waste disposal facility at Ward Valley. The site of the proposed federal land transfer is located in San Bernardino County, California, approximately 20 miles west of the city of Needles.

DATES: Three public scoping workshops will be held, and each will be open to the public at the following dates and locations:

June in Sacramento 2–5 pm and 7–9 pm at the Red Lion Hotel, 2001 Point West Way, Sierra Room;

June 15 in San Bernardino from 2–5 pm and 7–9 pm at the National Orange Show Grounds, Arrowhead Avenue, Gate 9, Renaissance Room:

June 26 in Needles from 2–5 and 7–9 pm at Elks Lodge No. 1608, 1000 Lily Hill Drive.

The purpose of the workshops is to provide interested parties the opportunity to give us their views on the scope of issues to be addressed in the SEIS. The workshops will be conducted in an open house format, and participants may work individually with a BLM employee to record their comments on the range of issues to be considered in the SEIS. Written comments will also be accepted at the workshops.

No formal presentations or oral testimony before the public will be received during the scoping workshops; however, BLM is committed to having formal public hearings, with recorded oral public testimony, during the public comment period in the Draft SEIS.

ADDRESS: Any written comments or requests to be placed on the mailing list should be sent to Ward Valley Land Transfer Coordinator (CA–930), Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Richard F. Johnson or John S. Mills at (916) 979–2820.

SUPPLEMENTARY INFORMATION: The SEIS will focus on new information and circumstances, including the May 1995 National Academy of Sciences Report; the results of tritium and related testing to be conducted at the site; recent U.S. Geological Survey information concerning tritium and other radioactive materials detected in proximity to a closed LLRW facility at Beatty, Nevada, and other evidence of migration of radioactive and other wastes from the Beatty facility; the results of consultation with Native American Tribes; the possible effect of the proposed transfer, construction, and operation of the LLRW facility on areas of cultural importance to nearby Native American Tribes and any Tribal rights recognized by federal law; the designation of Ward Valley by the U.S. Fish and Wildlife Service as critical habitat for the desert tortoise and a 1995 FWS Biological Opinion evaluating the potential impacts of the land transfer and facility on the tortoise and its critical habitat; a report prepared by the U.S. Environmental Protection Agency concerning release of radionuclides into the atmosphere and effects on desert tortoise habitat; a hydrogeologic report on the proposed facility site commissioned by the Metropolitan Water District of Southern California; and other information submitted by the public. Issues that were fully analyzed in the 1991 EIS/EIR and the 1993 SEIS (which was limited to the changed land transfer method from indemnity selection to direct sale), and are not the subject of new information or circumstances, will not be addressed in this SEIS.

A separate public notice will be issued in the near future regarding procedures for tritium and related testing to be done at the site.

Dated: May 29, 1996.

Ed Hastey,

State Director.

[FR Doc. 96–13887 Filed 5–31–96; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; the ATM Forum

Notice is hereby given that, on May 3, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the ATM Forum (''Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Asahi Glass Company, Tokyo, JAPAN; CTS Corporation, West Lafayette, IN; Coherent Communications Systems, Leesburg, VA; Digicom Systems Inc., Milpitas, CA; Intracom SA, Peania, GREECE; Leviton Telecom, Bothell, WA; Micom Communications, Simi Valley, CA; Nuera Communications, San Diego, CA; Softcom Microsystems, Fremont, CA; and USC/Information Sciences Institute, Arlington, VA have been added to the venture. Lawrence Livermore Labs has changed its name to Lawrence Berkeley Labs; Integrated Systems Technology has changed its name to Yurie Systems; and OnStream Networks has changed its name to T3plus Networking, Inc. Antec/Digital Video; EMC; E-Systems; Loral Data Systems; MCNC; Molex; Proteon; Rockwell International; Silicon Design Experts; Super Highway Company; Tele-

TV Systems; Tylink; WilTel; Xyplex; Zenith Electronics; and Zynrgy have withdrawn from the venture.

No changes have been made in the planning activities of the ATM Forum. Membership remains open, and the members intend to file additional written notification disclosing all changes in membership.

On April 19, 1993, the Forum filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on June 2, 1993 (58 FR 45532). The last notification was filed on February 2, 1996. The Department of Justice published a notice in the Federal Register on May 15, 1996 (61 FR 24514).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–13764 Filed 5–31–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Joint Development Venture Called ''VERSIT''

Notice is hereby given that, on April 29, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), a Joint Development Venture called ''versit'' has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identity of the additional member of the venture is: Lucent Technologies Inc., Murray Hill, NJ.

Organizations that are no longer versit members are: AT&T Corp., and Apple Computer, Inc.

No other changes have been made in the membership, nature or objectives of the venture, and versit intends to file additional written notifications disclosing all changes in membership.

On January 26, 1995, versit filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on May 25, 1995 (60 FR 27787).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–13768 Filed 5–31–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Message Oriented Middleware Association

Notice is hereby given that, on March 6, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Message Oriented Middleware Association (''MOMA''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: NetWeave Corporation, Hope, NJ has been added to the venture; and Legent has changed its name to Computer Associates International, Inc.

On June 16, 1995, MOMA filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on June 27, 1995 (60 FR 33233).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–13765 Filed 5–31 –96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Information Infrastructure Testbed

Notice is hereby given that, on April 22, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Information Infrastructure Testbed (''NIIT'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the additional members of NIIT are: Agility Forum—Lehigh University, Bethlehem, PA; and Kmart International, Troy, MI.

Organizations that are no longer NIIT members are: Cornell University Preventive Medicine Institute—Strang Clinic; Harvard Smithsonian Center for Astrophysics; Medical Records Institute; Mid-continent Regional Educational Laboratory; Pacific Northwest Laboratory; and the University of California at Berkeley.

No other changes have been made in the membership, nature or objectives of the consortium. Membership in NIIT remains open, and the consortium intends to file additional written notifications disclosing all changes in membership.

On December 7, 1993, NIIT filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on May 18, 1994 (60 FR 25960).

The last notification was filed with the Department of Justice on January 30, 1996. A notice was published in the Federal Register on May 2, 1996 (61 FR 19638).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–13766 Filed 5–31–96; 8:45 am]

BILLING CODE 4410–01–M

[Project 94–10]

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Petroleum Environmental Research Forum

Notice is hereby given that, on January 24, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Petroleum Environmental Research Forum Project 94–10, ''Guidelines for the Scientific Study of Oil Spill Effects'' has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: Amoco Corporation, Chicago, IL; Atlantic Richfield Company, Los Angeles, CA; BP Oil Shipping Company, U.S.A., Cleveland, OH; Chevron Research & Technology Company, Richmond, CA; Conoco Inc., Houston, TX; Mobil Oil Corporation, Princeton, NJ; and Unocal Corporation, Brea, CA. Research required in furtherance of the project is to be carried out by: Arthur D. Little, Cambridge, MA; Pentec Environmental, Inc., Edmonds, EA; MEC Analytical Systems, Inc., Carlsbad, CA; and Owens Coastal Consultants, Bainbridge Island, WA.

The area of planned activity of the joint venture is the development of

guidelines, protocols and standard operating procedures for the scientific study of the environmental effects of oil spills and spill response activities and the preparation of a report containing the study guidelines so developed.

Participation in the project will remain open to interested parties and information concerning participation may be obtained from S.B. Robertson, Atlantic Richfield Co., 515 South Flower Street, Los Angeles, California 90071. The participants intend to file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 96–13767 Filed 5–31–96; 8:45 am]

BILLING CODE 4410–01–M

FOREIGN CLAIMS SETTLEMENT COMMISSION

[Notice No. 5–96]

Sunshine Act Meeting; Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Mon., July 1, 1996 at 10:00 a.m.—
Consideration of Proposed Decisions on claims against Albania.

Subject matter not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6029, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC on May 30, 1996.

Jeanette Matthews,

Administrative Assistant.

[FR Doc. 96–13991 Filed 5–30–96; 3:38 pm]

BILLING CODE 4410–01–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: June 18–19, 1996; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 580, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: H. Frederick Bowman, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 28, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–13749 Filed 5–31–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (#1756).

Date and Time: June 18, 1996, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 770, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Stephen P. Nelson, Program Director for the Mesoscale Dynamics Program, Division of Atmospheric Sciences, room 775, 4201 Wilson Blvd., Arlington, VA 22230, telephone number (703) 306–1526.

Purpose of Meeting: To provide and make recommendations concerning the U.S. Weather Research Program (USWRP) proposals.

Agenda: To review and evaluate the U.S. Weather Research Program (USWRP) proposals.

Reason for Closing: The materials being reviewed include information of a proprietary or confidential nature, including technical information; financial data; and personal information concerning individuals associated with the proposals. These matters are exempted under 5 U.S.C. 552b(c), (4) and (6) of the Government Sunshine Act.

Dated: May 28, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–13752 Filed 5–31–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure (NCRI); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Networking and Communications (#1207).

Date and Time: July 18–20, 1996; 8:30 am to 5:00 pm.

Place: Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Mr. Mark Luker, National Science Foundation, Room 1175, Arlington, VA 22230 (703–306–1949).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review & evaluate proposals submitted for the NSFNET Connections Program.

Reason for Closing. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 28, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–13753 Filed 5–31–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Social, Behavioral & Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Advisory Committee for Social, Behavioral & Economic Sciences (#1171).

Date and Time: June 18–19, 1996; 9:00 a.m. to 5:30 p.m.

Place: Room 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed

Contact Person: William S. Bainbridge and Patricia White, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1756.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Sociology Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: May 28, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–13751 Filed 5–31–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Social, Behavioral and Economic Sciences; Subcommittee on Transformations to Quality Organizations; Notice of Open Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation reannounces an advisory committee meeting. This meeting was originally scheduled for January 4 and was published in the Federal Register on December 15, 1995. Because of the shutdown, however, it was rescheduled as follows:

Name: Advisory Committee for Social, Behavioral and Economic Sciences; Subcommittee on Transformations to Quality Organizations (#1171).

Date and Time: June 19, 1996, 9:00 am–4:00 pm.

Place: Rm. 970, National Science Foundation, 4201 Wilson Blvd., Arlington VA.

Type of Meeting: Open.

Contact Person: Dr. Marietta Baba, Program Director, Transformations to Quality Organizations Program, National Science Foundation, 4201 Wilson Boulevard, Room 910, Arlington, VA 22230, 703/306–1757, x7210.

Minutes: May be obtained from the contact person listed above.

Meeting Purpose: To provide advice, recommendations, and oversight concerning support for research, education, and human resources in the areas of the social, behavioral, and economic sciences. To provide update on plans to advance Transformations to Quality Organizations (TQO) effort.

Agenda:

1. Welcome and Introductions
2. Opening Remarks
3. Status Report on Year Two
4. Assessment of Year Two
5. Work Plan for Year Three
6. Future Directions
7. New Business
8. Next Steps

Dated: May 28, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–13750 Filed 5–31–96; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, June 11, 1996.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6594A—Marine Accident Report: Fire On Board the U.S. Fish Processing Vessel ALASKA SPIRIT, Seward, Alaska, on May 27, 1995.

NEWS MEDIA CONTACT: Telephone: (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: May 30, 1996.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 96–13994 Filed 5–30–96; 3:39 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Emerick S. McDaniel; Notice of Reconstitution of Judges

[Docket No. 55–21849–OT; ASLBP No. 96–716–01–OT]

Pursuant to the authority contained in 10 CFR 2.721, 2.1201, and 2.1205, the Administrative Judges appointed for the proceeding involving Emerick S. McDaniel, Docket No. 55–21849–OT, are hereby reconstituted.

Chief Administrative Judge B. Paul Cotter, Jr. remains as Presiding Officer, who is designated pursuant to 10 C.F.R. 2.1207 of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings,'' published in Federal Register, 54 FR 8276 (1989). Chief Administrative Judge Cotter, pursuant to the provisions of 10 CFR 2.722, has appointed Administrative Judge Peter A. Morris to assist him in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Cotter and Judge Morris in accordance with 10 CFR 2.701.

Their addresses are:

Chief Administrative Judge B. Paul Cotter, Jr., Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Administrative Judge Peter A. Morris, Special Assistant, 10825 South Glen Road, Potomac, MD 20854

Issued at Rockville, Maryland, this 28th day of May 1996.

James P. Gleason,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 96–13794 Filed 5–31–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Trade and Environment Policy Advisory Committee

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the June 6, 1996, meeting of the Trade and Environment Policy Advisory Committee will be held from 10 a.m. to 3 p.m. The meeting will be closed to the public from 10 a.m. to 2:30 p.m. The meeting will be open to the public from 2:30 p.m. to 3 p.m.

SUMMARY: The Trade and Environment Policy Advisory Committee will hold a meeting on June 6, 1996, from 10 a.m. to 3 p.m. The meeting will be closed to the public from 10 a.m. to 2:30 p.m. The meeting will include a review and discussion of current issues affecting U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this portion of the meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and

administration of the trade policy of the United States. Those wishing to submit written comments on the meeting may submit them to Suzanna Kang, Office of the U.S. Trade Representative, 600 Seventeenth Street, NW., Washington, DC 20508.

DATE: The meeting is scheduled for June 6, 1996, unless otherwise notified.

ADDRESS: The meeting will be held at the White House Conference Center, Truman Room, 726 Jackson Place, NW., Washington, DC unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Suzanna Kang, Office of Intergovernmental Affairs and Public Liaison, Office of the United States Trade Representative, (202) 395–6120.

Charlene Barshefsky,

Acting United States Trade Representative.

[FR Doc. 96–13748 Filed 5–31–96; 8:45 am]

BILLING CODE 3190–01–M

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: The Associate Director for Management invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35). This notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the continued use of the National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation. Section 22 of the Peace Corps Act (22 U.S.C. 2501 et seq.) mandates that ''all persons employed or assigned to duties under the Act shall be investigated to insure employment or assignment is consistent with national interest in accordance with standards and procedures established by the President.'' A copy of the information collection may be obtained from Stuart Moran, Office of Volunteer Recruitment and Selection, United States PEACE CORPS, 1990 K Street, NW, Washington, DC 20526. Mr. Moran may be contacted by telephone at (202) 606–2080. Comments on these forms should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: National Agency Check Questionnaire.

Need for and Use of This Information: Peace Corps needs this information in order to process applicants for Volunteer service. The information is used to insure that potential Volunteer's assignment is consistent with the national interest in accordance with the standards and procedures established by the President.

Respondents: Individuals who have applied for Peace Corps service and have been nominated to a specific program.

Respondents Obligation To Reply: Required to obtain benefits.

Burden on the Public:

a. Annual reporting burden: 2,500 hrs.

b. Annual record keeping burden: 0 hrs.

c. Estimated average burden per response: 15 minutes.

d. Frequency of response: one time.

e. Estimated number of likely respondents: 10,000.

f. Estimated cost to respondents: $3.81.

This notice is issued in Washington, DC on May 28, 1996.

Bessy Kong,

Acting Associate Director for Management.

[FR Doc. 96–13656 Filed 5–31–96; 8:45 am]

BILLING CODE 6051–01–M

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: The Associate Director for Management invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35). This notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the continued use of the Peace Corps Volunteer Application. A copy of the information collection may be obtained from Stuart Moran, Office of Volunteer Recruitment and Selection, United States PEACE CORPS, 1990 K Street, NW, Washington, DC 20526. Mr. Moran may be contacted by telephone at (202) 606–2080. Comments on these forms should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Peace Corps Volunteer Application.

Need for and Use of This Information: Peace Corps needs this information in order to process applicants for Volunteer service. The information is used to determine qualifications and potential for placement of applicants.

Respondents: Individuals who apply for Peace Corps service.

Respondents Obligation To Reply: Required to obtain benefits.

Burden on the Public:

a. Annual reporting burden: 90,000 hrs.

b. Annual record keeping burden: 0 hrs.

c. Estimated average burden per response: 3 hrs.

d. Frequency of response: One time.

e. Estimated number of likely respondents: 30,000.

f. Estimated cost to respondents: $36.51.

This notice is issued in Washington, DC on May 28, 1996.

Bessy Kong,

Acting Associate Director for Management.

[FR Doc. 96–13657 Filed 5–31–96; 8:45 am]

BILLING CODE 6051–01–M

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: The Associate Director for Management invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35). This notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the continued use of the Returned Volunteer and Former Staff Database Card. A copy of the information collection may be obtained from Meredith McClanahan, Office of Domestic Programs, United States PEACE CORPS, 1990 K Street, NW, Washington, DC 20526. Ms. McClanahan may be contacted by telephone at (202) 606–9373. Comments on these forms should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: RPCV and Former Staff Database Card.

Need for and Use of This Information: Peace Corps needs this information in

order to help the agency regain and maintain contact with former Volunteers and Staff.

Respondents: Returned Peace Corps Volunteers and former staff.

Respondents Obligation To Reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 3630 hours.

b. Annual record keeping burden: 0 hours.

c. Estimated average burden per response: 3 minutes.

d. Frequency of response: Twice a year.

e. Estimated number of likely respondents: 110,000.

f. Estimated cost to respondent: $0.60.

This notice is issued in Washington, DC on May 28, 1996.

Bessy Kong,

Acting Associate Director for Management.

[FR Doc. 96–13658 Filed 5–31–96; 8:45 am]

BILLING CODE 6051–01–M

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35) this notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the continued use of the Peace Corps Volunteer Reference Form. A copy of the information collection may be obtained from Stuart Moran, Office of Volunteer Recruitment and Selection, United States PEACE CORPS, 1990 K Street, NW, Washington, DC 20526. Mr. Moran may be contacted by telephone at (202) 606–2080. Comments on these forms should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Peace Corps Volunteer Application.

Need for and Use of This Information: Peace Corps needs this information in order to process applicants for Volunteer service. The information is used to determine suitability of applicants.

Respondents: Individuals who voluntarily agree to serve as references for Peace Corps applicants.

Respondents Obligation To Reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 13, 692 hrs.

b. Annual record keeping burden: 0 hrs.

c. Estimated average burden per response: 30 minutes.

d. Frequency of response: One time.

e. Estimated number of likely respondents: 27, 384.

f. Estimated cost to respondents: $7.62.

This notice is issued in Washington, DC on May 28, 1996.

Bessy Kong,

Acting Associate Director for Management.

[FR Doc. 96–13659 Filed 5–31–96; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26521]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

May 24, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 17, 1996, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

GPU Generation Corporation, et al. (70–8289)

GPU Generation Corporation, 1001 Broad Street, Johnstown, Pennsylvania 15907 (''GENCO''), a non-utility subsidiary of General Public Utilities Corporation (''GPU''), a registered holding company, and GPU's electric utility subsidiary companies, Jersey Central Power & Light Company, 300 Madison Avenue, Morristown, New Jersey 07962 (''JCP&L''), Metropolitan Edison Company, P.O. Box 16001, Reading, Pennsylvania 19640 (''Met-Ed''), and Pennsylvania Electric Company, P.O. Box 16001, Reading, Pennsylvania 19640 (''Penelec''); (together with JCP&L and Met-Ed, ''Operating Companies''), have filed a post-effective amendment to their application under sections 9(a) and 10 of the Act.

By order dated December 15, 1993 (HCAR No. 25948) (''Order''), the Commission, among other things, authorized the Operating Companies to enter into, from time-to-time, operation and maintenance agreements (''O&M Agreements'') with nonutility generation facilities (''NUGs''): (1) with which an Operating Company has entered into a power purchase agreement; or (2) which are otherwise located within the service territory of one of the Operating Companies or that of an adjacent utility. The NUGs are ''qualifying facilities'' under the Public Utility Regulatory Policies Act of 1978 and the regulations thereunder of the Federal Energy Regulatory Commission or, more recently, ''exempt wholesale generators'', as defined in section 32 of the Act.

The fees and other terms and conditions of each O&M Agreement were to be as negotiated between the Operating Company and the NUG facility owner, and were expected to be market-based. In the Order, the Commission reserved jurisdiction pending completion of the record over the performance by the Operating Companies of the operation and maintenance services (''O&M Services'') to be performed under the O&M Agreements for NUGs located: (1) In New Jersey; or (2) within the service territories of the Operating Companies or adjacent service territories, but with which an Operating Company does not have a power purchase agreement.[1]

[1] Since GENCO is not subject to the jurisdiction of the New Jersey Board of Public Utilities or the Pennsylvania Public Utilities Commission, the reservation of jurisdiction contained in the Order need not be carried forward with respect to any aspects of the proposed transactions insofar as GENCO is concerned.

Subsequently, by order dated January 26, 1996 (HCAR No. 26463), the Commission, among other things, authorized GPU to organize and acquire all of the capital stock of GENCO. GENCO has been organized to operate, maintain and rehabilitate the non-nuclear generation facilities owned and/or operated by the Operating Companies pursuant to service contracts and/or an operating agreement. GENCO will also design, construct, start up and test any new non-nuclear generation facilities that the Operating Companies may require in the future, and will be responsible for budgeting, accounting, and other data collection, and for customary generation support activities, such as procurement of materials, supplies, outside services, fuel and fuel supplies as requested.

Inasmuch as the operating and maintenance functions for the nonnuclear generation facilities of the GPU System have now been consolidated in GENCO, the O&M Services to be performed under the O&M Agreements contemplated in the Order must now be performed by or through GENCO. Various management and other non-bargaining unit employees formerly employed by the Operating Companies who are now employees of GENCO have expertise regarding the performance of particular O&M Services contemplated by the Order, such as pre-start-up service, operation staff development and long-term operation, maintenance and administration.

The O&M Services to be provided to NUGs will consist of one or more of the following: (1) pre-start-up service; (2) operation staff development; and (3) long-term operation, maintenance and administration. GENCO expects that O&M Services for NUGs would be undertaken by available personnel and would involve the use of only a limited amount of such resources. Thus, there will be no diversion of GENCO personnel or resources that will adversely affect any Operating Subsidiary' domestic customers or GPU's shareholders.

GENCO will not enter into an O&M Agreement for a NUG facility at market based prices where such facility has a power purchase agreement with an Operating Company providing for adjustment in the rate to be paid for energy or capacity sold thereunder based directly upon the cost of O&M Services. GENCO will separately account for all revenues received and expenses incurred; including allocable overheads, in providing O&M Services.

All applicable conditions set forth in rule 53(a) are, and, assuming the consummation of the transactions proposed hereby, will be, satisfied and none of the conditions set forth in rule 53(b) exist or will exist as a result of the transactions proposed hereby.

Public Service Company of Oklahoma (70–8341)

Public Service Company of Oklahoma (''PSCO''), 212 East 6th Street, Tulsa, Oklahoma, 74119–1212, an electric public-utility subsidiary of Central and South West Corporation, a registered holding company, has filed a post-effective amendment to an application previously filed under sections 9(a) and 10 of the Act and rule 54 thereunder.

PSCO requests authorization to increase its investment in Excel Technologies, Ltd. (''Excel'') to $2,718,764,91, from $2.35 million, and to consummate certain related purchases and exchanges of securities issued by Excel. Excel is engaged in research, development, and installation of energy-control technology.

By order dated March 31, 1994 (HCAR No. 26016) (''994 Order''), PSCO was authorized to invest up to $2.0 million, through capital stock purchases, in Excel pursuant to an October 14, 1993 Debenture, Common Stock and Preferred Stock Purchase Agreement (''Purchase Agreement'') among Excel, PSCO, and ML Oklahoma Venture Partners, L.P. (''Partnership''), an unaffiliated Oklahoma limited partnership.[2] The 1994 Order reserved jurisdiction over an additional investment by PSCO of $500,000 through capital stock purchases.

By order dated March 17, 1995 (HCAR No. 26252) (''1995 Order''), PSCO was authorized to invest $350,000 in Excel pursuant to a December 8, 1994 Debenture and Warrant Purchase Agreement (''Investment Agreement'') among Excel, the Partnership, the John and Donnie Brock Foundation (''Brock Foundation''), Spavinaw Partners, L.P., and PSCO. Under the Investment Agreement, PSCO received $350,000 in principal amount of 9% Subordinated Debentures with a one-year maturity (''New Debentures'') and a warrant (''New Warrant'') to purchase 5,706 shares of Class B Common Stock. The 1995 Order reserved jurisdiction over the acquisition by PSCO of $150,000 in Excel capital stock pending completion of the record.

PSCO now requests Commission authorization for the transactions described below.

Pursuant to a December 20, 1995 Stock Purchase and Exchange Agreement (''Exchange Agreement'') among Excel, PSCO, the Partnership, the Brock Foundation and NorthStar Energy Group, a Texas general partnership, the New Debentures held by PSCO, plus accrued interest thereon of $21,316.77, will be converted into 1,971 shares of Series E Preferred Stock.

The Exchange Agreement also provides for the exchange of the shares of Series A and B Preferred Stock currently owned by PSCO for shares of Series E Preferred Stock. The Series E Preferred Stock shall have rights, powers, qualifications, restrictions and preferences almost identical to those of the Series A and B Preferred Stock.

In addition, the Exchange Agreement provides that PSCO shall invest an additional $346,587.08 in Excel in exchange for 590 shares of Series C Preferred Stock, 1,749 shares of Series E Preferred Stock and 648 shares of Class B Common Stock (''New Shares''). PSCO shall acquire the New Shares through cancellation of $346,587.08 owed by Excel to PSCO pursuant to the Consulting Agreement.

PSCO requests that the Commission release jurisdiction over the remaining $150,000 investment by PSCO in Excel and that the Commission authorize PSCO to invest an additional $218,764.91 in Excel.

PSCO also requests authorization for (i) the conversion of the $21,316.77 of accrued interest on the New Debentures held by PSCO into shares of Series E Preferred Stock, (ii) the exchange of the shares of Series A and B Preferred Stock currently owed by PSCO for shares of Series E Preferred Stock and (iii) the acquisition of the New Shares.

After consummation of all these transactions, PSCO will hold 590 shares of Series C Preferred Stock, 14,208 shares of Series E Preferred Stock, 4 shares of Class A Common Stock, 648 shares of Class B Common Stock and a warrant to purchase 5 additional shares of Class B Common Stock. Its aggregate

[2] Under the Purchase Agreement, PSCO acquired from Excel 3,882 shares of Series A Preferred Stock, 61.336 shares of Series B Preferred Stock, and 4,334 shares of Class A Common Stock. Under a Certificate of Designations, Voting Powers and Rights of Series A and Series B Convertible Participating Preferred Stock of Excel, the Series A Preferred Stock is convertible into Class A Common Stock and the Series B Preferred Stock is convertible into Class B Common Stock. However, upon conversion of the Series A Preferred Stock into Class A Common Stock, PSCO would own 4.99% of the outstanding shares of Class A Common Stock, which are the only voting securities of Excel. Therefore, Excel will not be a subsidiary company under section 2(a)(8)(A) of the Act nor an affiliate under section 2(a)(11)(A) of the Act. Under an April 9, 1993 Consulting and Research and Development Agreement (''Consulting Agreement''), Excel was to provide PSCO with product research and development expertise, and sales experience and is to otherwise consult on demand-side management issues. In return, PSCO was to pay Excel up to $1.35 million.

investment in Excel shall equal $2,718,764.91.

Columbia Gas System, Inc., et al. (70–8849)

Columbia Gas System, Inc. (''Columbia''), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and three of its wholly-owned non-utility subsidiaries, Columbia Energy Services Corporation (''CES''), 121 Hill Pointe Drive, Suite 100, Canonsburg, Pennsylvania 15317, Columbia Natural Resources, Inc. (''CNR''), 900 Pennsylvania Avenue, Charleston, West Virginia 25362, and Columbia Coal Gasification Corporation (''CGC''), 900 Pennsylvania Avenue, Charleston, West Virginia 25362, have filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(f) of the Act and rules 43 and 45 thereunder.

Applicants request authorization to reorganize their existing corporate structure by (1) reincorporating CES in Delaware via a merger into a newly-formed successor corporation for the sole purpose of converting CES from a Kentucky to a Delaware corporation and (2) merging CGC with and into CNR with CNR being the surviving corporation.

The reincorporation of CES in Delaware would be accomplished under a plan of reorganization and merger pursuant to which CES, a Kentucky corporation, will be merged into CES (DE), a newly-formed Delaware corporation which will, by virtue of the merger, become a wholly-owned subsidiary of Columbia.[3] CES (DE) will succeed to all of the rights and assets of CES and assume all of its liabilities and obligations. The officers and directors of CES will become the officers and directors of CES (DE). The merger will qualify as a tax-free reorganization under Sections 368(a)(1) (A) and (F) of the Internal Revenue Code of 1986, as amended. No additional capital financing will occur as a result of the transaction. Applicants state that the merger and reincorporation of CES in Delaware will afford CES the benefits of Delaware's favorable business corporation laws, allow it to conduct its affairs in a more flexible and efficient manner and produce significant property tax savings.[4]

Columbia owns all 1,939,000 outstanding shares of common stock of CGC, a Delaware corporation.[5] Columbia would accomplish the merger of CGC with and into CNR , a Texas corporation, by transferring all 1,939,000 shares of CGC common stock, $25 par value per share, to CNR in exchange for approximately 343,000 shares of newly issued CNR common stock, $25 par value per share. The actual number of shares of CNR stock will depend on the net book value of CGC on the effective date. Based upon the $8.581 million net book value of CGC as of February 29, 1996, 343,245 CNR shares would be issued to Columbia in exchange for the 1,939,000 shares of CGC transferred to CNR. The proposed transaction will qualify as a tax-free reorganization under Section 368(a)(1)(A) of the Internal Revenue code of 1986, as amended. No additional capital financing will occur as a result of the transaction.

This exchange will make CNR the parent corporation of CGC and the temporary owner of 100% of CGC's outstanding shares. Promptly, thereafter, CGC will be merged with and into CNR pursuant to Article 5.16 of the Texas Business Corporation Act. Article 5.16 provides that, upon the merger, CNR will succeed to all of the rights and assets of CGC and will assume all of its liabilities and obligations.

Applicants expect the merger of CGC and CNR to produce significant benefits and efficiencies, including (1) simplified and less costly internal and external accounting operations; (2) reduced and less costly regulatory and compliance requirements; (3) reduced general and administrative costs, and (4) the realization of certain state tax benefits associated with being a single company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–13803 Filed 5–31–96; 8:45 am]

BILLING CODE 8010–01–M

[3] All of the assets and liabilities of CES will be transferred to CES (DE) in exchange for common stock of CES (DE) which will simultaneously be transferred to Columbia in exchange for all outstanding shares of CES, leaving CES (DE) the surviving company.

[4] Applicants note that Delaware has followed a policy of encouraging incorporation in that state and, in furtherance of that policy, has adopted comprehensive, modern and flexible corporation laws that are periodically updated and revised to meet changing business needs. They also note that a majority of Columbia's subsidiaries are already incorporated in Delaware. In addition, Delaware, unlike Kentucky, does not impose a tax on intangible property. The Columbia Energy Market Center, a division of CES that licenses and sublicenses commodity trading software used to operate an electronic bulletin board for the trading of natural gas, is subject to the tax on intangible property, the impact of which is expected to become increasingly significant as revenues generated by the bulletin board grow.

[5] CGC has no other class of equity stock outstanding.

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before July 3, 1996. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration, 409 3RD Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629

OMB Reviewer: Victoria Wasserman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503

Title: Small Business Development Center's Checklist.

SBA Form No.: SBA Form 59.

Frequency: Quarterly.

Description of Respondents: Small Business Development Centers.

Annual Responses: 228.

Annual Burden: 456.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 96–13724 Filed 5–31–96; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 96-1(6)]

DeSonier v. Sullivan; Method of Application of State Intestate Succession Law In Determining Entitlement to Child's Benefits

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 96-1(6).

EFFECTIVE DATE: June 3, 1996.

FOR FURTHER INFORMATION CONTACT:

Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Sixth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after June 3, 1996. If we made a determination or decision on your application for benefits between June 22, 1990, the date of the Court of Appeals decision, and June 3, 1996, the effective date of this Social Security Acquiescence Ruling, you may request application of the Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the Federal Register to that effect as provided for in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), we will publish a notice in the Federal Register stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001 Social Security - Disability Insurance; 96.002 Social Security - Retirement Insurance; 96.004 Social Security - Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners.)

Dated: March 19, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Acquiescence Ruling 96-1(6)

DeSonier v. *Sullivan*, 906 F.2d 228 (6th Cir. 1990)—Method of Application of State Intestate Succession Law in Determining Entitlement to Child's Benefits—Title II of the Social Security Act.

Issue: Whether, for purposes of determining a child's status under section 216(h)(2)(A) of the Social Security Act (the Act), the Social Security Administration (SSA)[1] must apply the State law of intestate succession in effect at the time of SSA's determination, rather than the law in effect at the time of the worker's death, and whether SSA must apply changes in State intestacy law in the same manner as State courts would apply the changes.

Statute/Regulation/Ruling Citation: Section 216(h)(2)(A) of the Social Security Act (42 U.S.C. 416(h)(2)(A)); 20 CFR 404.354(b).

Circuit: Sixth (Kentucky, Michigan, Ohio, Tennessee)

DeSonier v. *Sullivan*, 906 F.2d 228 (6th Cir. 1990)

Applicability of Ruling: This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge (ALJ) hearing or Appeals Council).

Description of Case: Denise DeSonier and Russell Phillis were never married but lived together from September 1977 until July 1979. They first lived together in Florida and then later in Ohio. DeSonier left Phillis when she was pregnant and returned to Michigan where her family lived. Amanda DeSonier was born to the plaintiff on October 31, 1979. DeSonier did not enter a name for Amanda's father on the birth certificate and she never sought court-ordered support from Phillis. DeSonier testified that Phillis had paid her prenatal medical expenses and had purchased a cradle for the baby. Phillis visited DeSonier once after Amanda was born and gave her a check for $155 drawn on a joint bank account they had maintained while living together. However, DeSonier had closed the account after they separated, so the check was not honored. Phillis died on January 29, 1986.

The plaintiff's application for child's benefits on Phillis' earnings record was denied at both the initial and reconsideration levels of the administrative review process. After a hearing, an ALJ found that DeSonier and Phillis did not enter into a valid common law marriage while living together in Ohio and that Amanda DeSonier did not qualify as the deceased wage earner's child under any other provision of the Act. The ALJ also considered section 216(h)(2)(A) of the Act, which would allow Amanda to be considered Phillis' child if she would have the same status as a child under the intestate succession law that would be applied by the courts of the State in which Phillis was domiciled at the time of his death. In the decision issued on December 24, 1987, the ALJ recognized that because Phillis lived in Texas when he died the claimant's relationship to the deceased wage earner is determined by applying the laws of Texas. The ALJ considered the Texas intestacy law in existence up to August 27, 1979, the last amendment to Texas law before Phillis' death, and concluded that Amanda DeSonier was not the child of the wage earner under Texas law as required by section 216(h)(2)(A) of the Act.

The plaintiff sought judicial review but did not respond to SSA's motion for summary judgment so the case was submitted on the administrative record. The United States District Court for the Western District of Michigan granted SSA's motion for summary judgment and found that Amanda DeSonier did not qualify for benefits under several provisions of the Act. The plaintiff appealed alleging that she qualified under the Texas law of intestate succession as amended effective September 1, 1987, and that the ALJ should have applied the law of Texas in effect at the time his decision was issued in December 1987. The United States Court of Appeals for the Sixth Circuit reversed the judgment of the district court and remanded the case for further remand to SSA with instructions to reconsider the plaintiff's application under current Texas law.

Holding: The Court of Appeals agreed with the Ninth Circuit in *Owens* v. *Schweiker*, 692 F.2d 80 (9th Cir. 1982) ''that in determining an applicant's status under [section] 416(h)(2)(A), the Secretary is required to apply the state intestacy law in effect at the time of his decision rather than at the time of the wage earner's death.'' The court also adopted the Third Circuit's approach in *Morales on Behalf of Morales* v. *Bowen*, 833 F.2d 481 (3d Cir. 1987), ''that the

[1] Under the Social Security Independence and Program Improvements Act of 1994, Pub. L. No. 103-296, effective March 31, 1995, the Social Security Administration (SSA) became an independent agency in the Executive Branch of the United States Government and was provided ultimate responsibility for administering the Social Security programs under title II of the Act. Prior to March 31, 1995, the Secretary of Health and Human Services had such responsibility.

Secretary must determine the time at which the state fixes intestate rights and must apply the statute that would be applied by the state's courts.''

After reviewing the leading cases on whether Texas courts would retroactively apply amendments to Texas intestacy law that provide ''a new or additional method by which an illegitimate child may establish its rights of inheritance from the natural father,'' the circuit court concluded that Texas courts would have applied the 1987 amendment in determining Amanda DeSonier's inheritance rights.[2] The court therefore held that SSA erred by not considering the 1987 amendment and that Amanda DeSonier's status under section 216(h)(2)(A) ''should have been determined by applying the 1987 amendment.''

Statement As To How DeSonier Differs From Social Security Policy

In accordance with section 216(h)(2)(A) of the Act, SSA uses State laws to decide whether a claimant is the child of a deceased worker. Under its regulations (20 CFR 404.354(b)) implementing section 216(h)(2)(A), SSA ''look[s] to the laws that were in effect at the time the insured worker died in the State where the insured had his or her permanent home.''

The *DeSonier* court held that SSA is required to apply the State intestacy law in force at the time of SSA's determination or decision in the manner in which it would be applied by State courts.

Explanation of How SSA Will Apply The DeSonier Decision Within The Circuit

This Ruling applies only to cases involving an applicant for child's benefits who resides in Kentucky, Michigan, Ohio or Tennessee at the time of the determination or decision at any administrative level, i.e., initial, reconsideration, ALJ hearing or Appeals Council.

In a claim for surviving child's benefits involving section 216(h)(2)(A) of the Act (42 U.S.C. 416(h)(2)(A)), to determine the right of the child to inherit under the intestacy law in the State of the worker's domicile at the time of death, adjudicators must consider all changes in the State law through the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, ALJ hearing or Appeals Council review, to determine the child's entitlement to benefits. In cases where the State law has changed, SSA must determine at the time of the determination or decision which State laws would be applied by State courts to fix intestate inheritance rights and must apply amendments to State intestacy laws in the same manner as the State courts would apply the changes.

[FR Doc. 96–13806 Filed 5–31–96; 8:45 am]

BILLING CODE 4190-29-F

[2] The court considered the following leading cases: *Reed* v. *Campbell*, 476 U.S. 852 (1986) and *Henson* v. *Jarmon*, 758 S.W.2d 368 (Tex. Ct. App. 1988).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

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 June 6, 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.

Comments may be directed to: Mr. Dennis Ossenkop, Northwest Mountain Region, Airports Division, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments must be received by June 6, 1996.

Issued in Renton, Washington, on May 22, 1996.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region Renton, Washington.

[FR Doc. 96–13775 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Blue Grass Airport, Lexington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Blue Grass Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 3, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 2851 Directors Cove, Suite #3, Memphis, TN 38131–0301.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Michael Flack, Executive Director of the Blue Grass Airport at the following address: Lexington Fayette Urban County Airport Board, 4000 Versailles Road, Lexington, KY 40510.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Blue Grass Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Southern Region, Memphis Airports District office, Cynthia K. Wills, Planner, 2851 Directors Cove, Suite #3, Memphis, TN 38131–0301, (901) 544–3495. The application may be reviewed in person at this location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Blue Grass Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 23, 1996, the FAA determined that the application to use the revenue from a PFC submitted by Lexington Fayette Urban County Airport Board was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 13, 1996.

The following is a brief overview of the application.

PFC Application Number: 96–03–U–00–LEX.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1993.

Proposed charge expiration date: September 1, 2005.

Total estimated PFC revenue: $15,154,632.

Brief description of proposed project(s):

Use Only

(1) Assess Environmental Impacts of Proposed Parallel Runway

(2) Implement Noise Abatement Program—Phase II

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 or part 298 (Air Taxi Operators).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Blue Grass Airport.

Issued in Memphis, Tennessee, on May 23, 1996.

LaVerne F. Reid,

Manager, Airports District Office, Southern Region.

[FR Doc. 96–13773 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application (#96–02–C–00–CPR) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Natrona County International Airport, Submitted by the Board of Trustees of Natrona County International Airport, Casper, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Natronal County International Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 3, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn Street, Suite 300; Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Eddie F. Storer, Airport Manager, at the following address: Natrona County International Airport, 8500 Airport Parkway, Casper, WY 82604–1697.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Natrona County International Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 286–5525; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn Street, Suite 300; Denver, CO 80216–6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#96–02–C–00–CPR) to impose and use PFC revenue at Natrona County International Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 23, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Natrona County International Airport, Casper, Wyoming, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 23, 1996.

The following is a brief overview of the application.

Level of the Proposed PFC: $3.00.

Proposed charge effective date: March 1, 1997.

Proposed charge expiration date: October 31, 1999.

Total requested for use approval: $427,704.00.

Brief description of proposed project: ARFF improvements; Acquire snow removal equipment (SRE); Construct wildlife control fencing; Rehabilitate airfield lighting system; Rehabilitate Taxiway ''C''; Relocate road out of runway safety area.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None, as approved in the Record of Decision dated June 14, 1993.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Natrona County International Airport.

Issued in Renton, Washington, on May 23, 1996.

Dennis G. Ossenkop,

Acting Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 96–13774 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: New London County, CT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed transportation improvements within the Connecticut Route 2/2a/32 (CT 2/2A/32) corridor in the towns of Norwich, Preston, Ledyard, North Stonington, Stonington, Montville, New London, Connecticut.

FOR FURTHER INFORMATION CONTACT: Donald West, Division Administrator, Federal Highway Administration, Connecticut Division Office, 628–2 Hebron Avenue, Suite 303, Glastonbury, Connecticut 06033. Telephone: (860) 659–6703; or Edgar T. Hurle, Director of Environmental Planning, Connecticut Department of Transportation, 2800 Berlin Turnpike, P.O. Box 317546 Newington Connecticut 06131–7546. Telephone: (860) 594–2920.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Connecticut Department of Transportation (ConnDOT), will prepare an EIS to analyze potential impacts of transportation improvements within the CT 2/2a/32 corridor in southeastern Connecticut. The approximate length of the study area corridor is fifteen miles. Proposed improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. A Major Investment Study (MIS) is currently being conducted for the corridor to develop alternatives to be considered in the draft EIS. The alternatives being considered in the MIS include the no action, minor roadway improvements, roadway widening, new

roadway alignments, expanding existing railroad service, new railroad alignments, and bus ways. In conducting the MIS an advisory committee was established with representation from the corridor towns. During the MIS process, more than thirty public meetings were held in addition to five public informational meetings. At the completion of the MIS, a scoping meeting will beheld to solicit public input for the EIS as well as to report on the findings of the MIS. This meeting is anticipated to be conducted in June 1996.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

During the EIS a number of public informational meetings will be held at major milestones in the process. In addition, the Department will hold a public hearing or hearings approximately 30 days after the draft EIS has been made available for public and agencies review and comment.

(Catalog of Federal Domestic Assistance Program number 20.205, Highway Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: May 22, 1996.

Donald J. West,

Division Administrator, Hartford, Connecticut.

[FR Doc. 96–13769 Filed 5–31–96; 8:45 am]

BILLING CODE 4910–22–M

SURFACE TRANSPORTATION BOARD

[STB Special Tariff Authority No. 1] [1]

Petition To Allow Short-Term Notice of Fuel Cost-Related Increases

AGENCY: Surface Transportation Board.
ACTION: Notice of decision.

SUMMARY: On April 16, 1996, the American Trucking Associations, Inc., the Interstate Truckload Carriers Conference, and the American Movers Conference (collectively petitioners) jointly requested the Surface Transportation Board (Board) to permit motor carriers still subject to statutory tariff-filing requirements to implement fuel-related surcharges on one day's notice. After receiving public comment on petitioners' request, the Board has decided to deny the relief sought.

DATES: This action is effective on May 28, 1996.

FOR FURTHER INFORMATION CONTACT: Ronald A. Hall, (202) 927–5639. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Petitioners sought blanket short-notice rate increase authority to facilitate prompt recovery of increased fuel costs incurred by household goods carriers and carriers participating in joint motor/water rates in the noncontiguous domestic trade. In our decision served April 19, 1996, we concluded that, although they must themselves maintain tariffs, household goods carriers do not need short notice relief because, like most other motor carriers, they do not file tariffs with the Board, nor are their tariffs subject to the Board's tariff filing regulations at 49 CFR Part 1312; thus, they may adjust their rates to deal with fuel cost increases free from the Board's oversight. Noting that it was unclear whether rising fuel costs had a substantial impact ''on the extremely limited amount of service that remains subject to the Board's tariff-filing jurisdiction, and hence over which the Board has authority to grant the relief sought by petitioners,'' we sought comment on petitioners' request as it pertains to motor carriers providing joint-rate service with water carriers in the noncontiguous domestic trade.

We received only one comment, from the Distilled Spirits Council of the United States, Inc. (DISCUS). DISCUS opposes the relief sought.

We are denying the relief sought. The initial petition presented general information on fuel price increases, but no interest responded to our request for input on the impact that rising fuel costs have had on the noncontiguous domestic trade. Moreover, it appears that recent fuel price increases have leveled off. According to information from the U.S. Department of Energy's periodic survey, diesel fuel prices appear to have peaked during the second half of April, and have since begun to stabilize and even drop. Even on the West Coast—the region hit the hardest by the recent fuel price increases—prices have stabilized since the beginning of the month.

We recently granted individual applications of two carriers—one water carrier and one motor carrier—seeking relief from the 7-day rule.[2] We will continue to entertain individual requests for relief when appropriate. It does not appear on this record, however, that an across-the-board waiver is warranted.

Accordingly, we deny the broad relief sought here.

It is ordered:

The petition is denied.

Small Entities

This action will not have significant economic effects on a substantial number of small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: May 20, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–13802 Filed 5–31–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

Agency Information Collection: Submission for OMB Review; Comment Request

AGENCY: National Cemetery System, Department of Veterans Affairs.
ACTION: Notice.

SUMMARY: The National Cemetery System (NCS), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Control Number: 2900–0232.

Title and Form Number: Verification of Eligibility for Burial in a National Cemetery, VA Form 40–4962.

Type of Review: Extension of a currently approved collection.

Need and Uses: The information is used to verify and determine eligibility for burial in a national cemetery and to establish permanent records of interments.

Affected Public: Individuals or households.

Estimated Annual Burden: 11,754 hours.

[1] Formerly docketed as Special Tariff Authority No. 9601.

[2] *Fuel Surcharge Increase on One Day's Notice (Crowley Marine Services, Inc.),* Special Tariff Authority No. 2 (STB May 6, 1996); *Fuel Surcharge Increase on One Day's Notice (Viking Freight Systems, Inc.),* Special Tariff Authority No. 3 (STB May 10, 1996).

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 70,522.

ADDRESSES: Copies of these submissions may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 8l0 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. DO NOT send requests for benefits to this address.

DATES: Comments on the information collections should be directed to the OMB Desk Officer on or before July 3, 1996.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 273–8015.

Dated: May 17, 1996.

By direction of the Secretary.

William T. Morgan,

Management Analyst.

[FR Doc. 96–13747 Filed 5–31–96; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 61, No. 107
Monday, June 3, 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 COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[I.D. 052196A]

Northeast Multispecies Fishery; Amendment 7; Resubmission of the Measure for the Nonregulated Species Permit Category

Correction

Proposed rule document 96-13341 was inadvertently published in the Rules and Regulations section of the issue of Wednesday, May 29, 1996, beginning on page 26847. It should have appeared in the Proposed Rules section.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM-207C, Amdt. Nos. 107-38, 171-141, 173-249, and 178-113]
RIN 2137-AC63

Exemption, Approval, Registration and Reporting Procedures; Miscellaneous Provisions

Correction

In rule document 96–11400 beginning on page 21084 in the issue of Thursday, May 9, 1996, make the following correction:

§ 107.701 [Corrected]

On page 21100, in the first column, in § 107.701, the first paragraph should be designated ''(a)''.

BILLING CODE 1505–01–D

Federal Register

Monday
June 3, 1996

Part II

Department of Health and Human Services

Office of Community Services

Job Opportunities for Low-Income Individuals Program (Demonstration Projects): Fiscal Year 1996 Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[PROGRAM ANNOUNCEMENT NO. OCS–96–03]

Request for Applications Under the Office of Community Services' Fiscal Year 1996 Job Opportunities for Low-Income Individuals Program (Demonstration Projects)

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' FY 1996 Job Opportunities for Low-Income Individual (JOLI) Program (Demonstration Projects).

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), announces that, based on availability of funds, competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 505 of the Family Support Act of 1988, as amended.

CLOSING DATE: The closing date for receipt of applications is August 2, 1996. (See Part V B. Application Submission)

FOR FURTHER INFORMATION CONTACT: Office of Community Services,Administration for Children and Families,370 L'Enfant Promenade S.W., Washington, D.C. 20447. Contact: Nolan Lewis (202) 401–5282; Richard Saul (202) 401–9341; Michelle Brookens (202) 401–1466.

This Announcement is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, A Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401–5309.

Table of Contents

Part I—Preamble

A. Legislative Authority

The Senate Committee on Appropriations, in Senate Report No. 104–236, 104th Congress, 2nd Session, to accompany S. 1594, consolidates funding for job creation demonstration activities authorized under section 505 of the Family Support Act of 1988, Pub. L. 100–485, as amended, with the Community Economic Development Program in the Office of Community Services. Section 505 of the Family Support Act of 1988 authorizes the Secretary of HHS to enter into agreements with not less than 5 nor more than 10 non-profit organizations (including community development corporations) for the purpose of conducting demonstration projects to create employment and business opportunities for certain low-income individuals. The Social Security Act Amendments of 1994, Public Law 103–432, reauthorized Section 505 of the Family Support Act of 1988 through Fiscal Year 1996, and amended subsection (e) so as to change the project period from three to six years. (See Part II, below.)

B. Definition of Terms

For purposes of this Program Announcement the following definitions apply:

—Budget Period: The interval of time into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes.

—Community-Level Data: Key information to be collected by each grantee that will allow for a national-level analysis of common features of JOLI projects. This includes data on the population of the target area, including the percentage on AFDC and other public assistance, and the percentage whose incomes fall below the poverty line; the unemployment rate; the number of new business starts and business closings; and a description of the major employers and average wage rates and employment opportunities with those employers.

—Community Development Corporation: A private, locally initiated, nonprofit entity, governed by a board consisting of residents of the community and business, civic leaders, and/or public officials which has a record of implementing economic development projects or whose Articles of Incorporation and/or By-Laws indicate that it has a focus in the area of economic development.

—Hypothesis: An assumption made in order to test its validity. It should assert a cause-and-effect relationship between a program intervention and its expected result. Both the intervention and result must be measured in order to confirm the hypothesis. For example, the following is a hypothesis: ''Eighty hours of classroom training in small business planning will be sufficient for participants to prepare a successful loan application.'' In this example, data would be obtained on the number of hours of training actually received by participants (the intervention), and the quality of loan applications (the result), to determine the validity of the hypothesis (that

eighty hours of training is sufficient to produce the result).

—Intervention: Any planned activity within a project that is intended to produce changes in the target population and/or the environment and that can be formally evaluated. For example, assistance in the preparation of a business plan and loan package are planned interventions.

—Job Creation: To bring about, by activities and services funded under this program, new jobs, that is, jobs that were not in existence before the start of the project. These activities can include self-employment/micro-enterprise training, the development of new business ventures or the expansion of existing businesses.

—Non-profit Organization: Any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such code.

—Outcome Evaluation: An assessment of project results as measured by collected data which define the net effects of the interventions applied in the project. An outcome evaluation will produce and interpret findings related to whether the interventions produced desirable changes and their potential for replicability. It should answer the question, Did this program work?

—Private employers: Third-party private non-profit organizations or third-party for-profit businesses operating or proposing to operate in the same community as the applicant and which are proposed or potential employers of project participants.

—Process Evaluation: The ongoing examination of the implementation of a program. It focuses on the effectiveness and efficiency of the program's activities and interventions (for example, methods of recruiting participants, quality of training activities, or usefulness of follow-up procedures). It should answer questions such as: Who is receiving what services?, and are the services being delivered as planned? It is also known as formative evaluation because it gathers information that can be used as a management tool to improve the way a program operates while the program is in progress. It should also identify problems that occurred and how they were dealt with and recommend improved means of future implementation. It should answer the question: ''How was the program carried out?'' In concert with the outcome evaluation, it should also help explain, ''Why did this program work/not work?''

—Program Participant/Beneficiary: Any individual eligible to receive Aid to Families with Dependent Children under Part A of Title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line as found in the most recent Annual Revision of Poverty Income Guidelines published by the Department of Health and Human Services. (See Attachment A.)

—Project Period: The total time a project is approved for support, including any extensions.

—Self-Sufficiency: A condition where an individual or family, by reason of employment, does not need and is not eligible for public assistance.

C. Purpose

The purpose of this program is to demonstrate and evaluate ways of creating new employment and business opportunities for certain low-income individuals through the provision of technical and financial assistance to private employers in the community, self-employment/micro-enterprise programs and/or new business development programs. A low-income individual eligible to participate in a project conducted under this program is any individual eligible to receive Aid to Families with Dependent Children (AFDC) under Part A of Title IV of the Social Security Act or any other individual whose income level does not exceed 100 percent of the official poverty line. (See Attachment A.) Within these categories, emphasis should be on individuals who are receiving AFDC or its equivalent under State auspices; those who are unemployed; those residing in public housing or receiving housing assistance; and those who are homeless.

Part II—Background Information and Program Requirements

A. Eligible Applicants

Organizations eligible to apply for funding under this program are any non-profit organizations (including community development corporations) that are exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code. Applicants must provide documentation of their tax exempt status. The applicant can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate. Failure to provide evidence of Section 501(c) (3) or (4) tax exempt status will result in rejection of the application.

B. Project and Budget Periods

As noted above, the Social Security Act Amendments of 1994 which reauthorized the JOLI program also lengthened the project duration from a 3-year period to a 6-year period. The six year project period applies only to grant awards made in Fiscal Year 1995 and thereafter. However, as in Fiscal Year 1995, grants made pursuant to this announcement will be for ''budget periods of three years'', covering the basic work program. This initial 36-month budget period will be considered the Operational Phase of the project, during which the Work Plan described in this announcement is to be carried out. The second 36 months, or three years, of the Project Period is to be considered a period of tracking workers in the newly created jobs, of providing them, as needed, with modest support and assistance, and of continuing Project Evaluation. Applications for continuation grants funded under these awards beyond the 36-month budget period but within the six (6) year project period will be entertained in subsequent years on a non-competitive basis. Continuation grants will be for a modest amount commensurate with the reduced level of effort, and subject to: (1) The availability of funds, (2) satisfactory progress of the grantee, and (3) determination by OCS that this would be in the best interest of the government.

C. Availability of Funds and Grant Amounts

Approximately $5,000,000 is available in FY 1996 for new grants pursuant to this Announcement. The Office of Community Services expects to award no less than 5 and no more than 10 grants to selected organizations by September 30, 1996. Grants will be for a maximum of $500,000 each for the first 36-month budget period.

D. Mobilization of Resources

OCS will give favorable consideration in the review process to applicants who mobilize cash and/or third-party in-kind contributions for direct use in the project. (See Part IV, Element V.)

E. Program Participants/Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines

published by DHHS and individuals eligible to receive AFDC under Part A of Title IV of the Social Security Act.

Attachment A to this announcement is an excerpt from the guidelines currently in effect. Annual revisions of these guidelines are normally published in the Federal Register in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. They also are accessible on the OCS Electronic Bulletin Board for reading and/or downloading. (See **FOR FURTHER INFORMATION** at beginning of this announcement.)

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for this program.

F. Prohibition and Restrictions on the Use of Funds

The use of funds for new construction or the purchase of real property is prohibited. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program are allowable when specifically approved by ACF in writing.

If the applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidelines.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act will result in the application being ineligible for funding consideration.

G. Multiple Submittals

Due to the limited number of grants that will be made under this program, only one proposal from an eligible applicant will be funded by OCS from FY 1996 JOLI funds pursuant to this announcement (Program areas 1.0 and 2.0).

H. Re-funding

OCS will not re-fund a previously funded grantee to conduct the same demonstration in the same target area.

I. Sub-Contracting or Delegating Projects

An applicant will not be funded where the proposal is for a grantee to act as a straw-party, that is, to act as a mere conduit of funds to a third party without performing a substantive role itself. This prohibition does not bar subcontracting or subgranting for specific services or activities needed to conduct the project.

J. Maintenance of Effort

The application must include an assurance that activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried out without Federal assistance.

Part III—Application Requirements and Priority Areas

A. Program Focus

The Congressional Conference Report on the FY 1992 appropriations for the Department of Labor, Health and Human Services, and Education and related agencies directed the ACF to require economic development strategies as part of the application process to ensure that highly qualified organizations participate in the demonstration [H.R. Conf. Rep. No. 282, 102d Cong., 1st Sess. 39 (1991)].

Priority will be given to applications proposing to serve those areas containing the highest percentage of individuals receiving Aid to Families with Dependent Children (AFDC) under Title IV–A of the Social Security Act.

While projected employment in future years may be included in the application, it is essential that the focus of the project concentrate on the creation of new full-time, permanent jobs and/or new business development opportunities for AFDC recipients and other low-income individuals during the duration of the grant project period. OCS is particularly interested in receiving proposals in two areas:

1. *Local Initiative*. In the spirit of ''local initiative'' OCS looks forward to innovative proposals that grow out of the experience and creativity of applicants and the needs of their clientele and communities.

Applicants should include strategies which seek to integrate projects financed and jobs created under this program into a larger effort of broad community revitalization which will promote job and business opportunities for eligible program participants and impact the overall economic environment.

OCS will only fund projects that create new employment and/or business opportunities for eligible program participants. That is, new full-time permanent jobs through the expansion of a pre-identified business or new business development, or by providing opportunities for self-employment. In addition, projects should enhance the participants' abilities and skills and thus contribute to their progress toward self-sufficiency.

2. *Some Suggested Areas That Can Provide Jobs and Careers for AFDC Recipients In Response to Welfare Reform*. With national Welfare Reform on the horizon, and many States already implementing ''welfare-to-work'' programs, the need for well-paying jobs with career potential for AFDC recipients becomes ever more pressing. In this context, the role of JOLI as a vehicle for exploring new and promising areas of employment opportunity for the poor is more important than ever.

Within the JOLI Program framework of job creation through new or expanding businesses or self-employment, OCS would welcome proposals offering business or career opportunities to eligible participants in a variety of fields. For instance, these might include Day Care, which is not only an opportunity for employment, but when not available can be a serious barrier to employment for AFDC recipients; Environmental Justice initiatives involving activities such as toxic waste clean-up, water quality management, or Brownfields remediation; health-related jobs such as Home Health Aides or medical support services; and non-traditional jobs for women and minorities.

For example, as in FY 1995, OCS is again interested in funding projects which seek to create non-traditional employment opportunities for women and minorities in highway construction and maintenance, an industry in which a serious worker shortage is expected in many parts of the country. As noted below, OCS has determined that these non-traditional employment opportunities in highway construction meet the job creation requirements of the JOLI program.

Approximately $20 billion a year goes to States for highway construction and repair, creating over 270,000 jobs with State Highway Agencies and more than 500,000 jobs with contractors. The Office of Civil Rights of the Federal Highway Administration (FHWA), in conjunction with the Department of

Labor and the Women's Bureau, is seeking ways to increase participation by minorities and women in this growing labor market, and is prepared to assist applicants in contacting appropriate State transportation officials to explore establishing agreements with State and local officials, Labor Unions, and Contracting Associations. Applicants seeking further information about the efforts being undertaken by the FHWA, such as its training efforts and the OJT supportive services program, should contact the appropriate FHWA Regional Civil Rights Director. (See Attachment M.)

B. Creation of Jobs and Employment Opportunities

The requirement for creation of new, full-time permanent employment opportunities (jobs) applies to all applications. OCS has determined that creation of non-traditional job opportunities for women and minorities in highway construction and maintenance meets the requirements of the JOLI legislation for the creation of new employment opportunities. OCS continues to solicit other JOLI applications to propose the creation of jobs through the expansion of existing businesses, the development of new businesses, or the creation of employment opportunities through self-employment/microenterprise development.

Proposed projects must show that the jobs and/or business/self employment opportunities to be created under this program will contribute to achieving self-sufficiency among the target population. The employment opportunities should provide hourly wages that exceed the minimum wage and also provide benefits such as health insurance, child care, and career development opportunities.

C. Cooperative Partnership Agreement with State IV–A Agency (JOBS Program)

A formal, cooperative relationship between the applicant and the agency responsible for administering the Job Opportunities and Basic Skills Training (JOBS) program (as provided for under title IV–A of the Social Security Act) in the area served by the project is a requirement for funding. The application must include a signed, written agreement between the applicant and the local State IV–A (public welfare) agency administering the JOBS program, or a letter of commitment to such an agreement within 6 months of a grant award (contingent only on receipt of OCS funds). The agreement must describe the cooperative relationship, including specific activities and/or actions each of these entities propose to carry out over the course of the grant period in support of the project.

The agreement, at a minimum, must cover activities that will be provided to the target population and which are related to one or more of the mandatory or optional components offered by the appropriate State's JOBS program. The mandatory activities offered by the States' JOBS programs consist of the following components and services: Basic educational activities (below secondary level i.e. H.S., GED, ESL; job skills training; job readiness activities; job development and job placement; childcare; and other supportive services (45 CFR 250.44 and 255.0). The optional services offered by the States' JOBS programs must include two (2) of the following components of group and individual job search assistance: on-the-job-training experience; work supplementation; or community work experience (45 CFR 250.45). (See Attachment I for a list of the State IV–A agencies.)

D. Third-Party Project Evaluation

Proposals must include provision for an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant and their efficacy in creating new jobs and business opportunities. There must be a well defined Process Evaluation, and an Outcome Evaluation whose design will permit tracking of project participants throughout the second 36 months of the project. The evaluation must be conducted by an independent evaluator, i.e., a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. It is important that each successful applicant have a third-party evaluator selected, and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, in order to assure that data necessary for the evaluation will be collected and available.

E. Economic Development Strategy

As noted above, the Congress, in the Conference Report on the FY 1992 appropriation, directed ACF to require economic development strategies as part of the application process for JOLI to ensure that highly qualified organizations participate in the demonstration. Accordingly, applicants must include in their proposal an explanation of how the proposed project is integrated with and supports a larger economic development strategy within the target community. Where appropriate, applicants should document how they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan, such as that required for applying for Empowerment Zones/Enterprise Community (EZ/EC) status, to achieve both economic and human development in an integrated manner, and how the proposed project supports the goals of that plan. (See Part IV, Sub-Element III(b).)

F. Training and Support for Micro-Business Development

In the case of proposals for creating self-employment micro-business opportunities for eligible participants, the applicant must detail how it will provide training and support services to potential entrepreneurs. The assistance to be provided to potential entrepreneurs must include, at a minimum: (1) Technical assistance in basic business planning and management concepts, (2) assistance in preparing a business plan and loan application, and (3) access to business loans.

G. Training for JOBS Eligible Participants

Any funds that are used for training participants who are AFDC recipients and therefore eligible for JOBS support must be limited to providing specific job-related training to those who have been selected for employment (expansion of an existing business, new business venture or non-traditional employment) and/or self-employment business opportunities. Where participants are not receiving AFDC and are therefore not eligible for JOBS support, project funds may be used to provide basic skills training and other support services.

H. Technical Assistance to Employers

Technical assistance should be specifically addressed to the needs of the private employer in creating new jobs to be filled by eligible individuals and/or to the individuals themselves in areas such as job-readiness, literacy and other basic skills training, job preparation, self-esteem building, etc. Financial assistance may be provided to the private employer as well as to the individual.

If the technical and/or financial assistance is to be provided to pre-identified businesses that will be expanded or franchised, written commitments from the businesses to create the planned jobs must be included with the application.

I. Applicant Experience and Cost-Per-Job

In the review process, favorable consideration will be given to applicants with a demonstrated record of achievement in promoting job and enterprise opportunities for low-income people. Favorable consideration also will be given to those applicants who show the lowest cost-per-job created for low-income individuals. For this program, OCS views $15,000 in OCS funds as the maximum amount for the creation of a job and, unless there are extenuating circumstances, will not fund projects where the cost-per-job in OCS funds exceeds this amount. Only those jobs created and filled by low-income people will be counted in the cost-per-job formula. (See Part IV, Sub-Element III(c))

J. Loan Funds

The creation of a revolving loan fund with funds received under this program is an allowable activity. However, OCS encourages the use of funds from other sources for this purpose. Points will be awarded in the review process to those applicants who leverage funds from other sources. (See Part IV, Element V.) Loans made to eligible beneficiaries for business development activities must be at or below market rate.

(Note: Interest accrued on revolving loan funds may be used to continue or expand the activities of the approved project.)

K. Dissemination of Project Results

Applications should include a plan for disseminating the results of the project after expiration of the grant period. Applicants may budget up to $2,000 for dissemination purposes. Final Project Reports should include a description of dissemination activities with copies of any materials produced.

L. General Projects 1.0 and Community Development Corporations Set-Aside 2.0

The Office of Community Services expects to award approximately $5 million by September 30, 1996 for new grants under this announcement: $4 million for General Projects 1.0, and $1 million set-aside for Community Development Corporations 2.0. (For definition of Community Development Corporation, see Part I, Section B.)

The same purposes, requirements and prohibitions are applicable to proposals submitted under both General Projects 1.0. and Community Development Corporations Set-Aside 2.0.

Applications for the set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants.

Part IV—Application Elements and Review Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the announcement.

The in-depth assessment and review process will use the following criteria coupled with the specific requirements described in Part III. Scoring will be based on a total of 100 points.

The ultimate goals of the projects to be funded under the JOLI Program are: (1) To achieve, through project activities and interventions, the creation of employment opportunities for AFDC recipients and other low-income individuals which can lead to economic self-sufficiency of members of the communities served; (2) to evaluate the effectiveness of these interventions and of the project design through which they were implemented; and (3) thus to make possible the replication of successful programs. As noted here, OCS intends to make the awards of all the above grants on the basis of brief, concise applications. The elements and format of these applications, along with the review criteria that will be used to evaluate them, will be outlined in this Part.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief. Applications with project narratives (excluding appendices) of more than 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding. Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that the overall Project Narrative cannot be longer than 30 pages.

The competitive review of proposals will be based on the degree to which applicants:

(1) Incorporate each of the Elements and Sub-Elements below into their proposals, so as to:

(2) Describe convincingly a project that will develop new employment or business opportunities for AFDC recipients and other low income individuals that can lead to a transition from dependency to economic self-sufficiency; and

(3) Provide for the testing and evaluation of the project design, implementation, and outcomes so as to make possible replication of a successful program.

Element I: Organizational Experience in Program Area and Staff Skills, Resources and Responsibilities

(Total Weight of 0–20 points in proposal review)

Sub-Element I(a). Agency's Experience and Commitment in Program Area

(Weight of 0–10 points in proposal review)

Applicants should cite their organization's capability and relevant experience in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project. They should also cite the organization's experience in collaborative programming and operations which involve evaluations and data collection. Applicants should identify agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation.

The application should include documentation which briefly summarizes two similar projects undertaken by the applicant agency and the extent to which the stated and achieved performance targets, including permanent benefits to low-income populations, have been achieved. The application should note and justify the priority that this project will have within the agency including the facilities and resources that it has available to carry it out. Applicants should use no more than 2 pages for this Sub-Element.

[Note: The maximum number of points will be given only to those organizations with a demonstrated record of achievement in promoting job creation and enterprise opportunities for low-income people.]

Sub Element I(b). Staff Skills, Resources and Responsibilities

(Weight of 0–10 points in proposal review)

The application must identify the two or three individuals who will have the

key responsibility for managing the project, coordinating services and activities for participants and partners, and for achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the Executive Officials of the organization and the key staff persons who will administer and implement the project. The person identified as Project Director should have supervisory experience, experience in finance and business, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired.

The application must also include a resume of the third party evaluator, if identified or hired; or the minimum qualifications and a position description for the third-party evaluator, who must be a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. [See Element IV, Project Evaluation, below, for fuller discussion of Evaluator qualifications.]

Actual resumes of key staff and position descriptions should be included in an Appendix to the proposal.

Applicants should use no more than 3 pages for this Sub-Element.

Element II. Project Theory, Design, and Plan

(Total Weight of 0–30 points in proposal review)

OCS seeks to learn from the application why and how the project as proposed is expected to lead to the creation of new employment opportunities for low-income individuals which can lead to significant improvements in individual and family self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs a framework is described that suggests a way to present a project so as to show the logic of the cause-effect relations between project activities and project results. Applicants don't have to use the exact language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions

(Weight of 0–10 points in application review)

The project design or plan should begin with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built. The assumptions about the needs of the population to be served; about the current services available to that population, and where and how they fail to meet their needs; about why the proposed services or interventions are appropriate and will meet those needs; and about the impact the proposed interventions will have on the project participants.

In other words, the underlying assumptions of the program are the applicant's analysis of the needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those needs and problems to achieve the desired result. Thus a strong application is based upon a clear description of the needs and problems to be addressed and a persuasive understanding of the causes of those problems.

In this sub-element of the proposal the applicant should precisely identify the target population to be served. The geographic area to be impacted should then be briefly highlighted, selectively emphasizing the socioeconomic/poverty and other data that are relevant to the project design.

The application should include an analysis of the identified personal barriers to employment and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for childcare, lack of suitable clothing or equipment, or poor self-image.) Application also includes an analysis of the identified community systemic barriers which the project will seek to overcome. These might include lack of jobs (high unemployment rate); lack of public transportation; lack of markets; unavailability of financing, insurance or bonding; inadequate social services (employment service, child care, job training); high incidence of crime; inadequate health care; or environmental hazards (such as toxic dumpsites or leaking underground tanks). If the jobs to be created by the proposed project are themselves designed to fill one or more of the needs, or remove one or more of the barriers so identified, this fact should be highlighted in the discussion.

Applicants should use no more than 3 pages for this Sub-Element.

Sub-Element II(b). Project Strategy and Design: Interventions, Outcomes, and Goals

(Weight of 0–10 points in proposal review)

The work plan must describe the proposed project activities, or interventions, and explain how they are expected to result in outcomes which will meet the needs of the program participants and assist them to overcome the identified personal and systemic barriers to employment and self-sufficiency. In other words, what will the project staff do with the resources provided to the project and how will what they do (interventions) assist in the creation of employment and business opportunities for program participants in the face of the needs and problems that have been identified.

The underlying assumptions concerning client needs and the theory of how they can be effectively addressed, which are discussed above, lead in the project design to the conduct of a variety of project activities or interventions, each of which is assumed to result in immediate changes, or outcomes.

The immediate changes lead to intermediate outcomes; and the intermediate outcomes lead to the final project goals.

The applicant should describe the major activities, or interventions, which are to be carried out to address the needs and problems identified in Sub-Element II(a); and should discuss the immediate changes, or outcomes, which are expected to result. These are the results expected from each service or intervention immediately after it is provided. For example, a job readiness training program might be expected to result in clients having increased knowledge of how to apply for a job, improved grooming for job interviews, and improved job interview skills; or business training and training in bookkeeping and accounting might be expected to result in project participants making an informed decision about whether they were suited for entrepreneurship.

At the next level are the intermediate outcomes which result from these immediate changes. Often an intermediate project outcome is the result of several immediate changes resulting from a number of related interventions such as training and counseling. Intermediate outcomes should be expressed in measurable changes in knowledge, attitudes, behavior, or status/condition. In the above examples, the immediate changes achieved by the job readiness program,

coupled with technical assistance to an employer in the expansion of a business could be expected to lead to intermediate outcomes of creation of new job openings and the participant applying for a job with the company. The acquisition of business skills, coupled with the establishment of a loan fund, could be expected to result in the actual decision to go into a particular business venture or seek the alternative track of pursuing job readiness and training.

Finally, the application should describe how the achievement of these intermediate outcomes will be expected to lead to the attainment of the project goals: employment in newly created jobs, new careers for women in non-traditional jobs in Highway construction and maintenance, successful business ventures, or employment in an expanded business, depending on the project design. Applicants must remember that if the major focus of the project is to be the development and start-up of a new business or the expansion of an existing business, then a Business Plan which follows the outline in Attachment L to this announcement must be submitted as an Appendix to the Proposal.

Applicants don't have to use the exact terminology described above, but it is important to describe the project in a way that makes clear the expected cause-and-effect relationship between what the project plans to do—the activities or interventions, the changes that are expected to result, and how those changes will lead to achievement of the project goals of new employment opportunities and greater self-sufficiency. The competitive review of this Sub-Element will be based on the extent to which the application makes a convincing case that the activities to be undertaken will lead to the projected results.

The Applicant should use no more than 4 pages for this Sub-Element.

Sub-Element II(c). Work Plan

(Weight of 0–10 points in proposal review)

Once the project strategy and design framework are established, the applicant should present the highlights of a work plan for the project. The plan should explicitly tie into the project design framework and should be feasible, i.e., capable of being accomplished with the resources, staff, and partners available. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems. The plan should be presented in such a way that it can be correlated with the budget narrative included earlier in the application.

Applicant may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

The applicant should use no more than 3 pages for this Sub-Element.

Element III. Significant and Beneficial Impact

(A total weight of 0–20 points in proposal review)

Sub-Element III(a). Quality of Jobs/ Business Opportunities

(Weight of 0–10 points in proposal review)

The proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community and lead welfare recipients from welfare dependency toward economic self-sufficiency. Results are expected to be quantifiable in terms of: the creation of permanent, full-time jobs; the development of business opportunities; the expansion of existing businesses; or the creation of non-traditional employment opportunities in highway construction and maintenance. In developing business opportunities and self-employment for AFDC recipients and low-income individuals the applicant proposes, at a minimum, to provide basic business planning and management concepts, and assistance in preparing a business plan and loan package.

The application should document that:

—The business opportunities to be developed for eligible participants will contribute significantly to their progress toward self-sufficiency; and/ or

—Jobs to be created for eligible participants will contribute significantly to their progress toward self-sufficiency. For example, they should provide salaries that exceed the minimum wage, plus benefits such as health insurance, child care and career development opportunities.

The applicant should use no more than 3 pages for this Sub-Element.

Sub-Element III(b) Community Empowerment Consideration

(Weight of 0–5 points in proposal review)

Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an Empowerment Zone or Enterprise Community, high levels of violence, gang activity, crime, or drug use. (0–3 points)

Applicants should document that they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner; and how the proposed project and the employment opportunities it will create support the goal(s) of that plan. (0–2 points)

The applicant should use no more than 2 pages for this Sub-Element.

Sub-Element III(c). Cost-per-Job

(Weight of 0–5 points in proposal review)

The application should document that during the project period the proposed project will create new, permanent jobs through business opportunities or non-traditional employment opportunities for low-income residents at a cost-per-job below $15,000 in OCS funds. The cost-per-job should be calculated by dividing the total amount of grant funds requested (e.g. $420,000) by the number of jobs to be created (e.g. 60) which would equal the cost-per-job ($7,000)). If any other calculations are used, include the methodology and rationale in this section. In making calculations of cost-per-job, only jobs filled by low-income project participants may be counted. (See Part III, Section I.)

(Note: Except in those instances where independent reviewers identify extenuating circumstances related to business development activities, the maximum number of points will be given only to those applicants proposing cost-per-job created estimates of $5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.)

The applicant should use no more than 1 page for this Sub-Element.

Element IV. Project Evaluation

(Weight of 0–15 points in the proposal review)

Sound evaluations are essential to the JOLI Program. OCS requires applicants to include in their applications a well thought through outline of an evaluation plan for their project. The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented (the Process Evaluation) and whether the project activities, or interventions, achieved the

expected outcomes and goals of the project, and what those outcomes were (the Outcome Evaluation). Together, the Process and Outcome Evaluations should answer the question ''why did this program work/not work?''.

Applicants are not being asked to submit a complete and final Evaluation Plan as part of their proposal; but they must include:

(1) a well thought through outline of an evaluation plan which identifies the principal cause-and-effect relationships to be tested, and which demonstrates the applicant's understanding of the role and purpose of both Process and Outcome Evaluations (see previous paragraph);

(2) the identity and qualifications of the proposed third-party evaluator, or if not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating social service delivery programs, and the planning and/or evaluation of programs designed to foster self-sufficiency in low income populations; and

(3) a commitment to the selection of a third-party evaluator approved by OCS, and to completion of a final evaluation design and plan, in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the six-month start-up period of the project, if funded.

Applicants should ensure, above all, that the evaluation outline presented is consistent with their project design. A clear project framework of the type recommended earlier identifies the key project assumptions about the target populations and their needs, and the hypotheses, or expected cause-effect relationships to be tested in the project: that the proposed project activities, or interventions, will address those needs in ways that will lead to the achievement of the project goals of self-sufficiency. It also identifies in advance the most important process and outcome measures that will be used to identify performance success and expected changes in individual participants, the grantee organization, and the community.

For these reasons it is important that each successful applicant have a third-party evaluator selected and performing at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the final design of the program, and in order to assure that data necessary for the evaluation will be collected and available. Plans for selecting an evaluator should be included in the application narrative. A third-party evaluator must have knowledge about and have experience in conducting process and outcome evaluations in the job creation field, and have a thorough understanding of the range and complexity of the problems faced by the target population.

The competitive procurement regulations (45 CFR Part 74, Sections 74.40–74.48, esp. 74.43) apply to service contracts such as those for evaluators.

The applicant should use no more than 3 pages for this proposal Element, plus the Resume or Position Description for the evaluator, which should be in an Appendix.

Element V. Public-Private Partnerships

(Weight of 0–10 points in the proposal review)

The proposal should briefly describe the public-private partnerships which will contribute to the implementation of the project. Where partners' contributions to the project are a vital part of the project design and work program, the narrative should describe undertakings of the partners, and a partnership agreement, specifying the roles of the partners and making a clear commitment to the fulfilling of the partnership role, must be included in an Appendix to the Proposal. The application should meet the following criteria:

—All JOLI applications must include a signed cooperative partnership agreement with the State IV–A Agency, which administers the JOBS Program, or a letter of commitment to such an agreement within six months of a grant award, contingent only on receipt of OCS funds. This cooperative partnership agreement must fully describe the activities and services to be provided which must clearly relate to the objectives of the proposed project. The activities should include one or more of the mandatory or optional components of the State's JOBS program as described in Part III, Section C.

—In the case of projects involved in the creation of non-traditional employment opportunities in highway construction and maintenance, the agreements with the appropriate partners (e.g., highway departments, contractors, unions or businesses) should clearly identify the undertakings of each partner in terms of training, support, apprenticeships and/or career opportunities, and the like.

—The application should document that public and/or private sources of cash and/or third-party in-kind contributions will be available through a letter of commitment from the partner(s). Applications that can document dollar for dollar contributions equal to the OCS funds and demonstrate that the partnership agreement clearly relates to the objectives of the proposed project, will receive the maximum number of points for this criterion. Lesser contributions will be given consideration based upon the value documented.

—Partners involved in the proposed project should be responsible for substantive project activities and services. Applicants should note that partnership relationships are not created via service delivery contracts.

The applicant should use no more than 4 pages for this proposal Element.

Element VI. Budget Appropriateness and Reasonableness

(Weight of 0–5 points in proposal review)

Applicants are required to submit Federal budget forms with their proposals to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (424A). (See Part VI) In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Narrative, or explanatory budget information which should include a detailed budget break-down for each of the budget categories in the SF–424A. This Budget Narrative is not considered a part of the Project Narrative, and does not count as part of the thirty pages; but rather is included in the application following the budget forms. (Attachment B)

At the same time, applicants may wish to provide a brief highlight of the Budget and Budget Narrative at this point in the Project Narrative.

Funds requested in the budget must be reasonably commensurate with the level of effort necessary to accomplish the goals and objectives of the project, and the budget narrative should briefly explain how grant funds will be expended and show the adequacy of the Federal funds and any mobilized resources to accomplish project purposes. It should also identify and briefly explain any imbalances between level of activities undertaken and project funds expended. The estimated cost to the government of the project should be reasonable in relation to the anticipated results; and include reasonable administrative costs, if an indirect cost rate has not been negotiated with the cognizant Federal agency.

Resources in addition to OCS grant funds are encouraged both to augment

project resources and to strengthen the basis for continuing partnerships to benefit the target community. The amounts of such resources, their appropriateness to the project design, and the likelihood that they will continue beyond the project time frame will be taken into account in judging the application.

Applicants should include funds in the project budget for travel by Project Directors and Chief Evaluators to attend two national evaluation workshops in Washington, DC. (See Part VIII, Evaluation Workshops.)

Applicant should use no more than 2 pages (in the Project Narrative) for this Sub-Element.

Part V—Application Procedures and Selection Process

A. Availability of Forms

Attachment C contains all of the standard forms necessary for the application for awards under this OCS program. These forms may be photocopied for the application. This announcement and the attachments to it contain all of the instructions required for submittal of applications.

Copies of the Federal Register containing this announcement are available at most local libraries and Congressional District Offices for reproduction. This announcement is also accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. If copies are not available at these sources, you may write or telephone the office listed at the beginning of this announcement under the section entitled **FOR FURTHER INFORMATION.**

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E and F.

Part IV contains instructions for the substance and development of the project narrative. Part VII, Section A describes the contents and format of the application as a whole.

B. Application Submission

The closing time and date for receipt of applications is 4:30 p.m. (Eastern Time Zone) on August 2, 1996. Applications received after 4:30 p.m. will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children, and Families, Office of Program Support, Division of Discretionary Grants, 370 L Enfant Promenade, SW., Mail Stop 6C–462, Washington, DC 20447; Attention: Application for JOLI Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mail Room, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadline: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

Applications once submitted are considered final and no additional materials will be accepted. One signed original application and four copies should be submitted at the time of initial submission.

C. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062.

D. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-one jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has sixty (60) days from the application deadline to comment on proposed new or competing continuation awards.

SPOCS are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., 6th Floor, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G to this announcement.

E. Application Consideration

Applications that meet the screening requirements below will be reviewed competitively. Such applications will be referred to reviewers for numerical scoring and explanatory comments based solely on responsiveness to the guidelines and evaluation criteria published in this announcement.

Applications will be reviewed by persons outside of the OCS unit. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions, but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution of applications; previous program performance of applicants; the limitation on project continuation or refunding (see Part II, Section H); the number of previous JOLI grants made to applicant; compliance with grant terms under previous HHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to verify the applicant's performance record and the documents submitted.

F. Criteria for Screening Applicants

All applications that meet the published deadline requirements as provided in this program announcement will be screened for completeness and conformity with the requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

The following requirements must be met by all applications:

a. The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF 424B) completed according to instructions published in Part VI and Attachment C and D, of this Program Announcement.

b. A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be limited to 30 pages, typewritten on one side of the paper only with one-inch margins and type face no smaller than 12 characters per inch (cpi) or equivalent. The Budget Narrative, Charts, exhibits, resumes, position descriptions, letters of support, Cooperative Agreements, and Business Plans (where required) are not counted against this page limit.

It is strongly recommended that applicants follow the format and content for the narrative set out in Part IV.

c. The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

d. Application must contain documentation of the applicant's tax exempt status as required under Part II, Section A.

Part VI—Instructions for Completing the SF–424

(Approved by the Office of Management and Budget under Control Number 0970–0062.)

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments B and C) as modified by the OCS specific instructions set forth below:

A. SF–424—Application for Federal Assistance

Top of Page. Please enter the single priority area number under which the application is being submitted (1.0 or 2.0). An application should be submitted under only one priority area.

Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. Enter N in the box and specify non-profit corporation on the line marked Other.

Item 9. Name of Federal Agency—Enter HHS–ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.593. The title is ''Job Opportunities for Low-Income Program''.

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designations:

JO—General Project
JS—Community Development Corporation Set-Aside

Item 13. Proposed Project—The ending date should be calculated on the basis of a 72-month project period.

Item 15a. This amount should be no greater than $500,000.

Item 15b–e. These items should reflect both cash and third-party, in-kind contributions for the three year budget period requested.

B. SF–424A—Budget Information—Non-Construction Programs

In completing these sections, the Federal Funds budget entries will relate to the requested OCS funds only, and Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in ''Non-Federal'' entries.

Sections A, B, and C of SF–424A should reflect budget estimates for the first three year budget period of the project.

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts) Col. (a): Enter Job Opportunities for Low-Income Program. Col. (b): Catalog of Federal Domestic Assistance number is 93.593. Col. (c) and (d): not relevant to this program. Column (e)–(g): enter the appropriate amounts (column e should not be more than $500,000.)

Section B—Budget Categories

(Note that the following information supersedes the instructions provided with the Form SF–424A in Attachment C.) Columns (1)–(5): For each of the relevant Object Class Categories:

Column 1: Enter the OCS grant funds for the first year;

Column 2: Enter the OCS grant funds for the second year;

Column 3: Enter the OCS grant funds for the third year;

Column 4: Leave blank.

Column 5: Enter the total federal OCS grant funds for the three year budget period by Class Categories, showing a total budget of not more than $500,000.

Note: With regard to Class Categories, only out-of-town travel should be entered under Category c. Travel. Local travel costs should be entered under Category h. Other. Equipment costing less than $5000 should be included in Category e. Supplies.

Section C Non-Federal Resources should be completed in accordance with the instructions provided.

Sections D, E, and F may be left blank.

A supporting Budget Narrative must be submitted providing details of expenditures under each budget category, and justification of dollar amounts which relate the proposed expenditures to the work program and goals of the project. (See Part IV, Element VI)

C. SF–424B Assurances—Non-Construction

All applicants must fill out, sign, date and return the ''Assurances'' with the application. (See Attachment D)

Part VII—Contents of Application and Receipt Process

A. Contents of Application

Each application submission should include a signed original and four additional copies of the application. Each application should include the following in the order presented:

1. Table of Contents;

2. Completed Standard Form 424 which has been signed by an Official of the organization applying for the grant who has authority to obligate the organization legally;

(Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization.)

3. Budget Information-Non-Construction Programs (SF–424A);

4. A narrative budget justification for each object class category required under Section B, SF–424A;

5. Certifications and Assurance Required for Non-Construction Programs, as follows:

Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs''. Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

Copies of the certifications and assurance are located at the end of this announcement.

6. Certification Regarding Environmental Tobacco Smoke—Signature on the application attests to the applicants intent to comply with the requirements of the Pro-Children Act of 1994 (no signature required on form).

7. An Executive Summary—not to exceed 300 words;

8. A Project Narrative of no more than 30 pages, consisting of the Elements described in Part IV of this Announcement set forth in the order there presented; preceded by a consecutively numbered Table of Contents (not to be counted as part of the 30 pages).

9. Appendices—proof of non-profit tax-exempt status as outlined in Part II, Section A; proof that the organization is a community development corporation, if applying under the CDC Set-aside; commitments from officials of businesses that will be expanded or franchised, where applicable; partnership agreement with State IV–A (JOBS Program) agency; Single Point of Contact comments, if applicable; resumes and position descriptions; a Business Plan, where required; and the Maintenance of Effort Certification.

The total number of pages for the narrative portion of the application package must not exceed 30 pages, excluding Appendices and Narrative Table of Contents.

Pages should be numbered sequentially throughout, including Appendices, beginning with the SF 424 as Page 1.

The application may also contain letters that show collaboration or substantive commitments to the project by organizations other than the JOBS agency. Such letters are not part of the narrative and should be included in the Appendices. These letters are, therefore, not counted against the 30 page limit.

B. Application Format

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½×11 inch paper only. Applications must not include colored, oversized or folded materials. Applications should not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. Such materials will not be reviewed and will be discarded if included.

Applications must not be bound or enclosed in loose-leaf binder notebooks. Preferably, applications should be two-holed punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip.

Attachment O provides a checklist to applicants in preparing a complete application package.

C. Acknowledgement of Receipt

Applicants who meet the initial screening criteria outlined in Part V, Section E, 1, will receive within ten days after the deadline date for submission of applications an acknowledgement with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement notice. This number and the program letter code, i.e., JO or JS, must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401–9234.

Part VIII—Post Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

B. Attendance at Evaluation Workshops

Project directors and chief evaluators will be required to attend two national

evaluation workshops in Washington, D.C. A three-day program development and evaluation workshop will be scheduled shortly after the effective date of the grant. They also will be required to attend, as presenters, the final three-day evaluation workshop on utilization and dissemination to be held at the end of the project period. Project budgets must include funds for travel to and attendance at these workshops. (See Part IV, Element VI, Budget Appropriateness and Reasonableness.)

C. Reporting Requirements

Grantees will be required to submit semi-annual progress and financial reports (SF 269) as well as a final progress and financial report within 90 days of the expiration of the grant. An interim evaluation report, along with a written policies and procedures manual based on the findings of the process evaluation, will be due 30 days after the first eighteen months, and a final evaluation report will be due 90 days after the expiration of the grant. This final report will cover 36 months of activities related to project participants. Reporting requirements for the remaining 36 months of the project period will be provided during the solicitation of applications.

D. Audit Requirements

Grantees are subject to the audit requirements in 45 CFR Parts 74 (non-profit organization) and OMB Circular A–133.

E. Prohibitions and Requirements with regard to Lobbying

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the non-appropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment F, for certification and disclosure forms to be submitted with the applications for this program.

F. Applicable Federal Regulations

Attachment K indicates the regulations which apply to all applicants/grantees under the Job Opportunities for Low-Income Individuals Program.

Dated: May 24, 1996.

Thornell Page,

Executive Assistant to the Director, Office of Community Services.

Attachment A

1995 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$7,470
2	10,030
3	12,590
4	15,150
5	17,710
6	20,270
7	22,830
8	25,390

For family units with more than 8 members, add $2,580 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$9,340
2	12,540
3	15,740
4	18,940
5	22,140
6	25,340
7	28,540
8	31,740

For family units with more than 8 members, add $3,200 for each additional member. (The same increments applies to smaller family sizes also, as can be seen in the figures above.)

POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$8,610
2	11,550
3	14,490
4	17,430
5	20,370
6	23,310
7	26,250
8	29,190

For family units with more than 8 members, add $2,940 for each additional member. (The same increments applies to smaller family sizes also, as can be seen in the figures above.)

BILLING CODE 4184–01–P

Attachment B

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School Dist.
I State Controlled Institution of Higher Learning
J Private University
K Indian Tribe
L Individual
M Profit Organization
N Other (Specify) _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A Increase Award B Decrease Award C Increase Duration
D Decrease Duration Other (specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING		
a. Federal	$	00
b. Applicant	$	00
c. State	$	00
d. Local	$	00
e. Other	$	00
f. Program Income	$	00
g. TOTAL	$	00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities)

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

Attachment C

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)

BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4. Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Senate A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4). Line 6k should be the same as the sum of the amounts in Section, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applicantions and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers,

or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 92–646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

BILLING CODE 4184–01–P

Attachment E

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

Attachment F

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participate shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G—OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX: (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

Alabama

Jon C. Strickland, Alabama Department of Economic and Community Affairs, Planning and Economic Development Division, 401 Adams Avenue, Montgomery, Alabama 36103–5690, Telephone: (205) 242–5483, Fax: (205) 242–5515

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX (916) 323–3018.

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid, III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Barbara Beard, State Single Point of Contact, Department of Commerce and Community Affairs, 620 East Adams, Springfield, Illinois 62701, Telephone: (217) 782–1671, FAX: (217) 534–1627

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for, Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Jersey

Gregory W. Adkins, Assistant Commissioner, New Jersey Department of Community

Affairs. Please direct all correspondence and questions about intergovernmental review to: Andrew J. Jaskolka, State Review Process, Intergovernmental Review Unit CN 800, Room 813A, Trenton, New Jersey 08625–0800, Telephone: (609) 292–9025, FAX: (609) 633–2132

New Mexico

Robert Peters, State Budget Division, Room 190 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411. Please direct correspondence and questions about intergovernmental review to: Linda Wise, Telephone: (614) 466–0698, FAX: (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration/Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083. Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0385

Texas

Tom Adams, Governor's Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone: (802) 828–3326, FAX: (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, FAX: (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone: (307) 777–7574, FAX: (307) 638–8967

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444; (809) 723–6190, FAX: (809) 724–3270; (809) 724–3103

North Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802. Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

Attachment H

Certification Regarding Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OM
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

Federal Use Only: **Authorized for Local Reproduction**
Standard Form - LLL

BILLING CODE 4184–01–C

February 1996.

Attachment I—Jobs Program Directory

Alabama

Claire Ealy, Director, Office of Work and Training Services, Family Assistance, S. Gordon Persons Building, 50 Ripley Street, Montgomery, Alabama 36130, (334) 242–1950, Fax (334) 242–1086

Alaska

Val Horner, JOBS Program Officer, Division of Public Assistance, Department of Health and Social Services, P.O. Box 110640, Juneau, Alaska 99811–0640, (907) 465–5844, Fax (907) 456–5154

Arizona

Gretchen Evans, Administrator, JOBS/Food Stamp Employment and Training Administration, Dept. of Economic Security, P.O. Box 6123–710A, Phoenix, Arizona 85005, (602) 542–5954, Fax (602) 542–6310

Arkansas

Debbie Bousquet, Manager, Project SUCCESS, Department of Human Services, P.O. Box 1437, Mail Slot 1230, Little Rock, Arkansas 72203, (501) 682–8264, Fax (501) 682–1469

California

William Jordan, Acting Chief, Employment & Immigrations Programs Branch, Department of Social Services, 744 P Street M/S 6–700, Sacramento, California 95814, (916) 657–3442, Fax (916) 654–1516

Colorado

Mary Kay Cook, Program Manager, New Directions/JOBS Coordinator, Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203, (303) 866–2643, Fax (303) 866–5098

Connecticut

Nancy Wiggett, Program Manager, Planning Supervisor, Family Support Team, Department of Social Services, 25 Sigourney Street, Hartford, Connecticut 06106–5033, (860) 424–5329, Fax (860) 424–4966

Delaware

Rebecca Varella, Chief Administrator, Employment and Training, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720, (302) 577–4451, Fax (302) 577–4405

District of Columbia

Garland Hawkins, Acting Administrator, Bureau of Training and Employment, Department of Human Services, 33 N Street N.E., Washington, D.C. 20001, (202) 727–1293, Fax (202) 727–6589

Florida

Judith Moon, Project Director, Welfare Reform & Project Independence, Department of Health and Rehabilitative Services, 1317 Winewood Boulevard, Building 45, Room 421, Tallahassee, Florida 32399–0700, (904) 922–9622, Fax (904) 488–2589

Georgia

Sylvia Elam, Chief, Employment Services Unit, Division of Family and Children Services, Department of Human Resources, 2 Peachtree Street, 14th Floor, Room 318, Atlanta, Georgia 30303, (404) 657–3737, Fax (404) 657–3755

Guam

Julia Berg, Administrator, Bureau of Economic Security, P.O. Box 2816, Agana, Guam 96910, (011–671) 734–7286

Hawaii

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Idaho

Kathy James, Bureau Chief, Bureau of Family Self Support, Department of Health and Welfare/FACS, P.O. Box 83720, 450 West State Street, 7th Floor, Boise, Idaho 83720–0036, (208) 334–6618, Fax (208) 334–6664

Illinois

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Indiana

Jim Martin, Program Manager, IMPACT, Family Social Service Administration, 402 W. Washington, Room W 363, Indianapolis, Indiana 46204, (317) 232–2002, Fax (317) 232–4615

Iowa

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Kansas

Phyllis Lewin, Director, Employment Preparation Services, Department of Social and Rehabilitation Services, DSOB, 915 SW Harrison, Topeka, Kansas 66612–1500, (913) 296–3349, Fax (913) 296–0146

Kentucky

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Louisiana

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Maine

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Maryland

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Massachusetts

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Minnesota

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Missouri

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Nebraska

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New Hampshire

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New Jersey

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New Mexico

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New York

Ms. Patricia A. Stevens, Deputy Commissioner, Department of Social Services, Division of Temporary Assistance, 40 North Pearl Street, Albany, New York 12243, (518) 474–9222, Fax (518) 474–9347

North Carolina

Pheon Beal, Assoc. Employment Programs Section, Department of Human Resources, 325 North Salisbury Street, Raleigh, North Carolina 27611, (919) 733–2873, Fax (919) 715–5457

North Dakota

Gloria House, JOBS Administrator, Department of Human Services, 600 E. Boulevard, Bismarck, North Dakota 58505–0250, (701) 328–4005, Fax (701) 328–1544

Ohio

Joel Rabb, Director, Bureau of Welfare Reform and JOBS, Department of Human Services, State Office Tower, 31st Floor, 30 East Broad Street, Columbus, Ohio 43266–0423, (614) 466–3196, Fax (614) 728–2984

Oklahoma

Raymond Haddock, Division Administrator, Family Services Division, Department of Human Services, P.O. Box 25352, Oklahoma City, Oklahoma 73125, (405) 521–3076, Fax (405) 521–4158

Oregon

Susan Smit, JOBS Services Manager, Department of Human Resources, Adult and Family Services, 500 Summer Street, N.E., Salem, Oregon 97310–1013, (503) 945–6115, Fax (503) 373–7200

Pennsylvania

David Florey, Director, Bureau of Employment and Training Program, Department of Public Welfare, P.O. Box 2675, Harrisburg, Pennsylvania 17105, (717) 787–8613, Fax (717) 787–6765

Puerto Rico

Myrta Monges, JOBS Director, Department of the Family Administration of Social Economic Development, Isla Grande, Building #10, P.O. Box 11398, Santurce, Puerto Rico 00910, (809) 722–0045, Fax (809) 722–0275

Rhode Island

Sherry Campanelli, Associate Director, Community Services, Department of Human Services, 600 New London Avenue, Cranston, Rhode Island 02920, (401) 464–2423, Fax (401) 464–1876

South Carolina

Hiram Spain, Director, Business Industrial Relations, Office of Family Independence, P.O. Box 1520, Columbia, South Carolina 29202, (803) 737–5916, Fax (803) 734–6093

South Dakota

Julie Osnes, Food Stamps Administrator, Office of Family Independence, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501, (605) 773–3493, Fax (605) 773–6843

Tennessee

Wanda Moore, Director of Program Services, Department of Human Services, 12th Floor, 400 Deadericks, Nashville, Tennessee 37248, (615) 313–4866, Fax (615) 741–4165

Texas

Irma Bermea, Deputy Commissioner for Customer Self Support, DHS, P.O. Box 149030, MC E–309, Austin, Texas 78714–9030, (512) 450–4140, Fax (512) 438–4318

Utah

Helen Thatcher, Assistant Director, Office of Family Support, Department of Human Services, 120 North 200 West, Salt Lake City, Utah 84145–0500, (801) 538–8231, Fax (801) 538–4212

Vermont

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Virgin Islands

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Virginia

David Olds, Program Manager, Employment Services, Department of Social Services, 730 E. Broad Street, 2nd Floor, Richmond, Virginia 23219–1849, (804) 692–1229, Fax (804) 692–2209

Washington

Liz Dunbar, Director, Division of Employment & Social Services, Department of Social and Health Services, P.O. Box 45470, 1009 College Street S.E., Olympia, Washington 98504–5470, (360) 438–8400, Fax (360) 438–8258

West Virginia

Sharon Paterno, Director, Office of Family Support, Department of Health and Human Resources, Building 6, State Capitol Office Complex, Charleston, West Virginia 25305, (304) 558–5203, Fax (304) 558–3240,

Wisconsin

J. Jean Rogers, Administrator, Division of Economic Support, Department of Health and Social Services, P.O. Box 7935, 1 West Wilson Street, Madison, Wisconsin 53707–7935, (608) 266–3035, Fax (608) 261–6376

Wyoming

Ken Kaz, Welfare Reform Program Manager, Program and Policy Division, Department of Family Services, Hathaway Building, Third Floor, 2300 Capitol Avenue, Cheyenne, Wyoming 82002–0490, (307) 777–5841, Fax (307) 777–3693

Attachment J—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provisions of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

Attachment K—DHHS Regulations Applying to All Applicants/Grantees Under the Job Opportunities for Low-Income Individuals (JOLI) Program

Title 45 of the *Code of Federal Regulations:*

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (grants and subgrants to entities)
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
Part 85—Enforcement of Non-Discrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services
Part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance

Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (Federal Register, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment L—Business Plan

The business plan is one of the major components that will be evaluated by OCS to determine the feasibility of a jobs creation project. A business plan must be included if the applicant is proposing to establish a new identified business, or if the applicant will be providing assistance to a private third-party employer for the development or expansion of a pre-identified business.

The following guidelines were written to cover a variety of possibilities regarding the requirements of a business plan. Rigid adherence to them is not possible nor even desirable for all projects. For example, a business plan for a service business would not require discussion of manufacturing nor product designs. Therefore, the business plans should be prepared in accordance with the following guidelines:

1. *The business and its industry.* This section should describe the nature and history of the business and include background on its industry.

a. *The Business:* as a legal entity; the general business category;

b. *Description and Discussion of Industry:* Current status and prospects for the industry.

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold;

b. *Proprietary Position:* Describe proprietary features, if any, of the product, e.g. patents, trade secrets; and

c. *Potential:* Features of the product or service that may give it an advantage over the competition.

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment;

b. *Market Size and Trends:* State the size of the current total market for the product or service offered;

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services; and,

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market.

4. *Marketing Plan:* The marketing plan must describe what is to be done, how it will be done and who will do it. The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* This section of the plan should cover items such as Development Status, Tasks, Difficulties and Risks, Product Improvement, New Products and Costs. If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services. The management team is key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in operating the proposed business.

8. *Overall Schedule:* This section must include a month-by-month schedule that shows the timing of such major events, activities and accomplishments involving product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the correlation between the timing of the primary tasks required to accomplish each activity.

9. *Critical Risks and Assumptions:* This section should include a description of the risks and critical assumptions/problems relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture. Identify and discuss the critical assumptions/problems to overcome in the Business Plan. Major problems must clearly identify problems to be solved to develop the venture.

10. *Community Benefits:* The applicant should describe how the proposed project will contribute to the local economy, community and human economic development within the project's target area.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency of the business. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

a. Profit and Loss Forecasts—quarterly for each year;

b. Cash Flow Projections—quarterly for each year;

c. Pro forma balance sheets—quarterly for each year;

d. Initial sources of project funds;

e. Initial uses of project funds; and

f. Any future capital requirements and sources.

12. *Facilities:* If rearrangement or alteration of existing facilities is required to implement the project, the applicant must describe and justify such changes and related costs.

Attachment M—Federal Highway Administration, Regional Civil Rights Directors

Region One—Includes CT, ME, MA, NH, NJ, NY, RI, VT, Puerto Rico, and the Virgin Islands, Mr. Dennis Perrott, Albany, NY, (518) 431–4224, ext. 247
Region Three—Includes DE, DC, MD, PA, VA, WV, Ms. Jo Blackstone, Baltimore, MD, (410) 962–4030
Region Four—Includes AL, FL, GA, KY, MS, NC, SC, TN, Mr. Charles Stinson, Atlanta, GA, (404) 347–4791
Region Five—Includes IL, IN, MI, MN, OH, WI, Mr. Joe Forst, Olympia Fields, IL, (708) 283–3560
Region Six—Includes AR, LA, NM, OK, TX, Mr. Humberto Martinez, Fort Worth, TX, (817) 334–3671
Region Seven—Includes IA, KS, MO, NE, Mr. Glen Smith, Kansas City, MO, (816) 276–2747
Region Eight—Includes CO, MT, ND, SD, UT, WY, Ms. Teresa Banks, Lakewood, CO, (303) 969–6707
Region Nine—Includes AZ, CA, HI, NV, Guam, and American Samoa, Mr. Harold Dorell, San Francisco, CA, (415) 744–3114
Region Ten—Includes AK, ID, OR, WA, Mr. Willie Harris, Portland, OR, (503) 326–2067

Attachment N—Certification Regarding Maintenance of Effort

The undersigned certifies that:

(1) activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried on without Federal assistance.

(2) funds or other resources currently devoted to activities designed to meet the needs of the poor within a community, area, or State have not been reduced in order to provide the required matching contributions.

When legislation for a particular block grant permits the use of its funds as match, the applicant must show that it has received a real increase in its block grant allotment and must certify that other anti-poverty programs will not be scaled back to provide the match required for this project.

_____
Organization

_____
Authorized Signature

_____
Title

_____
Date

Attachment O—Optional Checklist To Use in Submitting OCS Grant Application (for Use of Applicant Only)

Each application submission should include a signed original and four additional copies of the application. Each application should include the following in the order presented:

1. Table of Contents;

2. Completed Standard Form 424 which has been signed by an Official of the organization applying for the grant who has authority to obligate the organization legally;

Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization.

3. *Budget Information-Non-Construction Programs* (SF–424A);

4. A narrative budget justification for each object class category required under Section B, SF–424A;

5. Filled out, signed, and dated Assurances-Non-Construction Programs (SF–424B);

6. An acknowledgement, as set forth in attachments E and F, that by signing and submitting this application, the applicant is certifying that it will comply with the Federal requirements concerning a drugfree workplace and debarment regulations (no signature required on form);

7. Filled out, signed, dated form (Attachment H) containing restrictions on Lobbying, Certification for Contracts, Grants, Loans, and Cooperative Agreements;

8. Disclosure of Lobbying Activities, SF–LLL; Filled out, signed, and dated form found at Attachment H, if appropriate;

9. Certification Regarding Environmental Tobacco Smoke—Signature on the application attests to the applicants intent to comply with the requirements of the Pro-Children Act of 1994 (no signature required on form).

10. An Executive Summary—not to exceed 300 words;

11. A Project Narrative of no more than 30 pages, consisting of the Elements described in Part IV of this Announcement set forth in the order there presented; preceded by a consecutively numbered Table of Contents (not to be counted as part of the 30 pages).

12. Appendices—proof of tax-exempt status as outlined in Part II, Section A; proof that the organization is a community development corporation, if applying under the CDC Set-aside; commitments from officials of businesses that will be expanded or franchised, where applicable; partnership agreement with State IV–A (JOBS Program) agency; Single Point of Contact comments, if applicable; resumes and position descriptions; a Business Plan, where required; and the Maintenance of Effort Certification.

The total number of pages for the narrative portion of the application package must not exceed 30 pages, excluding Appendices and Narrative Table of Contents.

Pages should be numbered sequentially throughout, including Appendices, beginning with the SF 424 as Page 1.

The application may also contain letters that show collaboration or substantive commitments to the project by organizations other than the JOBS agency. Such letters are not part of the narrative and should be included in the Appendices. These letters are, therefore, not counted against the 30 page limit.

[FR Doc. 96–13566 Filed 5–31–96; 8:45 am]

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Federal Register

Monday
June 3, 1996

Part III

Department of the Interior
Fish and Wildlife Service

Department of Commerce
National Marine Fisheries Service

Notice of Policy for Conserving Species Listed or Proposed for Listing Under the Endangered Species Act While Providing and Enhancing Recreational Fisheries Opportunities; Notice

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Marine Fisheries Service

Notice of Policy for Conserving Species Listed or Proposed for Listing Under the Endangered Species Act While Providing and Enhancing Recreational Fisheries Opportunities

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, Commerce.

ACTION: Notice of policy.

SUMMARY: The Fish and Wildlife Service and the National Marine Fisheries Service (Services) have adopted a policy that will address the conservation needs of species listed, or proposed to be listed, under the Endangered Species Act of 1973, as amended (ESA) while providing for the continuation and enhancement of recreational fisheries. This policy identifies measures the Services will take to ensure consistency in the administration of the ESA between and within the two agencies, promote collaboration with other Federal, State, and Tribal fisheries managers, and improve and increase efforts to inform nonfederal entities of the requirements of the ESA while enhancing recreational fisheries. This policy meets the requirements set forth in Section 4 of Executive Order 12962, Recreational Fisheries.

EFFECTIVE DATE: July 3, 1996.

ADDRESSES: The complete record pertaining to this action is available for inspection, by appointment, during normal business hours at the Division of Endangered Species, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 452, Arlington, Virginia 22203 (telephone 703/358–2171).

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service (703/358–2171), or Patricia Montanio, Acting Director, Office of Protected Resources, National Marine Fisheries Service (301/713–1401).

SUPPLEMENTARY INFORMATION:

Background

The ESA specifically charges the Secretaries of the Interior and Commerce with the responsibility to identify, protect, manage, and recover species of plants and animals in danger of extinction. The ESA also specifically identifies the protection and conservation of ecosystems upon which federally listed species depend as among the legislation's purposes (16 U.S.C. § 1531(1)).

In addition to the ESA, many Federal laws recognize the importance of aquatic resources (e.g., Fish and Wildlife Act of 1956, Fish and Wildlife Coordination Act, Anadromous Fish Conservation Act, Federal Water Project Recreation Act, Federal Aid in Sport Fish Restoration Act, National Wildlife Refuge System Administration Act of 1966, Magnuson Fishery Conservation and Management Act, Marine Sanctuaries Act, Coastal Zone Management Act, National Recreation Act of 1962, and National Environmental Policy Act). These laws outline the roles of Federal agencies to protect, restore, and conserve aquatic resources, and to provide for and enhance fisheries and recreational uses; some apply only to activities undertaken, permitted, licensed, or funded by a Federal agency.

Most of North America's aquatic environments and biological communities have been significantly altered by human impacts. Degraded habitats have reduced the capacity of aquatic ecosystems to support former diversity and abundance of native fish and other freshwater species. Degraded and altered habitats are the most frequently cited factors contributing to population extirpation and decline among federally protected endangered and threatened aquatic species. Likewise, losses of suitable aquatic habitats have resulted in significant declines among many native recreational and non-game fish species and other aquatic organisms.

As of May 1, 1996, within the United States, 106 taxa of fish and 57 species of freshwater mussels were on the Federal threatened or endangered species list (50 CFR 17.11 & 17.12). Approximately 36 percent of the fishes, 64 percent of the crayfishes, and 69 percent of the freshwater mussels in the United States are considered imperiled or extinct (data from the National Network of Natural Heritage Programs and Conservation Data Centers and The Nature Conservancy, Eastern Regional Office, Boston, Massachusetts).

The Services recognize that fishery resources and aquatic ecosystems are integral components of our heritage and play an important role in the Nation's social, cultural, and economic well-being. Annually, approximately 50 million anglers spend $24 billion directly on tackle, equipment, food and lodging, and other recreational fishing-related expenses. The total economic output (wholesale, retail, manufacturing, and supply of goods and services) stimulated by recreational angler spending exceeded $69 billion in 1991. Those expenditures generated over $2.1 billion in Federal tax revenues, and provided employment for approximately 1.3 million people nation-wide.

In the past, resource managers may not have understood many of the effects of some management actions on ecosystems to the extent they do today. Habitat alteration and degradation, heavy fishing pressure, and introduction of non-native species often resulted in unexpected negative impacts to other ecosystem components. As today's managers realize more fully the impacts of their actions, they also realize that they must be more cautious in the activities they prescribe in natural ecosystems. The benefits gained by some actions may result in losses to non-target species or habitats. This has led to conflicts between some efforts to conserve native species and their communities, and obligations to maintain and enhance recreational fishing opportunities. These issues have been of particular concern in those instances where the Services' responsibilities for both recreational fisheries and recovery of federally protected species have been in conflict.

The altered condition of many aquatic ecosystems limits their ability to support fish and other aquatic organisms. Successful future management of the Nation's aquatic resources must become more focused on an ecosystem approach to management that recognizes multiple uses of aquatic systems. Management of biological resources must be based on a sound scientific understanding of species' life histories, habitat requirements, and ecosystem processes. Resource managers and administrators must recognize the intrinsic, aesthetic, recreational, and economic importance of these same resources and assess their ability to meet the needs and desires of a variety of interests. Successful future management of aquatic resources requires substantive cooperative partnerships and a willingness to resolve differences among the Services and other Federal agencies, States, Native American governments, and private stakeholders. Such cooperation and problem solving must be based on a framework of mutually recognized concerns and common goals developed by all the stakeholders in a given area.

On June 7, 1995, President Clinton issued Executive Order 12962, Recreational Fisheries. That order requires Federal agencies, to the extent permitted by law and where practical and in cooperation with States and

Tribes, to improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities. Among other actions, the order requires all Federal agencies to aggressively work to promote compatibility and reduce conflict between administration of the ESA and recreational fisheries.

Summary of Comments and Recommendations

The Services' draft policy on this subject was published on December 13, 1995 (60 FR 64070) and public comment was invited. The Services reviewed all comments received, and suggestions and clarifications have been incorporated into this final policy text. The following describes the comments received and the Services' responses.

The Services received 28 letters of comment from individuals and organizations on the draft policy. Twenty three letters of comment were supportive. Four letters were critical of aspects of the policy. One letter stated no position on the draft policy. The major issues raised and the Services' responses are identified and discussed below.

Issue: The draft policy does not explicitly assert the authority of the ESA and the specific obligations of Federal agencies, including the Services, to conserve and recover Federally listed species. The primary emphasis of the draft policy appears to be on moderating ESA conservation mandates.

Services' Response: Appropriate clarifications of the Services' ESA responsibilities were made in the text of the policy.

The Services do not intend that this policy diminish or abrogate Federal agency responsibilities under the ESA. This has been stated at the beginning of the Policy. The Services recognize that the primary goal of the ESA is ''conservation,'' defined as: ''the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.'' The Services and other Federal agencies are aware of their responsibilities ''[to] utilize their authorities in furtherance of the purposes of [the ESA] by carrying out programs for the conservation of endangered species and threatened species [.]''

Section 4 of the Executive Order 12962 directed the Services to develop this policy. Section 4 of E.O. 12962 also instructs all Federal agencies to ''aggressively work to identify and minimize conflicts between recreational fisheries and their respective responsibilities under the Endangered Species Act of 1973.'' The Services will meet, within the requirements of the ESA, such challenges with the intent to resolve conflicts without disadvantage to either conservation of listed species or recreational fisheries interests.

Issue: By developing this policy the Services have singled out recreational fishing interests for favorable treatment relative to administration and implementation of the ESA. Other interests affected by implementation of the ESA should be offered similar opportunities for development of formal policy.

Services' Response: The Services have developed guidance, position statements, and policies, and are developing rulemakings to reduce conflicts associated with administration of the ESA among a broad range of interests. These include the Administration's ''Ten Principles for Federal Endangered Species Act Policy,'' a series of guiding tenets within the Departments of the Interior and Commerce to provide a fair, cooperative, and scientifically sound approach to the management of Federally listed species recovery. They include such policies as the Services' joint policies on peer review (59 FR 34270); information standards (59 FR 34271); recovery plan participation (59 FR 34272); the Services' ecosystem approach (59 FR 34273); and effectively enhancing the role of State agencies in ESA activities (59 FR 34274). Additional policies and handbooks, addressing such issues as habitat conservation planning and incentives for private landowners to become involved in conserving listed species are being developed. The Services, singularly or jointly, also have developed numerous Memoranda of Understanding or Agreement, and other instruments with other Federal agencies, States, local governments, and private entities to cooperatively conserve and recover listed species. These provide flexibility to a number of interests and enhance opportunities for affected interests to participate in administration and implementation of the ESA.

This policy comes at the direction of Section 4 of Executive Order 12962. Development of this policy is appropriate because issues that involve Federally listed aquatic species and conservation of aquatic habitats, including recreational fisheries issues, are national in scope. In some instances these issues are international. This policy does not alter any ESA obligations, but does minimize administrative problems and maximizes management communications.

Issue: The draft policy would extend fishery goals beyond recovery of threatened and endangered fish stocks and seek higher population levels to support sustainable recreational fisheries.

Services' Response: This policy would not extend fishery goals under the ESA beyond recovery criteria as identified in recovery plans. However, fisheries managers will continue to seek sustainable recreational fisheries, with or without this policy.

Issue: The draft policy focuses too much on habitat issues, thereby failing to present a balanced and accurate account of the various factors that have contributed to the decline of our Nation's fisheries resources. Natural environmental factors also have played a role in fish population declines.

Services' Response: The Services intend to continue to address all factors contributing to the decline of listed species, rather than focusing on one particular factor, such as habitat degradation. For example, NMFS recommends in its draft Snake River Salmon Recovery Plan that mortality due to harvest, hydropower operations, habitat degradation, hatchery practices, and other sources be reduced. Both Services recognize that typically, no one sector is responsible for the recovery of a species. The Services also acknowledge that factors beyond human control, such as El Nino events, have contributed to the decline of various species or stocks. Since these latter factors are beyond human control, the Services must act to reduce mortalities caused by factors which can be controlled.

Issue: The draft policy could be used to allow, or even promote, the direct or indirect taking of listed or proposed species of fish.

Services' Response: The policy would not change the ESA in any way. The Services still intend to evaluate actions that may adversely affect listed or proposed species and recommend actions to avoid the risks of jeopardy to the continued existence and recovery of these species. Where ESA requirements conflict with recreational fisheries, the Services will try to identify measures to resolve these conflicts within the requirements of the ESA. Incidental take permits, if issued, would be granted only when the actions considered would not be likely to jeopardize an affected species' continued existence or its recovery. For proposed species, Federal agencies will still be required to confer on federal actions that would be likely to jeopardize them. Direct takes

are only authorized for research and enhancement purposes, and, for threatened species, in a conservation plan under section 4(d) of the ESA.

Issue: The policy is vague or lacks specific focus.

Services' Response: The purpose of this policy is to provide guidance and direction for the resolution of existing or potential conflicts between the ESA and recreational fishing interests. Conflicts or potential conflicts may touch on a variety of constituents, societal and economic interests, geographic and biological issues, as well as political considerations. As discussed above, the issues associated with this policy are quite variable. In order to provide the intended guidance in these matters, while allowing adaptive solution-finding approaches to evolve, the policy framework must be broad thus retaining opportunities for innovation and flexibility. The policy objectives are to develop workable goals and objectives understood by Federal agencies, States, Tribes, recreational anglers, and any other interested parties. The Services' believe that this document meets those needs.

Issue: Use of the terms ''stakeholders'' and ''partner'' does not clearly define the intended parties.

Services' response: Both Services intend that the use of the terms ''stakeholders'' and ''partners'' is not reserved for recreational fishing interests. As used in this policy, these terms are intended to include conservation groups, local government organizations, land and water users, power consumers, and others affected by the ESA and recreational fisheries issues or having interest in these issues. The Services will pursue a policy of participatory inclusion rather than of limitation or exclusion.

Issue: Policy point 2.C calls for management practices ''that are consistent with recovery objectives and compatible with existing recreational fisheries.'' Existing recreational fisheries in this region [Pacific Northwest] often rely heavily upon releases of hatchery fish, a known impediment to wild fish recovery, and may need to be extremely curtailed or even closed in order to prevent further declines in wild fish populations.

Services' Response: Both Services recognize that efforts to restore or save a native species or particular population necessary to recovery may involve decisions which may be biologically sound but which may be unpopular among constituents. This policy does not preclude such decisions. However, it is the purpose of this Policy to seek ways to resolve issues in such a way as to reduce conflicts between administration of the ESA and recreational fisheries by avoiding conflicts when possible and attenuating the unpopularity of decisions that cannot be avoided.

Issue: Point 2.D calls on Federal agencies to ''identify priorities for the restoration of aquatic habitats needed to conserve and recover'' imperiled fish while working ''concurrently to support increased recreational fishing opportunities to the maximum extent possible.'' Such a statement presupposes that increasing ''recreational fishing opportunities to the maximum extent possible'' would not be an issue in recovery efforts. We believe the opposite to be true.

Services' Response: The Services have made changes to the policy text to clarify the Services' intent. The qualifier in the draft policy, ''to the maximum extent possible'' acknowledged that there could very well be conflicts with recovery, but that the Services will do the best they can to accommodate recreational fishing.

Issue: Point 2.F calls for ''coordinating the reintroduction of listed species into former habitats with recreational fisheries interests.''

Recovery of wild salmonids is going to happen because of habitat availability, rather than on an experimental basis at the whim of user groups whose interest is in avoiding the presence of a listed species.

Services' Response: Part 2.F identifies the Services' intention to involve all affected or interested parties in the recovery process. This is consistent with the Services' policy on recovery planning.

Issue: Point 2.G calls for evaluating proposed introductions of non-indigenous species or hybrids based upon, among other things, ''recreational fisheries and other socio-economic objectives.'' These potential ''concerns'' are not a logical, appropriate or legal basis for such proposed introductions.

Services' Response: The purpose of this section is to acknowledge that there are additional principles of sound fisheries management that also will be considered, as well as other guidance, policies and legal responsibilities, when considering introduction of non-native aquatic species to aquatic systems.

Issue: Point 2.H calls for adjusting recovery strategies to ''minimize adverse effects on recreational fisheries.'' Recovery strategies need not consider impacts to recreational fisheries by law.

Services' Response: This section addresses a need for the appropriate entities to evaluate recovery activities and recreational fishing activities to assess their status and effects upon recovery. If issues are identified which are unnecessary impediments to the restoration or enhancement of recreational fisheries, they should be corrected to the extent that this is possible. The Services however, do not intend that necessary recovery strategies or tasks be modified to minimize impacts on recreational fisheries. The shared and cooperative evaluation of recovery needs and concurrent examination of recreational fishing activities are vital elements for avoiding and resolving conflicts and establishing mutually agreed strategies and goals.

Issue: Point 2.I calls for coordinating reintroductions of Federally listed species with activities needed to enhance recreational fisheries, specifically as they relate to using historical ranges (watersheds) of wild species for the benefit of recreational fishing. Such a policy contradicts the ESA.

Services' Response: The text in the final policy has been modified. However, the policy does not contradict the ESA. This policy section addresses the need for assessments regarding potential habitat use by both listed species and recreational fisheries species. Recreational fishing is not always the cause of decline, nor are recreational fishing activities necessarily an inherent threat to listed aquatic species.

Issue: Point 3. The Services * * * will provide the public with a better understanding of recreational fisheries by * * *'' This point illustrates our concern over this policy's treatment of the ESA and species recovery.

Services' Response: The Services continue to support educational outreach toward recreational anglers on issues of endangered and threatened species recovery.

Issue: Point 3.A ''Involving the public in identifying opportunities to enhance recreational fisheries.'' This point does not reflect the importance of the scientific knowledge contained in recovery plans.

Service Response: The intent of section 3.A is to acknowledge the significant role that non-governmental organizations and individuals can play in achieving the goals of listed species recovery and this policy.

Issue: 3.C ''Assisting to identify and provide * * * comparable alternative recreational opportunities when existing recreational fishing opportunities are altered or curtailed to meet objectives for conservation of Federally listed or proposed species.'' Comparable recreational opportunities as some sort of mitigation for species recovery is not

a requirement of the ESA, and in specific instances could be quite counterproductive.

Service Response: This policy statement addresses a situation where a species' continued existence could be in danger due to a recreational fishery or associated activity. It may be possible that a different fishery could be established which would not threaten the existing fishery. Possibly a new fishery could be established elsewhere, or a degraded fishery improved as a replacement.

The statement of one respondent that recovery cannot be made compatible with recreational fishing in every instance and location may well be true. However, the purpose of the Policy is to affirm that the Services will approach each instance with an open-minded approach to resolve such conflicts in a manner acceptable to all parties, using innovative methods where necessary, and within the requirements of the ESA.

Issue: The policy should direct the Services to develop a framework plan or action plan for implementation that would address such items as how the Services will specifically ''encourage management actions * * * or support management practices * * * ''

Services' Response: The Services agree that the Policy will be effective only when they take action to implement it. The Services have identified implementation mechanisms and will pursue those that are expeditious and appropriate.

Policy

The Services recognize the primary responsibility of State and Tribal governments for the protection and management of fish, wildlife, and plant resources within their jurisdictions. The Federal government, however, has public trust responsibilities and statutory responsibilities to conserve endangered and threatened species listed under the ESA and, to that extent, this policy does not diminish or abrogate that responsibility particularly as it applies to section 6 (Cooperation With the States), section 7 (Interagency Cooperation), section 9 (Prohibited Acts), and section 10 (Exceptions). This policy is to affirm the Services' intent to minimize and resolve conflicts between implementation of the ESA and activities to enhance recreational fishery resources and recreational fishing opportunities. This will be accomplished through cooperative partnerships with other Federal agencies, State and local governments, Tribal governments, recreational fisheries interests, conservation organizations, industry, and other interested stakeholders. Activities to be undertaken by the Services with respect to implementation of the ESA include the following:

1. The Services will increase efforts to develop mutually accepted goals and objectives among the involved Federal agencies, States, Tribal governments, conservation organizations, recreational fisheries communities, and other interested entities for the conservation of listed species by:

A. Ensuring consistency in ESA implementation between and within the Services;

B. Promoting cooperative interaction with other Federal agencies, States, Tribal governments, conservation organizations, and recreational fisheries stakeholders at appropriate organizational levels in implementing the ESA;

C. Promoting collaboration and information sharing among Federal agencies, States, Tribal governments, conservation organizations and recreational fisheries stakeholders;

D. Coordinating with all affected stakeholders, partners, and interested parties throughout the decision-making processes on federally listed species issues that may affect recreational fisheries; and

E. Improving and increasing efforts to inform both Federal and non-Federal entities of the requirements of the ESA with particular reference to sections 6, 7, 9, and 10 of the ESA.

2. The Services will encourage participation of other Federal agencies, States, Tribal governments, conservation organizations, recreational fisheries stakeholders, and other interested parties in developing, implementing, and reviewing actions identified in approved recovery plans for listed species by:

A. Involving other Federal agencies, States, Tribal governments, conservation organizations, recreational fisheries stakeholders, and other affected or interested parties in recovery planning and implementation;

B. Encouraging proactive management and habitat conservation, restoration, and enhancement projects on public and private lands and waters to conserve federally listed or proposed aquatic species and to support similar measures to prevent further decline of species and loss of habitat to preclude the need to list additional species under the ESA;

C. Supporting management practices that are consistent with recovery objectives and compatible with existing recreational fisheries;

D. Identifying priorities for the restoration of aquatic habitats needed to conserve and recover federally listed and proposed species and, concurrently, to support increased recreational fishing opportunities to the extent possible;

E. Encouraging management actions that protect and conserve aquatic habitats, ecological processes and the diversity of aquatic communities;

F. Coordinating the reintroduction of listed species into former habitats within the species' historical range with other Federal agencies, States, Tribal governments, and other interested or affected entities, including recreational fisheries stakeholders;

G. Evaluating the potential impacts of proposed introductions of non-indigenous species or hybrids in drainages supporting federally listed or proposed species. Such introductions must be based on management plans incorporating genetics considerations, disease control, ecological principles, and listed species recovery objectives, as well as recreational fisheries and other socio-economic objectives;

H. Ensuring the effectiveness of actions taken to recover listed species and manage recreational fisheries by periodically evaluating conservation and recovery strategies and, where possible, adjusting those actions to minimize adverse effects on recreational fisheries;

I. Eliminating unnecessary recovery based restrictions affecting recreational fisheries. Priority will be given to cooperatively reviewing recovery based restrictions affecting recreational fisheries in areas currently unoccupied but within known historical range of listed species.

J. Encouraging States to increase their participation in listed aquatic endangered, threatened, and proposed species recovery through section 6 grants; and

K. Assisting the States and Tribal governments in meeting their recreational fishing goals.

3. The Services, in cooperation with other Federal agencies, State and local governments, Tribal governments, non-governmental organizations, and recreational fisheries stakeholders will provide the public with a better understanding of the relationship between conservation and recovery of federally listed and proposed species and recreational fisheries by:

A. Informing the fishing and non-fishing public about the ESA. Such efforts will include, but not be limited to, addressing topics such as the incidental take of listed species, the use of ESA 4(d) rules, habitat conservation planning, and other adaptive conservation tools;

B. Involving the public in identifying opportunities to enhance recreational fisheries while providing for the conservation of federally listed species, and in identifying and implementing solutions to aquatic systems degradation; and

C. Assisting to identify and provide, contingent on appropriations and other constraints, comparable alternative recreational angling opportunities when existing ones are altered or curtailed to meet objectives for conservation and recovery of federally listed or proposed species.

4. To meet particular mandates to conserve federally endangered, threatened, or proposed species while providing and enhancing recreational fishery resources and fishing opportunities, the Services will:

A. Work with the recreational fisheries community in evaluating accomplishments, including those of the Services, toward meeting the prescriptions of this policy; and

B. Restore and enhance aquatic habitats to conserve Federal endangered, threatened, and proposed species and increase recreational fishing opportunities consistent with agency missions, authorities, and initiatives.

Scope of Policy

This policy applies to all pertinent organizational elements of the Services and includes all efforts funded, authorized, or carried out by the Services relative to recreational fisheries and implementation of the ESA.

Author/Editor

The editors of this policy are David Harrelson of the Fish and Wildlife Service's Division of Endangered Species, Bob Batky of the Fish and Wildlife Service's Division of Fish Hatcheries, and Marta Nammack of the National Marine Fisheries Service's Endangered Species Division.

Authorities

Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544), Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j), Fish and Wildlife Coordination Act (16 U.S.C. 661–667e), Federal Water Project Recreation Act (16 U.S.C. 460 (L)(12)–460(L)(21), Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777–777k), Anadromous Fish Conservation Act (16 U.S.C. 757a–757g), Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801–1862), National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347).

Dated: May 14, 1996.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service, Department of the Interior.

Dated: May 20, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

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Part IV

Environmental Protection Agency

Interim Policy on Compliance Incentives for Small Businesses; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5512–7]

Interim Policy on Compliance Incentives for Small Businesses

AGENCY: Office of Enforcement and Compliance Assurance, EPA.

ACTION: Notice of final policy.

SUMMARY: The Office of Enforcement and Compliance Assurance (EPA) is issuing this *Final Policy on Compliance Incentives for Small Businesses.* This Final Policy is intended to promote environmental compliance among small businesses by providing them with incentives to participate in compliance assistance programs or to conduct environmental audits and to then promptly correct violations. The Policy accomplishes this in two ways: by setting forth guidelines for the Agency to reduce or waive penalties for small businesses that make good faith efforts to correct violations, and by providing guidance for States and local governments to offer these incentives.

EFFECTIVE DATE: This Policy is effective June 10, 1996.

FURTHER INFORMATION CONTACT: David Hindin, 202–564–2235, Office of Regulatory Enforcement, Mail Code 2248–A, or Karin Leff, 202–564–7068, Office of Compliance, Mail Code 2224–A, United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: Pursuant to this Policy, EPA will refrain from initiating an enforcement action seeking civil penalties, or will mitigate civil penalties, whenever a small business makes a good faith effort to comply with environmental requirements by receiving on-site compliance assistance or promptly disclosing the findings of a voluntarily conducted environmental audit, subject to certain conditions. These conditions require that the violation: is the small business's first violation of the particular requirement; does not involve criminal conduct; has not and is not causing a significant health, safety or environmental threat or harm; and is remedied within the corrections period. Moreover, EPA will defer to State actions that are consistent with the criteria set forth in this Policy.

This Final Policy supersedes the Interim version of the Policy issued in June 1995. See 60 FR 32675, June 23, 1995. The Agency revised the Interim version based on the comments we received from the public in response to the Federal Register notice, as well as the comments we received from EPA Regional offices and States. The major change in this final version of the Policy is to allow small businesses to obtain the penalty relief provided by this Policy not only by using on-site compliance assistance, but also by conducting an environmental audit, and promptly disclosing and correcting the violations. There are two reasons for this change. First, this addresses the major criticism of the Interim Policy that there are few on-site compliance assistance programs sponsored or run by government agencies. Thus, this change enables more small businesses to use the Policy. Second, fairness suggests that if small businesses who seek tax-payer funded compliance assistance from the government can get penalty relief, then businesses who spend their own money to do an audit, should be able to get similar relief.

We also have slightly modified the penalty relief guidelines in section F of the Policy. Guidelines 1 and 2 remain the same as they were in the June 1995 Interim version. We have added a new third guideline which states:

> 3. If a small business meets all of the criteria, except it has obtained a significant economic benefit from the violation(s) such that it may have obtained an economic advantage over its competitors, EPA will waive up to 100% of the gravity component of the penalty, but may seek the full amount of any economic benefit associated with the violations. EPA retains this discretion to ensure that small businesses that comply with public health protections are not put at serious marketplace disadvantage by those who have not complied. EPA anticipates that this will occur very infrequently.

This new guideline is necessary to ensure that we continue to provide a national level playing field. Small businesses that make significant expenditures to comply with the law should not be put at an economic disadvantage by those who did not comply. Most of the other changes in the final Policy are clarifications or editorial in nature. The entire text of the Policy appears below.

Dated: May 10, 1996.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency.

A. Introduction

This document sets forth the U.S. Environmental Protection Agency's Policy on Compliance Incentives for Small Businesses. This Policy is one of the 25 regulatory reform initiatives announced by President Clinton on March 16, 1995, and implements, in part, the Executive Memorandum on Regulatory Reform, 60 FR 20621, April 26, 1995.

The Executive Memorandum provides in pertinent part:

> To the extent permitted by law, each agency shall use its discretion to modify the penalties for small businesses in the following situations. Agencies shall exercise their enforcement discretion to waive the imposition of all or a portion of a penalty when the violation is corrected within a time period appropriate to the violation in question. For those violations that may take longer to correct than the period set by the agency, the agency shall use its enforcement discretion to waive up to 100 percent of the financial penalties if the amounts waived are used to bring the entity into compliance. The provisions [of this paragraph] shall apply only where there has been a good faith effort to comply with applicable regulations and the violation does not involve criminal wrongdoing or significant threat to health, safety, or the environment.

This Policy also implements section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996, signed into law by the President on March 29, 1996.

As set forth in this Policy, EPA will refrain from initiating an enforcement action seeking civil penalties, or will mitigate civil penalties, whenever a small business makes a good faith effort to comply with environmental requirements by receiving compliance assistance or promptly disclosing the findings of a voluntarily conducted environmental audit, subject to certain conditions. These conditions require that the violation: is the small business's first violation of the particular requirement; does not involve criminal conduct; has not and is not causing a significant health, safety or environmental threat or harm; and is remedied within the corrections period. Moreover, EPA will defer to State actions that are consistent with the criteria set forth in this Policy.

B. Background

The Clean Air Act (CAA) Amendments of 1990 require that States establish Small Business Assistance Programs (SBAPs) to provide technical and environmental compliance assistance to stationary sources. On August 12, 1994, EPA issued an enforcement response policy for stationary sources which provided that an authorized or delegated state program may, consistent with federal requirements, either:

> (1) Assess no penalties against small businesses that voluntarily seek compliance assistance and correct violations revealed as a result of compliance assistance within a limited period of time; or
>
> (2) Keep confidential information that identifies the names and locations of specific

small businesses with violations revealed through compliance assistance, where the SBAP is independent of the state enforcement program.

In a further effort to assist small businesses to comply with environmental regulations, and to achieve health, safety, and environmental benefits, the Agency is adopting a broader policy for all media programs, including water, air, toxics, and hazardous waste.

C. Purpose

This Policy is intended to promote environmental compliance among small businesses by providing incentives for them to participate in on-site compliance assistance programs and to conduct environmental audits. Further, the Policy encourages small businesses to expeditiously remedy all violations discovered through compliance assistance and environmental audits. The Policy accomplishes this in two ways: by setting forth a settlement penalty Policy that rewards such behavior, and by providing guidance for States and local governments to offer these incentives.

D. Applicability

This Policy applies to facilities owned by small businesses as defined here. A small business is a person, corporation, partnership, or other entity who employs 100 or fewer individuals (across all facilities and operations owned by the entity).[1] This definition is a simplified version of the CAA § 507 definition of small business. On balance, EPA determined that a single definition would make implementation of this Policy straightforward and would allow for consistent application of the Policy in a multimedia context.

This Policy is effective June 10, 1996 and on that date supersedes the Interim version of this Policy issued on June 13, 1995 and the September 19, 1995 Qs and As guidance on the Interim version. This Policy applies to all civil judicial and administrative enforcement actions taken under the authority of the environmental statutes and regulations that EPA administers, except for the Public Water System Supervision Program under the Safe Drinking Water Act.[2] This Policy applies to all such actions filed after the effective date of this Policy, and to all pending cases in which the government has not reached agreement in principle with the alleged violator on the amount of the civil penalty.

This Policy sets forth how the Agency expects to exercise its enforcement discretion in deciding on an appropriate enforcement response and determining an appropriate civil settlement penalty for violations by small businesses. It states the Agency's views as to the proper allocation of enforcement resources. This Policy is not final agency action and is intended as guidance. It does not create any rights, duties, obligations, or defenses, implied or otherwise, in any third parties. This Policy is to be used for settlement purposes and is not intended for use in pleading, or at hearing or trial. To the extent that this Policy may differ from the terms of applicable enforcement response policies (including penalty policies) under media-specific programs, this document supersedes those policies. This Policy supplements, but does not supplant the August 12, 1994 Enforcement Response Policy for Treatment of Information Obtained Through Clean Air Act Section 507 Small Business Assistance Programs.

E. Criteria for Civil Penalty Mitigation

EPA will eliminate or mitigate its settlement penalty demands against small businesses based on the following criteria:

1. The small business has made a good faith effort to comply with applicable environmental requirements *as demonstrated by satisfying either a. or b. below.*

a. Receiving on-site compliance assistance from a government or government supported program that offers services to small businesses (such as a SBAP or state university), and the violations are detected during the compliance assistance. If a small business wishes to obtain a corrections period after receiving compliance assistance from a confidential program, the business must promptly disclose the violations to the appropriate regulatory agency.

b. conducting an environmental audit (either by itself or by using an independent contractor) and promptly disclosing in writing to EPA or the appropriate state regulatory agency all violations discovered as part of the environmental audit pursuant to section H of this Policy.

For both a. and b. above, the disclosure of the violation must occur before the violation was otherwise discovered by, or reported to the regulatory agency. See section I.1 of the Policy below. Good faith also requires that a small business cooperate with EPA and provide such information as is necessary and requested to determine applicability of this Policy.

2. *This is the small business's first violation of this requirement.* This Policy does not apply to businesses that have previously been subject to an information request, a warning letter, notice of violation, field citation, citizen suit, or other enforcement action by a government agency for a violation of that requirement within the past three years. This Policy does not apply if the small business received penalty mitigation pursuant to this Policy for a violation of the same or a similar requirement within the past three years. If a business has been subject to two or more enforcement actions for violations of environmental requirements in the past five years, this Policy does not apply even if this is the first violation of this particular requirement.

3. *The business corrects the violation within the corrections period set forth below.*

Small businesses are expected to remedy the violations within the shortest practicable period of time, not to exceed 180 days following detection of the violation. However, a small business may take an additional period of 180 days, *i.e.*, up to a period of one year from the date the violation is detected, only if necessary to allow a small business to correct the violation by implementing pollution prevention measures. For any violation that cannot be corrected within 90 days of detection, the small business should submit a written schedule, or the agency should issue a compliance order with a schedule, as appropriate. Correcting the violation includes remediating any environmental harm associated with the violation,[3] as well as implementing steps to prevent a recurrence of the violation.

4. The Policy applies if:

a. The violation has not caused actual serious harm to public health, safety, or the environment; and

b. The violation is not one that may present an imminent and substantial endangerment to public health or the environment; and

c. The violation does not present a significant health, safety or

[1] The number of employees should be considered as full-time equivalents on an annual basis, including contract employees. Full-time equivalents means 2,000 hours per year of employment. For example, see 40 CFR § 372.3.

[2] This Policy does not apply to the Public Water System Supervision (PWSS) Program because it already has an active compliance assistance program and EPA has a policy to address the special needs of small communities. See November 1995 Policy on Flexible State Enforcement Response to Small Community Violations.

[3] If significant efforts will be required to remediate the harm, the Policy will not apply since criterion 4 is likely not to have been satisfied.

environmental threat (e.g., violations involving hazardous or toxic substances may present such threats); and

d. The violation does not involve criminal conduct.

F. Penalty Mitigation Guidelines

EPA will exercise its enforcement discretion to eliminate or mitigate civil settlement penalties as follows.

1. EPA will eliminate the civil settlement penalty in any enforcement action if a small business satisfies *all* of the criteria in section E.

2. If a small business meets all of the criteria, except it needs a longer corrections period than provided by criterion 3 (i.e., more than 180 days for non-pollution prevention remedies, or 360 days for pollution prevention remedies), EPA will waive up to 100% of the gravity component of the penalty, but may seek the full amount of any economic benefit associated with the violations.[4]

3. If a small business meets all of the criteria, except it has obtained a significant economic benefit from the violation(s) such that it may have obtained an economic advantage over its competitors, EPA will waive up to 100% of the gravity component of the penalty, but may seek the full amount of the significant economic benefit associated with the violations. EPA retains this discretion to ensure that small businesses that comply with public health protections are not put at a serious marketplace disadvantage by those who have not complied. EPA anticipates that this situation will occur very infrequently.

If a small business does not fit within guidelines 1, 2 or 3 immediately above, this Policy does *not* provide any special penalty mitigation. However, if a small business has otherwise made a good faith effort to comply, EPA has discretion, pursuant to its applicable enforcement response or penalty policies, to refrain from filing an enforcement action seeking civil penalties or to mitigate its demand for penalties.[5] Further, these policies allow for mitigation of the penalty where there is a documented inability to pay all or a portion of the penalty, thereby placing emphasis on enabling the small business to finance compliance. See Guidance on Determining a Violator's Ability to Pay a Civil Penalty of December 1986. Penalties also may be mitigated pursuant to the Interim Revised Supplemental Environmental Projects Policy of May 1995 (60 F.R. 24856, 5/10/95) and Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations Policy of December 1995 (60 FR 66706, December 22, 1996).

G. Compliance Assistance

1. Definitions and Limitations

Compliance assistance[6] is information or assistance provided by EPA, a State or another government agency or government supported entity to help the regulated community comply with legally mandated environmental requirements. Compliance assistance does not include enforcement inspections or enforcement actions.[7]

In its broadest sense, the content of compliance assistance can vary greatly, ranging from basic information on the legal requirements to specialized advice on what technology may be best suited to achieve compliance at a particular facility. Compliance assistance also may be delivered in a variety of ways, ranging from general outreach through the Federal Register or other publications, to conferences and computer bulletin boards, to on-site assistance provided in response to a specific request for help.

The special penalty mitigation considerations provided by this Policy only apply to civil violations which were identified as part of an *on-site* compliance assistance visit to the facility. If a small business wishes to obtain a corrections period after receiving compliance assistance from a confidential program, the business must promptly disclose the violations to the appropriate regulatory agency and comply with the other provisions of this Policy. This Policy is restricted to on-site compliance assistance because the other forms of assistance (such as hotlines) do not expose a small business to an increased risk of enforcement and do not provide the regulatory agency with a simple way to determine when the violations were detected and thus when the violations must be corrected. In short, small businesses do not need protection from penalties as an incentive to use the other types of compliance assistance.

2. Delivery of On-Site Compliance Assistance by Government Agency or Government Supported Program

Before on-site compliance assistance is provided under this Policy or a similar State policy, businesses should be informed of how the program works and their obligations to promptly remedy any violations discovered. Ideally, before on-site compliance assistance is provided pursuant to this Policy or similar State policy, the agency should provide the facility with a document (such as this Policy) explaining how the program works and the responsibilities of each party. The document should emphasize the responsibility of the facility to remedy all violations discovered within the corrections period and the types of violations that are excluded from penalty mitigation (e.g., violations that caused serious harm). The facility should sign a simple form acknowledging that it understands the Policy. Documentation explaining the nature of the compliance assistance visit and the penalty mitigation guidelines is essential to ensure that the facility understands the Policy.

At the end of the compliance assistance visit, the government agent should provide the facility with a list of all violations observed and report within 10 days any additional violations identified resulting from the visit, but not directly observed, e.g., results from review and analysis of data or information gathered during the visit. Any violations that do not fit within the penalty mitigation guidelines in the Policy—e.g., those that caused serious harm—should be identified. If the violations cannot all be corrected within 90 days, the facility should be requested to submit a schedule for remedying the violations or a compliance order setting forth a schedule should be issued by the agency.

3. Requests for On-Site Compliance Assistance

EPA, States and other government agencies do not have the resources to provide on-site compliance assistance to all small businesses that request such assistance. This Policy does not create any right or entitlement to compliance assistance. A small business that requests on-site compliance assistance will not necessarily receive such assistance. If a small business requests on-site compliance assistance (or any other type of assistance) and the

[4] The ''gravity component'' of the penalty includes everything except the economic benefit amount. In determining the appropriate amount of the gravity component of the penalty to mitigate, EPA should consider the nature of the violations, the duration of the violations, the environmental or public health impacts of the violations, good faith efforts by the small business to promptly remedy the violation, and the facility's overall record of compliance with environmental requirements.

[5] For example, in some media specific penalty policies, if good faith efforts are undertaken, the penalty calculation automatically factors in such efforts through a potentially smaller economic benefit or gravity amount.

[6] Compliance assistance is sometimes called compliance assessments or technical assistance.

[7] Of course, during an inspection or enforcement action, a facility may receive suggestions and information from the regulatory authority about how to correct and prevent violations.

assistance is not available, the government agency should provide a prompt response indicating that such assistance is not available. The small business should be referred to other public and private sources of assistance that may be available, such as clearinghouses, hotlines, and extension services provide by some universities. In addition, the small business should be informed that it may obtain the benefits offered by this Policy by conducting an environmental audit pursuant to the provisions of this Policy.

H. Environmental Audits

For purposes of this Policy, an environmental audit is defined as ''a systematic, documented, periodic and objective review by regulated entities of facility operations and practices related to meeting environmental requirements.'' See EPA's new auditing policy, entitled Incentives for Self-Policing, 60 FR 66706, 66711, December 22, 1995.

The violation must have been discovered as a result of a voluntary environmental audit, and not through a legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement. For example, the Policy does not apply to:

(1) emissions violations detected through a continuous emissions monitor (or alternative monitor established in a permit) where any such monitoring is required;

(2) violations of National Pollutant Discharge Elimination System (NPDES) discharge limits detected through required sampling or monitoring; or

(3) violations discovered through an audit required to be performed by the terms of a consent order or settlement agreement.

The small business must fully disclose a violation within 10 days (or such shorter period provided by law) after it has discovered that the violation has occurred, or may have occurred, in writing to EPA or the appropriate state or local government agency.

I. Enforcement

To ensure that this Policy enhances and does not compromise public health and the environment, the following conditions apply:

1. Violations detected through inspections, field citations, reported to an agency by a member of the public or a ''whistleblower'' employee, identified in notices of citizen suits, or previously reported to an agency as required by applicable regulations or permits, remain fully enforceable.

2. A business is subject to all applicable enforcement response policies (which may include discretion whether or not to take formal enforcement action) for all violations that had been detected through compliance assistance and were not remedied within the corrections period. The penalty in such action may include the time period before and during the correction period.

3. A State's or EPA's actions in providing compliance assistance is not a legal defense in any enforcement action. This Policy does not limit EPA or a state's discretion to use information on violations revealed through compliance assistance as evidence in subsequent enforcement actions.

4. If a field citation is issued to a small business (e.g., under the Underground Storage Tank program [8]), the small business may provide information to the Agency to show that specific violations cited in the field citation are being remedied under a corrections schedule established pursuant to this Policy or similar State policy. In such a situation, EPA would exercise its enforcement discretion not to seek civil penalties for those violations.

J. Applicability to States [9]

EPA recognizes that states are partners in enforcement and compliance assurance. Therefore, EPA will defer to state actions in delegated or approved programs that are generally consistent with the criteria set forth in this Policy. Whenever a State agency provides a correction period to a small business pursuant to this Policy or a similar policy, the agency should notify the appropriate EPA Region.

This notification will assure that federal and state enforcement responses are properly coordinated.

K. Public Accountability

Within three years of the effective date of this Policy, EPA will conduct a study of the effectiveness of this Policy in promoting compliance among small businesses. EPA will make the study available to the public. EPA will make publicly available the terms of any EPA agreements reached under this Policy, including the nature of the violation(s), the remedy, and the schedule for returning to compliance.

[FR Doc. 96–13713 Filed 5–31–96; 8:45 am]
BILLING CODE 6560–50–P

[8] The Underground Storage Tank (UST) field citation program provides for substantially reduced penalties in exchange for the rapid correction of certain UST violations for first time violators. See *Guidance for Federal Field Citation Enforcement, OSWER Directive 9610.16, October 1993.*

[9] States includes tribes.

Federal Register

Monday
June 3, 1996

Part V

Department of Education

34 CFR Part 701

Standards for Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Designation of Exemplary and Promising Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 701

RIN 1850–AA52

Standards for Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Designation of Exemplary and Promising Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Assistant Secretary is developing these standards pursuant to the Office of Educational Research and Improvement's authorizing legislation, the ''Educational Research, Development, Dissemination, and Improvement Act of 1994.'' The major purpose of these standards is to provide quality assurance that programs designated by the Department of Education as either exemplary or promising have met criteria that will allow educators, professional organizations, and others to use these programs with confidence.

DATES: Comments must be received on or before August 2, 1996.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Eve M. Bither, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 500, Washington, D.C. 20208–5530. Comments may also be sent through the Internet to: (Eve__Bither@ed.gov).

Comments that concern information collection requirements should be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Sharon Bobbitt, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 508, Washington, D.C. 20208–5643. Telephone: (202) 219–2126. Internet: (Sharon__Bobbitt@ed.gov).

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1994, President Clinton signed Pub. L. 103–227, which includes Title IX, the ''Educational Research, Development, Dissemination, and Improvement Act of 1994'' (the ''Act''). The Act restructured the Office of Educational Research and Improvement (OERI) and provided it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students.

Statutory Requirements

The legislation directed the Assistant Secretary to develop, in consultation with the National Educational Research Policy and Priorities Board, such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to ensure that those activities meet the highest standards of professional excellence. The legislation requires that the standards be developed in three phases.

In the first phase, standards were promulgated to establish the peer review process and evaluation criteria to be used for the review of applications for grants and cooperative agreements and proposals for contracts. The final regulations setting out these standards were published in the Federal Register on September 14, 1995 (60 FR 47808). These proposed regulations address the second phase of development by establishing the criteria to be used in reviewing potentially exemplary and promising educational programs. The Assistant Secretary will publish at a later date additional proposed regulations for phase three of the standards, which are to govern evaluation of the performance of recipients of grants and contracts and cooperative agreements with OERI.

The OERI legislation requires that expert panels be established to review educational programs and recommend to the Secretary those programs that should be designated as exemplary or promising and disseminated through the Department's National Education Dissemination System. The legislation further requires the Assistant Secretary to develop standards that describe the procedures the panels will use in reviewing the educational programs. Section 941(a)(3) of the legislation broadly defines ''educational program'' to include ''educational polices, research findings, practices and products.'' Educational programs may range in size and complexity from an individual instructional program—such as an elementary school science program—to a comprehensive reform initiative involving multiple goals and participants. Programs at all levels of education—preschool, elementary, secondary, and postsecondary—are eligible for consideration.

The Act also requires that the Assistant Secretary review the procedures utilized by the National Institutes of Health (NIH), the National Science Foundation (NSF), and other Federal departments or agencies engaged in research and development and actively solicit recommendations from research organizations and members of the general public.

In developing the review and evaluation procedures for the proposed standards, OERI has reviewed and considered dissemination practices and procedures used for identifying promising and exemplary programs by various foundations, research organizations, associations, and Federal agencies including NIH, NSF, the Federal Emergency Management Agency, the Department of Health and Human Services, and the National Endowment for the Arts. OERI adapted these review and evaluation procedures as appropriate.

Proposed Standards

The proposed standards have been developed by the Assistant Secretary in consultation with the Board. The standards proposed in this NPRM—

- Require that expert panels be established to review educational programs and recommend to the Secretary those programs that should be designated as exemplary or promising and disseminated through the Department's National Education Dissemination System; and
- Establish a process that panels will use to review and evaluate educational programs and determine which programs to recommend to the Secretary for designation as exemplary or promising.

Educational programs may be submitted at any time for consideration for designation as exemplary or promising. In addition, the Assistant Secretary will periodically establish and announce in the Federal Register specific topic areas of high priority for which programs will be invited or sought out. The legislation also provides that the Secretary may identify educational programs for the panels to review.

Educational program submissions may include, as evidence of the effectiveness of the program, a range of assessments, evaluative information from users, and other objective performance indicators that are appropriate to the program. The legislation ensures that a panel may not eliminate any program from consideration based on the lack of one type of supporting data such as test scores.

A standing group of experts, which will include teachers and others, will be appointed by the Assistant Secretary as appropriate. From that group, the Assistant Secretary will select members who have relevant knowledge and experience in specific topic areas to form expert panels to review programs in accordance with the criteria in these proposed regulations.

In determining whether an educational program should be recommended as exemplary or promising, the panel is required by the legislation to consider (a) whether, based on empirical data, the program is effective and should be designated as exemplary, or (b) whether there is sufficient evidence to demonstrate that the program shows promise for improving student achievement and should be designated as promising. These proposed regulations require a panel to evaluate whether a program has met all of the criteria of educational effectiveness set forth in Subpart C of these proposed regulations. A panel may determine that a program shows promise for improving student achievement and recommend that the program be designated as promising if the program has met all of the criteria with respect to one context, or with one population. A panel may determine that a program is effective and recommend that the program be designated as exemplary if the program has met all of the criteria with respect to multiple contexts, or with multiple populations.

Use of these criteria for evaluating programs will ensure that programs disseminated by the Department are high-quality, research-based programs that have provided evidence indicating they have improved teaching or learning or both. The Department's dissemination system is designed to make programs available to the public as quickly as possible. The system will enable the Department to respond to all forms of requests for information and assistance, and to support the applications of research and best practice. The system will use electronic networking and the capabilities of:

National Research Institutes;
Educational Resources Information Center (ERIC);
Regional Educational Laboratories;
Department-supported technical assistance providers;
National Library of Education; and
Other public and private nonprofit entities, including education associations and networks.

Prior to the adoption of these standards, exemplary programs were validated by the Department's Program Effectiveness Panel (PEP) and disseminated through the National Diffusion Network (NDN). With the adoption of these standards, the Department will recognize and disseminate promising educational programs in addition to exemplary programs.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small local educational agencies (LEAs) and private schools receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs and private schools affected, because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1995

Section 701.4 contains information collection requirements. As required by the Paperwork Reduction Act of 1995, the Department of Education will submit a copy of this section to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

These regulations affect the following types of entities eligible to submit a program for review: Any public or private agency, organization or institution, or individual.

The public reporting burden is estimated to range from 2 to 6 hours for each program submitted for review. The actual burden will be determined by how much descriptive information about their program each entity wishes to provide.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Wendy Taylor.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing 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).

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 600, 555 New Jersey Avenue, NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 701

Education, Educational research, Reporting and recordkeeping requirements.

Dated: May 22, 1996.

(Catalog of Federal Domestic Assistance Number does not apply)

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

The Secretary proposes to amend Chapter VII of Title 34 of the Code of Federal Regulations by adding a new Part 701 to read as follows:

PART 701—STANDARDS FOR CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS

Subpart A—General

Subpart B—Selection of Panel Members

Subpart C—The Expert Panel Review Process

Authority: 20 U.S.C. 6011(i)

Subpart A—General

§ 701.1 What is the purpose of these standards?

(a) The standards in this part implement section 941(d) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) These standards are intended to provide quality assurance that programs designated by the Department of Education as either exemplary or promising have met criteria that will allow educators, professional organizations, and others to use these programs with confidence.

(Authority: 20 U.S.C. 6011(i)(2)(E))

§ 701.2 What definitions apply?

Definition in the Educational Research, Development, Dissemination, and Improvement Act of 1994. The following term used in this part is defined in 20 U.S.C. 6041(a)(3):

Educational program

(Authority: 20 U.S.C. 6041(a)(3))

§ 701.3 What entity is eligible to submit a program for review?

Any public or private agency, organization, or institution, or an individual, may submit an educational program for review.

(Authority: 20 U.S.C. 6011(i)(2)(E))

§ 701.4 What must an entity submit for review?

(a) To have its educational program considered for designation as exemplary or promising, the eligible entity must submit to the Secretary a description of the program and a discussion of the program's educational effectiveness, responsive to the criteria in Subpart C, § 701.22.

(b) Information submitted must include, to the extent relevant to the particular program—

(1) A program abstract of 250 words or less;

(2) A description of the salient features of the program;

(3) A description of the program's philosophy and history;

(4) Site information, including demographics;

(5) A description of evaluation results;

(6) Funding and staffing information; and

(7) Organization name, address, telephone and fax numbers, e-mail address (if available), and contact person.

(Authority: 20 U.S.C. 6011(i)(2)(E))

Subpart B—Selection of Panel Members

§ 701.10 How are panels established?

(a) The Assistant Secretary, in consultation with the National Educational Research Policy and Priorities Board established under 20 U.S.C. 6021, establishes a standing group of educational experts. The Assistant Secretary may expand the membership of the standing group as necessary.

(b) The Assistant Secretary selects members from the standing group, based on their areas of expertise, to serve on expert panels in specific topic areas for the purpose of reviewing and evaluating educational programs and recommending, to the Secretary, those programs that should be designated as exemplary or promising.

(Authority: 20 U.S.C. 6011(i)(2)(E), 6041(d))

§ 701.11 Who may serve as a member of the standing group?

An individual may serve as a member of the standing group for the purpose of reviewing and evaluating educational programs for exemplary or promising status if that individual possesses two or more of the following qualifications:

(a) Demonstrated expertise and experience in one or more specific educational areas.

(b) Demonstrated expertise and experience across a broad range of educational policies and practices.

(c) Experience in evaluating educational programs.

(d) Experience or expertise in developing educational products.

(e) Current employment as a teacher, principal or other school-based or community-based professional (such as a guidance counselor, school media specialist, or health professional).

(Authority: 20 U.S.C. 6011(i)(2)(E), 6041(d))

§ 701.12 How is the membership of expert panels determined?

(a) For the review of each program, or group of programs, the Assistant Secretary establishes an expert panel comprised of individuals who are members of the standing group.

(b) In establishing the membership of each expert panel, the Assistant Secretary—

(1) Selects individuals who have in-depth knowledge of the subject area or content of the program or group of programs to be evaluated;

(2) Selects at least one current teacher, principal, or other school-based or community-based professional;

(3) Ensures that no more than one-third of the panel members are employees of the Federal Government; and

(4) Ensures that each panel member does not have a conflict of interest, as determined in accordance with paragraph (c) of this section, with respect to any educational program the panel member is asked to review.

(c) Panel members are considered employees of the Department for the purposes of conflicts of interest analysis and are subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(i)(2)(E), 6041(d))

Subpart C—The Expert Panel Review Process

§ 701.20 How does an expert panel evaluate programs?

(a) Each panel member shall—

(1) Independently review each program based on the criteria in § 701.22;

(2) Provide written comments based on an analysis of the strengths and weaknesses of the program according to the criteria;

(3) Participate in site visits if appropriate; and

(4) Participate in a meeting of the expert panel, if appropriate, to discuss the reviews.

(b) A panel may not eliminate an educational program from consideration based solely on the fact that the program does not have one specific type of supporting data, such as test scores.

(c) Each expert panel shall make a recommendation to the Secretary as to whether the program is exemplary, promising, or neither.

(Authority: 20 U.S.C.6011(i)(2)(E), 6041(d))

§ 701.21 What is the difference between an exemplary and a promising program?

(a) A panel may recommend to the Secretary that a program be designated as promising if the panel determines that the program has met each of the criteria of educational effectiveness in § 701.22 with respect to one context or one population.

(b) A panel may recommend to the Secretary that a program be designated as exemplary if the panel determines that the program has met each of the criteria of educational effectiveness in § 701.22 with respect to multiple contexts or multiple populations.

(Authority: 20 U.S.C.6011(i)(2)(E), 6041(d)(2))

§ 701.22 What criteria are used to evaluate programs for exemplary or promising designation?

In determining whether an educational program (''program'' includes educational polices, research findings, practices and products) should be recommended as exemplary, promising, or neither, each expert panel shall consider the following criteria of educational effectiveness:

(a) *Evidence of success.* The expert panel considers—

(1) Whether, based on a range of assessments, information from users, or other indicators as appropriate, the program contributes to solving substantial or important problems in teaching or learning; and

(2) The extent to which—

(i) Program effects are beneficial to the populations for whom the program was designed; or

(ii) The product performs as expected for the educational consumers it was said to benefit.

(b) *Quality of the program.* The expert panel considers—

(1) Whether the program has clear goals, is based on sound research and practice, and incorporates accurate and up-to-date content;

(2) Whether the program represents a substantially improved alternative to existing options;

(3) The extent to which the program promotes equity and is free of bias based on race, gender, age, culture, ethnic origin, disability, or limited English proficiency status;

(4) Whether the program is based on high expectations for the success of all participants;

(5) Whether the program is appropriate to the target audiences; and

(6) The extent to which any materials associated with the program conform to accepted standards of technical quality.

(c) *Educational significance.* The expert panel considers—

(1) The extent to which the program has the potential to increase knowledge or understanding of educational problems, and issues, or effective strategies for teaching or learning; and

(2) Whether the program is described clearly enough so that it can be adapted or adopted in new sites.

(d) *Usefulness to others.* The expert panel considers—

(1) Whether the cost of the program (including money, staff time, and other required resources) is reasonable in light of expected benefits and compared to other alternatives; and

(2) Whether the program is available for use by others.

(Authority: 20 U.S.C. 6011(i)(2)(E), 6041(d)(2))

[FR Doc. 96–13801 Filed 5–31–96; 8:45 am]

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Federal Register

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FEDERAL REGISTER PAGES AND DATES, JUNE

CFR PARTS AFFECTED DURING JUNE

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.

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.

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Obsolete CFR regulations removed; published 5-10-96

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List May 31, 1996

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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1, 2 (2 Reserved)	(869–028–00001–1)	$4.25	Feb. 1, 1996
3 (1995 Compilation and Parts 100 and 101)	(869–028–00002–9)	22.00	[1] Jan. 1, 1996
4	(869–028–00003–7)	5.50	Jan. 1, 1996
5 Parts:			
1–699	(869–028–00004–5)	26.00	Jan. 1, 1996
700–1199	(869–028–00005–3)	20.00	Jan. 1, 1996
1200–End, 6 (6 Reserved)	(869–028–00006–1)	25.00	Jan. 1, 1996
7 Parts:			
0–26	(869–028–00007–0)	22.00	Jan. 1, 1996
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–028–00009–6)	13.00	Jan. 1, 1996
52	(869–028–00010–0)	5.00	Jan. 1, 1996
53–209	(869–028–00011–8)	17.00	Jan. 1, 1996
210–299	(869–028–00012–6)	35.00	Jan. 1, 1996
300–399	(869–028–00013–4)	17.00	Jan. 1, 1996
400–699	(869–028–00014–2)	22.00	Jan. 1, 1996
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–028–00016–9)	30.00	Jan. 1, 1996
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1)	12.00	Jan. 1, 1995
1200–1499	(869–028–00018–5)	29.00	Jan. 1, 1996
1500–1899	(869–028–00019–3)	41.00	Jan. 1, 1996
1900–1939	(869–028–00020–7)	16.00	Jan. 1, 1996
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–028–00022–3)	39.00	Jan. 1, 1996
2000–End	(869–028–00023–1)	15.00	Jan. 1, 1996
8	(869–028–00024–0)	23.00	Jan. 1, 1996
9 Parts:			
1–199	(869–028–00025–8)	30.00	Jan. 1, 1996
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–028–00027–4)	30.00	Jan. 1, 1996
51–199	(869–028–00028–2)	24.00	Jan. 1, 1996
200–399	(869–028–00029–1)	5.00	Jan. 1, 1996
400–499	(869–028–00030–4)	21.00	Jan. 1, 1996
500–End	(869–028–00031–2)	34.00	Jan. 1, 1996
11	(869–028–00032–1)	15.00	Jan. 1, 1996
12 Parts:			
1–199	(869–028–00033–9)	12.00	Jan. 1, 1996
200–219	(869–028–00034–7)	17.00	Jan. 1, 1996
220–299	(869–028–00035–5)	29.00	Jan. 1, 1996
300–499	(869–026–00038–7)	23.00	Jan. 1, 1995
500–599	(869–028–00037–1)	20.00	Jan. 1, 1996
600–End	(869–028–00038–0)	31.00	Jan. 1, 1996
13	(869–028–00039–8)	18.00	Mar. 1, 1996
14 Parts:			
1–59	(869–028–00040–1)	34.00	Jan. 1, 1996
60–139	(869–028–00041–0)	30.00	Jan. 1, 1996
140–199	(869–028–00042–8)	13.00	Jan. 1, 1996
*200–1199	(869–028–00043–6)	23.00	Jan. 1, 1996
1200–End	(869–028–00044–4)	16.00	Jan. 1, 1996
15 Parts:			
0–299	(869–028–00045–2)	16.00	Jan. 1, 1996
300–799	(869–028–00046–1)	26.00	Jan. 1, 1996
800–End	(869–028–00047–9)	18.00	Jan. 1, 1996
16 Parts:			
0–149	(869–028–00048–7)	6.50	Jan. 1, 1996
150–999	(869–028–00049–5)	19.00	Jan. 1, 1996
1000–End	(869–028–00050–9)	26.00	Jan. 1, 1996
17 Parts:			
1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
200–239	(869–026–00055–7)	24.00	Apr. 1, 1995
240–End	(869–026–00056–5)	30.00	Apr. 1, 1995
18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
280–399	(869–026–00059–0)	13.00	Apr. 1, 1995
400–End	(869–026–00060–3)	11.00	Apr. 1, 1995
19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
200–End	(869–026–00063–8)	12.00	Apr. 1, 1995
20 Parts:			
1–399	(869–026–00064–6)	20.00	Apr. 1, 1995
400–499	(869–026–00065–4)	34.00	Apr. 1, 1995
500–End	(869–026–00066–2)	34.00	Apr. 1, 1995
21 Parts:			
1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
100–169	(869–026–00068–9)	21.00	Apr. 1, 1995
170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
200–299	(869–026–00070–1)	7.00	Apr. 1, 1995
300–499	(869–026–00071–9)	39.00	Apr. 1, 1995
500–599	(869–026–00072–7)	22.00	Apr. 1, 1995
600–799	(869–026–00073–5)	9.50	Apr. 1, 1995
800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
1300–End	(869–026–00075–1)	13.00	Apr. 1, 1995
22 Parts:			
1–299	(869–026–00076–0)	33.00	Apr. 1, 1995
300–End	(869–026–00077–8)	24.00	Apr. 1, 1995
23	(869–026–00078–6)	22.00	Apr. 1, 1995
24 Parts:			
0–199	(869–026–00079–4)	40.00	Apr. 1, 1995
200–219	(869–026–00080–8)	19.00	Apr. 1, 1995
220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
500–699	(869–026–00082–4)	20.00	Apr. 1, 1995
700–899	(869–026–00083–2)	24.00	Apr. 1, 1995
900–1699	(869–026–00084–1)	24.00	Apr. 1, 1995
1700–End	(869–026–00085–9)	17.00	Apr. 1, 1995
25	(869–026–00086–7)	32.00	Apr. 1, 1995
26 Parts:			
§§ 1.0-1–1.60	(869–026–00087–5)	21.00	Apr. 1, 1995
§§ 1.61–1.169	(869–026–00088–3)	34.00	Apr. 1, 1995
§§ 1.170–1.300	(869–026–00089–1)	24.00	Apr. 1, 1995
§§ 1.301–1.400	(869–026–00090–5)	17.00	Apr. 1, 1995
§§ 1.401–1.440	(869–026–00091–3)	30.00	Apr. 1, 1995
§§ 1.441-1.500	(869-026-00092-1)	22.00	Apr. 1, 1995
§§ 1.501–1.640	(869–026–00093–0)	21.00	Apr. 1, 1995
§§ 1.641–1.850	(869–026–00094–8)	25.00	Apr. 1, 1995
§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
§§ 1.908–1.1000	(869–026–00096–4)	27.00	Apr. 1, 1995
§§ 1.1001–1.1400	(869–026–00097–2)	25.00	Apr. 1, 1995
§§ 1.1401–End	(869–026–00098–1)	33.00	Apr. 1, 1995
2–29	(869–026–00099–9)	25.00	Apr. 1, 1995
30–39	(869–026–00100–6)	18.00	Apr. 1, 1995
40–49	(869–026–00101–4)	14.00	Apr. 1, 1995

Title	Stock Number	Price	Revision Date
50–299	(869–026–00102–2)	14.00	Apr. 1, 1995
300–499	(869–026–00103–1)	24.00	Apr. 1, 1995
500–599	(869–026–00104–9)	6.00	[4] Apr. 1, 1990
600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
27 Parts:			
1–199	(869–026–00106–5)	37.00	Apr. 1, 1995
200–End	(869–026–00107–3)	13.00	[6] Apr. 1, 1994
28 Parts:			
1-42	(869–026–00108–1)	27.00	July 1, 1995
43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
100–499	(869–026–00111–1)	9.50	July 1, 1995
500–899	(869–026–00112–0)	36.00	July 1, 1995
900–1899	(869–026–00113–8)	17.00	July 1, 1995
1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–026–00116–2)	27.00	July 1, 1995
1926	(869–026–00117–1)	35.00	July 1, 1995
1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
1–199	(869–026–00119–7)	25.00	July 1, 1995
200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
31 Parts:			
0–199	(869–026–00122–7)	15.00	July 1, 1995
200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–026–00124–3)	32.00	July 1, 1995
191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–026–00127–8)	14.00	[5] July 1, 1991
700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
1–124	(869–026–00130–8)	20.00	July 1, 1995
125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
300–399	(869–026–00134–1)	21.00	July 1, 1995
400–End	(869–026–00135–9)	37.00	July 5, 1995
35	(869–026–00136–7)	12.00	July 1, 1995
36 Parts			
1–199	(869–026–00137–5)	15.00	July 1, 1995
200–End	(869–026–00138–3)	37.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–026–00142–1)	17.00	July 1, 1995
40 Parts:			
1–51	(869–026–00143–0)	40.00	July 1, 1995
52	(869–026–00144–8)	39.00	July 1, 1995
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869-026-00146-4)	36.00	July 1, 1995
61–71	(869–026–00147–2)	36.00	July 1, 1995
72–85	(869–026–00148–1)	41.00	July 1, 1995
86	(869–026–00149–9)	40.00	July 1, 1995
87–149	(869–026–00150–2)	41.00	July 1, 1995
150–189	(869–026–00151–1)	25.00	July 1, 1995
190–259	(869–026–00152–9)	17.00	July 1, 1995
260–299	(869–026–00153–7)	40.00	July 1, 1995
300–399	(869–026–00154–5)	21.00	July 1, 1995
400–424	(869–026–00155–3)	26.00	July 1, 1995
425–699	(869–026–00156–1)	30.00	July 1, 1995
700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
101	(869–026–00160–0)	29.00	July 1, 1995
102–200	(869–026–00161–8)	15.00	July 1, 1995
201–End	(869–026–00162–6)	13.00	July 1, 1995
42 Parts:			
1–399	(869–026–00163–4)	26.00	Oct. 1, 1995
400–429	(869–026–00164–2)	26.00	Oct. 1, 1995
430–End	(869–026–00165–1)	39.00	Oct. 1, 1995
43 Parts:			
1–999	(869–026–00166–9)	23.00	Oct. 1, 1995
1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
1–40	(869–026–00174–0)	21.00	Oct. 1, 1995
41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
156–165	(869–026–00179–1)	17.00	Oct. 1, 1995
166–199	(869–026–00180–4)	17.00	Oct. 1, 1995
200–499	(869–026–00181–2)	19.00	Oct. 1, 1995
500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
47 Parts:			
0–19	(869–026–00183–9)	25.00	Oct. 1, 1995
20–39	(869–026–00184–7)	21.00	Oct. 1, 1995
40–69	(869–026–00185–5)	14.00	Oct. 1, 1995
70–79	(869–026–00186–3)	24.00	Oct. 1, 1995
80–End	(869–026–00187–1)	30.00	Oct. 1, 1995
48 Chapters:			
1 (Parts 1–51)	(869–026–00188–0)	39.00	Oct. 1, 1995
1 (Parts 52–99)	(869–026–00189–8)	24.00	Oct. 1, 1995
2 (Parts 201–251)	(869–026–00190–1)	17.00	Oct. 1, 1995
2 (Parts 252–299)	(869–026–00191–0)	13.00	Oct. 1, 1995
3–6	(869–026–00192–8)	23.00	Oct. 1, 1995
7–14	(869–026–00193–6)	28.00	Oct. 1, 1995
15–28	(869–026–00194–4)	31.00	Oct. 1, 1995
29–End	(869–026–00195–2)	19.00	Oct. 1, 1995
49 Parts:			
1–99	(869–026–00196–1)	25.00	Oct. 1, 1995
100–177	(869–026–00197–9)	34.00	Oct. 1, 1995
178–199	(869–026–00198–7)	22.00	Oct. 1, 1995
200–399	(869–026–00199–5)	30.00	Oct. 1, 1995
400–999	(869–026–00200–2)	40.00	Oct. 1, 1995
1000–1199	(869–026–00201–1)	18.00	Oct. 1, 1995
1200–End	(869–026–00202–9)	15.00	Oct. 1, 1995
50 Parts:			
1–199	(869–026–00203–7)	26.00	Oct. 1, 1995
200–599	(869–026–00204–5)	22.00	Oct. 1, 1995
600–End	(869–026–00205–3)	27.00	Oct. 1, 1995

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–028–00051–7)	35.00	Jan. 1, 1996
Complete 1996 CFR set		883.00	1996
Microfiche CFR Edition:			
Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
Complete set (one-time mailing)		244.00	1994
Complete set (one-time mailing)		223.00	1993

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1995. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 1996

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
June 3	June 18	July 3	July 18	August 2	September 3
June 4	June 19	July 5	July 19	August 5	September 3
June 5	June 20	July 5	July 22	August 5	September 3
June 6	June 21	July 8	July 22	August 5	September 4
June 7	June 24	July 8	July 22	August 6	September 5
June 10	June 25	July 10	July 25	August 9	September 9
June 11	June 26	July 11	July 26	August 12	September 9
June 12	June 27	July 12	July 29	August 12	September 10
June 13	June 28	July 15	July 29	August 12	September 11
June 14	July 1	July 15	July 29	August 13	September 12
June 17	July 2	July 17	August 1	August 16	September 16
June 18	July 3	July 18	August 2	August 19	September 16
June 19	July 5	July 19	August 5	August 19	September 17
June 20	July 5	July 22	August 5	August 19	September 18
June 21	July 8	July 22	August 5	August 20	September 19
June 24	July 9	July 24	August 8	August 23	September 23
June 25	July 10	July 25	August 9	August 26	September 23
June 26	July 11	July 26	August 12	August 26	September 24
June 27	July 12	July 29	August 12	August 26	September 25
June 28	July 15	July 29	August 12	August 27	September 26