7–26–96
Vol. 61 No. 145
Pages 39039–39266

Friday
July 26, 1996

federal register

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Contents

Federal Register

Vol. 61, No. 145

Friday, July 26, 1996

Agency for International Development
RULES
Acquisition regulations:
Miscellaneous amendments, 39089–39096

Agricultural Marketing Service
RULES
Onions (sweet) grown in Washington and Oregon, 39050–39052

Agriculture Department
See Agricultural Marketing Service
See Federal Crop Insurance Corporation
See Food and Consumer Service
See Forest Service
See Rural Housing Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 39116

Army Department
RULES
Absentee deserter apprehension program and military personnel surrender to civilian law enforcement agencies, 39072–39080

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Children and Families Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 39136

Commerce Department
See Economic Development Administration
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 39118–39119

Customs Service
RULES
Centralized examination stations:
Felony indictment; operations suspension or permanent revocation, 39070–39071

Defense Department
See Army Department
RULES
Federal Acquisition Regulation (FAR):
Agency procurement protests, 39219–39220
Computer network and micro-purchase procedures, 39189–39199
Contingent fee representation, 39188–39189
Contractor gratuities to government personnel, 39199–39200
Contractor responsibility determinations; use of commercial sources of supplier information, 39201
Cost-effective value engineering procedures and processes, 39220–39221
Disaster Relief Act activities, 39200–39201
FAR Circular 90–40; introduction, 39186–39188
Indian-owned economic enterprises; subcontracting costs recovery, 39210–39211
Multiyear contracting, 39203–39207
Patent use without authorization; General Agreement on Tariffs and Trade (GATT), 39211–39212
Performance and payment bonds, 39212–39217
Personal services compensation costs, 39217–39219
Small business set-asides; simplified acquisition threshold, 39207–39210
Small entity compliance guide, 39224–39226
Task and delivery order contracts, 39201–39203
Termination inventory schedules, 39221–39224
NOTICES
Agency information collection activities:
Proposed collection; comment request, 39121–39122
Committees; establishment, renewal, termination, etc.:
President's Security Policy Advisory Board, 39123
Meetings:
Defense Environmental Response task force, 39123
Wage Committee, 39123
Senior Executive Service:
Performance Review Board; membership, 39123–39124

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
Schedules I and II—
1996 aggregate, 39153–39154

Economic Development Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Economic development assistance programs
National technical assistance research and evaluation, 39242–39244

Education Department
PROPOSED RULES
Elementary and secondary education:
Indian fellowship and professional development programs, 39246–39251

Employment and Training Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 39155–39156
Federal-State unemployment compensation program:
Unemployment insurance benefit accuracy measurement annual report; availability, 39159–39160
Unemployment insurance program letters—
Federal unemployment insurance law interpretation, 39156–39159

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 39160–39162

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
DOE/NSF Nuclear Science Advisory Committee, 39124
Environmental Management Site-Specific Advisory Board—
Rocky Flats, 39124

Environmental Protection Agency
RULES
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 39080–39081
PROPOSED RULES
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 39104–39107
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 39133–39134
Weekly receipts, 39133

Executive Office of the President
See Management and Budget Office
See Trade Representative, Office of United States

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 39134

Federal Communications Commission
RULES
Common carrier services:
Interstate pay-per-call and other information services, 39084–39088
PROPOSED RULES
Common carrier services:
Interstate information services, 39107–39110

Federal Crop Insurance Corporation
RULES
Administrative regulations:
Crop insurance coverage for production of agricultural commodity on highly erodible land or converted wetland (sodbuster and swampbuster provisions), 39048–39050

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act, etc.:
Interstate natural gas pipelines; business practices standards, 39053–39070
NOTICES
Electric rate and corporate regulation filings:
Michigan Power Co. et al., 39127–39129
Sonat Power Marketing, Inc., et al., 39129–39130
Wisconsin Power & Light Co. et al., 39130–39133
Applications, hearings, determinations, etc.:
East Tennessee Natural Gas Co., 39125
Iroquois Gas Transmission System, L.P., 39125
Koch Gateway Pipeline Co., 39125
National Fuel Gas Supply Corp., 39125–39126
Natural Gas Pipeline Co. of America, 39126
Northern Natural Gas Co., 39126
Northwest Pipeline Corp., 39126–39127
South Georgia Natural Gas Co., 39127
Tennessee Gas Pipeline Co., 39127
Transwestern Pipeline Co., 39127

Federal Maritime Commission
NOTICES
Casualty and nonperformance certificates:
Seabourn Cruise Line Ltd. et al., 39134

Federal Reserve System
RULES
International banking operations (Regulation K):
Foreign banks, shell branches managed or controlled by such banks' U.S. offices, 39052–39053
NOTICES
Banks and bank holding companies:
Change in bank control, 39134
Formations, acquisitions, and mergers, 39135
Permissible nonbanking activities, 39135
Meetings; Sunshine Act, 39136

Federal Trade Commission
PROPOSED RULES
Trade regulation rules:
Lubricating oil, previously used; deceptive advertising and labeling, 39101–39104

Financial Management Service
See Fiscal Service

Fiscal Service
RULES
Federal agency disbursements management, 39254–39259
PROPOSED RULES
Treasury certificates of indebtedness, notes, and bonds; State and local government series, 39228–39240

Fish and Wildlife Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 39151–39152

Food and Consumer Service
RULES
Freedom of Information Act; implementation, 39047–39048

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Washington
Texaco, Inc.; oil refinery complex, 39119

Forest Service
NOTICES
Environmental statements; availability, etc.:
Clearwater National Forest, ID, 39116–39117

General Accounting Office
RULES
Bid protest process; timeliness requirement, 39039–39047

General Services Administration
RULES
Acquisition regulations:
Contract Appeals Board—
Transportation rate cases; procedure rules, 39096–39098
Travel and relocation expenses cases; procedure rules, 39098–39099
FAC 90–39 implementation and miscellaneous changes, 39088–39089
Federal Acquisition Regulation (FAR):
Agency procurement protests, 39219–39220
Computer network and micro-purchase procedures, 39189–39199
Contingent fee representation, 39188–39189
Contractor gratuities to government personnel, 39199–39200
Contractor responsibility determinations; use of commercial sources of supplier information, 39201
Cost-effective value engineering procedures and processes, 39220–39221
Disaster Relief Act activities, 39200–39201
FAR Circular 90–40; introduction, 39186–39188
Indian-owned economic enterprises; subcontracting costs recovery, 39210–39211
Multiyear contracting, 39203–39207
Patent use without authorization; General Agreement on Tariffs and Trade (GATT), 39211–39212
Performance and payment bonds, 39212–39217
Personal services compensation costs, 39217–39219
Small business set-asides; simplified acquisition threshold, 39207–39210
Small entity compliance guide, 39224–39226
Task and delivery order contracts, 39201–39203
Termination inventory schedules, 39221–39224
Federal Information Resources Management Regulation:
Federal information processing (FIP) equipment; interagency screening and transfer of excess and exchange/sale equipment, 39081–39083

Health and Human Services Department
See Children and Families Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
Substance Abuse and Mental Health Services Administration, 39146–39151

Health Resources and Services Administration
NOTICES
National vaccine injury compensation program:
Petitions received, 39136–39140

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 39151
Housing assistance payments (Section 8)—
Family self-sufficiency program coordinators in assisted housing projects (FY 1996), 39262–39266

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
RULES
Assistance programs; administrative and audit requirements and cost principles:
Buy American requirements, 39083–39084

Internal Revenue Service
RULES
Income taxes:
Common trust funds diversification at time of combination or division
Correction, 39072
Investment companies; transfers of assets
Correction, 39072
Profit split method; combined taxable income computation
Correction, 39071–39072
PROPOSED RULES
Income taxes:
Qualified small business stock; 50 percent exclusion for gain
Correction, 39104
NOTICES
Agency information collection activities:
Proposed collection; comment request, 39181–39183
Elderly tax counseling program; application packages; availability, 39183

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Forged stainless steel flanges from—
India, 39119–39120

Justice Department
See Drug Enforcement Administration

Labor Department
See Employment and Training Administration
See Employment Standards Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 39154–39155
Committees; establishment, renewal, termination, etc.:
Employee Welfare and Pension Benefit Plans Advisory Council, 39155

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
Montana, 39152
Meetings:
Resource advisory councils—
Lower Snake River, Upper Snake River, and Upper Columbia Salmon Clearwater Districts, 39152

Management and Budget Office
NOTICES
Accounting for revenue and other financing sources and concepts for reconciling budgetary and financial accounting; document availability, 39164–39165

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation (FAR):
Agency procurement protests, 39219–39220

Computer network and micro-purchase procedures, 39189–39199
Contingent fee representation, 39188–39189
Contractor gratuities to government personnel, 39199–39200
Contractor responsibility determinations; use of commercial sources of supplier information, 39201
Cost-effective value engineering procedures and processes, 39220–39221
Disaster Relief Act activities, 39200–39201
FAR Circular 90–40; introduction, 39186–39188
Indian-owned economic enterprises; subcontracting costs recovery, 39210–39211
Multiyear contracting, 39203–39207
Patent use without authorization; General Agreement on Tariffs and Trade (GATT), 39211–39212
Performance and payment bonds, 39212–39217
Personal services compensation costs, 39217–39219
Small business set-asides; simplified acquisition threshold, 39207–39210
Small entity compliance guide, 39224–39226
Task and delivery order contracts, 39201–39203
Termination inventory schedules, 39221–39224

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 39162

National Institute of Standards and Technology
NOTICES
Meetings:
International Laboratory Accreditation Conference, 39120

National Institutes of Health
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 39141
Inventions, Government-owned; availability for licensing, 39141–39144
Meetings:
National Cancer Institute, 39145
National Institute of General Medical Sciences, 39145–39146
National Institute of Mental Health, 39145
Research Grants Division special emphasis panels, 39146

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic shark, 39099
Gulf of Alaska groundfish, 39100
NOTICES
Permits:
Marine mammals, 39120–39121

National Park Service
NOTICES
Native American human remains and associated funerary objects:
Milwaukee Public Museum, WI; Parrot Clan mask, 39153

National Science Foundation
NOTICES
Meetings:
Biological Sciences Special Emphasis Panel, 39162–39163
Cross Disciplinary Activities Special Emphasis Panel, 39163
Design, Manufacture, and Industrial Innovation Special Emphasis Panel, 39163–39164
Engineering Advisory Committee, 39164
Geosciences Advisory Committee, 39164
Geosciences Special Emphasis Panel, 39164

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
GPU Nuclear Corp., 39164

Office of Management and Budget
See Management and Budget Office

Office of United States Trade Representative
See Trade Representative, Office of United States

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

Rural Housing Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 39117–39118

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 39167–39172
Boston Stock Exchange, Inc., et al., 39172–39174
Chicago Board Options Exchange, Inc., 39175–39176
New York Stock Exchange, Inc., 39176–39178
Applications, hearings, determinations, etc.:
Public utility holding company filings, 39165–39166
Van Kampen American Capital Equity Opportunity Trust (Series 28), 39166–39167

Social Security Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 39178–39179

Surface Transportation Board
PROPOSED RULES
Practice and procedure:
Rail rate reasonableness, exemption and revocation proceedings; expedited procedures, 39110–39114
NOTICES
Railroad operation, acquisition, construction, etc.:
Soo Line Railroad Co., 39180, 39180
Wisconsin Central Ltd. et al., 39180–39181

Trade Representative, Office of United States
NOTICES
Meetings:
United States—Pacific Trade and Investment Policy Commission, 39179
Tariff-rate quota amount determinations:
Refined and raw sugar, 39179–39180

Transportation Department
See Surface Transportation Board

Treasury Department
See Customs Service
See Fiscal Service
See Internal Revenue Service

NOTICES
Boycotts, international:
Countries requiring cooperation; list, 39181

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Degas: Beyond Impressionism, 39183

United States—Pacific Trade and Investment Policy Commission
NOTICES
Meetings, 39179

Separate Parts In This Issue

Part II
Department of Defense, General Services Administration, and National Aeronautics and Space Administration, 39186–39226

Part III
Department of Treasury, Fiscal Service, 39228–39240

Part IV
Department of Commerce, Economic Development Administration, 39242–39244

Part V
Department of Education, 39246–39251

Part VI
Department of Treasury, Fiscal Service, 39254–39259

Part VII
Department of Housing and Urban Development, 39262–39266

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

4 CFR
21.....39039

7 CFR
295.....39047
401.....39048
956.....39050

12 CFR
211.....39052

16 CFR
Proposed Rules:
406.....39101

18 CFR
161.....39053
250.....39053
284.....39053

19 CFR
118.....39070

26 CFR
1 (3 documents) 39071, 39072
Proposed Rules:
1.....39104

31 CFR
208.....39254
Proposed Rules:
344.....39228

32 CFR
630.....39072

34 CFR
Proposed Rules:
263.....39246

40 CFR
300 (2 documents) 39080, 39081
Proposed Rules:
300.....39104

41 CFR
201–23.....39081
201–24.....39081

43 CFR
2.....39083

47 CFR
64.....39084
Proposed Rules:
64.....39107

48 CFR
Ch. 1 (2 documents) 39186, 39224
1 (2 documents) 39188, 39189
2.....39189
3 (3 documents) 39188, 38189, 39199
4 (2 documents) 39188, 39189
5.....39189
6.....39200
8.....39189
9.....39201
11.....39189
12.....39189
13 (2 documents) 39188, 39189
15.....39189
16 (2 documents) 39189, 38201
17.....39203
19 (2 documents) 39189, 39207
22 (2 documents) 39189, 39203
23.....39189
25.....39189
26 (2 documents) 39200, 39210
27.....39211
28 (2 documents) 39189, 39212
29.....39189
31 (2 documents) 39188, 39217
32.....39189
33.....39219
36.....39189
41.....39189
42.....39189
43.....39189
44.....39189
45.....39189
46.....39189
47.....39189
48.....39220
49.....39221
52 (8 documents) 39188, 39189, 39199, 39203, 39207, 39210, 39212, 39221
53 (3 documents) 39188, 39189, 39212
506.....39088
547.....39088
552.....39088
701.....39089
702.....39089
706.....39089
709.....39089
710.....39089
711.....39089
713.....39089
715.....39089
716.....39089
717.....39089
719.....39089
722.....39089
724.....39089
725.....39089
726.....39089
732.....39089
733.....39089
736.....39089
737.....39089
752.....39089
Appendix A 39089
6103.....39096
6104.....39098

49 CFR
Proposed Rules:
1011.....39110
1104.....39110
1111.....39110
1112.....39110
1113.....39110
1114.....39110
1115.....39110
1121.....39110

50 CFR
678.....39099
679.....39100

Rules and Regulations

Federal Register
Vol. 61, No. 145
Friday, July 26, 1996

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

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GENERAL ACCOUNTING OFFICE

4 CFR Part 21

General Accounting Office, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: The General Accounting Office (GAO) is amending its Bid Protest Regulations after receiving and considering the comments on the advance notice of proposed rulemaking published on February 21, 1996, and the proposed rule published on May 1, 1996. The final rule implements the requirement in the National Defense Authorization Act for Fiscal Year 1996 that GAO, for new protests filed on or after August 8, 1996, issue bid protest decisions within 100 calendar days from the time a protest is filed at GAO. The final rule will facilitate GAO's meeting the new statutory deadline for issuing bid protest decisions and will enhance the efficiency and effectiveness of the bid protest process at GAO.

EFFECTIVE DATE: August 8, 1996.

FOR FURTHER INFORMATION CONTACT: Michael R. Golden (Assistant General Counsel) or Linda S. Lebowitz (Senior Attorney), 202–512–9732.

SUPPLEMENTARY INFORMATION:

Effective Dates

Protests filed at GAO prior to the effective date of this final rule will be considered under the previous rule published at 60 FR 40737 on August 10, 1995. That previous rule will also apply to (1) protests filed on or after the effective date of this rule which supplement or amend a protest filed at GAO prior to the effective date of this rule and (2) claims and requests for reconsideration filed on or after the effective date of this rule which concern a protest which was considered under the previous rule.

Background

On February 21, 1996, GAO published an advance notice of proposed rulemaking (61 FR 6579) soliciting comments on how its bid protest procedures could be revised to facilitate GAO's meeting, effective August 8, 1996, the new 100-calendar-day statutory deadline (which shortens the former 125-calendar-day deadline) for issuing bid protest decisions, as required by the National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106, 110 Stat. 186, enacted on February 10, 1996. (Further reference to ''days'' means calendar days.) GAO invited comments addressing changing GAO's longstanding timeliness rules to link the timely filing of a protest with a statutorily required debriefing and on facilitating the expeditious resolution of protests through the use of early document production. In addition, GAO invited suggestions concerning the appropriate length of regulatorily imposed deadlines and the use of accelerated or alternative procedures to more expeditiously resolve bid protests.

In preparing the proposed rule, published on May 1, 1996 (61 FR 19205), GAO considered the written comments received in response to the advance notice. These comments generally recognized our previous efforts, as reflected in the final rule published on August 10, 1995 (60 FR 40737) and effective October 1, 1995, to streamline the bid protest process at GAO and to provide meaningful relief to vendors wrongfully harmed during the conduct of a procurement. The commenters also suggested ways in which the internal management of GAO's bid protest process could be enhanced.

Summary of Comments

Interested persons were invited to submit comments on GAO's proposed rule by July 1, 1996. We received written comments from 13 Federal agencies, 2 bar associations, 2 industry associations, and 1 law firm. In adopting this final rule, we have carefully considered all comments received. The commenters generally acknowledged GAO's efforts to shorten regulatorily imposed deadlines in order to streamline and expedite the bid protest process to meet the 100-day deadline for issuing bid protest decisions and to help implement congressional intent to shorten the length of the procurement cycle.

GAO has also enhanced ongoing internal initiatives to facilitate the proactive management of cases and to accelerate the development and resolution of bid protests. For example, we have adopted procedures to simultaneously issue acknowledgment notices and protective orders in appropriate cases; to identify shortly after a protest is filed those cases in which a hearing appears likely to be appropriate; to encourage the use of accelerated schedules, in lieu of invoking the express option; to promote the expeditious resolution of summary dismissal requests; and to encourage the use of status and other conferences. We believe that regulatorily imposed improvements combined with proactive management of cases will enable GAO to routinely issue a fully developed decision resolving all issues raised in a protest within the 100-day deadline so that the protest does not unnecessarily delay the procurement cycle.

A discussion of the more significant comments concerning GAO's proposed rule, and our responses to these comments, are set forth below.

Section 21.0—Definitions

Several commenters supported our proposal to prescribe procedures for the uniform computation of ''days'' for all periods, including bid protest filing periods and stay periods. In the proposed rule, we added language to paragraph (e) of § 21.0 which provides that in computing any period of time described in Subchapter V, Chapter 35 of Title 31, United States Code, the day from which the period begins to run will not be counted, and that when the last day of the period falls on a Saturday, Sunday, or Federal holiday, the period will extend to the next day that is not a Saturday, Sunday, or Federal holiday. GAO adopts the language as proposed. We believe that periods of time in the bid protest system should be uniformly counted.

Section 21.1—Filing a Protest

To ensure that protesters focus their document and hearing requests, in the proposed rule we added language to § 21.1(d)(2) which makes clear that when a protester makes a document request, the protester must also explain

why the documents requested are relevant to the protest. The proposed language was supported by the commenters, and is adopted as proposed. We believe this requirement will assist GAO and the parties to identify those documents which are material to the disposition of the protest.

Similarly, we added language in the proposed rule to § 21.1(d)(3) which makes clear that when a protester requests a hearing, the protester must also provide an explanation of why it believes a hearing is necessary to resolve the protest. The proposed language was supported by the commenters, and is adopted as proposed. We think this requirement will assist GAO and the parties to identify early in the protest process those cases in which a hearing appears to be appropriate.

In response to a commenter's suggestion, we have added language to paragraph (g) of § 21.1 which makes clear the requirement that a protester file the redacted copy of its protest with GAO and the agency within 1 day after it files its unredacted protest with GAO. The requirement ensures that an agency can expeditiously provide the redacted copy of the protest to any intervenors.

Section 21.2—Time for Filing

We received numerous comments concerning the language in paragraph (a)(2) of § 21.2 in the proposed rule linking the timely filing of a protest with a statutorily required debriefing, that is, a debriefing which is ''requested and, when requested, is required.'' In the proposed rule, we expressly linked our timeliness rule to the statutory debriefing and stay provision of the Federal Acquisition Streamlining Act of 1994 (FASA), Pub. L. 103–355, 108 Stat. 3243, enacted on October 13, 1994. As explained, we believed such linkage would be consistent with congressional intent that a vendor receive a statutorily required debriefing before deciding whether or not to file a protest. The proposed linkage would have provided a uniform rule and practice—by filing a protest within 5 days of a statutorily required debriefing, a protest would be timely for bid protest purposes and the protester would be entitled to a stay.

The commenters were generally receptive to the linkage concept, but suggested various ways to clarify the proposed language. After considering all of these proposals, we have replaced the proposed language with the following language: ''Protests other than those covered by paragraph (a)(1) of this section shall be filed not later than 10 days after the basis of protest is known or should have been known (whichever is earlier), with the exception of protests challenging a procurement conducted on the basis of competitive proposals under which a debriefing is requested and, when requested, is required. In such cases, with respect to any protest basis which is known or should have been known either before or as a result of the debriefing, the initial protest shall not be filed before the debriefing date offered to the protester, but shall be filed not later than 10 days after the date on which the debriefing is held.''

This provision leaves intact GAO's longstanding timeliness rule that protests challenging an award made using sealed bidding procedures, protests raising supplemental/amended issues, and protests based on information which was independently obtained after a statutorily required debriefing must be filed within 10 days (formerly 14 days) after the basis of protest is known or should have been known, whichever is earlier. In the final rule, we have adopted 10 days (not 5 days as proposed) as the basis for calculating most protest (and other) filing periods consistent with the goal of making our bid protest process as simple and straightforward as possible.

In procurements conducted on the basis of competitive proposals in which a statutorily required debriefing is held, that is, where a debriefing is requested and, when requested, is required, a protester will always have up to 10 days after the debriefing to file its initial protest.

In adopting the 10-day timeliness rule, we recognize the concerns of those commenters who point out that shortening in any circumstances GAO's requirement for a timely filed protest from the former 14 days to the proposed 5 days would seriously diminish access to potential protesters who are accustomed to working with the 14-day requirement. At the same time, we recognize other commenters' legitimate concerns that the protest cycle be as short as feasible and, in the era of facsimile transmissions and express delivery services, 14 days is a disproportionately long period of time to allow vendors to file a protest. We think the 10-day timeliness rule adopted in this final rule strikes the appropriate balance between the comments that potential protesters should have time to prepare and file a well-considered protest, and other comments that the addition of a full 2-week period to the overall 100-day bid protest period is not consistent with the congressional goal of an expeditious bid protest system.

Moreover, to address concerns regarding strategic or defensive protests, and to encourage early and meaningful debriefings, GAO provides in paragraph (a)(2) of § 21.2 that protesters shall not file an initial protest prior to the debriefing date offered to the protester, but must file the initial protest not later than 10 days after the date on which the debriefing is held. In order to administer this rule, our Office may close a file without prejudice on any protest which has been filed before a statutorily required debriefing, upon appropriate notice by an agency that the statutorily required debriefing date has been offered. We anticipate that this debriefing will normally occur on the first date offered by the agency. However, in the event that the agency subsequently agrees to another date, the debriefing held on that date will be used as the basis for determining the timeliness of the protest. While we recognize that this places a potential burden on an agency's procurement cycle time, the agency has within its control the ability to minimize this period by offering early and meaningful debriefings consistent with congressional intent.

The adoption of a uniform 10-day timeliness rule provides for easy calculation of protest filing periods and substantially maintains the basic timeliness rule which has been in effect at GAO since 1975. This 10-day rule reflects a compromise which balances the legitimate competing interests and concerns of all parties. Under this rule and consistent with the statutory language in FASA, a protester may file a timely protest on any issue within 5 days of a statutorily required debriefing, as well as obtain a stay, thus eliminating the existing anomaly that a protester may be eligible for a stay based on a filing which does not constitute a timely protest. However, potential protesters should be aware that, even after this compromise (and as is currently also the case), a protester's initial filing may qualify as a timely protest, but may not entitle the protester to a stay. Nevertheless, a protester's opportunity to obtain meaningful review at GAO will be maintained.

In paragraph (a)(3) of § 21.2 in the proposed rule, we required that any subsequent protest to our Office following a protester's actual or constructive knowledge of initial adverse agency action on its agency-level protest be filed within 5 days. While this 5-day period was supported by several commenters, other commenters expressed concern that this proposed filing period was too short and would not provide protesters with sufficient time to consider an agency's decision regarding the agency-level

protest and to decide whether to file a subsequent protest, which may raise new issues, with GAO. We are adopting 10 days as the time period for filing a subsequent protest with GAO following a protester's knowledge of initial adverse agency action on its agency level protest to help ensure that the protester's decision regarding the filing of such a protest is well considered.

We have removed paragraph (a)(4) of § 21.2 in the proposed rule which required that supplemental or amended protests be filed within 5 days after the basis of protest is known or should have been known, whichever is earlier. By removing the proposed language, we will continue to require that supplemental or amended protests be filed in accordance with the basic ''knew/should have known'' timeliness rule which, as adopted in this final rule, is 10 days.

In addition, several commenters suggested that the time period for filing supplemental or amended protests be aligned with the 10-day time period for filing comments (the proposed language in paragraph (i) of § 21.3 is adopted) since we might consider arguments made in comments to be new protest issues which would need to independently satisfy GAO's timeliness rules. In light of this concern and consistent with the desire to calculate protest and other filing periods in a simple, straightforward manner, the time periods for filing supplemental or amended protests and comments will be concurrent, thereby achieving the ''bright line'' rule desired by the commenters.

Finally, a few commenters have expressed a concern that our timeliness rules conflict with the 10-working-day timeliness requirement contained in the North American Free Trade Agreement (NAFTA). Since the effective date of NAFTA implementation, we have not received a protest under the NAFTA rules. When NAFTA was implemented, we consulted the United States Trade Representative who advised that the minor inconsistency between NAFTA's and GAO's timeliness requirements would not pose any problems. We are cognizant of the inconsistency and believe that, because of the flexibility of our timeliness rules, we will be able to afford a NAFTA protester all treaty rights for purposes of the timely filing of a protest.

Section 21.3—Notice of Protest, Submission of Agency Report, and Time for Filing of Comments on Report

Consistent with the requirement in the National Defense Authorization Act for Fiscal Year 1996, GAO adopts the language as proposed in paragraph (c) of § 21.3 concerning the new 30-day time period for filing the agency report (shortening the former 35-day requirement) after telephone notice of the protest from GAO.

In response to suggestions from commenters that GAO encourage the filing of relevant documents prior to the filing of the agency report, GAO adopts the language as proposed in paragraph (c) of § 21.3 to explicitly recognize that documents may be provided prior to the filing of the agency report or may otherwise be made available to the parties, such as by allowing parties to review documents on site at the agency prior to the filing of the report. As previously discussed in the final rule at 60 FR 40737, 40738, we believe that in appropriate cases, an agency's voluntary production of documents prior to the filing of its agency report will facilitate the prompt resolution of the protest and result in other system efficiencies.

In light of the shortened timeframe for resolving all protest issues, GAO believes it is critical to resolve document disputes prior to the filing of the agency report in order to avoid extending a protester's comment period or affording a protester an opportunity to file supplemental comments in response to the piecemeal release of additional documents. For this reason, GAO adopts the language proposed in paragraph (c) of § 21.3 requiring that at least 5 days prior to the filing of the agency report, in protests where specific documents material to the disposition of the protest have been requested, the agency provide to all parties and GAO a list of those documents, or portions of documents, which the agency has released to the protester or intends to produce in its report, and of those documents which the agency intends to withhold from the protester and the reasons for the proposed withholding. GAO believes this list will facilitate the expeditious resolution of document disputes and ultimately the protest itself. We decline to adopt the suggestion of some commenters that a list be produced in all cases (including those cases where specific documents have not been requested) because we believe such a requirement would unduly burden the agencies without providing corresponding benefits to the bid protest process.

Several commenters suggested that the proposed 1-day period for filing objections with GAO and the other parties regarding the scope of the agency's proposed disclosure/nondisclosure of documents after receipt of the list should be at least 2 days. GAO adopts the suggestion of these commenters by changing the language in paragraph (c) of § 21.3 making clear that any objection to the scope of the agency's proposed disclosure/nondisclosure of documents be filed within 2 days after receipt of the list.

GAO adopts the proposed language, ''documents, or portions of documents,'' throughout § 21.3 which clarifies and reflects current longstanding practice that parties need not provide entire documents if only certain parts of the documents are relevant to the issues raised in the protest.

One commenter expressed concern that agency reports for overseas procurements often cannot be filed within the 30-day statutory period. This difficulty is already provided for in redesignated paragraph (f) of § 21.3. (The proposed rule divided former paragraph (c) of § 21.3 into 2 parts, creating a new paragraph (d) in this section and redesignating the subsequent paragraphs in this section.) In such cases, consistent with current practice, an agency may request an extension of time for filing the agency report. In response to another commenter's concern, GAO has added language to paragraph (f) of § 21.3 to permit an agency to also request an extension of time to file the list of documents proposed for disclosure/nondisclosure.

In redesignated paragraph (g) of § 21.3, GAO adopts the proposed language which requires agencies to respond to supplemental document requests within 2 days after the protester requests additional documents. This 2-day period is equivalent to the period given to the protester to request additional documents after their existence or relevance first becomes evident following receipt of the agency report and places the parties on a level playing field regarding the respective filing periods for supplemental documents.

Several commenters have expressed the view that it is inappropriate after the filing of comments on the agency report or hearing for agencies and other parties to file unsolicited responses to such comments. GAO adopts the language proposed in redesignated paragraph (j) of § 21.3 which provides that such additional responses shall not be submitted unless GAO specifically requests them or specifically grants permission for their submission. This requirement will ensure that the period of time for closing the protest record is not unnecessarily extended. The requirement is not, however, intended to foreclose the submission of additional information from an agency or other

parties when GAO believes that such input is appropriate.

Section 21.5—Protest Issues Not for Consideration

GAO adopts the language proposed in paragraph (d) of § 21.5 concerning protests alleging a violation of subsection (a), (b), (c), or (d) of sec. 27 of the Office of Federal Procurement Policy (OFPP) Act, 41 U.S.C. 423, as amended by sec. 4304 of the National Defense Authorization Act for Fiscal Year 1996. The statute requires that potential protesters notify the agency concerned of a possible procurement integrity violation within 14 days of discovering the alleged violation before protesting the matter to GAO. The statutory requirement reflected in paragraph (d) of § 21.5 will become effective on January 1, 1997, unless the requirement is implemented by OFPP by an earlier date. Pending OFPP's implementation of this requirement and consistent with current practice, GAO will continue to consider protests of alleged procurement integrity violations whether or not the protester has notified the agency prior to filing its protest.

Section 21.7—Hearings

Consistent with current practice, GAO adopts the language as proposed in paragraph (c) of § 21.7 which explicitly recognizes that hearings may be conducted by telephone. In paragraph (g) of § 21.7, GAO adopts the language as proposed which reduces the time for filing consolidated comments on the agency report and hearing from 7 days to 5 days after the hearing. In those circumstances where more time to file consolidated comments is necessary, GAO retains the flexibility to extend the comment period.

Section 21.8—Remedies

Several commenters have expressed concern that the 90-day timeframe for filing claims is too long. In paragraph (f)(1) of § 21.8, GAO has shortened the time for filing claims to 60 days. This change in the final rule will expedite the process for resolving claims and ultimately closing the contract file in a particular matter.

Section 21.9—Time for Decision by GAO

In accordance with the statutory requirement in the National Defense Authorization Act for Fiscal Year 1996, GAO adopts the language as proposed in paragraph (a) of § 21.9 that a decision on a protest be issued within 100 days after a protest is filed (shortening the former 125-day requirement).

Section 21.10—Express Options, Flexible Alternative Procedures, Accelerated Schedules, Summary Decisions, and Status and Other Conferences

Several commenters have recognized GAO's use of flexible alternative procedures to resolve bid protests, deeming such procedures particularly useful in light of the shortened statutory deadline for issuing decisions. GAO adopts the language as proposed in paragraph (e) of § 21.10 which specifically references as examples the use of accelerated schedules and/or the issuance of summary decisions as flexible alternative procedures which have been and will continue to be used by GAO to promptly and fairly resolve protests.

Further, GAO adopts the language proposed in the new paragraph (f) of § 21.10 which, reflecting current practice, expressly provides for conducting telephone or in person status and other conferences with all protest parties to promote the expeditious development and resolution of the protest. We added language to paragraph (f) of § 21.10 to recognize that other types of informal conferences may also be held. For example, GAO has used status and other conferences to resolve protective order admission objections, document disputes, and summary dismissal requests; to discuss issues related to hearings; and to obtain answers to questions which are relevant and material to the disposition of the protest. GAO has found that the use of status and other conferences benefits all parties to a protest. While some commenters suggested that we include in this final rule a specific time for conducting such conferences, we decline to add such language in order to retain the flexibility to conduct these conferences at any time during the process, thereby tailoring the conferences to the circumstances of a particular case.

List of Subjects in 4 CFR Part 21

Administrative practice and procedure, Bid protest regulations, Government contracts.

For the reasons set out in the preamble, Title 4, Chapter I, Subchapter B of the Code of Federal Regulations is amended as follows:

1. Part 21 is revised to read as follows:

PART 21—BID PROTEST REGULATIONS

Sec.

21.0 Definitions.
21.1 Filing a protest.
21.2 Time for filing.
21.3 Notice of protest, submission of agency report, and time for filing of comments on report.
21.4 Protective orders.
21.5 Protest issues not for consideration.
21.6 Withholding of award and suspension of contract performance.
21.7 Hearings.
21.8 Remedies.
21.9 Time for decision by GAO.
21.10 Express options, flexible alternative procedures, accelerated schedules, summary decisions, and status and other conferences.
21.11 Effect of judicial proceedings.
21.12 Distribution of decisions.
21.13 Nonstatutory protests.
21.14 Request for reconsideration.

Authority: 31 U.S.C. 3551–3556.

§ 21.0 Definitions.

(a) *Interested party* means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

(b) *Intervenor* means an awardee if the award has been made or, if no award has been made, all bidders or offerors who appear to have a substantial prospect of receiving an award if the protest is denied.

(c) *Federal agency* means any executive department or independent establishment in the executive branch, including any wholly owned government corporation, and any establishment in the legislative or judicial branch, except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction.

(d) *Contracting agency* means a Federal agency which has awarded or proposes to award a contract under a protested procurement.

(e) *Days* are calendar days. In computing any period of time described in Subchapter V, Chapter 35 of Title 31, United States Code, including those described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the General Accounting Office (GAO), or another Federal agency where a submission is due, is closed for all or part of the last day, the period extends to the next day on which the agency is open.

(f) *Adverse agency action* is any action or inaction by a contracting agency which is prejudicial to the position taken in a protest filed with the agency, including a decision on the merits of a protest; the opening of bids or receipt of proposals, the award of a contract, or the rejection of a bid despite

a pending protest; or contracting agency acquiescence in continued and substantial contract performance.

(g) A document is *filed* on a particular day when it is received by GAO by 5:30 p.m., eastern time, on that day. A document may be filed by hand delivery, mail, or commercial carrier; parties wishing to file a document by facsimile transmission or other electronic means must ensure that the necessary equipment is operational at GAO's Procurement Law Control Group.

§ 21.1 Filing a protest.

(a) An interested party may protest a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services; the cancellation of such a solicitation or other request; an award or proposed award of such a contract; and a termination of such a contract, if the protest alleges that the termination was based on improprieties in the award of the contract.

(b) Protests must be in writing and addressed as follows: General Counsel, General Accounting Office, 441 G Street, NW., Washington, DC 20548, Attention: Procurement Law Control Group.

(c) A protest filed with GAO shall:

(1) Include the name, address, and telephone and facsimile numbers of the protester,

(2) Be signed by the protester or its representative,

(3) Identify the contracting agency and the solicitation and/or contract number,

(4) Set forth a detailed statement of the legal and factual grounds of protest including copies of relevant documents,

(5) Set forth all information establishing that the protester is an interested party for the purpose of filing a protest,

(6) Set forth all information establishing the timeliness of the protest,

(7) Specifically request a ruling by the Comptroller General of the United States, and

(8) State the form of relief requested.

(d) In addition, a protest filed with GAO may:

(1) Request a protective order,

(2) Request specific documents, explaining the relevancy of the documents to the protest grounds, and

(3) Request a hearing, explaining the reasons that a hearing is needed to resolve the protest.

(e) The protester shall furnish a complete copy of the protest, including all attachments, to the individual or location designated by the contracting agency in the solicitation for receipt of protests, or if there is no designation, to the contracting officer. The designated individual or location (or, if applicable, the contracting officer) must receive a complete copy of the protest and all attachments not later than 1 day after the protest is filed with GAO. The protest document must indicate that a complete copy of the protest and all attachments are being furnished within 1 day to the appropriate individual or location.

(f) No formal briefs or other technical forms of pleading or motion are required. Protest submissions should be concise and logically arranged, and should clearly state legally sufficient grounds of protest. Protests of different procurements should be separately filed.

(g) Unless precluded by law, GAO will not withhold material submitted by a protester from any party outside the government. If the protester believes that the protest contains information which should be withheld, a statement advising of this fact must be on the front page of the submission. This information must be identified wherever it appears, and the protester must file a redacted copy of the protest which omits the information with GAO and the agency within 1 day after the filing of its protest with GAO.

(h) Parties who intend to file documents containing classified information should notify GAO in advance to obtain advice regarding procedures for filing and handling the information.

(i) A protest may be dismissed for failure to comply with any of the requirements of this section, except for the items in paragraph (d) of this section. In addition, a protest shall not be dismissed for failure to comply with paragraph (e) of this section where the contracting officer has actual knowledge of the basis of protest, or the agency, in the preparation of its report, was not prejudiced by the protester's noncompliance.

§ 21.2 Time for filing.

(a)(1) Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed prior to bid opening or the time set for receipt of initial proposals. In procurements where proposals are requested, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be protested not later than the next closing time for receipt of proposals following the incorporation.

(2) Protests other than those covered by paragraph (a)(1) of this section shall be filed not later than 10 days after the basis of protest is known or should have been known (whichever is earlier), with the exception of protests challenging a procurement conducted on the basis of competitive proposals under which a debriefing is requested and, when requested, is required. In such cases, with respect to any protest basis which is known or should have been known either before or as a result of the debriefing, the initial protest shall not be filed before the debriefing date offered to the protester, but shall be filed not later than 10 days after the date on which the debriefing is held.

(3) If a timely agency-level protest was previously filed, any subsequent protest to GAO filed within 10 days of actual or constructive knowledge of initial adverse agency action will be considered, provided the agency-level protest was filed in accordance with paragraphs (a)(1) and (a)(2) of this section, unless the contracting agency imposes a more stringent time for filing, in which case the agency's time for filing will control. In cases where an alleged impropriety in a solicitation is timely protested to a contracting agency, any subsequent protest to GAO will be considered timely if filed within the 10-day period provided by this paragraph, even if filed after bid opening or the closing time for receipt of proposals.

(b) Protests untimely on their face may be dismissed. A protester shall include in its protest all information establishing the timeliness of the protest; a protester will not be permitted to introduce for the first time in a request for reconsideration information necessary to establish that the protest was timely.

(c) GAO, for good cause shown, or where it determines that a protest raises issues significant to the procurement system, may consider an untimely protest.

§ 21.3 Notice of protest, submission of agency report, and time for filing of comments on report.

(a) GAO shall notify the contracting agency by telephone within 1 day after the filing of a protest, and, unless the protest is dismissed under this part, shall promptly send a written confirmation to the contracting agency and an acknowledgment to the protester. The contracting agency shall immediately give notice of the protest to the contractor if award has been made or, if no award has been made, to all bidders or offerors who appear to have a reasonable prospect of receiving an award. The contracting agency shall furnish copies of the protest submissions to those parties, except

where disclosure of the information is prohibited by law, with instructions to communicate further directly with GAO. All parties shall furnish copies of all protest communications to the contracting agency and to other participating parties. All protest communications shall be sent by means reasonably calculated to effect expeditious delivery.

(b) A contracting agency or intervenor which believes that the protest or specific protest allegations should be dismissed before submission of an agency report should file a request for dismissal as soon as practicable.

(c) The contracting agency shall file a report on the protest with GAO within 30 days after the telephone notice of the protest from GAO. The report provided to the parties need not contain documents which the agency has previously furnished or otherwise made available to the parties in response to the protest. At least 5 days prior to the filing of the report, in cases in which the protester has filed a request for specific documents, the agency shall provide to all parties and GAO a list of those documents, or portions of documents, which the agency has released to the protester or intends to produce in its report, and of the documents which the agency intends to withhold from the protester and the reasons for the proposed withholding. Any objection to the scope of the agency's proposed disclosure or nondisclosure of documents must be filed with GAO and the other parties within 2 days of receipt of this list.

(d) The report shall include the contracting officer's statement of the relevant facts, including a best estimate of the contract value, a memorandum of law, and a list and a copy of all relevant documents, or portions of documents, not previously produced, including, as appropriate: the protest; the bid or proposal submitted by the protester; the bid or proposal of the firm which is being considered for award, or whose bid or proposal is being protested; all evaluation documents; the solicitation, including the specifications; the abstract of bids or offers; and any other relevant documents. In appropriate cases, the contracting agency may request that the protester produce relevant documents, or portions of documents, that are not in the agency's possession.

(e) Subject to any protective order issued in the protest pursuant to § 21.4, the contracting agency shall simultaneously furnish a copy of the report to the protester and any intervenors. The copy of the report filed with GAO shall list the parties who have been furnished copies of the report. Where a protester does not have counsel admitted to a protective order and documents are withheld from the protester in accordance with this part, the agency shall provide documents adequate to inform the protester of the basis of the agency's position.

(f) The contracting agency may request an extension of time for the submission of the list of documents to be provided by the agency pursuant to § 21.3(c) or for the submission of the agency report. Extensions will be granted on a case-by-case basis.

(g) The protester may request additional documents after receipt of the agency report when their existence or relevance first becomes evident. Except when authorized by GAO, any request for additional documents must be filed with GAO and the contracting agency not later than 2 days after their existence or relevance is known or should have been known, whichever is earlier. The contracting agency shall provide the requested documents, or portions of documents, and a list to GAO and the other parties within 2 days or explain why it is not required to produce the documents.

(h) Upon the request of a party, GAO will decide whether the contracting agency must provide any withheld documents, or portions of documents, and whether this should be done under a protective order. When withheld documents are provided, the protester's comments on the agency report shall be filed within the original comment filing period unless GAO determines that an extension is appropriate.

(i) Comments on the agency report shall be filed with GAO within 10 days after receipt of the report, with a copy provided to the contracting agency and other participating parties. The protest shall be dismissed unless the protester files comments or a written statement requesting that the case be decided on the existing record, or requests an extension of time within the 10-day period. Unless otherwise advised by the protester, GAO will assume the protester received the agency report by the due date specified in the acknowledgment of protest furnished by GAO. Upon a showing that the specific circumstances of a protest require a period longer than 10 days for the submission of comments, GAO will set a new date for the submission of comments. Extensions will be granted on a case-by-case basis.

(j) GAO may request or permit the submission of additional statements by the parties and by other parties not participating in the protest as may be necessary for the fair resolution of the protest. The agency and other parties shall not submit any additional statements unless the statements are specifically requested by GAO or submitted after permission has been granted by GAO.

§ 21.4 Protective orders.

(a) At the request of a party or on its own initiative, GAO may issue a protective order controlling the treatment of protected information. Such information may include proprietary, confidential, or source-selection-sensitive material, as well as other information the release of which could result in a competitive advantage to one or more firms. The protective order shall establish procedures for application for access to protected information, identification and safeguarding of that information, and submission of redacted copies of documents omitting protected information. Because a protective order serves to facilitate the pursuit of a protest by a protester through counsel, it is the responsibility of protester's counsel to request that a protective order be issued and to submit timely applications for admission under that order.

(b) If no protective order has been issued, the agency may withhold from the parties those portions of its report which would ordinarily be subject to a protective order. GAO will review in camera all information not released to the parties.

(c) After a protective order has been issued, counsel or consultants retained by counsel appearing on behalf of a party may apply for admission under the order by submitting an application to GAO, with copies furnished simultaneously to all parties. The application shall establish that the applicant is not involved in competitive decision-making for any firm that could gain a competitive advantage from access to the protected information and that there will be no significant risk of inadvertent disclosure of protected information. Objections to an applicant's admission shall be raised within 2 days after receipt of the application, although GAO may consider objections raised after that time.

(d) Any violation of the terms of a protective order may result in the imposition of such sanctions as GAO deems appropriate, including referral to appropriate bar associations or other disciplinary bodies and restricting the individual's practice before GAO.

§ 21.5 Protest issues not for consideration.

GAO shall summarily dismiss a protest or specific protest allegations that do not state a valid basis for protest, are untimely (unless considered pursuant to § 21.2(c)), or are not properly before GAO. A protest or specific protest allegations may be dismissed any time sufficient information is obtained by GAO warranting dismissal. Where an entire protest is dismissed, no agency report shall be filed; where specific protest allegations are dismissed, an agency report shall be filed on the remaining allegations. Among the protest bases which shall be dismissed are the following:

(a) *Contract administration.* The administration of an existing contract is within the discretion of the contracting agency. Disputes between a contractor and the agency are resolved pursuant to the disputes clause of the contract and the Contract Disputes Act of 1978. 41 U.S.C. 601–613.

(b) *Small Business Administration issues.* (1) *Small business size standards and standard industrial classification.* Challenges of established size standards or the size status of particular firms, and challenges of the selected standard industrial classification may be reviewed solely by the Small Business Administration. 15 U.S.C. 637(b)(6).

(2) *Small Business Certificate of Competency Program.* Any referral made to the Small Business Administration pursuant to sec. 8(b)(7) of the Small Business Act, or any issuance of, or refusal to issue, a certificate of competency under that section will not be reviewed by GAO absent a showing of possible bad faith on the part of government officials or a failure to consider vital information bearing on the firm's responsibility. 15 U.S.C. 637(b)(7).

(3) *Procurements under sec.* 8(a) of the Small Business Act. Under that section, since contracts are entered into with the Small Business Administration at the contracting officer's discretion and on such terms as are agreed upon by the procuring agency and the Small Business Administration, the decision to place or not to place a procurement under the 8(a) program is not subject to review absent a showing of possible bad faith on the part of government officials or that regulations may have been violated. 15 U.S.C. 637(a).

(c) *Affirmative determination of responsibility by the contracting officer.* Because the determination that a bidder or offeror is capable of performing a contract is based in large measure on subjective judgments which generally are not readily susceptible of reasoned review, an affirmative determination of responsibility will not be reviewed absent a showing of possible bad faith on the part of government officials or that definitive responsibility criteria in the solicitation were not met.

(d) *Procurement integrity.* For any Federal procurement, GAO will not review an alleged violation of subsections (a), (b), (c), or (d) of sec. 27 of the Office of Federal Procurement Policy Act, 41 U.S.C. 423, as amended by sec. 4304 of the National Defense Authorization Act for Fiscal Year 1996, Public Law 104–106, 110 Stat. 186, February 10, 1996, where the protester failed to report the information it believed constituted evidence of the offense to the Federal agency responsible for the procurement within 14 days after the protester first discovered the possible violation. The provision in paragraph (d) of § 21.5 will apply not later than January 1, 1997.

(e) Protests not filed either in GAO or the contracting agency within the time limits set forth in § 21.2.

(f) Protests which lack a detailed statement of the legal and factual grounds of protest as required by § 21.1(c)(4), or which fail to clearly state legally sufficient grounds of protest as required by § 21.1(f).

(g) *Procurements by agencies other than Federal agencies as defined by sec. 3 of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 472.* Protests of procurements or proposed procurements by agencies such as the U.S. Postal Service, the Federal Deposit Insurance Corporation, and nonappropriated fund activities are beyond GAO's bid protest jurisdiction as established in 31 U.S.C. 3551–3556.

(h) *Subcontract protests.* GAO will not consider a protest of the award or proposed award of a subcontract except where the agency awarding the prime contract has requested in writing that subcontract protests be decided pursuant to § 21.13.

§ 21.6 Withholding of award and suspension of contract performance.

Where a protest is filed with GAO, the contracting agency may be required to withhold award and to suspend contract performance. The requirements for the withholding of award and the suspension of contract performance are set forth in 31 U.S.C. 3553 (c) and (d).

§ 21.7 Hearings.

(a) At the request of a party or on its own initiative, GAO may conduct a hearing in connection with a protest. The request shall set forth the reasons why a hearing is needed to resolve the protest.

(b) Prior to the hearing, GAO may hold a pre-hearing conference to discuss and resolve matters such as the procedures to be followed, the issues to be considered, and the witnesses who will testify.

(c) Hearings generally will be conducted as soon as practicable after receipt by the parties of the agency report and relevant documents. Although hearings ordinarily will be conducted at GAO in Washington, DC, hearings may, at the discretion of GAO, be conducted at other locations, or by telephone.

(d) All parties participating in the protest shall be invited to attend the hearing. Others may be permitted to attend as observers and may participate as allowed by GAO's hearing official. In order to prevent the improper disclosure of protected information at the hearing, GAO's hearing official may restrict attendance during all or part of the proceeding.

(e) Hearings shall normally be recorded and/or transcribed. If a recording and/or transcript is made, any party may obtain copies at its own expense.

(f) If a witness whose attendance has been requested by GAO fails to attend the hearing or fails to answer a relevant question, GAO may draw an inference unfavorable to the party for whom the witness would have testified.

(g) If a hearing is held, no separate comments on the agency report should be submitted unless specifically requested by GAO. Each party shall file with GAO, within 5 days after the hearing was held or as specified by GAO, a single document expressing any comments on both the hearing and agency report, with copies furnished to the other parties. By the due date, if the protester has not filed comments or a written statement requesting that the case be decided on the existing record, GAO shall dismiss the protest.

(h) In post-hearing comments, the parties should reference all testimony and admissions in the hearing record that they consider relevant, providing specific citations to the testimony and admissions referenced.

§ 21.8 Remedies.

(a) If GAO determines that a solicitation, cancellation of a solicitation, termination of a contract, proposed award, or award does not comply with statute or regulation, it shall recommend that the contracting agency implement any combination of the following remedies:

(1) Refrain from exercising options under the contract;
(2) Terminate the contract;
(3) Recompete the contract;
(4) Issue a new solicitation;
(5) Award a contract consistent with statute and regulation; or
(6) Such other recommendation(s) as GAO determines necessary to promote compliance.

(b) In determining the appropriate recommendation(s), GAO shall, except as specified in paragraph (c) of this section, consider all circumstances surrounding the procurement or proposed procurement including the seriousness of the procurement deficiency, the degree of prejudice to other parties or to the integrity of the competitive procurement system, the good faith of the parties, the extent of performance, the cost to the government, the urgency of the procurement, and the impact of the recommendation(s) on the contracting agency's mission.

(c) If the head of the procuring activity determines that performance of the contract notwithstanding a pending protest is in the government's best interest, GAO shall make its recommendation(s) under paragraph (a) of this section without regard to any cost or disruption from terminating, recompeting, or reawarding the contract.

(d) If GAO determines that a solicitation, proposed award, or award does not comply with statute or regulation, it may recommend that the contracting agency pay the protester the costs of:

(1) Filing and pursuing the protest, including attorneys' fees and consultant and expert witness fees; and

(2) Bid and proposal preparation.

(e) If the contracting agency decides to take corrective action in response to a protest, GAO may recommend that the agency pay the protester the costs of filing and pursuing the protest, including attorneys' fees and consultant and expert witness fees. The protester shall file any request that GAO recommend that costs be paid within 15 days after being advised that the contracting agency has decided to take corrective action. The protester shall furnish a copy of its request to the contracting agency, which may file a response within 15 days after receipt of the request, with a copy furnished to the protester.

(f)(1) If GAO recommends that the contracting agency pay the protester the costs of filing and pursuing the protest and/or of bid or proposal preparation, the protester and the agency shall attempt to reach agreement on the amount of costs. The protester shall file its claim for costs, detailing and certifying the time expended and costs incurred, with the contracting agency within 60 days after receipt of GAO's recommendation that the agency pay the protester its costs. Failure to file the claim within that time may result in forfeiture of the protester's right to recover its costs.

(2) The contracting agency shall issue a decision on the claim for costs as soon as practicable after the claim is filed. If the protester and the contracting agency cannot reach agreement within a reasonable time, GAO may, upon request of the protester, recommend the amount of costs the agency should pay in accordance with 31 U.S.C. 3554(c). In such cases, GAO may also recommend that the contracting agency pay the protester the costs of pursuing the claim for costs before GAO.

(3) The contracting agency shall notify GAO within 60 days after GAO recommends the amount of costs the agency should pay the protester of the action taken by the agency in response to the recommendation.

§ 21.9 Time for decision by GAO.

(a) GAO shall issue a decision on a protest within 100 days after it is filed.

(b) In protests where GAO uses the express option procedures in § 21.10, GAO shall issue a decision on a protest within 65 days after it is filed.

(c) GAO, to the maximum extent practicable, shall resolve a timely supplemental protest adding one or more new grounds to an existing protest, or a timely amended protest, within the time limit established in paragraph (a) of this section for decision on the initial protest. If a supplemental or an amended protest cannot be resolved within that time limit, GAO may resolve the supplemental or amended protest using the express option procedures in § 21.10.

§ 21.10 Express options, flexible alternative procedures, accelerated schedules, summary decisions, and status and other conferences.

(a) At the request of a party or on its own initiative, GAO may decide a protest using an express option.

(b) The express option will be adopted at the discretion of GAO and only in those cases suitable for resolution within 65 days.

(c) Requests for the express option shall be in writing and received in GAO not later than 5 days after the protest or supplemental/amended protest is filed. GAO will promptly notify the parties whether the case will be handled using the express option.

(d) When the express option is used, the following schedule applies instead of those deadlines in § 21.3 and § 21.7:

(1) The contracting agency shall file a complete report with GAO and the parties within 20 days after it receives notice from GAO that the express option will be used.

(2) Comments on the agency report shall be filed with GAO and the other parties within 5 days after receipt of the report.

(3) If a hearing is held, no separate comments on the agency report under paragraph (d)(2) of this section should be submitted unless specifically requested by GAO. Consolidated comments on the agency report and hearing shall be filed within 5 days after the hearing was held or as specified by GAO.

(4) Where circumstances demonstrate that a case is no longer suitable for resolution using the express option, GAO shall establish a new schedule for submissions by the parties.

(e) GAO may use flexible alternative procedures to promptly and fairly resolve a protest, including establishing an accelerated schedule and/or issuing a summary decision.

(f) GAO may conduct status and other conferences by telephone or in person with all parties participating in a protest to promote the expeditious development and resolution of the protest.

§ 21.11 Effect of judicial proceedings.

(a) A protester must immediately advise GAO of any court proceeding which involves the subject matter of a pending protest and must file with GAO copies of all relevant court documents.

(b) GAO will dismiss any protest where the matter involved is the subject of litigation before a court of competent jurisdiction, or where the matter involved has been decided on the merits by a court of competent jurisdiction. GAO may, at the request of a court, issue an advisory opinion on a bid protest issue that is before the court. In these cases, unless a different schedule is established, the times provided in this part for filing the agency report (§ 21.3(c)), filing comments on the report (§ 21.3(i)), holding a hearing and filing comments (§ 21.7), and issuing a decision (§ 21.9) shall apply.

§ 21.12 Distribution of decisions.

(a) Unless it contains protected information, a copy of a decision shall be provided to the protester, any intervenors, the head of the contracting activity responsible for the protested procurement, and the senior procurement executive of each Federal agency involved; a copy shall also be

made available to the public. A copy of a decision containing protected information shall be provided only to the contracting agency and to individuals admitted to any protective order issued in the protest. A public version omitting the protected information shall be prepared wherever possible.

(b) Decisions are available from GAO by electronic means.

§ 21.13 Nonstatutory protests.

(a) GAO will consider protests concerning awards of subcontracts by or for a Federal agency, sales by a Federal agency, or procurements by agencies of the government other than Federal agencies as defined in § 21.0(c) if the agency involved has agreed in writing to have protests decided by GAO.

(b) The provisions of this part shall apply to nonstatutory protests except for the provision of § 21.8(d) pertaining to recommendations for the payment of costs. The provision for the withholding of award and the suspension of contract performance, 31 U.S.C. 3553(c) and (d), also does not apply to nonstatutory protests.

§ 21.14 Request for reconsideration.

(a) The protester, any intervenor, and any Federal agency involved in the protest may request reconsideration of a bid protest decision. GAO will not consider a request for reconsideration that does not contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.

(b) A request for reconsideration of a bid protest decision shall be filed, with copies to the parties who participated in the protest, not later than 10 days after the basis for reconsideration is known or should have been known, whichever is earlier.

(c) GAO will summarily dismiss any request for reconsideration that fails to state a valid basis for reconsideration or is untimely. The filing of a request for reconsideration does not require the withholding of award and the suspension of contract performance under 31 U.S.C. 3553 (c) and (d).

Robert P. Murphy,

General Counsel.

[FR Doc. 96–19014 Filed 7–25–96; 8:45 am]

BILLING CODE 1610–01–P

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 295

RIN 0584–AC13

Availability of Information and Records to the Public

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Food and Consumer Service (FCS) Freedom of Information Act (FOIA) regulations contained in 7 CFR part 295 as required by the FOIA and 7 CFR part 1—Administrative Regulations, subpart A—Official Records, § 1.3 Agency Implementing Regulations. The revised information mainly reflects changes in office addresses and locations and expands the information for accessing records.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph M. Scordato, Freedom of Information Act Officer, Information Technology Division, Food and Consumer Service, USDA, Alexandria, VA 22302 (703–305–2244).

SUPPLEMENTARY INFORMATION: The FOIA (5 U.S.C. 552(a)(1)) requires Federal agencies to publish in the Federal Register regulations describing how the public may obtain information from the agency. Part 295 of Title 7, Code of Federal Regulations, is issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR part 1, subpart A, implementing FOIA.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12866. The Administrator of FCS has certified that this rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., do not apply. This rule contains no reporting or recordkeeping requirements subject to review under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). This rule has been reviewed under Executive Order 12988, Civil Justice Reform, and has been determined to meet the applicable standards of the Executive Order. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions, or that would otherwise impede its full implementation. Prior to any judicial challenge to the application of this rule, a requester must exhaust all applicable administrative remedies provided in 7 CFR part 1, subpart A.

By this publication the Food and Consumer Service is notifying the Public of its office locations, the hours of operation, the kinds of information available, and the responsible officials where information may be obtained. In addition to the headquarters offices, the Food and Consumer Service has regional and field offices located throughout the Country.

List of Subjects in 7 CFR Part 295

Freedom of Information.

Accordingly, 7 CFR part 295 is revised to read as follows:

PART 295—AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Sec.

295.1 General statement.
295.2 Organizational description.
295.3 Informational and educational publications.
295.4 Program evaluation status reports.
295.5 Program statistical reports.
295.6 Public inspection and copying.
295.7 Indexes.
295.8 Requests.
295.9 Appeals.

Authority: 5 U.S.C. 301, 552; 7 CFR 1.1–1.23.

§ 295.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR 1.1–1.23, and appendix A, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this part, govern the availability of records of FCS to the public.

§ 295.2 Organizational description.

The description of the central and field organization of FCS is published as a notice in the Federal Register and may be revised from time to time in like manner. Such description contains a listing of FCS headquarters and field organizational units and their functions.

§ 295.3 Informational and educational publications.

FCS publishes a wide variety of informational and educational periodicals, pamphlets, brochures, leaflets, guides, and educational aids explaining the operation of FCS food

assistance programs. For more information concerning FCS publications and how to obtain them, write the Director, Public Information Staff, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500.

§ 295.4 Program evaluation status reports.

FCS also publishes summaries of objectives and findings of completed studies and projects concerning evaluation of FCS food assistance programs. A copy of the current status report on completed studies may be obtained by writing the Director, Office of Analysis and Evaluation, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500.

§ 295.5 Program statistical reports.

Current and historical information on FCS food assistance program size, monetary outlays, geographic distribution, racial and ethnic participation rates, and other data is published throughout the year. Limited supplies are available for public distribution upon request. Write the Director, Program Information Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500.

§ 295.6 Public inspection and copying.

5 U.S.C. 552(a)(2) requires that certain informational materials be made available for public inspection and copying. Such materials maintained by FCS may be inspected and copied during regular office hours (currently 8:30 a.m. to 5 p.m.). Interested parties may submit requests to the FCS Records Management Officer, Information Technology Division, 3101 Park Center Drive, Alexandria, VA 22302–1500.

§ 295.7 Indexes.

5 U.S.C. 552(a)(2) also requires an index of the materials required to be made available for public inspection and copying be published quarterly. Copies of this Index for FCS materials will be maintained for public inspection and copying during regular office hours in FCS Library, Room 810, 3101 Park Center Drive, Alexandria, Va. 22302–1500. Free copies of the current index may be obtained by writing or visiting any of the FCS offices listed in the local telephone directory or those listed below:

(a) Records Management Officer, Information Technology Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Va. 22302–1500.

(b) Director, Financial Management, Food and Consumer Service, USDA, 300 Corporate Blvd., Mercer Corporate Park, Robbinsville, NJ 08691–1518.

(c) Director, Financial Management, Food and Consumer Service, USDA, 77 Forsyth Street, SW, Atlanta, GA 30303–3427.

(d) Director, Financial and Administrative Management, Food and Consumer Service, USDA, 77 W. Jackson Blvd., Chicago, Illinois 60604–3507.

(e) Director, Financial Management, Food and Consumer Service, USDA, 1100 Commerce St., Dallas, Texas 75242–9980.

(f) Director, Financial Management, Food and Consumer Service, USDA, 550 Kearney St., San Francisco, CA 94108–2518.

(g) Director, Financial Management, Food and Consumer Service, USDA, 10 Causeway Street, Boston, MA 02222–1069.

(h) Director, Financial and Administrative Management, Food and Consumer Service, USDA, 1244 Speer Blvd., Denver, CO 80204–3581.

§ 295.8 Requests.

(a) Requests for FCS program records under 5 U.S.C. 552(a)(3) shall be made in accordance with USDA Administrative Regulations 7 CFR 1.6 and addressed to the appropriate FCS official listed below:

(1) Food Stamp program records—Requests for Food Stamp information should be addressed to the Director of the appropriate Division (Program Development Division, Benefit Redemption Division, or Program Accountability Division) at the following address: Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA, 22302–1500.

(2) Child Nutrition Program records—Director, Child Nutrition Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500.

(3) Food Distribution Program records—Director, Food Distribution Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500.

(4) Supplemental Food Program records—Director, Supplemental Food Programs Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500.

(b) If the requester is unable to determine the official to whom his request should be addressed, he should address it to: Freedom of Information Act Officer, Information Technology Division, 3101 Park Center Drive, Alexandria, VA 22302. The Freedom of Information Act Officer will refer such requests to the appropriate official.

(c) The officials outlined in paragraph (a) are authorized to make determinations in accordance with USDA Administrative Regulations at 7 CFR 1.8.

§ 295.9 Appeals.

(a) Any person whose request for records is denied shall have the right to appeal that denial in accordance with USDA Administrative Regulations 7 CFR 1.13. All appeals shall be addressed to: Administrator, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302–1500.

(b) The following officials are delegated authority to make decisions on Freedom of Information Act appeals at the address above:

(1) Food Stamp program (general)—Deputy Administrator, Food Stamp Program;

(2) Food Stamp program (appeals on names of Food Stamp Investigators and Investigative aids)—Director, Benefit Redemption Division;

(3) Child Nutrition program—Deputy Administrator, Special Nutrition Programs;

(4) Food Distribution program—Deputy Administrator, Special Nutrition Programs;

(5) Supplemental Food program—Deputy Administrator, Special Nutrition Programs;

(6) Management offices—Deputy Administrator, Management;

(7) Financial Management offices—Deputy Administrator, Financial Management;

(8) Appeals not covered above—Associate Administrator, FCS.

Dated: July 15, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–18998 Filed 7–25–96; 8:45 am]

BILLING CODE 3410–30–U

Federal Crop Insurance Corporation.

7 CFR Part 401

RIN 0563–AB60

General Crop Insurance Regulations, General Crop Insurance Policy

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations, General Crop Insurance Policy located at 7 CFR part 401. The intended effect of this interim rule is to remove restrictions mandated by the Food Security Act of

1985 that preclude eligibility for crop insurance for any person who in any crop year produces an agricultural commodity on a field which is classified as predominantly highly erodible land (sodbuster provision) or converted wetland (swampbuster provision). The Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) amends the crop insurance restrictions, so producers who are in violation of the sodbuster/swampbuster provisions will be eligible for crop insurance coverage on or after July 3, 1996.

DATES: *Effective date:* July 3, 1996.

Comment date. Written comments, data, and opinions on this rule will be accepted until close of business September 23, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture (USDA), 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, USDA, 14th and Independence Avenue, SW., Washington, DC, 8:15 a.m.–4:45 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Program Analyst, Research and Development Division, Product Development Branch, FCIC, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866 and Departmental Regulation 1512–1

This action has been reviewed under USDA procedures established by Executive Order No. 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is June 30, 2001.

This rule has been determined to be significant for the purposes of Executive Order No. 12866 and therefore has been reviewed by the Office of Management and Budget (OMB).

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the address listed above. In summary, the analysis finds that the removal of sanctions affecting a producer's eligibility for Federal crop insurance as specified in the sodbuster and swampbuster provisions will result in two types of costs. First, environmental costs, in some cases, will be incurred as the elimination of crop insurance from the list of denied benefits reduces the sanctions associated with violating sodbuster/swampbuster provisions. Second, if acres affected by the sodbuster/swampbuster provisions are increasingly planted and insured, the costs to the Federal Crop Insurance Corporation will rise. The environmental and Federal costs associated with elimination of crop insurance as a sodbuster/swampbuster sanction are, however, largely unknown.

Environmental costs will depend on the extent farmers produce insurable crops (or alter practices or structures) on sodbuster/swampbuster acreage when such activity would not otherwise occur. Many variables will affect a producer's decision, including the amount of land affected by sodbuster/swampbuster relative to the producer's total acreage receiving benefits, expected prices and yields, the loss of USDA benefits (other than crop insurance), expected crop insurance benefits, and the expected environmental impact.

Federal costs associated with the elimination of crop insurance as a sodbuster/swampbuster sanction are unknown because the number of producers who will violate sodbuster/swampbuster provisions, and insure crops produced on their farms, is impossible to judge. The actual realized cost will depend to a large extent on FCIC's appropriately rating sodbuster and swampbuster acreage that is planted and insured. Between $500,000 and $1 million in crop insurance benefits were denied annually due to sodbuster/swampbuster violations in recent years. Benefits of a similar magnitude to the recent denials will probably be paid in future years.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in these regulations have been previously approved by OMB control numbers 0563–0003, 0563–0016 and 0560–0004. Copies of the information collections may be obtained from Bonnie Hart, USDA, FSA, Advisory and Corporate Operations Staff, Regulatory Review Group, P.O. Box 2415, Ag Box 0572, Washington, D.C. 20013–2415, 8:15 a.m.–4:45 p.m., Monday through Friday, except holidays, telephone (202) 690–2857.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

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

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient Federalism implication to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. Under the current regulations, a producer is required to complete a crop insurance acreage report, an insurance application and a continuous contract. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The insured may use actual records of production or receive a transitional yield which does not require the maintenance of production records. If the insured elects to use actual records of acreage and production as the basis for the production guarantee, the insured must report this information on a yearly basis. This regulation does not alter those requirements. Therefore, the amount of work required of the

insurance companies and Farm Service Agency (FSA) offices delivering and servicing these policies will not increase from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions in 7 CFR parts 11 and 780 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

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

Background

This final rule amends section 2(j) in the General Crop Insurance Policy (7 CFR 401.8) as mandated by the Federal Agriculture Improvement and Reform Act of 1996. The 1996 Act removes the sodbuster/swampbuster restrictions of Title XII of the Food Security Act of 1985 (Public Law 99–198) which preclude eligibility for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*), to any person who in any crop year produces an agricultural commodity on highly erodible land or converted wetland. On or after of July 3, 1996, a person who produces an agricultural commodity on a field which is classified as predominantly highly erodible land or a converted wetland may apply for crop insurance if the sales closing date for the crop has not passed. Until the effective date, crop insurance policyholders must remain in compliance with the sodbuster/swampbuster provisions. Since these provisions are mandated by statute and planting decisions for the 1996 crop year have been or will shortly be made, it is impracticle and contrary to the public interest to publish this rule for notice and comment prior to making the rule effective. However, comments are solicited for 60 days after the date of filing with the Federal Register and will be considered by FCIC before this rule is made final.

List of Subjects in 7 CFR Part 401

Crop insurance, General crop insurance policy.

Final Rule

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the General Crop Insurance Policy in 7 CFR part 401, effective July 3, 1996, to read as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 continues to read as follows:

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

2. 7 CFR part 401.8 is amended by revising section 2j. of the General Crop Insurance Policy to read as follows:

§ 401.8 The application and policy.

* * * * *

General Crop Insurance Policy

* * * * *

2. Crop, Acreage, and Share Insured

* * * * *

j. Although your violation of a number of federal statutes including the Federal Crop Insurance Act may cause cancellation, termination, or voidance of your insurance contract, you are specifically directed to the provisions of Title XII of the Food Security Act of 1985 (Public Law 99–198) and the regulations promulgated thereunder, generally referred to as the controlled substance provisions. Your insurance policy will be cancelled if you are determined to be in violation of these provisions. We will recover any and all monies paid to you or received by you and your premium will be refunded.

* * * * * * *

Signed in Washington, DC, on July 16, 1996.

Suzette M. Dittrich,

Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–18616 Filed 7–25–96; 8:45 am]

BILLING CODE 3410–FA–P

Agricultural Marketing Service

7 CFR Part 956

[Docket No. FV96–956–2 FIR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, with change, the provisions of an interim final rule that established an assessment rate for the Walla Walla Sweet Onion Committee (Committee) under Marketing Order No. 956 for the 1996–97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Sweet Onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: Effective on June 1, 1996.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, FAX 202–720–5698, or Robert J. Curry, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724, FAX 503–326–7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–2491, FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 956 (7 CFR part 956)

regulating the handling of Sweet Onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Walla Walla Sweet Onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions beginning June 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 producers of Walla Walla Sweet Onions in the production area and approximately 30 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Walla Walla Sweet Onion producers and handlers may be classified as small entities.

The Walla Walla Sweet Onion marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Walla Walla Sweet Onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on March 12, 1996, and unanimously recommended 1996–97 expenditures of $114,000 and an assessment rate of $0.19 per 50-pound bag or equivalent of onions. In comparison, last year's budgeted expenditures were $72,000. The assessment rate of $0.19 is $0.07 higher than last year's established rate. Major expenditures recommended by the Committee for the 1996–97 year include $34,000 for administrative expenses, $62,000 for research and promotion, and $9,000 for compliance. Budgeted expenses for these items in 1995–96 were $28,000, $22,000, and $9,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Walla Walla Sweet Onions. Onion shipments for the year are estimated at 600,000 50-pound bags which should provide $114,000 in assessment income, which will be adequate to cover budgeted expenses.

An interim final rule regarding this action was published in the May 6, 1996, issue of the Federal Register (61 FR 20121). That interim final rule added § 956.202 to establish an assessment rate for the Committee. That rule provided that interested persons could file comments through June 5, 1996. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996–97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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

This final rule also corrects an error in the interim final rule published May 6, 1996 (61 FR 20121). On page 20122, the note immediately following amendatory instruction 2 incorrectly states that § 956.202 will not appear in the annual Code of Federal Regulations.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal period began on June 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (3) handlers are aware of this action which was

unanimously recommended by the Committee at a public meeting and is similar to the assessment rate action issued last year; and (4) an interim final rule was published on this action and provided for a 30-day comment period, and no comments were received.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON

The authority citation for 7 CFR part 956 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Accordingly, the interim final rule amending 7 CFR part 956 which was published at 61 FR 20122 on May 6, 1996, is adopted with the following correction to the note immediately following amendatory instruction 2. The note should read:

This section will appear in the annual Code of Federal Regulations.

Dated: July 22, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–18997 Filed 7–25–96; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Regulation K; Docket No. R–0916]

International Banking Operations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This final rule amends Regulation K to implement a provision of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (the Interstate Act) that amended the International Banking Act of 1978 (the IBA) by adding a new subsection regarding the management of shell branches of foreign banks by such banks' U.S. offices. The provision prohibits foreign banks from using their U.S. branches or agencies to manage types of activities through offshore offices that could not be managed by a U.S. bank at its foreign branches or subsidiaries. This prohibition applies with respect to those offshore offices that are ''managed or controlled'' by a foreign bank's U.S. branches or agencies.

EFFECTIVE DATE: August 28, 1996.

FOR FURTHER INFORMATION CONTACT: Sandra L. Richardson, Managing Senior Counsel (202/452–6406), Janet S. Crossen, Senior Attorney (202/452–3281), Legal Division; Michael G. Martinson, Assistant Director, Division of Banking Supervision and Regulation (202/452–3640), Board of Governors of the Federal Reserve System. For users of Telecommunication Device for the Deaf (TDD) only, please contact Dorthea Thompson, (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: In the Interstate Act, Congress amended section 7 of the IBA (12 U.S.C. 3105) to prevent a foreign bank from using a U.S. branch or agency to manage types of activities at offshore offices that are managed or controlled by the foreign bank's U.S. branch or agency if those types of activities could not be managed by a U.S. bank at its foreign branches or subsidiaries. The final rule adopted by the Board to implement that provision tracks the language of section 7(k) of the IBA and defines the term ''managed or controlled'' for purposes of the restrictions on activities set out in that section.

The definition of ''managed or controlled'' for this final rule is consistent with the definition of that term adopted by the Federal Financial Institutions Examination Council with respect to the Supplement (FFIEC 002S) to the quarterly Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), which is required to be filed by foreign banks with respect to their offshore shell operations that are ''managed or controlled'' from the United States. 57 FR 61907, Dec. 29, 1992. For purposes of the FFIEC 002S and the final rule, a non-U.S. office is considered to be ''managed or controlled'' by a U.S. branch or agency of a foreign bank if a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that non-U.S. office, resides at the U.S. branch or agency.

The final rule also specifies that the types of activities that a branch or agency may manage through an office located outside of the United States include the types of activities authorized to a U.S. bank by state or federal charters, regulations issued by chartering or regulatory authorities and other U.S. banking laws. Finally, the proposed rule states that U.S. procedural or quantitative requirements will not apply to non-U.S. offices of foreign banks.

On February 16, 1996, the Board requested public comment on a proposed rule to implement section 7(k) of the IBA. 61 FR 6956, Feb. 23, 1996. The comment period ended on March 25, 1996. The Board received two public comments on the proposal, one by a banking organization and the other by a trade association. Both commenters generally supported the proposal. Comments received addressed issues relating to the definition of ''managed or controlled'' and application of the rule to non-U.S. full-service offices. The Board has considered the comments and has determined not to make any modifications to the final rule from that which was proposed.

One commenter proposed that the Board should modify its definition of ''managed or controlled'' so that a U.S. branch or agency would not be subject to the regulation on the sole grounds that recordkeeping with respect to the assets or liabilities of a non-U.S. office resides at the U.S. branch or agency.

Alternatively, the commenter requested that if the Board determined to retain the recordkeeping prong of the definition, the Board should clarify that maintaining records at a U.S. branch or agency would not result in the application of the regulation to offshore branches that are managed by personnel outside the United States. The commenter noted that many international banks maintain data processing centers and keep other records in their U.S. offices in order to provide support services for non-U.S. branches within the Western Hemisphere.

The Board has found that the presence of records in a U.S. branch or agency relating to an offshore office often is evidence of involvement in the management of such offshore office by the U.S. branch or agency where the records reside. Eliminating responsibility for recordkeeping as a separate prong of the definition of ''managed or controlled'' could result in the significant potential for evasion of the provision. Accordingly, the Board has determined not to modify the definition as suggested by the commenter.

The Board, however, believes that additional guidance may be helpful to assist foreign banks in determining whether maintaining records at U.S. branches or agencies for an offshore branch would render them subject to the regulation. In this regard, the Board

considers that the phrase ''responsibility for recordkeeping'' entails formal responsibility for the maintenance of records relating to the offshore operations. Simple data processing activities such as compiling and sorting data entries that were originated, approved and confirmed by personnel outside the United States and routing and distributing such processed data to destinations outside the United States would ordinarily not constitute ''responsibility for recordkeeping.'' If the U.S. branch or agency, however, originates the underlying information or utilizes the information for making business decisions or for the purpose of notifying or confirming transactions with customers, such activities could no longer be considered merely data processing. In addition, the Board considers that a U.S. branch or agency would have responsibility for recordkeeping within the meaning of the rule if it is the sole full-service office at which such records are maintained. Foreign banks that maintain records in the United States but do not believe they have ''responsibility for recordkeeping'' may consult with Board staff for guidance in determining whether they fall within the scope of the rule.

One commenter also recommended that the Board modify the regulation to make clear that it applies to offshore shell offices rather than offshore offices generally. The Board notes that the preamble to the proposed rule stated that the restrictions in that rule generally would not apply with respect to offshore branches that are full-service facilities managed or controlled by staff located at the offshore office or at locations other than in the United States. In addition, the title of the proposed rule, which is identical to the title of the statutory provision, refers to ''shell'' branches. In view of the foregoing, the Board has determined that no modification to the rule is necessary.

As the Board noted in the preamble to the proposed rule, section 7(k) of the IBA does not confer upon foreign banks any right to manage activities at an offshore office from a U.S. office. The Board will continue to monitor relationships between the U.S. and offshore offices of foreign banks in the supervisory process in order to determine whether such activities are consistent with considerations relating to the safety and soundness of the U.S. operations of the foreign bank and its affiliates and compliance with law.

Paperwork Reduction Act

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612), the Board certifies that the this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Board of Governors amends 12 CFR Part 211 as set forth below.

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for 12 CFR Part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*

2. Section 211.20 is amended by removing ''and'' at the end of paragraph (b)(8), by removing the period at the end of paragraph (b)(9) and adding ''; and'' in its place, and by adding a new paragraph (b)(10) to read as follows:

§ 211.20 Authority, purpose, and scope.

* * * * *

(b) * * *

(10) The management of shell branches (12 U.S.C. 3105(k)).

* * * * *

3. Section 211.24 is amended by adding a new paragraph (g) to read as follows:

§ 211.24 Approval of offices of foreign banks; procedures for applications; standards for approval; representative office activities and standards for approval; preservation of existing authority.

* * * * *

(g) *Management of shell branches.* (1) A state-licensed branch or agency shall not manage, through an office of the foreign bank which is located outside the United States and is managed or controlled by such state-licensed branch or agency, any type of activity that a bank organized under the laws of the United States or any State is not permitted to manage at any branch or subsidiary of such bank which is located outside the United States.

(2) For purposes of this paragraph (g), an office of a foreign bank located outside the United States is ''managed or controlled'' by a state-licensed branch or agency if a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that non-U.S. office, resides at the state-licensed branch or agency.

(3) The types of activities that a state-licensed branch or agency may manage through an office located outside the United States that it manages or controls include the types of activities authorized to a U.S. bank by state or federal charters, regulations issued by chartering or regulatory authorities, and other U.S. banking laws, including the Federal Reserve Act, and the implementing regulations, but U.S. procedural or quantitative requirements that may be applicable to the conduct of such activities by U.S. banks shall not apply.

By order of the Board of Governors of the Federal Reserve System, July 17, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–19043 Filed 7–25–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 161, 250, and 284

[Docket No. RM96–1–000]

Standards for Business Practices of Interstate Natural Gas Pipelines; Order No. 587; Final Rule

Issued July 17, 1996.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is issuing a final rule revising the Commission's regulations to require interstate natural gas pipelines to follow standardized procedures for critical business practices—nominations; allocations, balancing, and measurement; invoicing; and capacity release—and standardized mechanisms for electronic communication between the pipelines

and those with whom they do business. The regulations incorporate by reference the standards issued by the Gas Industry Standards Board (GISB).

DATES: The regulations are effective August 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 26, 1996.

Compliance with the rule is based on a staggered scheduling with *pro forma* tariff filings due in October through December, 1996 and corresponding implementation in April through June, 1997.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2294.

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–1283.

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

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to use 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS indefinitely in ASCII and WordPerfect 5.1 format for one year. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 2A, 888 First Street, N.E., Washington D.C. 20426.

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

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

To access the FedWorld system, through the Internet:

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

Or:

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

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its open access regulations to standardize business practices and procedures governing transactions between interstate natural gas pipelines, their customers, and others doing business with the pipelines. The standards govern several important business practices—nominations, allocations, balancing, measurement, invoicing, and capacity release. They also establish protocols and file formats for electronic communication with pipelines relating to these business practices. The regulations incorporate by reference the standards published by the Gas Industry Standards Board (GISB). The Commission also is establishing a compliance schedule requiring pipelines to make *pro forma* tariff filings in October through December 1996 and to implement the standards in April through June 1997.

II. Public Reporting Burden

The final rule will affect one existing Commission data collection, FERC–545, Gas Pipeline Rates: Rate Change (Non-formal), (OMB Control No. 1902–0154) (FERC–545), and establish a new data collection/requirement, FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines, (OMB Control No. to be assigned) (FERC–549C).

Under the existing data collection/requirements of FERC–545, there will be a one-time estimated annual reporting burden of 6,720 hours (80 hours per company) with the adoption of the standards/business practices as required herein. The initial implementation of the standards/business practices will require approximately 84 interstate natural gas pipelines to make tariff filings to conform their tariffs with the standards/business practices.[1] (See FERC–545 burden detail in estimated burden table below.)

Under the new data collection/requirements of FERC–549C there will be a one-time startup annual burden of 1,289,232 hours (15,348 hours per company). It is expected that any recurring annual burden will be minimal because of the operating efficiencies which will result with the adoption of the standards/business practices.

The standards/data requirements contained in this final rule have been submitted previously to the Office of Management and Budget (with the NOPR issued in the subject docket) for review under section 3507(d) of the Paperwork Reduction Act of 1995, (44 U.S.C. 3507(d)). For copies of the OMB submission, contact Michael Miller at (202) 208–1415. Interested persons may send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reductions of burden, to the Desk Officer FERC, Office of Management and Budget, Room 3019 NEOB, Washington, D.C. 20503, phone 202–395–3087 or via the Internet at hillier__t@a1.eop.gov. Comments should be filed with the Office of Management and Budget as soon as possible. A copy of any comments filed with the Office of Management and Budget also should be sent to the following address at the Commission: Federal Energy Regulatory Commission, Information Services Division, Room 41–17, Washington, DC 20426, Attention: Michael Miller.

[1] Burden estimates in the previously issued Notice of Proposed Rulemaking (NOPR) in the subject docket were based on 80 respondents. Upon further evaluation by Commission staff prior to the issuance of the subject final rule, the estimated number of respondents was increased to 84.

ESTIMATED ANNUAL BURDEN

Affected data collection/ requirement	No. of respondents	Total No. of responses	Hours Per response	Total annual hours
FERC–549C (New Data Requirement)—Reporting/Data Requirement Burden	84	84	15,348	1,289,232
FERC–545 (1902–0154)—Reporting/Data Requirement Burden	84	84	80	6,720
Total Annual Hours (All Data Collections/ Requirements)	84	84	15,428	1,295,952

The above estimates include time for reviewing the requirements of the Commission's regulations, searching existing data sources, gathering and maintaining the necessary data, and reviewing and completing the collection of information. Because the final rule adopts essentially the same information requirements that were contained in the proposed rule, we believe that the average filing burden is the same for the final rule.

Data Collection/Requirement Costs: The Commission expects that the costs to comply with the required standards for business practices, data sets, and internet protocol setups will consist principally of startup costs. Although GISB has reached consensus on using Internet protocols, it has not finally determined the communication modality (i.e., public Internet or private network. Adoption of the communication standards will await GISB's final recommendation. However, since the costs to implement Internet protocols will not change significantly regardless of the communication vehicle used, the burden estimates in the NOPR and in this final rule include these costs, so that the burden estimates reflect the total cost of complying with the rule. The Commission estimates that the average annualized cost per respondent for the first year will be as follows:

ANNUALIZED CAPITAL/STARTUP COSTS

FERC–549C	$750,118
FERC–545	3,910
Total	754,028

Internal Review: The Commission has reviewed the standards/business practices and determined that they are necessary to establish a more efficient and integrated pipeline grid. Requiring such standards on an industry-wide basis will reduce the variations in pipeline business practices and will allow buyers to easily and efficiently obtain and transport gas from all potential sources of supply. The required standards/business practices conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

In response to the NOPR issued April 24, 1995, in the subject docket, Viking Gas Transmission Company filed comments on the burden estimates and the associated annualized costs for compliance in the Notice of Proposed Rulemaking. Viking states that, even if the Commission's cost estimates are correct, implementing the standards would impose significant costs on a small pipeline, like Viking. Viking also maintains that the Commission has underestimated the costs to comply with the requirements adopted by the final rule and particularly to implement an information system. Viking contends that the Commission has used an hourly rate of $50 for computer service consultants by dividing the total estimated cost ($754,000) by the estimated hours (15,428). Viking maintains that, based on its experience, a cost of $100 to $150 per hour is more representative of costs for information system programmers.

The Commission's hour and cost estimates are not appropriately used to derive an hourly rate for computer consulting services for comparison purposes, as Viking has done. The Commission's estimate of the number of hours for implementing the requirements is not limited to hours for computer specialists, but covers all employees involved in implementation. Similarly, the total cost is not solely related to consulting services, but includes other costs, such as hardware and hardware installation costs. Moreover, the vast proportion of the costs involved in complying with the regulations are one-time, start-up costs, so these are not costs pipelines will have to incur on an ongoing basis. Most important, the Commission finds that incurrence of these costs on a one-time basis is necessary to improve the efficiency with which crucial business transactions are conducted across the natural gas industry. The increased efficiency produced by these standards should, in the long run, reduce the costs of all participants in the market.

III. Background

The process of standardizing business practices in the natural gas industry began with a Commission initiative to standardize electronic communication of capacity release transactions.[2] As a result of this effort, participants from all segments of the natural gas industry began the process of developing standards for other business transactions, such as nominations and flowing gas.

To formalize the process of developing industry standards, the industry formed GISB as a consensus standards organization open to all members of the gas industry.[3] GISB's procedures require balanced voting representation from all five segments of the industry—pipelines, local distribution companies (LDCs), producers, end-users, and services (including marketers and third-party computer service providers).[4] At the Executive Committee level, a consensus

[2] Standards For Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994), III FERC Stats. & Regs. Preambles ¶ 30,988 (Dec. 23, 1993), *order on reh'g*, Order No. 563–A, 59 FR 23624 (May 6, 1994), III FERC Stats. & Regs. Preambles ¶ 30,994 (May 2, 1994), *reh'g denied*, Order No. 563–B, 68 FERC ¶ 61,002 (1994).

[3] The scope of GISB's efforts initially was limited to standards for electronic communication. The industry, under the auspices of the Interstate Natural Gas Association of America (INGAA) and the Associated Gas Distributors (AGD), had begun a Grid Integration Project to consider standards for coordinating pipeline business practices to simplify the process of shipping gas across multiple pipelines. After GISB expanded its scope from electronic standards to encompass business practice standards, the Grid Integration Project was folded into GISB.

[4] According to a March 27, 1996 letter from counsel for GISB, to the Secretary of the Commission (filed in this docket), GISB is pursuing accreditation by the American National Standards Institute (ANSI). Accreditation involves ANSI's review of the process and procedures of the standards-developer to ensure that the standards-development process is open to all materially affected parties and that standards are developed by a balanced consensus of the industry, without domination by any single interest or interest category.

of the five segments must approve each standard.[5]

Recognizing how important standards are to the development of an integrated natural gas network, the Commission encouraged the industry's efforts to develop the needed business standards.[6] To evaluate the industry's progress, the Commission held a public conference on standardization on September 21, 1995, in Docket No. RM93–4–000.

Almost all the speakers at the conference acknowledged that the industry had not achieved the anticipated progress. Even though GISB had promulgated standards for electronic communication of nomination and confirmation information, many participants maintained that standardizing electronic communication did not go far enough to provide for efficient integration of the pipeline grid. They contended that electronic communication standards would not increase efficiency because they failed to standardize the pipelines' disparate underlying business practices, so that shippers were still faced with having to learn the idiosyncratic requirements for conducting business on each pipeline.

On October 25, 1995, the Commission issued an advance notice of proposed rulemaking (ANOPR) requesting the submission of detailed proposals from the industry, by March 15, 1996, for standards governing business processes and electronic communication for ten business practices identified by the industry as being of the highest priority—nominations, confirmations, allocated gas flows, customer and contract imbalances, gas flow at metered points, transportation invoices, pre-determined allocation methodologies, gas payment remittance statements, gas sales invoices, and uploads of capacity release prearranged deals. The Commission also requested proposals for standards needed to facilitate gas flow across interconnecting pipelines. In the ANOPR, the Commission concluded that without common business practices and a common language for communication, the speed and efficiency with which shippers can transact business across multiple pipelines would continue to be severely compromised.

On March 15, 1996, GISB filed 140 standards that its Standards Committee had approved by a consensus vote. These standards cover five major business areas—nominations and confirmations, flowing gas, invoicing, capacity release, and the electronic mechanism for communication between industry participants (the electronic delivery mechanism (EDM)). On April 12, 1996, GISB then filed data elements approved by the Standards Committee describing the specific information that would be used by industry participants to conduct these business transactions. By letter dated May 22, 1996, in this docket, GISB informed the Commission that its membership had approved the standards and datasets by the required 67% vote.

Forty other parties also filed comments addressing the standards GISB was proposing. On the whole, the commenters found that GISB's standards would significantly improve the efficiency of the gas market, but they raised questions with respect to specific standards.

On April 24, 1996, the Commission issued the NOPR proposing to revise its regulations to incorporate the GISB standards by reference.[7] The Commission proposed to require pipelines to comply with these standards by January 1, 1997. Fifty comments were filed on the NOPR.[8]

IV. Discussion

The Commission is requiring interstate pipelines to comply with the requirements of the GISB consensus standards by incorporating the GISB standards by reference in section 284.10 of the Commission's regulations.[9] Standards for business practices and communication are important elements in creating an integrated gas pipeline grid to complement the deregulated market for gas. For a competitive gas market to truly develop, shippers must have access to all available supply sources. A prerequisite for access, however, is the ability to move gas efficiently across multiple pipelines to its ultimate destination. Thus, shippers and marketers in today's market must conduct business transactions with multiple pipelines. As the industry has recognized, shippers cannot conduct multiple pipeline transactions efficiently if the business practices and communication protocols differ for each pipeline. For example, as the industry is presently structured, shippers on multiple pipelines incur added costs and delay from having to keep personnel up to date with the quirks of, and inconsistencies in operation between, individual pipeline electronic bulletin boards (EBBs). Industry-wide standards eliminate this inefficiency by enabling shippers to use the same procedures and processes to conduct business on all interstate pipelines.

When the Commission sought to restructure business practices in the industry through Order Nos. 436 and 636, the Commission set out the broad policy parameters to be accomplished by the rules, but primarily left the implementation details to individual pipeline filings. However, subsequent experience clearly has shown that relying on individual pipeline procedures and operations will not create an integrated gas pipeline grid. To achieve that goal, the pipelines' business procedures must be standardized.

The consensus standards significantly reduce the disparities and inconsistencies among pipeline business practices and communication modalities and make a meaningful contribution towards the effort to create a more unified, integrated natural gas transportation network. For example, the standards will simplify the process of nominating gas in several respects. They permit all shippers to nominate gas supplies to a pool so that gas packages can be aggregated. They provide increased flexibility by permitting shippers at least one intra-day nomination, so that they can change the amount of gas they receive during a day to better fit changing needs. Even standards as simple as establishing a convention for conversions from dekatherms to Gigajoules and rounding calculations to the nearest dekatherm or Gigajoule can provide significant integration benefits by enabling shippers and third-party service providers to deal with all pipelines, as well as to program their computers, in the same manner, without the inefficiency of having to deal with incompatible conventions used by individual pipelines.

At least as important, the standards will permit shippers to communicate with every pipeline using the same standard set of information data elements and the same information protocols. Using these standards and protocols, shippers and third-party service providers will be able to create

[5] To pass the Executive Committee, a standard must be approved by 17 out of the 25 members, with at least two affirmative votes from each segment. These standards must then be approved by a vote of 67% of GISB's general membership to become approved standards.

[6] Order No. 563–A, III FERC Stats. & Regs. Preambles, at 31,050.

[7] Standards For Business Practices Of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 61 FR 19211 (May 1, 1996), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,517 (Apr. 24, 1996).

[8] The appendix lists those filing comments.

[9] GISB's previously approved standards for capacity release transactions also will replace the current requirement, in section 284.8(b)(5), that pipelines comply with standardized datasets and communication protocols. In addition, the EBB requirements of sections 284.8(b)(4) and 284.9(b)(4) will be moved to section 284.10(a).

standard display formats for conducting business with all pipelines, thus reducing or eliminating the need to use the individual pipeline EBBs.

While these standards represent a broad consensus of the industry, the Commission recognizes that not every standard commands universal support. In a democratic society, unanimity on matters of common concern is neither expected nor necessary. Standardization, by definition, requires accommodation of varying interests and needs, and rarely can there be a perfect standard satisfactory to all. The Commission is satisfied that GISB's process is open and fair and that the resulting standards represent broad agreement across all segments of the industry.

Since it is the industry that must operate under these standards, deferring to the considered judgment of the consensus of the industry is both reasonable and appropriate. While the Commission legitimately has given the GISB standards great weight, it also has reviewed the standards, and the comments, and finds that the standards are reasonable and represent a considerable step towards the goal of creating a unified pipeline grid.

Both GISB and virtually all the comments recommend the Commission not require implementation on January 1, 1997, as proposed in the NOPR to reduce the possibility of disruption during the peak winter heating season. The Commission is accepting the consensus proposal by GISB for staggered filings and implementation: *pro forma* compliance filings will be due in the fall of 1996 with implementation taking place from April through June, 1997.

Although GISB has approved the data elements for the business practices and the use of Internet protocols for electronic communication, it has not yet finalized its communication standards. For instance, it has not finally determined whether to use the Public internet or private networks as the standard communication vehicle. While GISB's Future Technology Task Force filed an interim report on June 7, 1996, recommending the use of the public Internet, with an HTTP protocol, that recommendation is still subject to a pilot test program to be completed by September 30, 1996. At that time, the Future Technology Task Force plans to issue the final communication standards and the technical implementation guide.

Until GISB finalizes its communication protocols, issuing a final order on such standards would be premature. Accordingly, the Commission will issue a final order on communication protocols after the submission of GISB's final communication standards. By issuing the final rule on the remainder of the business practices at this time, the Commission is providing the industry with sufficient time to make the tariff changes necessary to meet the October through December compliance filings. At the same time, delaying the issuance of the final rule on communication protocols should not effect the ability of the industry to meet the April 1, 1997 start of implementation. Despite being fully aware that the communication protocols are not complete, neither GISB, the Future Technology Task Force, nor the commenters have suggested that any delay in the April implementation date is necessary.

The Commission recognizes that these standards are not a finished work. Standards development is not like a sculptor forever casting his creation in bronze, but like a jazz musician who takes a theme and constantly revises, enhances, and reworks it. A number of those commenting on GISB's March 15, 1996 filing and on the NOPR offer suggestions on additional standards that they believe are needed. Because many of the issues raised in the comments have merit, the Commission established a procedure and a schedule under which GISB and the industry are to submit detailed proposals for handling these issues by September 30, 1996.

The Commission will address below the comments received on the NOPR.

A. Implementation Date

On one point, virtually all the commenters are agreed: the standards should not be implemented on January 1, 1997, as originally proposed by the Commission.[10] All segments of the industry are concerned that rapid implementation of new operating procedures and computer technologies may be prone to problems and are particularly concerned about such problems occurring during the winter heating season when the pipeline system is under the most stress. GISB states that due to the interrelation of all the standards, a phased implementation of groups of standards would be difficult to devise. Instead, it proposes, with the backing of virtually all commenters, a staggered implementation plan in which the pipelines are divided into three groups with tariff filings to comply with this rule being made in October, November, and December of 1996, and corresponding implementation of the standards in April, May, and June of 1997.

The Commission will accept the GISB proposal for staggered filings and implementation to reduce the risk of implementation complications and resulting disruption to the industry. Because the development of an integrated pipeline grid requires uniform pipeline adoption of the standards adopted in this rule, the Commission finds that pipelines' existing tariff provisions that are inconsistent with these standards are unjust and unreasonable under section 5 of the Natural Gas Act. To determine the just and reasonable practices under section 5, the Commission is requiring pipelines to make filings to comply with the standards adopted in the regulations. Accordingly, pipelines must file *pro forma* tariff sheets according to the schedule set forth later in this order to establish their compliance with the regulations.

B. Incorporation of the GISB Standards by Reference

NGC/Conoco/Vastar take issue with the Commission's incorporation of the GISB standards by reference. They have submitted an alternative set of standards and contend the Commission has failed to render a reasoned decision on each of their proposed standards as compared with the comparable GISB standard. In particular, NGC/Conoco/Vastar contend that the Commission erred in stating, in the NOPR, that its reliance on the GISB standards was consistent with § 12(d) of the National Technology Transfer and Advancement Act (NTT&AA) of 1995[11] and OMB Circular A–119,[12] which require federal agencies to use private sector consensus standards.

In contrast, other commenters are supportive of the Commission's reliance on the GISB standards. Brooklyn Union best expresses these views when it states the Commission should adopt the GISB standards, without modification, because these standards ''are the product of countless hours of deliberations by representatives of all segments of the natural gas industry and reflect a hard fought consensus concerning the critical business practices addressed.''

[10] Only one commenter has requested an earlier implementation schedule.

[11] Pub L. No. 104–113, § 12(d), 110 Stat. 775 (1996).

[12] ''Federal Participation in the Development and Use of Voluntary Standards'' (Oct. 20, 1993) (an earlier version is available at 47 FR 49496 (Nov. 1, 1992))

1. Consistency With the National Technology Transfer and Advancement Act and OMB Circular A–119

NGC/Conoco/Vastar argue that § 12(d) of the NTT&AA does not require the Commission to adopt the GISB standards. They maintain that adoption of regulatory standards, such as the GISB business practice standards, is inconsistent with the Act's focus on adoption of technical standards.

The Commission agrees that, by its terms, § 12(d) of the NTT&AA does not require Federal agencies to adopt private sector consensus standards if the use of such standards is inconsistent with applicable law or otherwise impractical.[13] However, the Commission finds that adoption of the GISB standards is consistent with the intent of the Act and OMB Circular A–119.

As NGC/Conoco/Vastar seem to concede, the standardized data elements and the communication protocols for delivering this information electronically fall within the Act's definition of performance-based or design-specific technical specifications.[14] And, the business practice standards are directly related to the communication standards, because, as the industry concluded, standardizing the technical aspects of communication cannot achieve the required efficiency without standardization of the underlying business practices. Even standing on their own, the business practice standards are akin to management system practices which are included as technical standards in the Act.[15]

Moreover, regardless whether § 12(d) of the NTT&AA specifically applies here, the Commission can rely on private sector standards when it finds that these standards further the Commission's achievement of its regulatory goals. [16] In this case, GISB's consensus standards are entitled to great weight since the industry possesses specialized expertise and knowledge of the relevant business practices and electronic communication technologies and, in the final analysis, the members of the industry are the ones that have to conduct business under these standards.[17]

Questar suggests that to ensure clarity the Commission should not incorporate the standards by reference, but should restate in the final rule the standards it specifically adopts. The Commission sees no need for such a voluminous republication. Incorporation by reference is an accepted method of adopting private sector standards.[18] The Commission can specifically state in the regulations any changes in the pipelines' obligations through deletion of, or revisions or additions to the standards.

2. GISB's Consensus Process

NGC/Conoco/Vastar further contend that § 12(d) of the NTT&AA should not apply because GISB's procedural process was flawed and thus did not ensure consensus. They contend that the Task Force meetings (which produced the initial draft standards) were dominated by pipeline interests, that NGC/Conoco/Vastar's comments on the Task Force recommendations were shortened in the summary produced for the Executive Committee, that the Executive Committee did not have sufficient time to consider all comments, and that the Executive Committee is structured to disenfranchise independent marketers.[19] AF&PA, EMA, and NWIGU, while generally supportive of the GISB standards, are concerned that the standards may not reflect true consensus because their members do not have the time and resources to participate in the GISB process. BGE also expresses concern about the lack of balance at the Task Force meetings. While BGE believes the standards filed by GISB on March 15, 1996 are not weighted towards any one segment, it suggests in the next round, GISB should use balanced subcommittees to develop its standards.

The Commission finds that GISB's process was fair and that its voting procedures ensure that a broad based consensus of all industry segments support these standards. All segments are afforded the opportunity to participate in the process of developing the standards. Each segment chooses its own representatives on the Board of Directors and Executive Committee. The requirement for consensus voting at the Executive Committee level assures that no industry segment can dominate the process and that the resulting standards do represent an agreement acceptable to all industry segments. Finally, a super-majority (67%) of the entire GISB membership approved the standards.[20]

What is most crucial, is that the Executive Committee reviewed the recommendations of the Task Forces, thus ensuring consensus support for the

[13] NGC/Conoco/Vastar argue that the Act does not apply to independent regulatory agencies, like the Commission, citing to a statement by Senator Rockefeller that § 12 should not apply to independent regulatory agencies. 142 Cong. Rec. S1081 (daily ed. Feb. 7, 1996). On its face, the statute specifically applies to ''all Federal agencies and departments,'' and OMB Circular A–119, on which § 12(d) of the NTT&AA was based, defines executive agency as including any ''independent commission, board, bureau, office, agency * * * including regulatory commission or board.'' ''Federal Participation in the Development and Use of Voluntary Standards'' (Oct. 20, 1993)(an earlier version is available at 47 FR 49496 (Nov. 1, 1992)). *See* Remarks by Congresswoman Morella and Congressman Brown (cosponsors), 142 Cong. Rec. H1264, H1226, daily ed. Feb. 27, 1996)(intent of § 12(d) of the NTT&AA to codify OMB Circular A–119). In addition, Senator Rockefeller's particular concern was possible conflicts that may result because some independent regulatory agencies, like the Consumer Product Safety Commission (CPSC), have statutory requirements regarding the use of private sector standards. In the absence of such statutory requirements, however, there seems little reason to distinguish between Federal departments, like the Food and Drug Administration, with responsibility for protecting health and safety, and independent regulatory agencies with like responsibilities. In any event, the Act does not inhibit the full exercise of agencies' regulatory authority since agencies are not required to utilize private consensus standards when the agency determines that the standards are not adequate for its purpose.

[14] *See* 142 Cong. Rec. S1081 (daily ed. Feb. 7, 1996) (internet standards are technical standards covered by the Act) (statement of Senator Rockefeller).

[15] *See, e.g.*, 42 CFR 405.2150, 60 FR 48039 (Sept. 18, 1995) (Health Care Financing Administration incorporation of Association for the Advancement of Medical Instrumentation business process standards for reuse of hemodialyzers); 49 CFR Part 659, 60 FR 67034 (Dec. 27, 1995)(Federal Transit Administration incorporation by reference of APTA rail transit system safety plans); 49 CFR 192.11, 193.2005 (Department of Transportation incorporation by reference of practice standards relating to transportation of petroleum gas and LNG); Implementation Guide for use with 10 CFR Part 830.120, Department of Energy, #G–830.120–Rev. 0 (April 15, 1994) (incorporating management standards for quality assurance).

[16] Passage of § 12(d) of the NTT&AA certainly is not necessary for the Commission to rely upon private sector standards when it deems such reliance appropriate to fulfill its regulatory mission. Even prior to the passage of the Act, the Commission relied on private standards, as did other agencies which found such reliance an important means for helping to carry out their mandates. *See* Northern Natural Gas Company, 53 F.P.C. 699, 702 (1975) (NFPA Standard No. 59–A); 16 CFR Material Approved for Incorporation by Reference, at 483 (1996) (listing standards incorporated by Consumer Product Safety Commission).

[17] As Congressman Brown stated:

It is much cheaper and more efficient for the government to rely on the hard work and experience of these committees rather than reinventing the world. These groups are better equipped than the Government to understand all points of view and to keep up with the state of the art in technical standards.

142 Cong. Rec. H1226 (daily ed. Feb. 27, 1996).

[18] 1 CFR 51.7.

[19] NGC/Conoco/Vastar maintain that the marketers on the Executive Committee are affiliated with pipelines and, thus, cannot represent the marketing interest if it conflicts with the goal of the dominant pipeline parent.

[20] GISB has established a Process Subcommittee to deal with recommendations regarding GISB's operating practices. NGC/Conoco/Vastar cite no complaint to the Process Subcommittee about the Task Force procedures.

standards.[21] The record shows that, for the most part, the accepted standards received virtually unanimous support from the Executive Committee members.[22] In any large proceeding, such as the GISB undertaking, comments must be summarized for the decisionmaker. While the Executive Committee acted quickly to meet the Commission's deadline, the record of the proceedings shows no evidence that its members ignored or failed to seek clarification of comments, or otherwise did not take their responsibilities seriously. The Executive Committee conducted its public meeting for two full days working late into the night and had previously conducted several preliminary sessions to discuss changes to the standards. The Executive Committee did not act as a mere rubber stamp for the recommendations made by the Task Forces. Indeed, the evidence is to the contrary. The Executive Committee reached independent decisions, making significant changes to the Task Force recommendations. For example, the Executive Committee changed a number of the Task Force recommendations, such as changing the 11:00 a.m. nomination deadline proposed by the Task Group to 11:30 a.m.[23]

The Commission finds NGC/Conoco/Vastar's protestation of GISB disenfranchisement of independent marketers somewhat enigmatic, since NGC itself is a member of the GISB Board of Directors. NGC/Conoco/Vastar have shown no record of any complaint to the Process Subcommittee or the GISB Board of Directors concerning the representation of independent marketers, nor have they produced evidence showing that GISB explicitly excluded independent marketers from the Executive Committee, such as by showing that an independent marketer was passed over for a vacancy on the Executive Committee. They also have not explained why independent marketers' interests are not adequately represented on the Executive Committee by other independent interests such as producers (who sell to marketers) or LDCs and end-users (who buy from marketers).

In a supplemental filing made on June 11, 1996, NGC/Conoco/Vastar[24] contend that the lack of consensus is evident from the number of parties seeking changes, revisions, or waivers to the GISB standards. In the first place, given the varied nature of the industry and the differing interests of individual parties, to expect unanimity is not realistic. The Commission's pre-GISB Working Group process for developing capacity release standards often suffered from the need to achieve virtual unanimity before making a recommendation. The GISB consensus approach is designed to permit progress, while at the same time assuring that there is reasonable, although not unanimous, agreement across the industry on the standards adopted.

Moreover, considering the diversity of interests in this industry, the level of agreement with these standards actually appears quite high. The number of parties objecting is relatively small compared to the number in the industry (most of whom did not file comments in this proceeding). Even on the issue—gas day and nomination timeline—that elicited the largest number of comments, there are only about 10 Mid-West and West Coast LDCs that object. The vast majority of LDCs apparently are satisfied with the GISB standards.[25]

All parties must make a determination whether active participation in every aspect of the GISB process serves their corporate interests. But the benefit of the consensus process, compared with the previous Working Group process, is that parties need not be present to have their views represented. Any party can submit comments to the Task Force and the Executive Committee that these groups must consider. Each segment chooses its own representatives on the Executive Committee, and any party can communicate its concerns to its representatives. And, each segment of the industry has equal voting weight on the Executive Committee.

The Commission finds that overall the GISB process was fair and assured a broad consensus supporting the proposed standards. BGE suggests that, for the future, the Commission should endorse the use of small balanced subcommittees to better prevent domination by certain interests. Changes to organizational structure are for GISB and its membership to determine, and the Commission, therefore, will not dictate the use of any particular process for conducting Task Force meetings in the future.

3. Commission Oversight of the GISB Process

NGC/Conoco/Vastar contend that the Commission, by relying on the GISB standards, has abdicated its responsibility to make a reasoned decision on each of the proposed standards. They suggest that, upon review, implementation of some of these standards will put at risk some of the progress already achieved over the last decade in creating competitive markets. They cite to the following statement from the Commission's OASIS rule dealing with communication protocols for the electric industry:

> However, we reject entirely the notion that the Commission need not approve the *Standards and Protocols* and that these matters can be left to the industry for implementation and self-policing. Although we continue to seek industry consensus, the Commission must reserve final decisions to itself. We cannot turn over the process of approving and enforcing OASIS requirements to the industry. The Commission does not believe that resolution of the outstanding issues or future changes will occur more quickly without Commission oversight. Nor do we believe that merely by announcing broad policy guidelines we would be creating a mechanism that would be sufficient to allow the Commission to revise regulations quickly. Accordingly, we will not abdicate our responsibility to decide these issues ourselves; nor shall we delegate responsibility for making these decisions to anyone else.[26]

NGC/Conoco/Vastar further cite to Justice Department statements that improperly conducted standards activities may inhibit, rather than facilitate competition, in arguing that the Commission should not abdicate its responsibility to review each of the proposed standards.

The Commission's action here is entirely consistent with its approach in the OASIS rule as well as the Commission's former rule establishing capacity release standards. In the portion of the OASIS rule cited by NGC/Conoco/Vastar, the Commission was responding to a request that the Commission abandon its intention to approve standards and, instead, authorize an industry group to set and enforce detailed standards under broad

[21] ANSI, for example, does not impose a balance requirement on subgroups when their role is to assist the standards committee by, for instance, drafting all or a portion of a standard. American National Standards Institute, Procedures for the Development and Coordination of American National Standards, 18 (§ A.6(b)) (March 22, 1995).

[22] *See* Volume III of GISB's March 15, 1996 filing, Voting Workpapers.

[23] *Compare* Volume II of GISB's March 15, 1996 filing, Tab 2, proposed Standard 1.3 *with* the final approved standard 1.3.2. *See also* Volume III of GISB's March 15, 1996 filing, Voting Workpapers (showing that the Executive Committee frequently voted to omit Task Force proposed standards, change the standards to principles, defer consideration of standards, and move standards to other sections).

[24] This time joined by Tejas Power Corporation.

[25] Indeed, all five LDC representatives on the Executive Committee voted to approve these standards. *See* Volume III of GISB's March 15, 1996 filing, Voting Workpapers, Standards 1.3 and 1.10.

[26] Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, 61 FR 21737 (May 10, 1996), III FERC Stats. and Regs. Preambles ¶31,035, at 31,591 (Apr. 24, 1996).

policy guidelines. The Commission rejected this request in the OASIS rule and is not delegating comparable authority to GISB in this proceeding. The Commission has noticed the GISB standards and is explicitly adopting those standards into its regulations. While GISB can modify or add to its standards if it chooses, those changes are not automatically incorporated into the Commission's regulations. The Commission is adopting a specific version of the GISB standards; pipelines will not be required to abide by subsequent versions of the standards issued by GISB unless and until the Commission incorporates the new version into the regulations.

Just as in OASIS and the capacity release proceedings, the Commission here determined that standardization of certain practices is required and detailed the areas in which such standards are needed. In each of the proceedings, the Commission then sought a consensus from the industry as to the technical standards needed, which, after review, the Commission adopted.

Indeed, NGC/Conoco/Vastar, for the most part, do not take issue with the GISB standards themselves; rather, they contend the Commission has not addressed their concerns that some of GISB's standards do not go far enough or that additional standards are necessary. They suggest, for instance, that GISB's requirement that pipelines establish at least one pooling point needs to be enhanced by additional standards, such as requirements for pipelines to offer firm pools and to provide the same priority to pool volumes as the take-away transportation agreement to which they are nominated.

The Commission has not ignored NGC/Conoco/Vastar's suggestions for additional standards. NGC/Conoco/Vastar do not contend that the GISB standards cannot be implemented in their present form, only that these standards can be improved. Many of NGC/Conoco/Vastar's points may have merit.[27] However, the Commission finds no reason to delay the significant benefits that can be achieved from implementation of the current standards while these issues are resolved. The Commission has established a schedule which will permit GISB and the industry to devise the appropriate means of handling these issues. Establishing procedures that give the industry the first opportunity to solve these problems is far preferable to the Commission's attempting to decide at this stage what changes are needed.

The Commission is fully aware of the potential for private sector standards committees to inhibit competition, particularly if one interest can block the adoption of a necessary standard.[28] GISB's rules provide that at least two votes from each industry segment are needed to approve a standard. While such a rule is important to ensuring that any approved standard commands a consensus of the industry, the rule also can permit one industry segment voting as a block to defeat a needed standard.

That is precisely why the Commission has not previously, and is not now, delegating to the industry the responsibility to develop the needed standards. The Commission took, and is still taking, an active role in identifying the business areas needing standardization. The Commission provided the industry the opportunity to apply its expertise to craft solutions that command broad agreement throughout the industry, and has appropriately given these consensus solutions great weight. In those areas where additional consideration of modifications or enhancement of the standards may be warranted, the Commission has established a schedule for the industry to consider refinements. And, the Commission stands ready to resolve issues if necessary.[29]

The Commission would not implement these standards if to do so would undermine or inhibit accomplishment of the goals of Order No. 636. In fact, as noted earlier, it is the very lack of standardization in pipeline implementation of Order No. 636 that may impede the full realization of the competitive market that the Commission sought to create in Order No. 636. These standards make a decided improvement in the current system, and, accordingly, the Commission will accept them.

4. Incorporation of GISB's Principles

In the NOPR, the Commission did not propose to incorporate by reference GISB's principles, because the principles do not purport to establish obligations for pipelines. GISB comments that it views the principles as being of equal importance to the definitions, standards, and datasets, and NGSA recommends that the Commission also incorporate the principles, given their interrelationship with the definitions, standards, and datasets. Some commenters also suggest that the Commission redesignate certain principles as standards.

The Commission will incorporate the principles, since they are a part of the GISB documentation and provide guidance as to the intended meaning of the standards. Pipelines, however, will not be expected to comply with the principles unless they are officially adopted as standards.

C. Additions to or Revisions of the Standards

1. Need for a Standard for Nominations Outside of the Nomination Schedule

In the NOPR, the Commission proposed to adopt GISB's uniform nomination timetable for the entire country: a 9 a.m. central clock time (CCT)[30] gas day and the 11:30 a.m. start to the nomination process. A number of comments on GISB's March 15, 1996 filing claimed this nomination schedule lacked sufficient flexibility. The Commission solicited comments on whether the GISB standards provide some of the increased nomination flexibility requested by shippers because, as long as a pipeline has unscheduled capacity available, shippers can nominate gas even if the 11:30 a.m. nomination deadline has passed or they have not previously submitted a nomination for that day. If the GISB standards did not provide this flexibility, the Commission asked whether an additional standard is needed to require pipelines to process nominations outside of the nomination schedule if they have available capacity.

GISB states that its standards provide for flexibility and that the Commission's suggested standard is unnecessary because, under its standards, a pipeline is not prevented from accepting nominations at any time and has an incentive to do so in order to increase throughput. Other commenters assert that the GISB standards do not require pipelines to schedule capacity outside the standard nomination deadlines even

[27] The Commission has, for example, found that customers should not lose priority as a result of pooling and that priority from receipt point to pooling point generally should be based on the take-away customers transportation agreement. Koch Gateway Pipeline Company, 75 FERC ¶ 61,283 (1996). Implementing these general principles may well require the establishment of firm pools as suggested by NGC/Conoco/Vastar, and the Commission expects GISB to consider these issues for its September 30, 1996 filing.

[28] Allied Tube & Conduit Corp. v. Indian Head, Inc., 486 U.S. 492 (1988).

[29] For example, in the EBB Rulemaking Proceeding in Docket No. RM93–4, the industry was unable to reach consensus on a proposal to establish an Index of Customers. The Commission ultimately determined the data elements to be included in the Index. Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies, Order No. 581, 60 FR 53019, 53053 (Oct. 11, 1995), III FERC Stats. & Regs. Preambles ¶ 31,026, at 31,505 (Sept. 28, 1995).

[30] Central clock time adjusts for daylight savings time.

if they have unscheduled capacity. Some contend that pipelines should not be required to accept such out-of-time nominations, because the pipelines are not yet ready for a continuous 24-hour-a-day nomination process. Imposing such a requirement, they assert, would impose additional administrative burdens and cost on the pipelines. Other commenters assert that imposition of such a requirement would be beneficial.

The commenters misconstrued the Commission's inquiry. The Commission was not suggesting that pipelines necessarily should be required to move immediately to 24-hour-a-day nominations. Rather, within normal and regular business hours, the Commission saw little reason that pipelines with available capacity could not accept late nominations.[31] Accepting such late nominations would not affect other shippers (since capacity was available) and should not impose significant cost or administrative burdens on pipelines, while it could provide the additional flexibility requested by shippers. Given the responses, the Commission will not draft an additional standard, but it fully expects pipelines with available capacity to provide nominating flexibility outside of the standard schedule. The Commission and the industry can evaluate the pipelines' response in the future to determine whether an additional standard needs to be imposed.

2. Changes or Revisions Suggested by Commenters

The issues that drew the largest number of comments (but still only 14) concerned various aspects of GISB's uniform nomination timetable: the 9 a.m. CCT gas day and the 11:30 a.m. start to the nomination process. Some contend that requiring all nominations to be submitted at the same time impedes efficiency because, they argue, varied schedules would permit parties bumped on one pipeline to renominate on other pipelines.[32] Mid-West LDCs complain that GISB's 9 a.m. gas day reduces their nomination flexibility compared with the 12 noon gas day currently used by some of their pipelines.[33] AF&PA, however, suggests that the gas day should coincide with the standard day in the electric industry, which begins at midnight, because of the close interrelation between the gas and electric markets. PG&E, a combination LDC and electric utility, and Edison, an electrical utility, on the West Coast, contend that the 11:30 a.m. start for the nomination process is too early.[34] SoCalGas, a large West Coast LDC, however, does not recommend a change to the starting nomination time in the GISB standard. On the other hand, National Fuel Distribution contends the timeline is too late for East Coast shippers, requiring them to work beyond their normal business hours. NGC/Conoco/Vastar and AF&PA suggest that a staggered nomination timeline with upstream pipelines going first would be more efficient, while PG&E and Edison suggest a regional nomination timeline.

Some pipelines (but not all that filed comments)[35] and other shippers[36] complain about the use of CCT because of the expense involved in having to change their metering twice a year and the inconvenience of having to deal with a 23 and 25 hour day. WINGS points out that many gathering companies use standard time, not clock time, and contends that standard time will provide for better integration.

GISB responds that the standard nomination timeline allows a shipper whose transaction spans more than one pipeline the certainty that the transaction will really ''work'' as contemplated. GISB states that as the industry currently operates, staggered nomination deadlines can leave a shipper with one scheduled pipeline and one unscheduled pipeline. In contrast, the standard nomination deadline gives a shipper assurance that each link in its transaction chain can be scheduled at one time. GISB also points out that its standards provide for flexibility, for instance, by permitting shippers one intra-day nomination. Brooklyn Union contends the Commission should not ''water down'' industry-wide standards by adopting regional solutions, because such regional solutions would perpetuate the existing system of conflicting definitions and mutually inconsistent standards that has thwarted the effort to establish an integrated pipeline grid.

The adoption of standards obviously requires changes and sacrifices by all parties and, the Commission recognizes that the effects may not always be spread equally among everyone in the industry. But the question is not whether an alternative solution may work better for some parties, but, what is best for the entirety of the interstate pipeline grid. There can be no perfect or correct solution. None of the commenters opposing the standard nomination schedule have submitted data or other evidence to show that their approaches would necessarily create a better result for the entire industry than the approach supported by the consensus of the industry.

The Commission accepts the consensus agreement that a standard nomination timeline is necessary to provide certainty and security for nomination and scheduling. For example, an integrated pipeline grid means that an East Coast LDC can nominate gas from a producer located in any time-zone on the North American continent. If an upstream-downstream system or a regional system were used, the LDC would not get confirmation of the first leg of the journey until well after it gets confirmation of the final downstream leg (which is probably well after the close of its business day). In addition, as NGSA and others point out, all these standards must work together as an integrated whole. Thus, while using central standard, as opposed to clock time, may reduce some pipeline costs, it also could exacerbate some of the timing problems addressed by the West Coast shippers by making the nomination deadlines more out of synch with individuals' business day. Adoption of clock time for the pipeline industry also is likely to lead other industry participants, like gatherers, to adopt a similar schedule to maintain the efficiency of the market. While ultimately, coordination of the gas and electric markets should be considered both industries should be involved in determining the best method of achieving such integration. GISB and the electric OASIS Working Groups should establish liaisons to explore how best to coordinate business and electronic standards to promote efficiency in the overall energy market.

For the West Coast and Mid-West shippers, the standards provide sufficient flexibility to make adjustments to nominations. The ability to use intra-day nominations provides shippers with the flexibility to adjust their nominations to respond to changes in circumstances. In addition, as discussed previously, pipelines with uncommitted capacity should provide

[31] See the comment by Columbia Gas/Columbia Gulf, stating that pipelines should be able to insist that nomination changes be made during normal business hours.

[32] See the comments of NGC/Conoco/Vastar, AF&PA, CGM, and Natural.

[33] The Mid-West LDCs are CILCO, Illinois Power, National Fuel Distribution, NDG/Minnegasco, Peoples/North Shore/Northern Illinois.

[34] PG&E, for instance, claims that national weather service data are not received until 8:30 a.m. to 9:00 a.m. Pacific time (9:30 to 10:00 a.m. daylight savings time) and that shippers cannot process these data in time to meet the GISB 11:30 CCT timeline and, thus, would have to rely on stale weather data.

[35] See the comments of CIG/ANR, Natural, PGT, Viking, WINGS, and Williston Basin.

[36] See the comments of SoCalGas and Peoples/North Shore/Northern Illinois.

shippers with flexibility to submit late nominations within reasonable time frames, so that shippers bumped on one pipeline can reroute their capacity on other pipelines.

CILCO contends that, if the Commission retains the nation-wide nomination timetable, it should at least establish a standard for intra-day nominations permitting a shipper submitting an intra-day nomination for firm receipt and delivery points to bump shippers using these as secondary or interruptible points. [37] While providing bumping rights for primary points would enhance primary firm shippers' flexibility, such bumping rights could upset the expectations of firm shippers using secondary points and interruptible shippers that had received confirmed nominations for their nominated points. The Commission will not resolve the balance between these interests at this time, since it understands that GISB is considering intra-day procedures for its September 30, 1996 filing.

Natural asks for clarification that as long as no one is adversely affected by a deviation, parties can agree on a different gas day to meet operating needs. For the most part, the Commission discourages changes to the standards because the very purpose of standardization is for all parties to use the same processes and procedures. However, as discussed in the next section, GISB envisions that pipelines may be able to exceed the standards so long as these deviations do not adversely effect other parties. Thus, in some circumstances, pipelines and individual shippers may be able to agree to additional flexibility in nomination procedures, subject to the important caveat that the change does not degrade the rights of other shippers.

Commenters also suggest changes to a variety of other specific standards, generally with only one or a very few commenters challenging each standard. As merely one example, NGC/Conoco/Vastar, AF&PA, and EMA contend that the period for resolving invoicing disputes should be two years, while the consensus of the industry was that expedition in handling disputes was important and agreed on a six-month period. In this case, as in the other challenges to the consensus standards, the issue is not susceptible to factual resolution; it is a matter of judgment as to what approach is most efficient and will best serve the needs of the entire industry. The Commission's goal in this proceeding was to achieve a set of standards that the majority of the industry could support. After having reviewed the comments and the GISB standards, the Commission concludes that the industry consensus standards effect a sound balance between the needs of all segments and areas of the country and accepts these standards.

These standards also are not the final word. As experience is gained operating under these standards, changes or revisions may be needed. The industry and GISB need to be alert to such possibilities for improving standards, and GISB has a procedure by which parties can submit requests for changes to standards. [38]

D. Requests for Clarification

1. Pipelines Exceeding the Standards

In the NOPR, the Commission requested clarification of GISB's statement that all of its standards should be considered minimums and that parties are encouraged to exceed these standards. The Commission was unsure whether some standards should be considered inviolate, because any change would have adverse repercussions for non-agreeing parties.

GISB responds that its intent is to permit pipelines to exceed standards, so long as the changes do not have a negative impact on contracting and non-contracting parties. For example, it states that a pipeline may accept a nomination outside the nomination deadline if doing so will not affect service to those who submit nominations on time. Brooklyn Union, Tenneco Energy, and ECT support the principle that GISB's standards should be considered minimums. ECT suggests that pipelines should be able to exceed the standards, so long as shippers can operate on the pipeline under the minimum standard. Southern supports the concept that pipelines can exceed the GISB standards and suggests that the Commission make this point clear, by revising § 284.10 to remove the requirement that pipelines ''comply with'' the GISB standards and substitute the phrase that pipelines must ''meet or exceed'' the standards. NGC/Conoco/Vastar argue that whether pipelines can exceed standards varies, depending on the standard in question and whether shippers need to rely on that standard or whether the so-called improvement is detrimental to some parties.

The Commission endorses the principle that pipelines can exceed the GISB standards. In some cases, this principle is easy to apply. For example, pipelines can permit more than one intra-day nomination because the pipeline will still be complying with the requirement to provide *at least* one intra-day nomination.

However, in some cases application of the principle will be more difficult. For example, Peoples/North Shore/Northern Illinois point to Nomination Standard 1.3.19, which states that ''overrun quantities should be requested in a separate nomination.'' They comment that the pipelines they use employ a superior procedure by permitting overrun nominations to be included as part of the regular nomination.

In this case, permitting the change would appear to violate the underlying premise of standardization—that shippers can use the same procedures on all pipelines without having to know the individual proclivities and rules of each pipeline. Shippers may need to count on the standardized practice of submitting overrun nominations as a separate nomination, without having to determine whether different overrun procedures apply on different pipelines. In some instances, rather than simply changing a standard, pipelines may be able to offer an additional option to shippers, provided that those shippers that want to conduct business according to the standards can still do so.

The general principle is that a pipeline's enhancement to the standards is acceptable when the revision provides increased flexibility, but does not affect shippers' ability to utilize the standard procedure or adversely affect the rights of those not a party to the revision. Some of these issues may have to be resolved when pipelines make their compliance filings and shippers file comments on the filings. In making their compliance filings, pipelines, therefore, must specifically note in their statement of the nature, reasons, and basis all proposed changes that purport to exceed the standards so that shippers can comment on these changes. The Commission also notes that, under GISB's procedures, any person may seek an interpretation of a standard, and receive a response within 90 days of the submittal.[39] The use of this procedure to obtain clarification of issues (that can be anticipated based on the filings here or at GISB) could prove useful when the Commission considers the compliance filings to implement the standards.

The Commission will not revise the regulation, as suggested by Southern, to read ''meet or exceed,'' rather than ''comply,'' because, even if pipelines

[37] AF&PA, EMA, and NGC/Conoco/Vastar also request a similar clarification of bumping rights.

[38] GISB Procedures For Adopting Standards, § 2.1. Indeed, GISB has received a request for changes to Nomination Standard 1.3.1 dealing with the standard gas day. GISB Standards Action Bulletin, June 15, 1996, Vol. 2, Number 10, at 2.

[39] GISB Procedures for Adopting Standards, § 5.0.

may exceed the standards in certain circumstances, they must still comply with the standards. As pointed out earlier, a pipeline permitting more than one intra-day nomination will be complying with the standard for providing at least one such nomination. Moreover, as discussed above, pipelines cannot exceed the standards by adopting what they consider a superior methodology if adherence to the GISB standard is necessary to ensure uniform procedures across the pipeline grid.

2. Clarification of Other Issues

In the NOPR, the Commission stated that it expected pipelines to implement these standards as broadly as possible to provide customers with the services needed in an integrated market. The Commission reasoned that many of the clarification requests could be resolved through consultations between the pipelines and their shippers, and, if they were not, the Commission could address them when pipelines file revised tariffs to incorporate the standards or through the complaint process.

National Fuel supports the Commission's position in the NOPR that implementation details should be worked out in individual proceedings. Other commenters, however, request clarification of a number of standards. While not exhaustive, the following provides an example of the clarification requests. Several commenters seek clarification of the standard requiring pipelines to provide intra-day nominations, such as clarifying intra-day bumping rights (as mentioned previously), the pipelines' ability to establish set times for intra-day nominations,[40] and whether intra-day nominations should apply to all services.[41] NWIGU, however, maintains that the manner in which intra-day nominations are implemented should be determined on a pipeline specific basis. Other commenters request clarification of issues relating to specific pipelines or services, such as scheduling priority for late nominations if the particular service provides for priority nomination rights or how to deal with Florida Gas Transmission Company's receipt and delivery gas days.[42] Still others request clarification of terms, such as National Fuel Distribution's concern that ''mutual mistake of fact'' in Flowing Gas Standard 2.3.26 could be so broad as to cover all billing mistakes[43] or Viking's request for clarification of the term ''quick response'' in Nomination Standard 1.3.2.

As the Commission stated in the NOPR, clarification issues involve issues specific to certain pipelines, and thus are not susceptible to generic resolution. Similarly, terms used in standards need to be defined with reference to specific situations, using standard rules of interpretation, such as common usage, and the principles and intent of the standards.[44] These issues are best addressed when pipelines make their compliance filings in light of the comments made on those filings. By the time pipelines make their compliance filings, additional clarification on some of these issues, such as intra-day nominations, also may be provided through the September 30, 1996 filings. Moreover, as pointed out earlier, none of these standards are immutable. Trial and error may reveal the need for further standardization in some areas and perhaps less in others.

CIG/ANR request clarification of what the Commission intends by the consultive process. They argue that implementation of these standards is essentially ministerial and that extensive consultation could lead to further redefinition of the standards.

Implementation of many of the standards is likely to be the purely ministerial task CIG/ANR envisages. There may be some issues, however, where shippers are concerned about the method of implementation. Accordingly, pipelines should circulate advance copies of their proposed compliance filings among shippers for comments to help iron out the implementation details before filing with the Commission.

When individual trading parties have agreed to changes in the electronic data requirements, GISB's definition 1.2.22 requires parties to present mutually agreeable data elements to GISB for technical implementation.[45] Peoples/North Shore/Northern Illinois object to this definition, because they are concerned about the possible delay this requirement may introduce. ECT, on the other hand, supports the standard, arguing that unless data elements required to implement service revisions are mapped to GISB's ASC X12 formats, individual pipeline-by-pipeline interpretation of where the data should be placed would defeat the goal of standardization.

The GISB requirement that the pipelines inform GISB of any data element changes is reasonable since it ensures that a standard industry-wide dataset is readily available. The Commission fully expects GISB to process such filings as quickly as possible.[46]

E. Requests for Waivers

Some commenters support the granting of waivers based on individual circumstances if the waivers would not unreasonably interfere with gas flow across the pipeline grid.[47] NGSA and COPAS argue that waivers should be granted sparingly because all the standards are interrelated and waivers take away the certainty that standards are designed to promote. Williston Basin requests waivers of some of the GISB requirements. It claims that it should not have to comply with the EDM requirements because only two third-parties on its system now use Electronic Data Interchange (EDI) to download capacity release information.[48] It also is concerned that meeting GISB's invoicing timetable would be too onerous because of its remote meter locations. El Paso contends that it (and GISB) should not have to implement a new dataset to permit uploads of pre-arranged deals for full requirements customers.

The Commission, as a general matter, finds that waivers are at odds with the goal of adopting uniform procedures in order to achieve the greatest efficiency in transporting gas across the integrated pipeline grid. Thus, waivers will not be favored. However, the Commission will consider waiver requests on a case-by-case basis.

Although the Commission previously granted waivers of the EDI requirement to some small pipelines, the prior requirements cover only capacity release, which may have been

[40] See the comment of Tenneco Energy.

[41] See the comments of ECT and Peoples/North Shore/Northern Illinois.

[42] See the comments of Peoples/North Shore/Northern Illinois and Peoples Gas.

[43] Flowing Gas Standard 2.3.26 provides for a 6 month period to resolve allocation disputes unless a mutual mistake of fact is involved.

[44] Mutual mistake of fact is a common expression used in contract law where both parties have a mutual misunderstanding of a basic assumption of the contract. Thus, all that Flowing Gas Standard 2.3.26 provides is that the time periods for dispute resolution will not apply where the parties are seeking to resolve a problem that both misunderstood at the time. The term ''quick response'' refers to the immediate response of errors in nominations. *See* Nomination Standard 1.4.2.

[45] To ensure that changes to data elements do not undermine the goal of providing standardized communication across pipelines, Standard 1.2.2 provides that other shippers cannot be required to adopt any additional data elements in order to achieve a desired level of service.

[46] Commission approval of the data elements appears unnecessary because they involve only agreements between individual trading partners and will not affect other shippers' use of the standards. If the change involves the substance of the standards or pipelines' obligations to other shippers, then Commission acceptance would be necessary prior to implementation.

[47] See the comments of NGT/MRT, Montana-Dakota, CNG, and National Fuel.

[48] EDI generally refers to the exchange of information between computers using telephone lines and standardized file formats.

insignificant on these pipelines. In contrast, these standards cover the entire gamut of ongoing business transactions with the pipeline. Thus, a previous lack of interest in EDI for capacity release does not necessarily suggest a similar lack of interest in these standards.

Even for small pipelines, making what is essentially a one-time investment to adopt a standardized industry-wide technology seems preferable to continued investment in EBB or other non-standard communication technologies. The Commission also would expect that third-party vendors that will be creating formats for customers to transact business with pipelines can, at reasonable cost, use or modify the formats to enable pipelines to transact business with customers. Thus, before granting waivers of the electronic communication standards, the Commission will expect pipelines to provide full, and accurate documentation of the costs of implementing such standards on their systems. At this point, El Paso has not demonstrated why implementation of uploads for pre-arranged deals for its full requirements customers would be so onerous, since it already provides for downloads of such information and will be providing for uploads of other information.

F. Capacity Release

The GISB standards address procedures for implementing releases of capacity and the electronic methods of communicating capacity release information. The standards will require some modification of the mechanics of the pipelines' capacity release procedures. The principal change, at least for some pipelines, will be the standardized timeframe for processing release transactions. Under this schedule, for instance, pipelines must establish procedures to process pre-arranged deals, not subject to bidding, within one hour of receipt so that the replacement shipper can nominate the same day. For deals subject to bidding, the pipelines must process the transactions within one day. The communication standards require pipelines to process file uploads of pre-arranged deals, which will permit shippers and third-party capacity trading service providers to conclude pre-arranged deals and efficiently transmit the results of the deals to the pipeline, without having to use the pipelines' EBBs as is the current practice.

While most commenters find the GISB changes to be beneficial, a number comment that they do not obviate the need for changes in fundamental capacity release policies, such as the requirement for bidding on deals longer than 31 days and the prohibition on releases above the pipeline's maximum rate. Proliance and BGE also find the GISB standards an improvement over past practice, but they believe pipeline interruptible service has a competitive advantage over capacity release because the standards fail to provide comparability between the procedures for obtaining released capacity and those for obtaining pipeline interruptible capacity.[49]

Two pipelines, CIG/ANR and CNG, suggest that the Commission not require pipelines to redesign their capacity release programs until after the Commission issues its promised NOPR on capacity release.[50] CNG is particularly concerned about having to make investment in redesign of its electronic systems if the Commission is going to make further changes to the program.

The Commission does not want to change the industry's consensus standards until the industry has a further opportunity for consideration and comment through GISB's continuing process or any NOPR on capacity release. On the other hand, the Commission finds no reason for not implementing the standards at this point.

The procedural changes involve mostly revisions to tariff procedures, which should not involve significant burdens. The requirement for pipelines to speed-up the processing of capacity release transactions is consistent with the Commission's goal of ensuring comparability between capacity release and pipeline short-term services.

The only change in electronic communication is the requirement to process uploads of pre-arranged deals; all of the other standards for electronic communication of capacity release information have been in place for some time. Adding uploads of pre-arranged deals should not impose significant additional burden or expense, since pipelines already will be implementing upload capability for the other GISB standards. The ability to upload pre-arranged deals already has been delayed, and the Commission does not want to introduce any further delay, because such a capability is crucial for shippers and third-party capacity trading service providers to communicate efficiently with the pipelines. Moreover, the Commission is convinced that whatever changes the Commission may make in the fundamental policies of the capacity release program, the pipelines will have to provide the capability for shippers and third-party capacity trading services to efficiently transmit pre-arranged transactions to the pipelines.

In the NOPR, the Commission asked whether Capacity Release Standard 5.3.11 required pipelines to accept electronic file uploads of replacement shippers' or their agents' confirmation of the terms of pre-arranged deals (on those pipelines that require confirmation). The Commission was concerned that the efficiency created by requiring standardized uploads of pre-arranged deals would be lost if shippers or third-party capacity trading services cannot use electronic uploads of confirmations to confirm their deals.

GISB, El Paso, and Tenneco Energy confirm that the intent of Capacity Release Standard 5.3.11 is for transportation service providers to accept and process pre-arranged deal confirmations using EBBs, file uploads, as well as other electronic means to which the parties mutually agree. They point out that the Capacity Release Standards include datasets requiring pipelines to provide for uploads of confirmations as a mandatory business conditional field,[51] which means that pipelines requiring confirmation must support such uploads.[52] Tenneco Energy, however, raises questions about the conditions under which agents can confirm. It suggests that any such requirement be deferred until completion of the work of GISB's Contracts Task Force. Peoples/North Shore/Northern Illinois opposes a requirement for pipelines to support uploads of confirmations unless the costs exceed the benefit.

The Commission supports the requirement for pipelines to accept uploads of confirmations, because such uploads improve the efficiency of the process by allowing shippers and third-party capacity trading service providers to conclude pre-arranged deals without having to use the pipeline EBBs to transmit such deals to the pipeline. With respect to Tenneco Energy's comment, GISB has adopted a principle

[49] Proliance points to differences between capacity release and interruptible procedures in posting, bidding, creditworthiness, EBB and contract procedures, scheduling, and nominations. BGE points out that interruptible nominations are made on the same day as acquisition of capacity as compared with up to a two-day delay under GISB standards when bidding is required.

[50] Trunkline Gas Company, 75 FERC ¶ 61,064, at 61,213 (1996).

[51] See Capacity Release Datasets 5.4.12, and 5.4.19.

[52] *See* Nomination Standard 1.2.2 for the definition of mandatory and business conditional.

that agents must be recognized in conducting electronic communication.[53] This principle is particularly important in the capacity release arena because the only way that third-party capacity trading service providers can effectively provide trading services is if they can communicate the results of such transactions to the pipelines on behalf of their clients. Thus, the Commission expects pipelines to recognize agents for the purpose of submitting pre-arranged deals and confirmations of such deals as well as for other purposes.

G. Electronic Delivery Mechanism

GISB's standards specify that Internet protocols (TCP/IP with a PPP connection) should be used for electronic communication. In the NOPR, the Commission requested comment on whether additional standards for Internet connection are needed, such as the use of file transfer protocols (FTP).

In its comments, GISB explains that, although it has determined to use Internet protocols for communication, it has not yet reached a final determination on whether the public Internet provides sufficient security for business transactions or whether private networks should be the communication vehicle. On June 7, 1996, GISB's Future Technology Task Force issued an interim report recommending the use of the public Internet as the communication vehicle. The report finds that security issues with the use of the public Internet can be satisfactorily resolved through commercially available software. However, the Future Technology Task Force has established a pilot test (to be completed by September 30, 1996) to permit a full examination of the technology. If the public Internet ultimately is not chosen, GISB states whatever communication vehicle (intranets/networks) is chosen would support its standard protocol of TCP/IP with a PPP connection.

AGA and CIG/ANR suggest that the Commission not prejudge the adoption of the public Internet as the communication vehicle, but wait for the recommendation by the Future Technology Task Force. BGE and EMA support the use of the public Internet, while ECT, National Fuel Distribution, and Peoples/North Shore/Northern Illinois are concerned about the security of using the public Internet and support the use of private intranets. NYMEX/Enersoft and WINGS request clarification that the Commission is not adopting the public Internet as the exclusive means of communication and that third-parties can offer products which are not on the public Internet.

The Commission will reserve final judgment on the use of the public Internet until the final report by the Future Technology Task Force. The Commission is not entirely clear as to the concerns expressed by NYMEX/Enersoft and WINGS. All pipelines will have to provide data according to the protocol (whether public Internet, intranet, or other protocol) that is specified. Whatever protocol is adopted for pipelines should not affect the manner in which third-parties use or transmit that data to their customers. A third-party would be entirely free to establish its own private intranet to communicate data with its customers.

NYMEX/Enersoft and WINGS may be asking whether pipelines can agree to provide information to shippers or third-party computer service providers according to protocols that differ from the chosen one (e.g., providing a direct connection to the third-party). In the OASIS rulemaking, the Commission required the utilities to provide direct connection on an equal basis to all those requesting such a connection as long as the utility is compensated for making, and given sufficient time to make, the connection.[54] The Commission found that providing direct connections would assist private networks and third-party services in offering additional valuable services to the industry. The Commission anticipates following the same course here when it adopts the final communication standards.[55]

NGC/Conoco/Vastar recommend that all electronic information disseminated by pipelines should be done on the public Internet. They further contend that pipelines should no longer be required to provide information on EBBs, nor should they be able to provide preferred connections to their EBBs. If pipelines want to continue to provide services on an EBB, NGC/Conoco/Vastar suggest that EBB service should not be subsidized by having its costs recovered as part of rate base, but should compete on an equal footing with other ventures using the pipeline information.

The Commission agrees the goal of the industry should be to replace the individual pipeline EBBs, characterized by their unique log-on and access procedures and distinctive look and feel, with a uniform method of communicating all electronic information now provided on the EBBs. Standardization of electronic communication would permit shippers and third-party service providers to easily capture all relevant information and provide a single display format covering all pipelines.

In the course of their deliberations on the future of electronic communication in the gas industry, GISB and the industry participants should give consideration to the following issues. First, they should consider whether the Commission should mandate that pipelines provide additional information in electronic format (other than that required by this rule or other Commission regulations).

Second, they need to consider whether pipelines should be required to replace their EBBs with a standardized, interactive format (such as interactive, Internet world-wide-web displays). The display format would be in addition to providing for uploads and downloads in standardized file format.[56] Alternatively, the pipelines could be pure data providers and recipients, with no requirement to provide individual display formats. This approach would leave the creation of display formats to the shippers and to competition among software vendors and third-party providers (that could include pipeline EBBs that would not be covered within the pipelines' cost-of-service).

Third, the industry needs to consider the concern raised by NGC/Conoco/Vastar over connection standards, such as whether pipelines can provide for preferential connections either to their own EBBs or third-parties (including pipeline affiliates). For example, if the standard requires pipelines to provide data over the public Internet and the pipeline uses a third-party to operate its Internet server, should pipelines be able to provide direct connections to their own in-house computer system as now occurs with the pipelines' EBBs? Or, should all direct connections be to the Internet server in order to provide

[53] Electronic Delivery Mechanism Principle 4.1.7. The capacity release datasets also contain a field entitled authorization code, which informs the receiver of a transaction that the sender is authorized to submit the transaction for the contractual party.

[54] III FERC Stats. and Regs. Preambles ¶ 31,035, at 31,618–19.

[55] The Commission also anticipates that pipelines should design tariff procedures to ensure that the first party seeking a direct connection is not disadvantaged (relative to latercomers) by having to bear the costs of establishing the connection. Thus, pipelines should consider procedures to reimburse the first applicant, and charge subsequent applicants, for the fixed common costs of establishing the direct connection.

[56] In the OASIS rulemaking, the utilities were required to provide both for file downloads and uploads of data as well as providing the required information through internet HTML display formats. III FERC Stats. and Regs. Preambles ¶ 31,035, at 31,616–17.

everyone with comparable access to the data.[57]

Finally, GISB and the industry participants should explore making information available, on a real time basis, on the availability of capacity on the mainline and at individual receipt and delivery points. GISB has recognized that its nomination scheduling is an interim step to continuous and contiguous scheduling.[58] Moreover, as discussed earlier, pipelines must now permit intra-day nominations, and the Commission expects pipelines to schedule capacity within reasonable business hours when they have available capacity. As the industry continues its move to more flexible intra-day nominations, such efforts must be accompanied by real-time information. Some of the needed information can be obtained through compliance with the existing Operationally Available and Unsubscribed Capacity datasets.[59] As such, the Commission will continue taking steps to ensure compliance with the requirements of those data sets. However, improvements are needed. Current data is not available on a real time basis. It does not reflect capacity scheduled during the day. Moreover, information is not available on whether gas can be scheduled into or out of a particular zone. Finally, the information is often not delivered in a user friendly format. For instance, a person should be able to request information which changed after a specified date and time, *i.e.* the quantity of available capacity at individual locations which changed due to a newly scheduled quantity.

H. Consideration of Additional Standards

A number of commenters on GISB's March 15, 1996, filing argued that the GISB standards did not go far enough and that additional standards needed to be developed. While not meaning to provide a definitive list, the Commission distilled from the comments the following areas for consideration of modifications or additions to the standards: expansion of Internet protocols to include all electronic information provided by the pipelines (discussed above), title transfer tracking, allocations and rankings of gas packages, treatment of compressor fuel, operational balancing agreements, routing models, imbalance resolution, operational flow orders, multi-tiered allocations and confirmations, and additional pooling standards. Because of the importance of the issues raised, the Commission requested detailed proposals for standards in these and other related areas by September 30, 1996.

Several commenters argue that the areas listed are among the most contentious and most difficult to resolve and maintain that the September 30, 1996 date does not provide the industry or GISB with adequate time to develop consensus. NGC/Conoco/Vastar, however, maintain that precisely because these issues are complex and contentious, GISB will be unable to reach a reasonable consensus, so that the Commission should resolve the issues. The Commission also takes notice that, after the NOPR, GISB has established a schedule leading to the development of standards (but not necessarily detailed datasets) by the September 30, 1996 date.

The Commission does not share NGC/Conoco/Vastar's dire view of GISB's prospects for resolving these issues. But the Commission still needs to monitor the progress of these considerations, so that, if they do stalemate, the Commission can begin technical conferences or other proceedings to resolve them. Accordingly, the Commission will not revise the September 30, 1996 date for submission of standards proposals. By September 30, 1996, the Commission expects that standards for many of these issues will be developed and that, for other issues, the filings will permit the Commission to assess whether GISB is on track to resolve them or whether the Commission needs to establish additional procedures. For issues that are not resolved, the reports should be sufficiently comprehensive that they fully describe the problems faced by the industry, the proposals being considered, whether any proposal is preferred over others, and an analysis of the benefits and disadvantages of the proposed solutions.

I. Cost Recovery

Viking and Iroquois request the Commission to establish a method of recovering the costs of implementing the standards. Viking maintains that a full section 4 case is not an appropriate mechanism because of the difficulty in predicting up-front and ongoing compliance costs needed to prepare a test-year cost-of-service study. Both Iroquois and Viking suggest using limited section 4 cases, and Viking also suggests other options, such as deferred accounting, similar to procedures used for the recovery of costs related to implementation of FASB 106 (post-employment benefits other than pensions).

The Commission finds no need to establish special procedures for handling cost recovery. There is no evidence that the costs of compliance are so significant or so out-of-the ordinary that special procedures are necessary. Moreover, implementation of many of the standards may result in changes to operations and maintenance expenses or other cost-of-service categories, which can be effectively considered only in the context of a full section 4 proceeding. With respect to Viking's concern about predicting future costs, Commission regulations permit pipelines to include in rate filings costs that are known and measurable at the time of the filing.[60]

V. Implementation Schedule

GISB proposes a staggered schedule for pipeline compliance filings and implementation in which pipelines are divided into three groups. The first group would make tariff filings October 1, 1996 and implement the standards April 1, 1997 with the other two groups filing in November and December 1996 and implementing in May and June 1997. The pipeline groupings are based on three factors: pipeline willingness to implement in the first groups; implementation by downstream pipelines no earlier than their major feeder pipelines; and geographic balance with each group including pipelines from various regions of the country. GISB did not include deadlines for small pipelines, stating that they could choose their implementation date.

GISB also explains that the standards will govern business *beginning with* the implementation date. For example, in order to have gas scheduled to flow at the beginning of the gas day on April 1, 1997, the pipeline actually would begin implementing the related standards, such as Nomination Standard 1.3.2 (Nomination Timeline) in March 1997. Likewise, for pipelines with an April 1, 1997 implementation date, the invoices for April deliveries would be prepared and sent to the customer in May 1997 in compliance with the standards.

The Commission is accepting the GISB schedule for the *pro forma* compliance filings and the

[57] The OASIS rule did not permit the utilities to provide preferential direct connections. See III FERC Stats. and Regs. Preambles ¶ 31,035, at 31,619 (direct connections to the utility's computer are not permitted when another party is responsible for the Internet connection).

[58] Nomination Principle 1.1.2.

[59] Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563, III FERC Stats. & Regs. Preambles, at 31,007; Order No. 563–A, III FERC Stats. & Regs. Preambles, at 31,040 (posting of operationally available capacity).

[60] 18 CFR 154.303.

implementation of the standards as set forth below. Smaller pipelines are included in the third group, but any pipeline may file or implement earlier than its effective date. The Commission is providing that interventions, protests, or comments are due 21 days after the date of the pipeline's *pro forma* tariff filing.

Pro Forma Tariff Filing Date: October 1, 1996—Standards Implementation Date: April 1, 1997

Algonquin Gas Transmission Company
El Paso Natural Gas Company
Florida Gas Transmission Company
Mojave Pipeline Company
National Fuel Gas Supply Corporation
Northern Border Pipeline Company
Northern Natural Gas Company
Panhandle Eastern Pipe Line Company
Texas Eastern Transmission Corporation
Transwestern Pipeline Company
Trunkline Gas Company

Pro Forma Tariff Filing Date: November 1, 1996—Standards Implementation Date: May 1, 1997

Canyon Creek Compression Company
Colorado Interstate Gas Company
East Tennessee Natural Gas Company
Midwestern Gas Transmission Company
Mississippi River Transmission Corporation
Natural Gas Pipeline Company of America
NorAm Gas Transmission Company
Stingray Pipeline Company
Tennessee Gas Pipeline Company
Trailblazer Pipeline Company
Williams Natural Gas Company
Wyoming Interstate Company, Ltd.

Pro Forma Tariff Filing Date: December 2, 1996—Standards Implementation Date: June 1, 1997

Alabama-Tennessee Natural Gas Company
Algonquin LNG, Inc.
ANR Pipeline Company
ANR Storage Company
Black Marlin Pipeline Company
Blue Lake Gas Storage Company
Caprock Pipeline Company
Carnegie Interstate Pipeline Company
Chandeleur Pipe Line Company
CNG Transmission Corporation
Columbia Gas Transmission Corporation
Columbia Gulf Transmission Company
Cove Point LNG Limited Partnership
Crossroads Pipeline Company
Equitrans, Inc.
Gas Transport Inc.
Gasdel Pipeline System, Inc.
Granite State Gas Transmission, Inc.
Great Lakes Gas Transmission Limited Partnership
Gulf States Transmission Corporation
High Island Offshore System
Iroquois Gas Transmission System, L.P.
K N Interstate Gas Transmission Co.
K N Wattenberg Transmission Limited Liability Company
Kentucky-West Virginia Gas Company
Kern River Gas Transmission Company
Koch Gateway Pipeline Company
Louisiana-Nevada Transit Company
Michigan Gas Storage Company
Mid Louisiana Gas Company
MIGC, Inc.
Mobile Bay Pipeline Company
Nora Transmission Company
Northwest Pipeline Corporation
Oktex Pipeline Company
Overthrust Pipeline Company
Ozark Gas Transmission System
Pacific Gas Transmission System
Pacific Interstate Offshore Company
Paiute Pipeline Company
Petal Gas Storage Company
Questar Pipeline Company
Richfield Gas Storage System
Riverside Pipeline Company, L.P.
Sabine Pipe Line Company
Sea Robin Pipeline Company
South Georgia Natural Gas Company
Southern Natural Gas Company
T C P Gathering Co.
Tarpon Transmission Company
Texas Gas Transmission Corporation
Texas-Ohio Pipeline, Inc.
Transcontinental Gas Pipe Line Corporation
Tuscarora Gas Transmission Company
U–T Offshore System
Viking Gas Transmission Company
Western Gas Interstate Company
Western Transmission Corporation
Westgas Interstate, Inc.
Williston Basin Interstate Pipeline Company
Young Gas Storage Company, Ltd.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA)[61] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The proposed regulations would impose requirements only on interstate pipelines, which are not small businesses, and, these requirements are, in fact, designed to reduce the difficulty of dealing with pipelines by all customers, including small businesses. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

VII. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[62] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[63] The action taken here falls within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[64] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

VIII. Information Collection Statement

In the NOPR, the Commission requested emergency Office of Management and Budget (OMB) clearance procedures under 5 CFR 1320.13 of OMB's regulations to avoid delays beyond the proposed January 1, 1997, target implementation date. Virtually all of the comments filed (including those filed with OMB by Viking) express concern about the Commission's target implementation date of January 1, 1997, due to concerns about complications arising during the peak winter heating season. GISB, with support from almost all commenters, has proposed, and the Commission is adopting, a staggered implementation of the standards during the spring of 1997.

OMB's regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB shall assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Rule shall not be penalized for failing to respond to these collections of information unless the collections of information display valid OMB control numbers.

Title: FERC–545, Gas Pipeline Rates: Rate Change (Non-formal)
Action: Data Collection/Requirements
OMB Control No.: 1902–0154
Respondents: Interstate Natural Gas Pipelines (Not applicable to small businesses.)
Frequency of Responses: One-time tariff filings (First year)

Title: FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines
Action: Data Collection/Requirements
OMB Control No.: To be assigned by OMB
Respondents: Interstate Natural Gas Pipelines (Not applicable to small businesses.)
Frequency of Responses: One-time capital/startup new business procedures (First year)
Necessity of Information: The final rule adopts standards incorporated by reference and submitted by the Gas Industry Standards Board (GISB).

[61] 5 U.S.C. 601–612.

[62] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[63] 18 CFR 380.4.

[64] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

These standards govern four major business practices—nominations; allocations, balancing, and measurement; invoicing; and capacity release—as well as the mechanism for electronic communication between the pipelines and those doing business with the pipelines. Without the Commission's adoption of these standards that institute common business practices and a common language for communication, the speed and efficiency with which shippers can transact business across multiple pipelines would be severely compromised. Under the final rule, all pipelines will adopt a standard set of information covering the ten high priority data elements, so that shippers will be able to communicate using the same information for the same transactions regardless of the pipelines with which they deal. In addition, all pipelines will ultimately support a standard Internet connection for communications with their customers, which will eliminate the disparity in log-on procedures and user interfaces faced by customers using the individual pipeline electronic bulletin boards.

The information collection requirements in this final rule will be reported directly to the industry users and later be subject to audit by the Commission. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act and coincide with the current regulatory environment which the Commission instituted under Order No. 636 and the restructuring of the natural gas industry. The Commission's Office of Pipeline Regulation will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas and for general industry oversight.

Because the subject final rule is not significantly different from the NOPR, and OMB has not provided any comments on the proposed rule, the Commission is submitting a copy of this final rule to OMB for informational purposes only. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202)208–1415] or the Office of Management and Budget [Attention: Desk Officer for the Federal Energy Regulatory Commission (202)395–3087].

IX. Effective Date

These regulations are effective August 26, 1996. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 26, 1996.

List of Subjects

18 CFR Part 161

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 250

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements; Incorporation by reference.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends Parts 161, 250, and 284, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 161—STANDARDS OF CONDUCT FOR INTERSTATE PIPELINES WITH MARKETING AFFILIATES

1. The authority citation for part 161 continues to read as follows:

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

§ 161.3 [Amended]

2. In § 161.3, paragraph (h)(2) is amended by removing the phrase ''§ 284.8(b)(4)'' and adding, in its place, the phrase ''§ 284.10(a)''.

PART 250—FORMS

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

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

§ 250.16 [Amended]

2. In § 250.16, paragraph (c)(2) is amended by removing the phrase ''§ 284.8(b)(4)'' and adding, in its place, the phrase ''§ 284.10(a)''.,

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

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

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C 7101–7532; 43 U.S.C 1331–1356.

2. In § 284.8, paragraphs (b)(4) and (b)(5) are removed, paragraph (b)(6) is redesignated (b)(4), and paragraph (b)(3) is revised to read as follows:

§ 284.8 Firm transportation service.

* * * * *

(b) * * *

(3) An interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part must provide all shippers with equal and timely access to information relevant to the availability of such service, including, but not limited to, the availability of capacity at receipt points, on the mainline, at delivery points, and in storage fields, and whether the capacity is available directly from the pipeline or through capacity release. The information must be provided on an Electronic Bulletin Board with the features prescribed in § 284.10(a) and as required by § 284.10(b).

* * * * *

3. In § 284.9, paragraph (b)(4) is removed, paragraph (b)(5) is redesignated (b)(4), and paragraph (b)(3) is revised to read as follows:

§ 284.9 Interruptible transportation service.

* * * * *

(b) * * *

(3) An interstate pipeline that offers transportation service on an interruptible basis under subpart B or G of this part must provide all shippers with equal and timely access to information relevant to the availability of such service. The information must be provided on an Electronic Bulletin Board with the features prescribed in § 284.10(a) and as required by § 284.10(b).

* * * * *

4. Section 284.10 is added to read as follows:

§ 284.10 Standards for Pipeline Business Operations and Communications.

(a) *Electronic Bulletin Boards.* An interstate pipeline that is required by this chapter or by its tariff to display information on an Electronic Bulletin Board must provide for the following features on its board:

(1) Downloading by users;

(2) Daily back-up of information displayed on the board, which must be available for user review for at least three years;

(3) Purging of information on completed transactions from current files;

(4) Display of most recent entries ahead of information posted earlier; and

(5) On-line help, a search function that permits users to locate all information concerning a specific transaction, and a menu that permits users to separately access the notices of available capacity, the marketing affiliate discount information, the marketing affiliate capacity allocation log, and the standards of conduct information.

(b) *Incorporation by Reference of Business Practice and Electronic Communication Standards.* (1) An interstate pipeline that transports gas under subpart B or G of this part must comply with the following business practice and electronic communication standards promulgated by the Gas Industry Standards Board, which are incorporated herein by reference:

(i) Nominations Related Standards (Version 1.0, June 14, 1996);

(ii) Flowing Gas Related Standards (Version 1.0, June 14, 1996);

(iii) Invoice Related Standards (Version 1.0, June 14, 1996); and

(iv) Capacity Release Related Standards (Version 1.0, June 14, 1996).

(2) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these standards may be obtained from the Gas Industry Standards Board, 1100 Louisiana, Suite 4925, Houston, TX 77002. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426 and at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC.

Note.—The following appendix will not appear in the Code of Federal Regulations.

Appendix—RM96–1–000

COMMENTS FILED

Commenter	Abbreviation
Alabama-Tennessee Natural Gas Company	Alabama-Tennessee.
American Forest & Paper Association	AF&PA.
American Gas Association	AGA.
American Public Gas Association	APGA.
Associated Gas Distributors	AGD.
Baltimore Gas and Electric Company	BGE.
Brooklyn Union Gas Company	Brooklyn Union.
Central Illinois Light Company	CILCO.
CNG Transmission Corporation	CNG.
Coastal Gas Marketing Company	CGM.
Colorado Interstate Gas Company and ANR Pipeline Company	CIG/ANR.
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company.	Columbia Gas/Columbia Gulf.
Council of Petroleum Accountants Society	COPAS.
El Paso Natural Gas Company	El Paso.
Energy Managers Association	EMA.
Enron Capital & Trade Resources Corporation.	ECT.
Equitrans, L.P	Equitrans.
Foothills Pipe Lines Ltd	Foothills.
Gas Industry Standards Board	GISB.
Illinois Power Company	Illinois Power.
Interstate Natural Gas Association of America.	INGAA.
Iroquois Gas Transmission System, L.P	Iroquois.
Montana-Dakota Utilities Company	Montana-Dakota.
National Fuel Gas Distribution Corporation	National Fuel Distribution.
National Fuel Gas Supply Corporation	National Fuel.
Natural Gas Clearinghouse, Conoco, Inc. and Vastar Gas Marketing, Inc.	NGC/Conoco/Vastar.
Natural Gas Pipeline Company of America	Natural.
Natural Gas Supply Association	NGSA.
NorAm Energy Services, Inc	NES.
NorAm Gas Transmission Company and Mississippi River Transmission Corporation.	NGT/MRT.
Northern Distributor Group and Minnegasco	NDG/Minnegasco.
Northwest Industrial Gas Users	NWIGU.
NYMEX Technology Corporation and Enersoft Corporation	NYMEX/Enersoft.
Pacific Gas and Electric Company	PG&E.
Pacific Gas Transmission Company	PGT.
PanEnergy Corporation (Texas Eastern Transmission Corporation, Panhandle Eastern Pipe Line Company, Trunkline Gas Company, Algonquin Gas Transmission Company).	PanEnergy Companies.
Peoples Gas System, Inc	Peoples Gas.
Piedmont Natural Gas Company, Inc	Piedmont.
ProLiance Energy LLC	ProLiance.
Questar Pipeline Company	Questar.
Southern California Edison Company	Edison.
Southern California Gas Company	SoCalGas.
Southern Natural Gas Company	Southern.
Tenneco Energy	Tenneco Energy.

COMMENTS FILED—Continued

Commenter	Abbreviation
The Peoples Gas Light and Coke Company, North Shore Gas Company, and Northern Illinois Gas Company.	Peoples/North Shore/Northern Illinois.
TransCapacity Limited Partnership	TransCapacity.
United Distribution Companies	UDC.
Viking Gas Transmission Company	Viking.
Williams Interstate Natural Gas System	WINGS.
Williston Basin Interstate Pipeline Company	Williston Basin.

[FR Doc. 96–18623 Filed 7–25–96; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 118

[T.D. 96–57]

RIN 1515–AB83

Centralized Examination Stations; Immediate Suspension or Permanent Revocation as Operator Upon Indictment for any Felony

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to enable Customs port directors to suspend immediately operations at a Centralized Examination Station (CES) whenever the operator, entity, or other person exercising substantial ownership or control over the operator is indicted for, convicted of, or has committed acts which would constitute any felony. This document also makes it more specific that a CES operator's failure to follow the terms of the CES written agreement constitutes a ground for proposed permanent revocation of the CES and cancellation of the written agreement to operate the facility. This action is taken in order to protect the public interest and to promote public confidence concerning the integrity of the CES program.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Linda Walfish, Office of Field Operations, Trade Compliance (202) 927–1167.

SUPPLEMENTARY INFORMATION:

Background

In T.D. 93–6 (58 FR 5596) Customs amended the Customs Regulations (19 CFR Chapter 1) to create a new Part 118 that set forth the regulatory framework for the establishment, operation, and termination of Centralized Examination Stations (CESs). A CES is a privately-operated facility, not in the charge of a Customs officer, at which imported merchandise is made available to Customs officers for physical examination. Regarding the termination of CESs, Customs stated in T.D. 93–6 that while immediate revocation and cancellation for a criminal act should not be limited to cases involving an actual conviction or admission, the only criminal offenses which should result in an immediate revocation and cancellation would be those which involved theft, smuggling, or a theft-connected crime.

On further consideration of this issue, Customs published a document in the Federal Register (61 FR 1877) on January 24, 1996, proposing to amend the Customs Regulations to enable Customs port directors to immediately suspend operations at a CES whenever the operator, entity, or other person exercising substantial ownership or control over the operator is indicted for, convicted of, or has committed acts which would constitute any felony. The notice of proposed rulemaking also sought to make it more specific that a CES operator's failure to follow the terms of the CES written agreement constitutes a ground for proposed permanent revocation of the CES and cancellation of the written agreement to operate the facility. The regulatory amendments proposed were promulgated in order to protect the public interest and to promote public confidence concerning the integrity of the CES program. The notice proposed to amend § 118.21, which provides for the revocation of selection and cancellation of the written agreement to operate a CES. Additional, conforming changes were also proposed to §§ 118.0, 118.22, and 118.23. The document solicited comments concerning these changes.

The comment period closed on March 25, 1996. Only one comment was received and it was from a Customs field office. Because the comment is beyond the scope of the proposal, it will not be discussed in this document and will be addressed through another forum. After further consideration of the proposal, Customs has decided to adopt the proposed regulatory amendments as a final rule without substantive change.

Regulatory Flexibility Act

Pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities, as the current number of centralized examination station operators is small, *i.e.*, less than 200, and the regulation only will affect those who commit felonies or fail to follow the terms of their agreement. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as defined in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 118

Administrative practice and procedure, Customs duties and inspection, Examination stations, Imports, Licensing, Reporting and recordkeeping requirements.

Amendment to the Regulations

For the reasons stated above, part 118, Customs Regulations (19 CFR part 118), is amended as set forth below:

PART 118—CENTRALIZED EXAMINATION STATIONS

1. The authority citation for part 118 continues to read as follows:

Authority: 19 U.S.C. 66, 1499, 1623, 1624.

2. In § 118.0, the second sentence is revised to read as follows:

§ 118.0 Scope.

* * * It covers the application process, the responsibilities of the

person or entity selected to be a CES operator, the written agreement to operate a CES facility, the port director's discretion to immediately suspend a CES operator's or entity's selection and the written agreement to operate the CES or to propose the permanent revocation of a CES operator's or entity's selection and cancellation of the written agreement for specified conduct, and the appeal procedures to challenge an immediate suspension or proposed revocation and cancellation action.

* * *.

3. In § 118.21:

(a) The heading is revised and introductory text is added;

(b) Paragraph (a) is revised;

(c) Paragraph (b)(1) is amended by adding the words ''to comply with any of'' before the words ''the provisions of'';

(d) A new paragraph (b)(6) is added; and

(e) A new paragraph (c) is added.

The revisions and additions read as follows:

§ 118.21 Temporary suspension; permanent revocation of selection and cancellation of agreement to operate a CES.

The port director may immediately suspend or propose permanent revocation and cancellation of CES operations for cause as provided in this section.

(a) *Immediate suspension.* The port director may immediately suspend, for a temporary period of time or until revocation and cancellation proceedings are concluded pursuant to § 118.23, a CES operator's or entity's selection and the written agreement to operate the CES if:

(1) The selection and written agreement were obtained through fraud or the misstatement of a material fact; or

(2) The CES operator or an officer of a corporation which is a CES operator or a person the port director determines is exercising substantial ownership or control over such operator or officer is indicted for, convicted of, or has committed acts, which would constitute a felony, or a misdemeanor involving theft or a theft-connected crime. In the absence of an indictment or conviction, the port director must have probable cause to believe the proscribed acts occurred.

(b) * * *

(6) The CES operator or an officer of a corporation which is a CES operator or a person the port director determines is exercising substantial ownership or control over such operator or officer is indicted for, convicted of, or has committed acts, which would constitute any of the offenses listed under paragraph (a) of this section. Where adverse action is initiated by the port director pursuant to paragraph (a) of this section and continued under this paragraph, the suspension of CES activities remains in effect through the appeal procedures provided under § 118.23.

(c) *Circumstance of change in employment not a bar to adverse action.* Any change in the employment status of a corporate officer (for example, discharge, resignation, demotion, or promotion) prior to indictment or conviction or after committing any acts which would constitute the culpable behavior described under paragraph (a) of this section, will not preclude application of this section, but may be taken into account by the port director in exercising discretion to take adverse action. If the person whose employment status changed remains in a substantial ownership, control, or beneficial relationship with the CES operator, this factor will also be considered in exercising discretion under this section.

4. Section 118.22 is revised to read as follows:

§ 118.22 Notice of immediate suspension or proposed revocation and cancellation action.

Adverse action pursuant to the provisions of § 118.21(a) or (b) is initiated when the port director serves written notice on the operator or entity selected to operate the CES. The notice shall be in the form of a statement specifically setting forth the grounds for the adverse action and shall inform the operator of the appeal procedures under § 118.23 of this part.

5. Section 118.23 is revised to read as follows:

§ 118.23 Appeal to the Assistant Commissioner; procedure; status of CES operations.

(a) *Appeal to the Assistant Commissioner.* Appeal of a port director's decision under § 118.21(a) or (b) must be filed with the Assistant Commissioner, Office of Field Operations, within 10 calendar days of receipt of the written notice of the adverse action. The appeal shall be filed in duplicate and shall set forth the CES operator's or entity's responses to the grounds specified by the port director in his written notice letter for the adverse action initiated. The Assistant Commissioner, Office of Field Operations, or his designee, shall render a written decision to the CES operator or entity, stating the reasons for the decision, by letter mailed within 30 working days following receipt of the appeal, unless the period for decision is extended with due notification to the CES operator or entity.

(b) *Status of CES operations during appeal.* During this appeal period, an immediate suspension of a CES operator's or entity's selection and written agreement pursuant to § 118.21(a) of this part shall remain in effect. A proposed revocation of a CES operator's or entity's selection and cancellation of the written agreement pursuant to § 118.21(b)(1) through (5) of this part shall not take effect unless the appeal process under this paragraph has been concluded with a decision adverse to the operator.

(c) *Effect of suspension or revocation.* Once a suspension or revocation action takes effect, the CES operator must cease CES operations. However, when CES operations are suspended or revoked and cancelled by Customs, it is the CES operator's responsibility to ensure that merchandise already at the CES is properly consigned to another location for inspection, as directed by the importer and approved by the port director.

George J. Weise,

Commissioner of Customs.

Approved: June 8, 1996.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–18894 Filed 7–25–96; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

26 CFR Part 1

[TD 8669]

RIN 1545–AR18

Computation of Combined Taxable Income Under the Profit Split Method When the Possession Product Is a Component Product or an End-Product Form for Purposes of the Possessions Credit Under Section 936; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations [TD 8669] which were published in the Federal Register on Friday, May 10, 1996 (61 FR 21366). The final regulations relate to the computation of combined taxable income under the profit split method.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman (202) 622–3870 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 936 of the Internal Revenue Code.

Need for Correction

As published, the final regulations [TD 8669] contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8669) which is the subject of FR Doc. 96–11639, is corrected as follows:

1. On page 21366, column 3, in the preamble, following the paragraph heading ''Discussion'', the first full paragraph in the column, line 4, the language ''forms under the profit-split method'' is corrected to read ''forms under the profit split method''.

2. On page 21367, column 1, in the preamble, following the paragraph heading ''Discussion'', the second full paragraph in the column, lines 12 and 13, the language ''regulation is effective for taxable years ending 30 days after May 10, 1996. If'' is corrected to read ''regulations apply to taxable years ending after June 9, 1996. If''.

§ 1.936–6 [Corrected]

3. On page 21368, § 1.936–6, in paragraph (b)(1), in the table in A.12(iv), under the heading ''Production costs (excluding costs of materials):'', item 3, the language ''3. P's costs for the CPU's (the possession product)'' is corrected to read ''3. P's costs for the CPUs (the possession product)''.

4. On page 21369, column 3, § 1.936–6, in paragraph (b)(1), under A.12(vii), line 3, the language ''ending 30 days after May 10, 1996. If'' is corrected to read ''ending after June 9, 1996. If''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–19005 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[TD 8662]

RIN 1545–AQ64

Diversification of Common Trust Funds; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations [TD 8662] which were published in the Federal Register on Thursday, May 2, 1996 (61 FR 19546). The final regulations relate to the diversification of common trust funds at the time of a combination or division.

EFFECTIVE DATE: May 2, 1996.

FOR FURTHER INFORMATION CONTACT: Steven Schneider, (202) 622–3060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 584 of the Internal Revenue Code.

Need for Correction

As published, TD 8662 contains an error that is in need of correction.

Correction of Publication

Accordingly, the publication of final regulations which are the subject of FR Doc. 96–10393 is corrected as follows.

§ 1.584–4 [Corrected]

On page 19547, column 1, § 1.584–4(a), the fifteenth line from the bottom of the paragraph, the language ''participant in substantially the same as'' is corrected to read ''participant is substantially the same as''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–19004 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Part 1

[TD 8663]

RIN 1545–AT43

Transfers to Investment Companies; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations [TD 8663] which were published in the Federal Register on Thursday, May 2, 1996 (61 FR 19544). The final regulations concern the treatment of certain transfers to a controlled corporation.

EFFECTIVE DATE: May 2, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew M. Eisenberg, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under section 351 of the Internal Revenue Code.

Need for Correction

As published, TD 8663 contains an error that is in need of correction.

Correction of Publication

Accordingly, the publication of the final regulations which are the subject of FR Doc. 96–10394 is corrected as follows:

PART 1—[CORRECTED]

On page 19545, column 3, in amendatory instruction ''Paragraph 1.'', lines 1 and 2, the language ''Paragraph 1. The authority citation for part 1 continues to read as follows:'' is corrected to read ''Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–19003 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 630

Absentee Deserter Apprehension Program and Surrender of Military Personnel to Civilian Law Enforcement Agencies

AGENCY: Office of the Army Staff Judge Advocate, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army announces a complete revision of its Military Absentee and Deserter Apprehension regulations to bring them in line with changes to Army Regulation 190–9, with the same title. This revision revises provost marshal procedures and responsibilities for military personnel who are in an absentee or deserter status and procedures and responsibilities for surrender of military personnel to civilian law enforcement authorities. These regulations support the approved parts of the Joint Service Plan for Deserter Apprehension Program July 1978 and Department of Defense Directive 1325.2.

DATE: Effective July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Porter at 681–5078.

SUPPLEMENTARY INFORMATION:

a. This part applies to the Active Army and the U.S. Army Reserve and

the Army National Guard when in title 10, United States Code status. This part is not applicable to members of the Army National Guard serving on annual training or full-time training duty status under the provisions of title 32, United States Code.

b. Commanders in overseas areas may deviate from the Federal Bureau of Investigation National Crime Information Center requirements when prohibited by—

1. Local conditions.

2. International law including applicable treaties or agreements with foreign governments.

c. The provisions of subpart G of this part apply only to soldiers listed in paragraph a. above who are sought by Federal, State, or local law enforcement officials. The authority of U.S. military officials to apprehend, detain, and deliver U.S. personnel to the authorities of a host nation or other foreign country are governed by the provisions of applicable international agreements, United States, and host nation law, Army Regulation 27–50, Status of Forces Policies, Procedures and Information, and the directives of the overseas command.

Executive Order 12291

This rule is not a major rule pursuant to EO 12291, Federal Regulation, dated February 17, 1981.

Regulatory Flexibility Act

The Regulatory Flexibility Act has no bearing on this rule.

Paperwork Reduction Act

This rule does not contain reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 32 CFR Part 630

Law enforcement officers, Military law, Military personnel, Prisons.

Accordingly, 32 CFR part 630 is revised to read as follows:

PART 630–ABSENTEE DESERTER APPREHENSION PROGRAM AND SURRENDER OF MILITARY PERSONNEL TO CIVILIAN LAW ENFORCEMENT AGENCIES

Sec.

Subpart A—Purpose

630.1 Purpose.
630.2 References.
630.3 Explanation of abbreviations and terms.
630.4 Responsibilities.

Subpart B—Absent Without Leave

630.5 Notification.
630.6 Surrender to unit commanders.
630.7 Surrender or apprehension other installations.

Subpart C—Desertion

630.8 Administrative report.
630.9 Processing deserter reports.
630.10 Special category absentees.
630.11 Escaped prisoner.
630.12 USADIP procedures.

Subpart D—Return to Military Control

630.13 AWOL/deserter apprehension efforts.
630.14 Use of escorts.
630.15 Verification of deserter status.
630.16 Surrender or apprehension on parent installation.
630.17 Surrender or apprehension at another installation.
630.18 Surrender or apprehension off an Army installation.
630.19 Deserters and defectors in foreign countries.
630.20 Escaped military prisoner.
633.21 Other armed services deserters.
633.22 Transportation.

Subpart E—Civilian Correctional or Medical Facilities

630.23 Military detainer.
630.24 Action on return to military control.
630.25 Civilian detention facilities.
630.26 Costs of civilian detention facilities.

Subpart F—Payment of Rewards and Reimbursements

630.27 Rewards.
630.28 Reimbursement payments.
630.29 Documentation.

Subpart G—Surrender of Military Members to Civilian Law Enforcement Officials

630.30 Overview.
630.31 CONUS.
630.32 Responsibilities.

Figure 630.1 of Part 630—Sample Military Detainer

Appendix A to Part 630—References.
Appendix B to Part 630—Glossary.

Authority: 10 U.S.C. 801 through 940; Manual for courts-martial, U.S. 1995 revised addition as amended; sec 709, Pub L. 96–154, Defense Appropriation Act. 93 Stat. 1153.

Subpart A—Purpose

§ 630.1 Purpose.

This part provides policies and procedures for—

(a) Reporting absentees and deserters.

(b) Reporting special category absentees.

(c) Reporting political defectors.

(d) Use of automated law enforcement telecommunications.

(e) Apprehension and processing of absentees and deserters.

(f) Surrender of military personnel to civilian law enforcement authorities.

§ 630.2 References.

Required and related publications and referenced forms are listed in appendix A to this part.

§ 630.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this regulation are explained in the glossary.

§ 630.4 Responsibilities.

(a) The Deputy Chief of Staff for Operations and Plans (DCSOPS) is responsible for establishing law enforcement policy and procedures for the military absentee and deserter apprehension programs. The DCSOPS will—

(1) Exercise staff supervision over Army law enforcement activities.

(2) Integrate operational control of the National Crime Information Center (NCIC) elements at the U.S. Army Deserter Information Point (USADIP).

(3) Provide operational control of the NCIC elements at the USADIP.

(4) Be the Department of the Army point of contact for the Federal Bureau of Investigation (FBI) on absentee and deserter apprehension policy matters.

(b) The Deputy Chief of Staff for Personnel (DCSPER) is responsible for establishing personnel policy on absentees and deserters and will—

(1) Exercise staff supervision over the USADIP.

(2) Develop programs to assist commanders in deterring absenteeism.

(3) Evaluate statistical profile data furnished by the Commanding General (CG), U.S. Total Army Personnel Command (PERSCOM) and CG, U.S. Army Personnel Information Systems Command (PERSINSCOM).

(c) Commanders of major Army commands (MACOMs) will—

(1) Supervise reporting and coordinate Army programs for the return to military control (RMC) of absentees, deserters, defectors, and special category absentees.

(2) Ensure deserters returned to military control are reported IAW this part to end apprehension actions.

(3) Provide military police support for the return of special category absentees and deserters from foreign countries to the Continental United States (CONUS) when required.

(4) Assist in the return of soldiers to overseas commands under status of forces agreement.

(5) Assure that recommended changes to Army Regulation 5–9 are proposed and coordinated with other MACOMs.

(d) Commanding General, U.S. Army Criminal Investigation Command (USACIDC) is responsible for—

(1) Entering and clearing subjects of USACIDC investigations and special category absentees reported by overseas commanders in the NCIC wanted person file.

(2) Coordinating retrieval of records through the Director, U.S. Army Crime Records Center (USACRC) from the Defense Investigative Service (DIS) for special category absentees.

(e) Commander, U.S. Army Enlisted Records and Evaluation Center (USAEREC) will—

(1) Receive documentation and provide verification of reports of desertion and return to military control.

(2) Maintain a centralized deserter data base for deserter statistical reporting requirements from the Automated Personnel Accounting System.

(3) Maintain management data received on DD Form 616 (Report of Return of Absentee) to identify—

(i) The number of deserters returned to military control monthly.

(ii) The mode of return (surrender to or apprehended by military authorities, Department of Defense civilian police, civilian authorities, or FBI).

(iii) Cases administratively closed (death, discharge, erroneous entry, and so forth). Date should be recorded in the processing month to hasten report compilation.

(f) Chief, U.S. Army Deserter Information Point will—

(1) Verify and document reports of desertion and return to military control.

(2) Maintain a central deserter data base.

(3) Provide data to DCSOPS, DCSPER, CG, PERSCOM and CG, PERSINSCOM, as required.

(4) Complete cross checks against the Army Enlisted Master File (EMF), Joint Service Software, and other data systems to prevent false apprehension.

(5) Query other Army automated personnel files to prevent mistaken reports of desertion.

(6) Provide DD Form 553 (Deserter/Absentee Wanted by the Armed Forces) and DD Form 616 (Report of Return of Absentee) to military and civilian law enforcement authorities, to include the FBI when appropriate.

(7) Advise U.S. Department of State, Deputy Assistant Secretary for Passport Services, of U.S. Army alien deserters who are known or suspected to have entered a foreign country, return to military control, or are discharged in absentia.

(8) Enter wanted information into the NCIC.

(g) All Army installation commanders with active Army manpower assets have responsibilities for reporting and returning deserters to military control.

(1) Coordinating installation commanders return of deserters to military control within their designated areas of responsibility.

(2) Supporting installation commanders have responsibility for all locations within 50 miles of their respective installations. When efficiency and economy demand, these distances can be increased or diminished as determined between the coordinating installation and the supporting installation.

(h) Installation provost marshals will endeavor or resolve procedural arrangements at the lowest command level IAW AR 5–9.

Subpart B—Absent Without Leave

§ 630.5 Notification.

The unit commander notifies the local provost marshal within 24 hours after a soldier has been reported absent without leave (AWOL). Special category absentees are reported as deserters IAW § 630.10 of this part.

(b) On receipt of an AWOL report, the provost marshal initiates a DA Form 3975 (Military Police Report) and a corresponding blotter entry on DA Form 3997 (Military Police Desk Blotter).

§ 630.6 Surrender to unit commander.

If an AWOL soldier surrenders to the parent unit the following procedures apply:

(a) The unit commander immediately notifies the Provost Marshal that the soldier has returned.

(b) The provost marshal finalizes the DA Form 3975 and makes a reference blotter entry. The provost marshal forwards DA Form 3975 and 4833 (Commander's Report of Disciplinary or Administration Action) with an appropriate suspense date through the appropriate field grade commander to the unit commander for action.

(c) The unit commander reports action taken to the provost marshal on DA Form 4833 not later than the assigned suspense date.

§ 630.7 Surrender or apprehension at other installations.

(a) If an AWOL soldier surrenders to or is apprehended by a provost marshal other than the parent installation, the apprehending provost marshall

(1) Issues DD Form 460 (Provisional Pass) IAW AR 190–45, paragraph 5–2, and verbal orders to the solider to return to their proper station. The DD Form 460 and transportation requests are used instead of an escort if there is a reasonable expectation that the soldier will comply. Express mail may be used to forward the DD Form 460 to the absentee. DD Form 460 will not be required if the provost marshal elects to return the soldier through different means.

(2) Prepares and forwards DA Forms 3975 and 4833, along with a copy of DD Form 460 to the parent installation provost marshal.

(b) The parent installation provost marshal—

(1) Completes a reference blotter entry reflecting the AWOL soldier's RMC.

(2) Forwards DA Form 3975 and DA Form 4833, with an appropriate suspense, through the field grade commander to the unit commander.

(3) On return of the completed DA Form 4833 from the unit commander, forwards the original and one copy of the form to the apprehending provost marshal. The parent installation Provost Marshal may retain a copy of DA Form 3975 and DA Form 4833 pertaining to the case.

Subpart C—Desertion

§ 630.8 Administrative Report.

(a) The unit commander administratively classifies an absentee as a deserter and completes DD Form 553 when one or more of the following applies:

(1) The facts and circumstances of the absence, without regard to the length of absence, indicates that the soldier may have committed the offense of desertion, as defined in articles 85 and 86 of the Uniform Code of Military Justice (UCMJ).

(2) The soldier has been AWOL for 30 consecutive days.

(3) The soldier, without authority, has gone to or remains in a foreign country and while in the foreign country has requested, applied for, or accepted any type of asylum or resident permit from the country, or any governmental agency.

(4) The soldier has returned to military control and departs absent prior to completion of any administrative or judicial action for a previous absence.

(5) The soldier escapes from confinement.

(6) The soldier is a special category absentee.

(b) The unit commander promptly reports deserters to the provost marshal via DD Form 553 per AR 630–10, chapter 3.

§ 630.9 Processing deserter reports.

(a) On receipt of reports of desertion or defectors, the Provost Marshall completes a blotter entry per AR 190–45, paragraph 4–6b. This is an initial blotter entry if a previous absentee entry had not been made.

(b) The Provost Marshal then—

(1) Ensures that the unit commander has accurately completed DD Form 553.

(2) Screens installation and state vehicle registration and completes

identification portions of the DD Form 553.

(3) In the remarks section of DD Form 553 adds other known information about the soldier such as:

(i) Confirmed or suspected drug abuse.

(ii) History of violence.

(iii) History of escapes or attempted escapes from custody.

(iv) Suicidal tendencies.

(v) Suspicion of involvement in violent crimes for which there is a record of an active military police investigation being prepared and forwarded.

(vi) History of other unauthorized absence.

(vii) Any other information in the apprehension process or to protect the deserter or apprehending authorities.

(4) Initiates a DA Form 3975, if not previously completed as an AWOL report, and assigns a USACRC Crime Control Number to the case.

(5) Returns the completed DD Form 553 to the unit commander within 24 hours. The provost marshal retains a copy of the DD Form 553.

(6) Follows the procedures in section 630.8 of this part for special category absentees.

(c) Within 48 hours of the soldier being dropped from the rolls (DFR) of the unit, the unit commander forwards the DD Form 553, with associated documents, through the Personnel Service Battalion to Commander, U.S. Army Enlisted Records Center, ATTN: PCRE–RD, Indianapolis, Indiana 46249–5300.

§ 630.10 Special category absentees.

Commanders of absent soldiers assigned to special mission units and soldiers who have had access to top secret information during the 12 months preceding the absence immediately report the soldier as a deserter regardless of the length of absence. On receipt of a special category absentee the provost marshal—

(a) Immediately completes the procedures in § 630.6 of this part.

(b) Queries the NCIC missing person, interstate identification, and unidentified person files for a possible match using the absentee's identifying information (Social Security Number, date and place of birth, and physical description) to determine if he or she has been previously entered into the NCIC.

(c) Enters the soldier into the NCIC wanted file after determining the soldier has not been entered previously. Outside continental United States (OCONUS) Provost Marshal NCIC entries are completed by sending a copy of the DD Form 553 to the USACRC facsimile machine Defense System Network (DSN) 656–0395 or commercial (301) 806–0395. OCONUS Provost Marshals who do not have facsimile equipment express mail the DD Form 553 to Director, USCRC, ATTN: CICR–ZA, 6010 6th Street, Fort Belvoir, VA 22060–5585.

(d) Requests the assistance of the Director, USACRC, in obtaining pertinent information from security records maintained by the DIS.

(e) Requests assistance of the U.S. State Department, in identifying and suspending existing passports and pending applications pertaining to the deserter. This includes transmitting a copy of the DD Form 553 by facsimile or express mail to the U.S. State Department, Deputy Assistant Secretary for Passport Services, ATTN: CA–PPT–C, McPherson Building, 1425 K Street NW., Washington DC 20524. A point of contact in the provost marshal office must be provided for the U.S. State Department. The facsimile commercial telephone number is (202) 326–6271.

(f) Notifies USACIDC, local FBI office, and local and State law enforcement agencies of the soldier's absence to establish an investigative task force. The task force acts as the focal point in collecting and disseminating information obtained through investigative activity.

(g) Requests assistance from the nearest Air Force Office of Special Investigation (OSI) to determine if the absentee has been granted passage on a Military Airlift Command (MAC) Flight. Notification is also made to Headquarters, MAC, to deny passage on a MAC, flight by calling Office of Special Investigations, Scott Air Force Base, Illinois, DSN 576–5413 or commercial 618–256–5413.

(h) Transmits an electronic alert through the National Law Enforcement Telecommunications Systems (NLETS) to broadcast within the State, a specific State, and or regional broadcast (contiguous five States). NLETS messages must include the deserter's complete name, social security number, date and place of birth, physical description, and a statement that an entry has been made into the NCIC.

(i) Coordinates with the Office of the Staff Judge Advocate to obtain search warrants, court orders, or subpoenas for searches of the deserter's residence, financial, credit card, postal, telephone, insurance, housing utilities, civilian medical records, and access to commercial land, air and sea transportation records.

(j) Cancels the NCIC entry when notified by Chief, USADIP that the deserter packet has been received and the Chief, USADIP, is prepared to assume responsibility as the point of contact for verification of deserters.

§ 630.11 Escaped prisoner.

(a) An escaped prisoner whose discharge has not been executed is administratively classified as a deserter. The installation Provost Marshal—

(1) Requests assistance from civilian law enforcement agencies including the FBI.

(2) Forwards copies of DD Form 553 to Chief, USADIP, showing distribution with Item 10 marked ''N/A.''

(3) Enters a temporary warrant into the NCIC.

(b) An escaped military prisoner whose discharge has been executed and who is not under the custody of the U.S. Attorney General is reported as an escaped military prisoner, not a deserter. The custodian of an escaped military prisoner's personnel records prepares DD Form 553 clearly stating in items 12 and 19 that the individual is an escaped military prisoner. The DD Form 553 is sent to the installation provost marshal. A temporary warrant is entered into the NCIC by the installation provost marshal.

§ 630.12 USADIP procedures.

(a) The Chief, USADIP—

(1) Verifies information on the DD Form 553 with permanent personal records at the USAEREC.

(2) Enters the soldier's name into the NCIC.

(3) Forwards a copy of the DD Form 553 to all Federal, State and local law enforcement agencies who may be involved in the apprehension process.

(4) Forwards a copy of DD Form 553 to the provost marshall nearest the deserter's home of record.

(5) Forwards a copy of the DD Form 553 to the USACRC, ensuring the USACRC control number is legible.

(b) The Army entry into the NCIC wanted person file normally is generally sufficient to support civilian police apprehension assistance.

Subpart D—Return to Military Control

§ 630.13 AWOL/deserter apprehension efforts.

The return of absentees to military control is a command responsibility. Military police will generally not be committed to proactive efforts to apprehend AWOL soldiers or deserters except when the provost marshal determines that such efforts are warranted by specific circumstances. Examples of instances when such effort is warranted include when the AWOL soldier or deserter is wanted as the

subject of additional more serious charges or is a special category absentee as defined in § 630.8 of this part.

§ 630.14 Use of escorts.

(a) Commanders and provost marshals must ensure that the most economical and efficient means are used to return surrendered or captured absentees to their parent unit or personnel control facility as appropriate. For example, alternatives such as express mailing of DD Form 460 and a transportation request may be used instead of an escort if there is a reasonable expectation that the absentee will comply.

(b) The use of escorts should be considered if—

(1) There is not a reasonable expectation that the absentee will not comply.

(2) The absentee is a special category absentee IAW § 630.8 of this part.

(3) The absentee is pending serious criminal charges.

(4) The absentee is in the custody of a civilian law enforcement agency that is not willing to assist in processing the absentee by mail or similar means.

(c) When escorts are deemed necessary, consideration should be given to using noncommissioned officers from the parent unit before committing military police manpower.

§ 630.15 Verification of deserter status.

(a) When a person claims to be a deserter from the U.S. Army, the first receiving military authority must advise the person of his or her right per article 31 UCMJ and provide as much of the following data as possible to the provost marshal:

(1) Name.

(2) Social security number.

(3) Date and place of birth.

(4) Home of record.

(5) Date and place of enlistment, date of alleged absence, and unit of assignment.

(b) The provost marshal immediately completes a check of the NCIC and USADIP to confirm the deserter status. Deserter felon checks require:

(1) The full name of the person.

(2) Social security number.

(3) Date of birth.

(4) Place of birth.

(5) Military service number if different from the social security number.

(c) When necessary to establish identity at the request of the Chief, USADIP, the installation provost marshal forwards DD Form 369 (Police Record Check) with a complete set of fingerprints to the Commander, U.S. Army Enlisted Records Center, ATTN: PCRE–RD, Indianapolis, IN 46249–5301. The fingerprints must also be accompanied by DD Form 616 in quadruplicate. In Item 9 of the DD Form 616 note: ''For Information Only—Fingerprints attached.'' The Chief, USADIP forwards the fingerprint record to the FBI Identification Division, Washington, DC 20537–8700 for fingerprint comparison and identification.

(d) In the event the status of the individual can not be immediately determined, the individual will not be detained. The Provost Marshal obtains information on how to contact the person once their status has been determined. On verification of status as absent or desertion, Chief, USADIP, provides instructions to the provost marshal returning the individual to military control.

§ 630.16 Surrender or apprehension on parent installation.

(a) The parent installation provost marshal—

(1) Verifies the deserter's military status IAW § 630.13 of this part.

(2) Coordinate between appropriate levels of command on RMC (time, date, and location).

(3) Initiates a reference blotter entry changing the absentee's status from deserter to return to military control.

(4) Prepares and submits DD Form 616 to Chief, USADIP. The USACRC control number assigned to the DD Form 553 is included in the remarks section of DD Form 616.

(5) Prepares DA Form 3975, 2804 (Crime Records Data Reference) and 4833. The USACRC control number assigned to the DD Form 553 is also used on these forms.

(6) Forwards the original DA Form 3975 and 2804 to the Director, USACRC.

(7) Forwards three copies of DA Form 4833, with an appropriate suspense date, and one copy of DA Form 3975 to the PCF commander or installation commander processing the deserter.

(8) On receipt of the completed DA Form 4833 forwards the original to Director, USACRC.

(b) Should the deserter surrender to the original unit of assignment, the unit commander immediately notifies the provost marshal of the deserter's return. The provost marshal completes the processing in paragraph (a) of this section.

§ 630.17 Surrender or apprehension at another installation.

(a) The provost marshal follows the procedures in § 630.17 and obtains the USACRC control number from Chief, USADIP for use in completing the DD Form 616 and DA Form 2804, 3975, and 4833.

(b) The unit commander requesting return of the absentee completes arrangements for escorting the absentee, if required. Other absentees are sent to a PCF.

§ 630.18 Surrender or apprehension off an Army installation.

Commanders located off an Army installation—

(a) Notify the major Army command or coordinating installation provost marshal, within whose area of responsibility the activity is located.

(b) Furnish the coordinating installation provost marshal all available information on the absentee or deserter.

(c) Issue a DD Form 460 and direct the person to proceed to the nearest Army installation with facilities for processing deserters. If appropriate, express mailing of DD Form 460 and a transportation request may be used.

(d) Forward a copy of the DD Form 460 to Commander, U.S. Army Enlisted Records and Evaluation Center, ATTN: PCRE–RD, 8899 East 56th Street, Indianapolis, IN 46249.

(e) Follow up to ensure that all absentees and deserters are returned to military control.

§ 630.19 Deserters and defectors in foreign countries.

(a) Army deserters and defectors in foreign countries are apprehended only in accordance with applicable Status of Forces or other station agreements, AR 27–50, U.S. and host country law, and the directives of the overseas command.

(b) Direct coordination between all major overseas commanders, U.S. Air Force, U.S. Navy, U.S. Marine Corps and CONUS installations is conducted to coordinate information for return of deserters or defectors to military control. Defectors and special category absentees must be escorted from the time of their return to military control to the installation or PCF with area of responsibility for processing deserters. Deserters returned to military control are processed under procedures set by the major overseas commander.

(c) When a deserter or defector is reported to have been returned to military control at another service installation, the Army area provost marshal arranges for return of the deserter to U.S. Army custody. Maximum use of the DD Form 460 should be made.

(d) When absentees and deserters in foreign countries are scheduled to depart or are to be deported from foreign countries, the Military Assistance Advisory Group (MAAG) mission or attache notifies Chief, USADIP, and if

known the appropriate major commander, ATTN: Provost Marshal. Notification should be completed in advance for coordination of operational military police actions. The notice includes the—

(1) Name, grade, and social security number of the absentee.

(2) Date, time (local), and place of departure from the foreign country.

(3) Mode of transportation and designation of the carrier.

(4) Date, time and place of arrival in CONUS or where U.S. Authorities have jurisdiction to apprehend the absentee or deserter.

(5) Unit in which the individual is or was last assigned.

(6) Length of time in foreign country.

(7) Physical and mental condition and attitude of the absentee or deserter.

(8) Charges by military or civil authorities.

(9) Intelligence interest.

§ 630.20 Escaped military prisoner.

(a) When an escaped military prisoner is returned to military control, the provost marshal—

(1) Notifies the commander of the confinement or correctional facility from which the prisoner escaped.

(2) Completes and forwards DD Form 616 to Chief, USADIP.

(b) Unless otherwise directed by HQDA (DAMO–ODL), or the Commander, U.S. Army Disciplinary Barracks (USDB), prisoners who escape from the USDB are returned to the USDB. The commander of the installation to which the prisoner is returned provides guards and transportation to the nearest supporting confinement facility to return the prisoner to the USDB.

(c) Escapees from other U.S. Army correctional activities are returned to the confinement or correctional facility from which the prisoner escaped unless otherwise directed by HQDA (DAMO–ODL).

(d) The chief, USADIP forwards DD Form 616 to recipients of DD Form 553.

§ 630.21 Other armed services deserters.

(a) Requests for status of alleged deserters from other Armed Services may be made through an inquiry in the NCIC. When the response from the NCIC is negative, the following appropriate Service may be contacted:

(1) U.S. Air Force. Commander, U.S. Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001, DSN 487–5118.

(2) U.S. Navy. Commander, Naval Military Personnel Command, Code NMPC–843, Washington, DC. 20370–5643, DSN 224–2551 or commercial, toll free 1–800–336–4974.

(3) U.S. Marine Corps. Commandant of the Marine Corps, Corrections Branch (MHC), Headquarters, U.S. Marine Corps, Building 2008, MCCDC, Quantico, VA 22130–5000, DSN 278–3976.

(b) When Army absentees or deserters are received from civil authorities in CONUS, all military absentees, and deserters, regardless of the military service to which they belong, are transported at the same time.

(c) Unless there are specific arrangements among the military services, the following applies when Army personnel take custody of absentees or deserters from civil authorities in CONUS:

(1) Notify the other military authorities in advance that the individual will be taken into custody and delivered to the nearest military installation having facilities to process absentees or deserters.

(2) When custody cannot be affected, notify the nearest installation of the service concerned that the person will remain in civilian custody.

(d) Absentees and deserters from the other services and the Coast Guard may be received at any U.S. Army installation which has facilities for reception and custody. They are transferred immediately to the nearest appropriate installation of the Service. Commanders of troops on maneuvers or on the march are exempt from the responsibility for taking custody of absentees and deserters. They may, however, accept absentees or deserters if necessary and return them to the custody of their Service.

§ 630.22 Transportation.

(a) If commercial transportation is necessary:

(1) The responsible transportation office arranges for movement per AR 55–355.

(2) Cost and speed of transportation are considered.

(3) International and CONUS travel is arranged only on U.S. commercial air carriers flying regularly scheduled routes, certified route carriers, supplemental air carriers, or charter air taxi operations.

(4) Military personnel escorting absentees or deserters must comply with commercial air carrier rules and with AR 190–47.

(5) Expenses (transportation, reward payment, reimbursement to civilian law enforcement authorities) associated with the return of absentees or deserters to their proper station are chargeable to the Military Personnel, Army Appropriation. Commanders are authorized to make charges against these accounts for the transportation of escorts and the deserter and for payment of required or reimbursement when the returnee is delivered to an installation or detained for military authorities.

(6) The approving authority reviews paid travel and per diem vouchers for efficiency, economy, and accuracy in statements of travel performed. When feasible, one-day return travel should be used to reduce costs.

(b) Transportation expenses for use of guards to return absentees or deserters to their proper station or to military authorities are charged to the budget activity account ''Other Military Personnel Costs.''

Subpart E—Civilian Correctional or Medical Facilities

§ 630.23 Military detainer.

(a) Military detainer (see sample detainer at Figure 630.1 of this part) must be placed when a soldier is being held by civilian authorities and release of the soldier is not imminent. The installation commander or provost marshal may initiate a detainer. The purposes for filing a detainer are to—

(1) Officially inform civilian authorities that any Army soldier is in their custody and military authorities want to assume custody at release.

(2) Request military authorities be kept advised on the status of actions taken by civilian authorities.

(3) Permit military authorities to monitor the person's military status while in civilian custody.

(b) A detainer is canceled when the person is released to military custody.

(c) If an AWOL or DFR individual is being detained by civilian authorities the military police

(1) Notify the proper installation commander or coordination authority at once that the individual—

(i) Is being detained by civilian authorities on civil or criminal charges.

(ii) Is committed to a civilian medical facility.

(2) Place a military detainer with the civilian law enforcement agency and inform the installation commander or coordinating authority of—

(i) Changes or medical problems concerning the absentee.

(ii) Probable length of detention by civilian authorities.

§ 630.24 Action on return to military control

(a) The military authority first receiving or apprehending the absentee or deserter, or receiving word of their detention by civilian authorities, immediately contacts the installation or area provost marshal and provides the following data.

(1) Name, grade, and social security number of the absentee.

(2) Date absence began and unit from which absent.

(3) Absentee, deserter, or escaped prisoner status.

(4) Date, place, and military unit or civilian agency where the person was apprehended, surrendered, or detained.

(5) Unit to which the absentee or deserter will be assigned or attached on return.

(b) When military law enforcement personnel are the first military authority receiving a report of an AWOL or DFR person's apprehension or surrender the following actions are also taken:

(1) Initiate an inquiry with the NCIC. When the NCIC inquiry shows the individual is wanted by civilian law authorities for a criminal offense, immediately contact the civilian agency. Advise the civilian agency of the individual's location and where the return to military control will be made. Place the results in item 9 of DD Form 616 and send it to the commander receiving the returnee. All Army returnees wanted for a criminal offense other than AWOL or desertion are reported to Commander, U.S. Army Criminal Investigation Command, ATTN: CICR–ZA, 6010 6th Street, Fort Belvoir, VA 22060–5585 to ensure that military law enforcement investigations or criminal charges are not pending.

(2) When the individual is not wanted for a criminal offense, coordinate RMC with the appropriate military personnel office and take action in paragraph (c) of this section.

(c) Absentees and deserters being held temporarily by civilian authorities are returned to military control as soon as possible. Military authorities should strive to return absentees or deserters to military control within 48 hours after being notified of their whereabouts and impending release.

§ 630.25 Civilian detention facilities.

(a) When necessary, civilian detention facilities may be used to temporarily detain absentees, deserters or escaped military prisoners. Contracts providing for payment of actual costs for detention may be made with state or county jails that have been approved by the Bureau of Prisons. U.S. Department of Justice information about approved facilities is available from the nearest U.S. Marshal's office.

(b) Contracts must contain standards of treatment of military prisoners per AR 190–47. The Federal Acquisition Regulation (FAR), The Federal Acquisition Supplement (FAS), and the Army Procurement Procedure Supplement (APPS) govern these contracts.

§ 630.26 Costs of civilian detention facilities.

(a) Civilian authorities may be reimbursed according to contracts for temporary detention after military authorities have assumed custody. It does authorize payment from the date further detention was requested. This does not authorize payment for subsistence and detention for the same period for which a reward was authorized. This does not preclude payment of reward or reimbursement for reasonable expenses for periods before delivery to military custody. Detained officers receiving basic allowance for substance (BAS) are charged the cost of substance.

(b) Costs incurred by the Army for detention under an Army contract are paid to the civilian facility. Any payment to the Army by another Armed Service must be by prior agreement between the commanders concerned.

Subpart F—Payment of Rewards and Reimbursements

§ 630.27 Rewards

(a) Receipt of an authorized communication, oral or written (for example DD Form 553 and entry into the NCIC) from a military or Federal law enforcement official or agency, requesting cooperation in the apprehension or delivery to military control of an absentee or deserter wanted by the Armed Forces constitutes the basis for a reward.

(b) A reward can be paid to an eligible person or agency who apprehends and detains an absentee or deserter until military authorities assume control. The finance and accounting officer designated by the MACOM commander pays the claimant. If two or more eligible persons or agencies are entitled to a reward, the payee may divide the payment among the participants. Payment for an apprehension effected jointly by an eligible and ineligible person or agency may be claimed by the eligible person or agency. Ineligible persons may not share in payments.

(c) Payment of a reward to persons or agencies is authorized as indicated below:

(1) A reward for apprehension and detention of an absentee or deserter until military authorities assume custody.

(2) A reward for apprehension of an absentee or deserter and subsequent delivery to a military installation with facilities to receive and process absentees and deserters.

(d) The reward may not exceed the amount specified in the current defense appropriation account for—

(1) The apprehension and detention of absentees or deserters until military authorities take custody.

(2) The apprehension and delivery to military authorities of absentees or deserters.

(e) A reward or reimbursement for expenses is not authorized for an Armed Service member. Federal government employees, a lawyer on whose advice an absentee or deserter surrenders, or when payment would violate public policy.

§ 630.28 Reimbursement payments.

(a) Reimbursement payments to official agencies is authorized when—

(1) A reward has been offered.

(2) Reimbursement is requested in place of a reward.

(b) Reimbursement for reasonable and actual expenses may be made to more than one eligible person or agency. However, total reimbursement for the return of an absentee or deserter may not exceed the amount authorized for reward.

(c) Dual payment (reward and reimbursement) relating to one absentee or deserter is prohibited.

(d) Official transportation and personal services payment are not made for—

(1) Transportation by official vehicle.

(2) Personal services of the claimant.

(3) Apprehension and detention not followed by return to military custody.

§ 630.29 Documentation.

(a) Payment of reward or reimbursement for expenses is documented by processing Standard Form 1034 (Public Voucher for Purchase and Services Other Than Personal). The following information must be provided on SF 1034 or supporting documents:

(1) Name, social security number, and last duty station (DD Form 553 or DD Form 616) of the absentee.

(2) Date, place of arrest, and place of return to military custody (DD Form 616).

(3) Signed statement by claimant that the agency qualifies for a reward under paragraph (a), (b), or (c) of this section.

(4) Statement signed by military representative documenting either of the following:

(i) Delivery to a military installation with facilities to receive and process absentees and deserters.

(ii) Military custody assumed at a site other than a military installation or facility.

(5) Army forms provided to claimants to support payment request.

(b) When required, military pay vouchers are prepared for absentees and

deserters per AR 37–104–3, paragraphs 80310, 80311, and 80313.

Subpart G—Surrender of Military Members to Civilian Law Enforcement Officials

§ 630.30 Overview.

(a) This chapter establishes provost marshal procedures and responsibilities for the surrender of soldiers to civilian law enforcement authorities. It is the policy of the Department of the Army to cooperate with civilian authorities unless the best interest of the Army will be prejudiced.

(b) Provost marshals assist in the delivery of a soldier to civilian authorities per this regulation and applicable personnel management regulations. AR 630–10, Chapter 7, provides personnel management policies and procedures on the surrender of soldiers to civilian authorities.

§ 630.31 CONUS.

(a) Generally, provost marshal activity is limited to ensuring that a military detainer is prepared and signed when surrendering a soldier to civilian law enforcement officials (see figure 630.1 of this part).

(b) There is no statutory authority for a commander to deliver a soldier to a bail bondsman or surety. The surety must coordinate with the installation Staff Judge Advocate and the Commander of the soldier prior to attempting to apprehend the soldier. To preserve peace and order on the installation, military police will accompany the surety to observe the surety taking custody of the soldier.

§ 630.32 Responsibilities.

(a) In foreign countries, the authority of U.S. military personnel to apprehend, detain and deliver U.S. personal to civil authorities of foreign countries is governed by the provisions of international agreements. AR 27–50, and the laws of the host nation. The extent of the authority in a particular country is determined from directives published by the OCONUS MACOM Commander.

(b) Chief, DAMO–ODL—

(1) Coordinates approved requests for surrender of the soldier with the civilian law enforcement agency or prosecuting attorney's office requesting surrender of the soldier. Transportation costs of the soldier from the point of debarkation are the responsibility of the requesting agency.

(2) Coordinates surrender of the soldier with the felony warrant or extradition division of the civilian law enforcement agency or Federal law enforcement agency at the point of debarkation.

(3) Contacts the CONUS installation provost marshal with area of responsibility for assistance in the surrender of the soldier.

(c) MACOM Provost Marshal—

(1) If requested by the General Court-Martial convening authority or designee, arranges escort of the soldier to the point of embarkation or debarkation in CONUS.

(2) Notifies Chief, DAMO–ODL, of the departure date, time, flight number, and the name of the individual(s) who will escort the soldier, if applicable.

(d) CONUS Provost Marshal with area of responsibility—

(1) Prepares a military detainer for the soldier to be surrendered.

(2) Meets the aircraft, assists in the surrender of the soldier, and presents the military detainer.

(3) Provides a copy of the detainer and attachment order to the commander of the PCF or the unit to which the solider will be attached.

Figure 630.1 of Part 630—Sample Military Detainer

I, (name of civilian representative) an official agent representing (name and address of civilian jurisdiction), accept custody and control of (grade, name, social security number), a U.S. Soldier, for trail on a charge (state offense(s)), I agree, on behalf of the jurisdiction named above, to inform the Commander, (installation address), of results of the judicial process and to return the solider at no expense to the Army or the soldier to said Army installation unless a place nearer the civilian jurisdiction is designed by Department of the Army. The soldier will be returned immediately on dismissal or other disposition of charges facilitating return of the soldier. When disposition precludes immediate return of the soldier following litigation, I will furnish results of the judicial process and information concerning the earliest possible date the soldier might be returned to Army control. I will also advise the designated commander whenever the location of incarceration of the soldier changes or whether soldier is released on bail or bond. I understand the above commander will advise the civilian jurisdiction which I represent if the soldier's return to military custody is no longer desired. I was furnished a copy of this agreement on (date).

(signature)
(position)
(name of jurisdiction)
(Address of jurisdiction)

Appendix A to Part 630—References

Publications and forms referenced in this part may be viewed at the Office of Provost Marshal at any Army installation. Department of Defense publications are also available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 21161; telephone (703) 487–4684.

Required Publications

AR 5–9—Intraservice Support Installation Area Support Coordination (cited in § 630.4)
AR 27–50—Status of Forces Policies Procedures and Information (Cited in § 630.19 and § 630.30)
AR 190–45—Military Police Law Enforcement Reporting (Cited in § 630.7 and § 630.9)
AR 190–47—The United States Army Correctional System (Cited in § 630.22 and § 630.25)
AR 630–10—Absence Without Leave, Desertion, and Administration of Personnel involved in Civilian Court Proceedings (Cited in § 630.8 and § 630.30)
Manual for Court-martial, United States (Cited in § 630.8)

Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this publication.

AR 37–104–3—Military Pay and Allowance Procedures: Joint Uniform Military Pay System Army (JUMPS-A1RR)
AR 55–355—Defense Traffic Management Regulation

Prescribed Forms

DD Form 616—Report of Return of Absentee (Prescribed in § 630.4, § 630.14, § 630.15, § 630.16, § 630.20, § 630.24 and § 630.29)

Referenced Forms

DA Form 2804—Crime Records Data Reference
DA Form 3975—Military Police Report
DA Form 3997—Military Police Desk Reference
DA Form 4833—Commander's Report of Disciplinary or Administrative Action
DA Form 369—Police Record Check
DA Form 460—Provisional Pass
DD Form 553—Deserter/Absentee Wanted by the Armed Forces
SF 1034—Public Voucher for Purchases and Services Other than Personal

Appendix B to Part 630—Glossary

Abbreviations

AAPS—Army Procurement Procedure Supplement
ARNG—Army National Guard
AWOL—absent without leave
BAS—basic allowance for substance
CG—commanding general
CONUS—Continental United States
DCSPER—Deputy Chief of Staff for Personnel
DCSOPS—Deputy Chief of Staff for Operations and Plans
DFR—dropped from the rolls
DIS—Defense Investigative Service
DSN—Defense Systems Network
EMF—enlisted master file
FAR—Federal Acquisition Regulation
FAS—Federal Acquisition Supplement
FBI—Federal Bureau of Investigation
MAC—Military Airlift Command
MACOM—major Army command

NCIC—National Crime Information Center
NLETS—National Law Enforcement Telecommunication System
OCONUS—outside Continental United States
PCF—Personnel Control Facility
PERSCOM—U.S. Army Total Personnel Command
PERSINSCOM—U.S. Army Personnel Information Systems Command
RMC—return to military control
ROTC—Reserve Officer Training Course
TR—Transportation request
UCMJ—Uniform Code of Military Justice
USACIDC—U.S. Army Criminal Investigation Command
USACRC—U.S. Army Crime Records Center
USADIP—U.S. Army Deserter Information Point
USAEREC—U.S. Army Enlisted Records and Evaluation Center
USAR—U.S. Army Reserve

Terms

Coordinating agent.—A person within a staff agency of CONUS command or CONUS installation who is responsible for coordinating and monitoring the absentee and deserter program.

Desertion.—A violation of Article 85, UCMJ. It applies to any member of the Armed Forces who commits any of the following:

(a) Not used.

(1) Without authority goes or remains absent from his or her unit, organization, or place of duty with intent to remain away therefrom permanently.

(2) Quits his or her unit, organization, or place of duty with intent to remain away therefrom permanently.

(3) Without being regularly separated from one of the Armed Forces enlists or accepts an appointment in the same or another one of the Armed Forces without fully disclosing the fact that he or she has not been regularly separated, or enters any foreign Armed Service except when authorized by the United States. (This provision has been held not to state a separate offense by the United States Court of Military Appeals in *United States* v. *Huff,* 7 U.S.C.M.A. 247.22 C.M.R. 37 (1956).

(4) Any commissioned officer of the Armed Forces who, after tender of his or her resignation and before notice of its acceptance, quits his or her post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(b) Deserters are classified as defectors when they commit any of the following:

(1) Have escaped to another country and are outside the jurisdiction and control of the United States.

(2) Are unwilling to return to the United States.

(3) Are of special value to another country.

(4) Have repudiated the United States when beyond its jurisdiction or control.

Deserter control officer.—A commissioned officer (normally a battalion or unit adjutant) appointed in desertion cases to ensure that documentation on deserters dropped from the rolls is provided in a timely manner.

Detainer.—A written notice to civil authorities that a person in their custody is an absentee of the Army or serving on active duty with the Army and that military authorities desire to take custody on release.

Dropped from the rolls of a unit.—An administrative action that drops an absentee from the strength accountability of a unit.

Dropped from strength.—A strength accounting procedure used to exclude personnel from the operating strength of the Army.

National Crime Information Center.—A computerized police information system established by the Federal Bureau of Investigation to serve participating law enforcement agencies.

Personal Assistance Point.—Agencies of the U.S. Army Total Personnel Command located at aerial ports of embarkation or debarkation to assist Army transient personnel enroute to or returning from overseas.

Personnel Control Facility.—An organization that processes absentees returned to military control from an unauthorized absence. These facilities ensure proper disposition of returnees.

Special category absentee.—A soldier reported AWOL who had access to top secret information during the last 12 months or is currently assigned to a special mission unit.

Special mission unit.—A unit assigned a mission of such extraordinary sensitivity as to require specific management, oversight, and employment consideration.

Unavoidable absence.—An unauthorized absence that happened through no fault of the absentee and no fault of the Government.

Unit.—An organization, agency, or activity.

Unit commander.—The commander of an absentee's or deserter's unit of assignment or attachment.

U.S. Army Deserter Information Point.—The focal point with the Army for controlling, verifying, accounting, and disseminating data on individuals administratively classified as deserters.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–18476 Filed 7–25–96; 8:45 am]

BILLING CODE 3710–08–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5541–2]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Alaskan Battery Enterprises Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Alaskan Battery Enterprises Site, located in Fairbanks, Alaska from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the State of Alaska Department of Environmental Conservation (ADEC) have determined that no further cleanup under CERCLA is appropriate and that the selected remedy has been protective of public health, welfare, and the environment.

EFFECTIVE DATE: July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Keith Rose, Site Manager, U.S. Environmental Protection Agency, Region 10, 1200 6th Avenue, ECL–111, Seattle, WA 98101, (206) 553–7721.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is:

Alaskan Battery Enterprises, Fairbanks, Alaska

A Notice of Intent to Delete for this site was published May 13, 1996, (61 FR 22004). The closing date for comments on the Notice of Intent to Delete was June 12, 1996. EPA received one letter which supported the proposed delisting of the site.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund-financed remedial actions. 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. Section 300.425 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 substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and record keeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 10, 1996.

Chuck Clarke,

Regional Administrator, Region 10.

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

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; 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—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site for ''Alaskan Battery Enterprises, Fairbanks N Star Borough, Alaska''.

[FR Doc. 96–18839 Filed 7–25–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5541–7]

National Oil and Hazardous Substances Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of Howe Valley Landfill Superfund Site, Hardin County, Kentucky, from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Howe Valley Landfill Superfund Site in Hardin County, Kentucky, from the National Priorities List (NPL), which is appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances 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.

EFFECTIVE DATE: August 1, 1996.

FOR FURTHER INFORMATION CONTACT: Nestor Young, Remedial Project Manager, U.S. EPA, Region 4, North Superfund Remedial Branch, 345 Courtland Street, N.E., Atlanta, GA 30365, (404) 347–7791, ext. 2023.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Howe Valley Landfill Superfund Site, Hardin County, Kentucky.

A Notice of Intent to Delete for this site was published on March 28, 1996 at (61 FR 13794). The closing date for comments on the Notice of Intent to Delete was April 30, 1996. EPA received one comment letter from the Hardin County Water District No. 2 expressing concern about possible contamination of Boutwell Spring. EPA responded by providing groundwater sampling data that showed that no contaminants are present. This letter and response are available through the EPA Region 4 public docket located at EPA's Region 4 Office, 345 Courtland Street, N.E., Atlanta, Ga., 30365.

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, Water supply.

Dated: July 11, 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: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; 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—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site for Howe Valley Landfill, Howe County, Kentucky.

[FR Doc. 96–18837 Filed 7–25–96; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201–23 and 201–24

[FIRMR Amendment 8]

RIN 3090–AF32

Amendment of FIRMR Provisions Relating to GSA's Role in Screening Excess and Exchange/Sale Federal Information Processing (FIP) Equipment

AGENCY: Information Technology Service, GSA.

ACTION: Final rule.

SUMMARY: This document amends the Federal Information Resources Management Regulation (FIRMR) to allow Federal agencies to screen and transfer all excess and exchange/sale FIP equipment.

Currently, the FIRMR requires Federal agencies to request GSA to interagency screen and transfer excess equipment that is not outdated and has an original acquisition cost (OAC) per component of $1 million or more.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, GSA, Office of Policy, Planning and Evaluation, Policy and Regulations Division (MKR), 18th and F Streets, NW., Room 3224, Washington, DC 20405, telephone FTS/Commercial (202) 501–4469 (v) or (202) 501–4469 (tdd), or Internet (stewart.randall@gsa.gov).

SUPPLEMENTARY INFORMATION: (1) All comments received in response to the proposed rule were reviewed and, where appropriate, incorporated in this rule.

(2) Explanation of the changes being made in this issuance are shown below:

(a) Section 201–23.000 ''Scope of part'' is revised by removing paragraphs (b), (c), and (d) to more succinctly describe the entire contents of this revised part.

(b) Section 201–23.001 paragraph (a)(2) is revised and paragraph (a)(4) is deleted to remove the reference to the GSA Excess FIP Equipment Program. Agencies will no longer be required to submit to GSA information about their excess FIP equipment with an OAC above $1 million for GSA to do interagency screening. It is not necessary for GSA to continue to operate this program on a centralized basis. Accordingly, the requirement for GSA to be directly involved in interagency screening and transfer of excess FIP equipment is removed from the FIRMR.

(c) Section 201–23.001 paragraph (b) is deleted to remove the reference to FIRMR Bulletin C–2, which is referenced elsewhere in this rule. Section 201–23.001 paragraph (c) is redesignated as paragraph (b).

(d) In Section 201–23.002, the sentence ''Agencies may interagency screen and transfer excess FIP equipment without GSA approval'' is added at the end of paragraph c.

(e) Paragraph (b) of section 201–23.003 is redesignated as (c) and a new paragraph (b) is added. In the newly designated section 201–23.003 paragraph (c)(1), the word ''internal'' is removed because it is redundant in this context. The words ''within the agency'' are added at the end of the paragraph to distinguish these procedures for interagency screening from those GSA will require.

(f) Section 201–23.003(c) is redesignated as paragraph (d) and is completely revised to remove the mandatory reporting requirement for agencies to submit equipment with an OAC of $1 million or more to GSA or interagency screening purposes. The section now shows that agencies must offer to other Federal agencies excess FIP equipment with an OAC of $1 million or more in accordance with guidelines that will be published in FIRMR Bulletin C–2.

(g) Section 201–23.003(d) is redesignated as paragraph (e) and is revised to remove words indicating GSA's former role in interagency screening of agencies' excess FIP equipment.

(h) Paragraph (h) is added to section 201–23.003 to show that an agency may request GSA to review another agency's decision to transfer excess FIP equipment.

(i) Section 201–24.202 referencing the GSA Excess FIP Program as a mandatory for consideration program will be removed because changes to part 201–23 and FIRMR Bulletin C–2 will make the references no longer valid.

(3) GSA has determined that this rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 201–23 and 201–24

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Property management, Records management, and Telecommunications.

Accordingly 41 CFR chapter 201 is amended as follows:

1. Part 201–23 is revised to read as follows:

PART 201–23—DISPOSITION

Sec.

201–23.000 Scope of part.
201–23.001 General.
201–23.002 Policies.
201–23.003 Procedures.

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–23.000 Scope of part.

This part prescribes policies and procedures to be followed by agencies for disposing of Government-owned Federal information processing (FIP) equipment and software that is no longer needed for the purpose for which it was acquired.

§ 201–23.001 General.

(a) Government-owned FIP equipment that is no longer needed for the purpose for which it was acquired is either—

(1) Reassigned within the agency;

(2) Declared excess to the agency's needs and made available for transfer to another agency;

(3) Exchanged or sold as part of a transaction to acquire replacement FIP equipment; or

(4) Declared surplus and made available for donation.

(b) FIP software that is no longer needed for the purpose for which it was acquired is either—

(1) Reassigned within the agency consistent with the limitations of any applicable license; or

(2) Otherwise disposed of consistent with the limitations of any applicable license.

§ 201–23.002 Policies.

Agencies shall—

(a) Use FIP equipment or FIP software that is available for reassignment within the agency or by transfer from another agency when such use is the most advantageous alternative to satisfy the agency's requirements.

(b) Make available for reassignment within the agency FIP equipment that is not outdated and that is no longer needed for the purpose for which it was acquired.

(c) Make available for interagency screening and transfer to another agency, excess FIP equipment that is not outdated and has an original acquisition cost (OAC) per component of $1 million or more. Interagency transfer of FIP equipment that is not outdated with an OAC per component of less than $1 million, is permitted if the holding agency learns of a potential user outside of the screening process. Agencies may interagency screen and transfer excess FIP equipment without GSA approval.

(d) Make available for surplus donation or subsequent sale, excess FIP equipment not exchanged, sold, reassigned or transferred.

(e) Consistent with the limitations of any applicable license—

(1) Make available for reassignment within the agency FIP software that is no longer needed for the purpose for which it was acquired;

(2) Make available for interagency transfer, excess FIP software not exchanged or sold, if the holding agency learns of a potential user outside of the screening process (GSA does not require interagency screening of FIP software);

(3) For excess FIP software not reassigned, transferred, exchanged, or sold, either:

(i) Return it to the licensor; or

(ii) Destroy it after a duly authorized agency official determines in writing that destruction is the most cost-effective disposal approach.

§ 201–23.003 Procedures.

(a) Each agency head shall designate an agency point of contact for managing the disposition of FIP equipment and software. Each agency shall submit the name, address, and phone number of this individual to the General Services Administration/MKA, 18th and F Streets NW., Washington, DC 20405.

(b) GSA will convene meetings with agency points of contacts periodically to discuss emerging issues relating to the disposition of excess FIP resources.

(c) Agencies shall—

(1) Establish procedures for the reassignment of FIP equipment and software within the agency; and

(2) Obtain approval from the agency DSO before reassigning outdated FIP equipment.

(d) Agencies shall offer excess FIP equipment that is not outdated and has an OAC per component of $1 million or more to other Federal agencies in accordance with FIRMR Bulletin C–2.

(e) Agencies may conduct exchange/sale transactions of FIP equipment and software not transferred to another agency without GSA approval. (Exchange/sale transactions for FIP equipment may be initiated in parallel

with interagency screening, but screening of exchange/sale transactions with an OAC per component of $1 million or more shall be completed prior to concluding an exchange/sale transaction.) When an agency determines that FIP equipment will be replaced by exchanging or selling it, the agency shall follow the contracting policies and procedures in part 201–39 and the Federal Acquisition Regulation (FAR) (48 CFR chapter 1) and the policies and procedures on exchange/sale contained in 41 CFR part 101–46. FIP software transactions must be consistent with the limitations of any applicable license.

(f) Agencies shall make available for surplus donation or subsequent sale, in accordance with 41 CFR parts 101–44 and 101–45, excess FIP equipment not exchanged, sold, reassigned, or transferred.

(g) Agencies shall apply the policies and procedures of this part 201–23 to FIP equipment used by grantees and contractors when FIP equipment is—

(1) Acquired by the contractor or grantee under a contract or grant and the terms vest title in the Government or the Government is obligated or has the option to take over title;

(2) Furnished to the grantee or contractor by the Government (Transfer of excess FIP equipment to agency project grantees shall be conducted in accordance with 41 CFR 101–43.314.); or

(3) Operated by the grantee or contractor as part of a Government-owned or Government-controlled facility.

(h) Agencies may request GSA to review another agency's decision to transfer excess FIP equipment. Requests shall be sent to the General Services Administration/MKA, 18th and F Streets NW., Washington, DC 20405.

PART 201–24—GSA SERVICES AND ASSISTANCE

2. The authority citation for part 201–24 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–24.202 [Removed and reserved]

3. Section 201–24.202 is removed and reserved.

Dated: July 10, 1996.

William R. Ratchford,

Acting Administrator of General Services.

[FR Doc. 96–18887 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 12

RIN 1090–AA58

Administrative and Audit Requirements and Cost Principles for Assistance Programs

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This final rule is in response to the ''Omnibus Consolidated Rescissions and Appropriations Act of 1996,'' and the ''Energy and Water Development Appropriations Act, 1996.'' Section 307(a) of Public Law 104–134 required that no funds made available in the Act may be expended by an entity unless the entity agrees that in expending the funds they will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the ''Buy American Act''). As it did for awards governed by this provision made since FY 1993, the Department continues to interpret this requirement to apply to assistance programs. Section 307(b)(1) of Public Law 104–134 again states that it is the sense of Congress that all equipment and products purchased with funds made available in the Act should be American-made. Likewise, the Department is again taking the position that Congressional intent is different for awards made by the Bureau of Reclamation. As such, only the provisions in the regulation addressing the sense of Congress (§ 12.700 and the notice requirements (§ 12.710) will apply to awards made by the Bureau of Reclamation using appropriated funds for FY 1996.

EFFECTIVE DATE: July 26, 1996.

SUPPLEMENTARY INFORMATION: On April 26, 1996, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (''the Act'') was signed into law. Section 307(a) of the Act was entitled ''Compliance with Buy American Act.'' The section applied to funds appropriated or transferred pursuant to the Act for the purchase of any equipment or product that may be authorized to be purchased with financial assistance. Section 307(b)(1) expressed the ''sense of the Congress'' that entities receiving the assistance purchase only American-made equipment and products.

Section 307(b)(2) required that in providing the financial assistance under the Act, the Secretary shall provide to each recipient of the assistance a notice describing the requirement. As in prior years, no other specific guidance was given regarding the implementation of this requirement.

The Department is revising subpart E of 43 CFR Part 12 to implement these requirements for awards made using appropriated funds for FY 1996. No specific guidance was provided by Congress, so the Department decided to continue its implementation of these requirements based upon the final rule published in the Federal Register on July 19, 1994 (59 FR 36713).

Because of the applicability of different appropriation acts and the fact that the requirements are different, the notice in paragraph (b) of § 12.710 has been changed to account for the reference to language in Public Law 104–134. A separate notice included in paragraph (c) of § 12.710 has been amended to account for the reference to language in Public Law 104–46 and its use only for awards made by the Bureau of Reclamation.

Finding of Good Cause for Waiver of Proposed Rulemaking and for Making Rule Effective Upon Publication

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is usually the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. However, the Department waives notice and comment on these regulations under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). This section provides that notice and comment for rulemaking is not required when the agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest.

The Department believes public comment on the revision of this regulation is unnecessary because the substance of these provisions is based on statutory requirements governing the award of assistance with appropriated funds for FY 1996, that the Department is unable to change.

The Administrative Procedure Act provides that rules be published at least 30 days prior to their effective date, except as otherwise provided by an agency on a finding of good cause (5 U.S.C. 553(d)(3)). In this case, because this requirement is a statutory condition of expenditure of appropriated funds in this fiscal year, the Department has determined that the rule must be effective upon publication.

Executive Order 12866, Paperwork Reduction Act, and Regulatory Flexibility Act

This rule was not subject to Office of Management and Budget review under Executive Order 12866.

The Department has determined that this rule will not have a significant economic impact on small entities since it is anticipated that no additional costs will be imposed on a substantial number of small entities as a result of the rule. This rule does not contain a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Environmental Effects

The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969.

List of Subjects in 43 CFR Part 12

Administrative practice and procedure, Contract programs, Cooperative agreements, Grant programs, Grants administration, Reporting and recordkeeping requirements.

Dated: July 18, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management, and Budget.

Title 43 of the Code of Federal Regulations, part 12 is amended as follows:

PART 12—ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

1. The authority citation for part 12 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 note, 7501; 41 U.S.C. 252a, 701 *et seq*; sec. 505, Pub. L. 104–46, 109 Stat. 419; sec. 307, Pub. L. 104–134, 110 Stat. 1321; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12674, 3 CFR, 1989 Comp., 215; E.O. 12689, 3 CFR, 1989 Comp., p. 235; E.O. 12731, 3 CFR, 1990 Comp., p. 306; OMB Circular A–102; OMB Circular A–110; OMB Circular A–128; and OMB Circular A–133.

2. Section 12.700 is revised to read as follows:

§ 12.700 Scope.

This subpart implements section 307 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134, 110 Stat. 1321) and section 505 of the Energy and Water Development Appropriations Act, 1996 (Public Law 104–46, 109 Stat. 419). For awards made under the authority of section 307(a) of Public Law 104–134, this subpart requires that no funds made available in the Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 31, 1933 (41 U.S.C. 10a–10c; popularly known as the ''Buy American Act''). It applies to procurement contracts under grants and cooperative agreements which provide for the purchase of equipment and products. Section 505 of Public Law 104–46, 109 Stat. 419, only applies to awards made by the Bureau of Reclamation. In addition, for these awards, there is only a requirement that in providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the Secretary, to the greatest extent practicable, will provide to the entity a notice describing a statement within the Act made by Congress. This statement concerns the sense of the Congress that to the greatest extent practicable, all equipment and products purchased with funds made available in the Act, should be American-made. Therefore, for Fiscal Year 1996 awards, only the requirements in §§ 12,700 and 12.710 will apply to awards made by the Bureau of Reclamation.

3. Paragraphs (a), (b), and (c) of § 12.710 are revised to read as follows:

§ 12.710 Policy.

(a) In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under Public Law 104–134, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In awarding financial assistance under Public Law 104–134, 110 Stat. 1321, bureaus and offices excluding the Bureau of Reclamation will provide to each recipient of the assistance the following notice:

Notice

Pursuant to Sec. 307 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–134, 110 Stat. 1321, please be advised on the following:

In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(c) In awarding financial assistance using funds made available under Public Law 104–46, to the greatest extent practicable, the Bureau of Reclamation will provide to each recipient of the assistance the following notice:

Notice

Pursuant to Sec. 505 of the Energy and Water Development Appropriations Act, 1996, Public Law 104–46, 109 Stat. 419, please be advised of the following:

It is the sense of the Congress, that to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

* * * * *

[FR Doc. 96–19007 Filed 7–25–96; 8:45 am]

BILLING CODE 4310–RF–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 93–22; CC Docket No. 96–146; FCC 96–289]

Interstate Pay-Per-Call and Other Information Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted this Order to amend its rules governing the provision of interstate pay-per-call and other information services to conform with the requirements of Section 701 of the Telecommunications Act of 1996 which amended Section 228 of the Communications Act of 1934, as amended. The rules adopted in the Order incorporate the amendments to Section 228 virtually verbatim and are intended to protect consumers from abuses involving use of toll-free numbers and tariffed service systems to levy charges for interstate information services.

EFFECTIVE DATE: December 23, 1996.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order in CC Docket Nos. 93–22 and 96–146 [FCC 96–289], adopted June 28, 1996 and released July 11, 1996. The full text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The full text of this Order may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800. For a document

relating to this Order, see a proposed rule involving interstate information services published elsewhere in this issue.

Paperwork Reduction

Public reporting burden for collections of information is estimated as follows:

Sections	Est. avg. hours per response	Annual burden
Section 64.1504	3750	10,500
Section 64.1510	1350	540,000

Total Annual Burden: 550,500.

Frequency of Response: On Occasion.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspects of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Branch, Room 234, Paperwork Reduction Project, Washington, D.C. 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, D.C. 20503.

Summary of Order:

1. On June 28, 1996, the Commission adopted an Order in CC Docket No. 93–22 and 96–146 (released July 11, 1996; FCC 96–289) that amends Part 64 of the Commission's rules to conform with the Telecommunications Act of 1996, Public Law 104–104, (1996 Act). Among other things, the 1996 Act amended Section 228 of the Communications Act of 1934, as amended, (Communications Act), 47 USC § 228, to enact new restrictions on the manner in which toll-free numbers may be used to provide information services and to repeal of the statutory exemption to pay-per-call status accorded to any tariffed service under the Telephone Disclosure and Dispute Resolution Act of 1992, Public Law 102–556 (TDDRA). As set forth in the final rules and explained below, the Commission amended its pay-per-call regulations to comply with the statutory mandate that our rules reflect the new requirements of Section 228 of the Communications Act.

I. Requirements of Amended Section 228

A. ''Billing for 800 Calls''—47 USC § 228(c)(7)

2. The TDDRA placed limits on charging callers who place calls to toll-free numbers to reach information services. The 1996 Act amends Section 228(c) of the Communications Act to expand those restrictions.

The 1996 Act adds a new prohibition on ''the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call [to an 800 or any other toll-free number].'' 47 USC § 228(c)(7)(E). The Commission added to its rules Section 64.1504(e) to codify, verbatim, this statutory provision.

3. The 1996 Act also modifies Section 228(c)(7)(C) to prohibit charging callers for calls to toll-free numbers for conveyance of information unless ''the calling party has a written agreement, including an agreement transmitted through an electronic medium,'' or ''the calling party is charged for the information * * * by means of a credit, prepaid, debit, charge, or calling card.'' 47 USC §§ 228(c)(7)(C)(i)–(ii), (c)(9). These requirements and the Commission's new implementing regulations are explained below.

1. ''Subscription Agreements for Billing for Information Provided Via Toll-Free Calls''—47 USC § 228(c)(8)

4. ''In General''—47 USC § 228(c)(8)(A). The 1996 Act enumerates specific requirements that must be followed when information services are charged to callers to an 800 or other toll-free number pursuant to a written presubscription agreement.

As provided in 47 USC § 228(c)(8)(A)(i)–(vi), the agreement must include:

(i) the rate at which charges are assessed for the information;

(ii) the information provider's name;

(iii) the information provider's business address;

(iv) the information provider's regular business telephone number;

(v) the information provider's agreement to notify the subscriber at least one billing cycle in advance of all future changes in the rates charged for the information; and

(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill, or credit or calling card.

The Commission added to its rules Sections 64.1504(c)(1)(i)–(vi) to codify, verbatim, these statutory requirements governing presubscription agreements to obtain information services available through a toll-free number.

5. ''Billing Arrangements''—47 U.S.C. 228(c)(8)(B). The 1996 Act prescribes new requirements for common carriers who bill telephone subscribers for information services that are available through a toll-free number and provided pursuant to a written presubscription agreement. Section 228(c)(8)(B)(i) provides that

> If a subscriber elects * * to pay by means of a phone bill, * * * the [written presubscription] agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber's phone line.

Further, under Section 228(c)(8)(B)(ii)–(iii), any telephone bill containing such charges must display the toll-free number that was dialed to access the information service and contain a prominent disclaimer stating that local and long distance telephone service may not be disconnected for failure to pay disputed information-service charges. The Commission added to its rules §§ 64.1504(c)(vi) and 64.1510(c) and amended § 64.1510(b) to codify, virtually verbatim, these statutory requirements governing billing of presubscribed information services through a telephone bill.

6. ''Use of PINs to Prevent Unauthorized Access''—47 U.S.C. 228(c)(8)(C). The 1996 Act provides that a presubscription agreement to obtain information services through a toll-free number must include ''a unique personal identification number or other subscriber-specific identifier,'' a requirement that ''a subscriber use this number or identifier to obtain access to the information provided,'' ''instructions on its use,'' and assurance ''that services accessed by use of the subscriber's personal identification number or subscriber-specific identifier'' will be billed in the manner specified by the subscriber (*e.g.*, ''direct remit, debit, prepaid account, phone bill, or credit or calling card''). 47 U.S.C. 228(c)(8)(C), (c)(8)(A)(vi). The Commission added to its rules § 64.1504(c)(vii) to codify, virtually verbatim, these statutory requirements governing PINs.

7. ''Exceptions''—47 U.S.C. 228(c)(8)(D). The 1996 Act establishes exceptions to the requirement for written presubscription ''for calls utilizing telecommunications devices for the deaf, for directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or for any purchase of goods or of services that are not information services.'' 47 U.S.C. 228(c)(8)(D). The

Commission added to its rules § 64.1504(f)(1) to codify, verbatim, these statutory exceptions to the requirement that presubscription be executed in writing for information services available through a toll-free number.

8. ''Termination of Service''—47 U.S.C. 228(c)(8)(E). The 1996 Act directs common carriers to investigate promptly complaints that a presubscribed information service accessed through an 800 or other toll-free number has not been provided in accordance with the statutory requirements. Carriers also explicitly are accorded authority to terminate service to an IP who fails to provide evidence of a written presubscription agreement for disputed charges. The Commission added to its rules § 64.1503(b) to codify, virtually verbatim, statutory provisions involving common carriers' investigations of complaints and termination of service.

9. ''Treatment of Remedies''—47 U.S.C. 228(c)(8)(F). Section 228(c)(8)(F) provides that the remedies specified in Section 228(c) ''are in addition to any other remedies that are available under [the Commission's forfeiture authority in] Title V of [the Communications] Act. This provision simply specifies that both the Commission's Title V statutory penal provisions and the remedies contained in Section 228(c), (*e.g.*, termination of service to an information provider) may be invoked against parties who violate Commission rules or orders concerning interstate information services. The Commission determined that the provision is effectively implemented by the statute alone and need not be added to our pay-per-call regulations, which govern the conduct of common carriers who transmit or bill and collect for pay-per-call or other information services.

2. ''Charges by Credit, Prepaid, Debit, Charge, or Calling Card in Absence of Agreement''—47 U.S.C. 228(c)(9)

10. The 1996 Act establishes payment by prepaid account, debit, credit, charge, or calling card as alternatives to written presubscription for information services charged to callers to 800 or other toll-free numbers provided that all such calls begin with an introductory disclosure message that—

(A) clearly states that there is a charge for the call;

(B) clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

(C) explains that the charge must be billed on either a credit, prepaid, debit, charge, or calling card;

(D) asks the caller for the card number; clearly states that charges for the call begin at the end of the introductory message; and

(E) clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

47 U.S.C. 228(c)(9) (A)–(F). The Commission added to its rules § 64.1504(c)(2) to codify, verbatim, these statutory provisions governing use of a prepaid account, debit, credit, charge, or calling card to pay for information services that are accessed through an 800 or other toll-free number.

11. ''Bypass of Introductory Disclosure Message''—47 U.S.C. 228(c)(10). Under the 1996 Act, IPs may install a bypass mechanism so that repeat callers to an information service accessed through an 800 or other toll free number can ''avoid listening to the introductory message, provided that the information providers shall disable such a bypass mechanism after the institution of any price increase and for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.'' The Commission added to its rules § 64.1504(f)(2) to codify, verbatim, these statutory provisions governing mechanisms that permit repeat callers to bypass the introductory message required for all information services that are accessed through an 800 or other toll-free number and that bill through a prepaid account, debit, credit, charge, or calling card rather than by means of a presubscription agreement.

B. Definitions

1. Pay-Per-Call Services—47 U.S.C. § 228(i)

12. The 1996 Act redefines the term ''pay-per-call services'' by eliminating the exemption accorded to any service provided pursuant to tariff under the TDDRA. The Commission amended Section 64.1501(a) of its rules to remove the tariffed services exception.

2. Calling Card—47 U.S.C. § 228(c)(11)

13. After recognizing payment by ''calling card'' as an acceptable means of obtaining information services available through a toll-free number, the 1996 Act defines a calling card as ''an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.'' The Commission added to its rules Section 64.1501(c) to codify, verbatim, the statutory definition of ''calling card.''

3. Presubscription or Comparable Arrangement—47 CFR § 1501(b).

14. Neither the TDDRA nor the 1996 Act defines the term ''presubscription or comparable arrangement,'' which Section 228(i)(2) establishes as an exemption to pay-per-call status. In implementing the TDDRA, however, the Commission and the FTC adopted identical definitions intended to guard against uncontrolled access to information services and to ensure that consumers receive information necessary to make informed choices about whether to subscribe to such services. The 1996 Act does not directly mandate modification of the presubscription definition contained in Section 64.1501(b) of our rules. The Commission determined, however, that certain aspects of the definition are inconsistent with statutory requirements governing presubscription to information services available through 800 or other toll-free numbers. Therefore, the Commission added to its rules Section 64.1501(b)(6) to specify that presubscription arrangements to obtain information services provided by means of an 800 or other toll-free number must conform to the requirements of Section 64.1504(c). This amendment incorporates into the Commission's general presubscription definition statutory requirements that govern 800-number presubscription.

II. Procedural Issues

A. Administrative Procedure Act Requirements

15. Because the rule changes set forth in Appendix A and adopted herein simply conform the Commission's rules to the statute, the Commission found for good cause that compliance with the notice and comment provisions of the Administrative Procedure Act is unnecessary. *See* 5 U.S.C. § 553(b)(B). Moreover, to the extent that the provisions of the 1996 Act mirror proposals set forth in the Commission's Further Notice of Proposed Rule Making, Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, CC Docket No. 93–22, 59 FR 46806 (September 12, 1994), notice and comment requirements have been satisfied.

Ordering Clauses

16. Accordingly, it is ordered, pursuant to Sections 1, 4(i), 4(j), and 228 of the Communications Act, 47 U.S.C. §§ 152, 154(i), 154(j), and 228, that 47 CFR Part 64 IS AMENDED as set forth below, effective December 23, 1996.

17. It Is further ordered that CC Docket No. 93–22 is hereby terminated.

List of Subjects in 47 CFR Part 64

Communications common carriers, Computer technology, Federal Communications Commission, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

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

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228 unless otherwise noted.

2. The heading of Subpart O of Part 64 is revised to read as follows:

Subpart O—Interstate Pay-Per-Call and Other Information Services

3. Section 64.1501 is revised to read as follows:

§ 64.1501 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Pay-per-call service* means any service:

(1) In which any person provides or purports to provide:

(i) Audio information or audio entertainment produced or packaged by such person;

(ii) Access to simultaneous voice conversation services; or

(iii) Any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

(2) For which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(3) Which is accessed through use of a 900 number;

(4) Provided, however, such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

(b) *Presubscription or comparable arrangement* means a contractual agreement in which:

(1) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(2) The service provider agrees to notify the consumer of any future rate changes;

(3) The consumer agrees to use the service on the terms and conditions disclosed by the service provider; and

(4) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers;

(5) Provided, however, that disclosure of a credit, prepaid account, debit, charge, or calling card number, along with authorization to bill that number, made during the course of a call to an information service shall constitute a presubscription or comparable arrangement if an introductory message containing the information specified in § 64.1504(c)(2) is provided prior to, and independent of, assessment of any charges. No other action taken by a consumer during the course of a call to an information service, for which charges are assessed, can create a presubscription or comparable arrangement.

(6) Provided, that a presubscription arrangement to obtain information services provided by means of a toll-free number shall conform to the requirements of § 64.1504(c).

(c) *Calling card* means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.

4. Section 64.1503 is revised to read as follows:

§ 64.1503 Termination of pay-per-call and other information programs.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call service shall specify by contract or tariff that pay-per-call programs not in compliance with § 64.1502 shall be terminated following written notice to the information provider. The information provider shall be afforded a period of no less than seven and no more than 14 days during which a program may be brought into compliance. Programs not in compliance at the expiration of such period shall be terminated immediately.

(b) Any common carrier providing transmission or billing and collection services to a provider of interstate information service through any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, shall promptly investigate any complaint that such service is not provided in accordance with § 64.1504 or § 64.1510(c), and, if the carrier reasonably determines that the complaint is valid, may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this § 64.1504(c)(1).

5. Section 64.1504 is revised to read as follows:

§ 64.1504 Restrictions on the use of toll-free numbers.

A common carrier shall prohibit by tariff or contract the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, in a manner that would result in:

(a) The calling party or the subscriber to the originating line being assessed, by virtue of completing the call, a charge for a call;

(b) The calling party being connected to a pay-per-call service;

(c) The calling party being charged for information conveyed during the call unless:

(1) The calling party has a written agreement (including an agreement transmitted through electronic medium) that specifies the material terms and conditions under which the information is offered and includes:

(i) The rate at which charges are assessed for the information;

(ii) The information provider's name;

(iii) The information provider's business address;

(iv) The information provider's regular business telephone number;

(v) The information provider's agreement to notify the subscriber at least one billing cycle in advance of all future changes in the rates charged for the information;

(vi) The subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill, or credit or calling card and, if a subscriber elects to pay by means of phone bill, a clear explanation that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

(vii) A unique personal identification number or other subscriber-specific identifier that must be used to obtain access to the information service and instructions on its use, and, in addition, assures that any charges for services

accessed by use of the subscriber's personal identification number or subscriber-specific identifier be assessed to subscriber's source of payment elected pursuant to paragraph (c)(1)(vi) of this section; or

(2) The calling party is charged for the information by means of a credit, prepaid, debit, charge, or calling card and the information service provider includes in response to each call an introductory message that:

(i) Clearly states that there is a charge for the call;

(ii) Clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

(iii) Explains that the charges must be billed on either a credit, prepaid, debit, charge, or calling card;

(iv) Asks the caller for the card number;

(v) Clearly states that charges for the call begin at the end of the introductory message; and

(vi) Clearly states that the caller can hang at or before the end of the introductory message without incurring any charge whatsoever.

(d) The calling party being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products; and

(e) The calling party being assessed by virtue of the caller being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.

(f) Provided, however, that:

(1) Notwithstanding paragraph (c)(1) of this section, a written agreement that meets the requirements of that paragraph is not required for:

(i) Calls utilizing telecommunications devices for the deaf;

(ii) Directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; or

(iii) Any purchase of goods or of services that are not information services.

(2) The requirements of paragraph (c)(2) of this section shall not apply to calls from repeat callers using a bypass mechanism to avoid listening to the introductory message: *Provided*, That information providers shall disable such a bypass mechanism after the institution of any price increase for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.

6. In Section 64.1510, paragraph (b) is revised and new paragraph (c) is added to read as follows:

§ 64.1510 Billing and collection of pay-per-call and similar service charges.

* * * * *

(b) Any common carrier offering billing and collection services to an entity providing interstate information services on a collect basis shall, to the extent possible, display the billing information in the manner described in paragraphs (a)(2)(i), (A), (B), (D) and (a)(2)(ii) of this section.

(c) If a subscriber elects, pursuant to § 64.1504(c)(1)(vi), to pay by means of a phone bill for any information service provided by through any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, the phone bill shall:

(1) Include, in prominent type, the following disclaimer: ''Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services;'' and

(2) Clearly list the 800 or other toll-free number dialed.

[FR Doc. 96–19138 Filed 7–25–96; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 506, 547 and 552

[ADP 2800.12A, CHGE 72]

RIN 3090–AF97

General Services Administration Acquisition Regulation; Implementation of FAC 90–39 and Miscellaneous Changes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to implement a portion of FAC 90–39 which amended the Federal Acquisition Regulation (FAR) to revise the approval levels for the justification of other than full and open competition and to make editorial changes.

EFFECTIVE DATE: July 31, 1996.

FOR FURTHER INFORMATION CONTACT: Ed McAndrew, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the Federal Register for public comment because it merely revises the GSAR to conform to the FAR as amended by FAC 90–39 and to make editorial changes.

B. Executive Order 12866

This rule was not submitted to the Office of Management and Budget for review because it is not a significant rule as defined in Executive Order 12866, Regulatory Planning and Review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply because this rule is not a significant revision as defined in FAR 1.501–1.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule under 5 U.S.C. 804. The rule relates to procedures of the agency.

List of Subjects in 48 CFR Parts 506, 547 and 552

Government procurement.

Accordingly, 48 CFR Parts 506, 547 and 552 are amended as follows:

1. The authority citation for 48 CFR Parts 506, 547 and 552 are amended as follows:

Authority: 40 U.S.C. 486(c).

PART 506—COMPETITION REQUIREMENTS

506.001 [Removed]

2. Section 506.001 is removed

506.302–1 [Amended]

3. Section 506.302–1 is amended by removing ''Office of GSA Acquisition Policy (VP)'' and inserting ''GSA Acquisition Policy Division (MVP)'' in the second sentence.

506.303–1 [Amended]

4. Section 506.303–1 is amended by removing paragraph (a), by removing the paragraph ''(b)'' designation, and by inserting ''Deputy'' before ''Associate Administrator''.

506.303–2 [Removed]

5. Section 506.303–2 is removed.

506.304 [Removed]

6. Section 506.304 is removed.

PART 547—TRANSPORTATION

547.303–1 [Amended]

7. Section 547.303–1 is amended in paragraph (b)(3) by removing ''FAR 42.1403–2'' and inserting ''FAR 42.1403.''

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Alternate I of the provision at Section 552.219–74 is revised to read as follows:

552.219–74 Goals for Subcontracting Plan.

* * * * *

Alternate I (DEC 1995)

The Contracting Officer, as prescribed in 519.703(c), shall delete paragraph (b) of the basic provision and redesignate paragraphs (c) and (d) as paragraphs (b) and (c).

Dated: July 19, 1996.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 96–18987 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–61–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 702, 706, 709, 710, 711, 713, 715, 716, 717, 719, 722, 724, 725, 726, 732, 733, 736, 737, 752 and Appendix A

[AIDAR Notice 96–1]

RIN 0412–AA29

Miscellaneous Amendments to Acquisition Regulations

AGENCY: Agency for International Development (USAID).

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to incorporate administrative changes reflecting USAID's new organizational structure; to implement the Federal Acquisition Streamlining Act (FASA); to clarify or simplify certain authorities and procedures currently in the AIDAR; to implement new or revised Agency policies resulting from reengineering and its effect on procurement procedures; and to revise relevant sections to implement USAID's procurement reform initiatives. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: M/OP/P, Ms. Diane M. Howard, (703) 875–1310.

SUPPLEMENTARY INFORMATION: The specific changes being made to the AID Acquisition Regulation (AIDAR) in this amendment are broad in scope, ranging from changes in basic Agency procurement policy and procedures to minor administrative corrections.

A. USAID Policy Changes

Two changes are needed to the AIDAR to reflect Agency policy changes.

(1) A new subpart 726.71 ''Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights'' is added to implement a statutorily required policy promulgated by USAID on January 3, 1994.

(2) The clause at 752.7012 ''Protection of the Individual as a Research Subject'' is revised to implement USAID's adoption of the Common Federal Policy for the Protection of Human Subjects, as found in 22 CFR Part 225.

B. USAID Reengineering

USAID has been serving as a reengineering laboratory under the National Performance Review (NPR), and as a result has made many changes in its organizational structure as well as its operational procedures in recent years. Consequently, the AIDAR is being amended throughout to reflect changes in office designations and acronyms and to update or delete references to obsolete regulations, functional position terms, and documentation requirements. The USAID Handbook system has been replaced by the Automated Directives System (ADS), and handbook references in the AIDAR are changed to the corresponding ADS Chapter. A functional position term that is no longer appropriate is ''project officer''; USAID, as a result of reengineering, will no longer implement its programs through the former project approval and implementation system and therefore the terms ''project'' and ''project officer'' will in the future be, respectively, ''activity'' and ''technical officer'' or ''cognizant technical officer''. Obsolete documentation requirements are Project Implementation Orders (for technical services [PIO/Ts], commodities [PIO/Cs], or participant training [PIO/Ps]), and references to these documents are being deleted.

Concurrent with the overall Agency reengineering and in conjunction with Government-wide procurement reform efforts, USAID has also been reengineering its procurement procedures. AIDAR 706.302–70 is being revised to provide an additional agency exception to full and open competition to allow for follow-on award for the continued provision of highly specialized services when award to another source would result in substantial additional costs to the government or would result in unacceptable delays. This exception is very similar to the exception described in FAR 6.302–1(a)(2)(iii); however, the FAR authority is available only to DOD, NASA, and the Coast Guard and not to civilian agencies such as USAID. Therefore, the Administrator of USAID made a formal written determination in accordance with paragraph (b)(3)(ii) of AIDAR 706.302–70, Impairment of foreign aid programs. Use of the authority is limited as stated in the added wording in this section.

Another revision related to Agency procurement reform initiatives is in the AIDAR's Appendix A, ''Respective Roles of Contracting and Other Personnel in the AID Procurement Process,'' which is revised to allow the contracting officer to reveal the amount of funds the Agency has available for a specific procurement when a performance-based contract is contemplated.

C. The Federal Acquisition Streamlining Act of 1994 (FASA)

FASA and the resulting changes to the FAR require corresponding revisions to the AIDAR. The specific changes are as follows:

(1) All references to ''small purchases'' and the $25,000 ceiling for small purchases are being revised to ''simplified acquisition procedures'' and the threshold amounts in FAR 13.101 and 13.103(b).

(2) USAID's implementation of FASA requirements for obtaining past performance information is incorporated into the revised solicitation provision in 752.209–70, which establishes the procedures for obtaining past performance information from the offeror (this information collection has been approved Government-wide by OMB under approval number 9000–0142). The past performance references submitted in response to this provision will be used both in making the responsibility determination required in FAR Subpart 9.1 and to evaluate the offeror's ability to perform the contract based on its past performance, as now required in FAR 15.605. Subpart 709.1 was removed since it is redundant to the FAR.

After reviewing section 715.608, ''Proposal evaluation'', to determine what, if any, changes would be necessary to implement this component

of FASA, we redesignated this section as 715.604–70 and revised the text. The contracting office's representative is now designated in paragraph (a) as a non-voting member of the evaluation committee, and paragraph (b) ''Functions and procedures of AID evaluation committees'' is renamed ''Responsibilities of AID evaluation committees'' and is revised for clarity. No substantive procedural changes are being made at this time.

(3) Section 716.301–3 is deleted since FASA deleted the corresponding requirement in FAR 16.301–3(c) for a determination and findings prior to issuing a cost-reimbursement type contract.

(4) USAID protest procedures in Subpart 733.7 are revised to reflect FASA changes and to redesignate the AIDAR subpart as 733.1, with sections thereunder redesignated to further correspond to FAR Subpart 33.1. AIDAR subpart 733.71 ''AID Procedures for Disputes and Appeals'' is also redesignated 733.27 and the sections thereunder are redesignated accordingly.

In addition, Agency protest procedures formerly described in section 733.70 and now found in section 733.103–70 are revised in their entirety to condense and clarify them and to designate the Agency Procurement Executive as the decision authority for Agency protests, rather than the Head of the Contracting Activity. This latter change is being made to better ensure consistency and objectivity in the decision process.

(5) AIDAR subpart 737.2 ''Advisory and Assistance Services'' is deleted, since the implementation of FASA in FAC 90–33 removed approval requirements addressed in this subpart, and any other evaluation and reporting requirements are either no longer necessary or are adequately addressed in the FAR.

(6) AIDAR 752.203–1 ''Officials Not to Benefit'' is deleted, since the requirement in FAR 3.102–2 it modified was deleted.

D. Administrative Changes and Clarifications

Such changes include the following:

(1) The authority of individual heads of contracting activities to approve class deviations in 701.470(b)(1) is clarified.

(2) A new definition for ''accessorial costs'' is added to section 713.101 to clarify types of costs to be included as part of the base costs under the simplified acquisition threshold.

(3) The sections under Subpart 722.8, ''Equal Employment Opportunity,'' are redesignated to correspond to the FAR; the subpart is also revised in its entirety in order to remove coverage that is redundant to the FAR and to simplify and clarify the remaining procedures.

(4) Subpart 724.1, ''Protection of Individual Privacy,'' is deleted in its entirety because it is redundant to FAR coverage.

(5) Subpart 725.4, ''Trade Agreements,'' is revised to include the North American Free Trade Agreement and to clarify the applicability of trade agreements to USAID's contracts.

(6) Subpart 732.4 is revised to clarify that local-currency advances to for-profit organizations must be approved by the Head of the Contracting Activity (such advances were previously not addressed).

(7) The clause at 752.7007, ''Personnel Compensation,'' is revised to reflect Agency policy on salary limitations implemented elsewhere in the AIDAR in Notice 95–1, published on March 3, 1995 (60 FR 11911). This clause was inadvertently omitted from that Notice.

(8) The clause at 752.7019, ''Participant Training,'' is revised in paragraph (d)(2) to clarify allowable costs for participants.

(9) The clause at 752.7028, ''Differentials and Allowances,'' is revised to change the term ''temporary lodging allowance'' to ''temporary quarters subsistence allowance'' (TQSA) in accordance with the corresponding change in the Standardized Regulations (Government Civilians, Foreign Areas), to provide for Mission Director approved extensions to the period of time when TQSA can be paid, and to clarify that post differential is paid from the date of arrival at post only for regular employees of the contractor (short term employees are still only entitled to post differential beginning with the forty-third day at the post).

The changes being made by this Notice are not considered ''significant'' under FAR 1.301 or FAR 1.501, and public comments have not been solicited. This Notice will not have an impact on a substantial number of small entities nor does it establish a new collection of information as contemplated by the Regulatory Flexibility Act and the Paperwork Reduction Act. Because of the nature and subject matter of this Notice, use of the proposed rule/public comment approach was not considered necessary. We decided to issue as a final rule; however, we welcome public comment on the material covered by this Notice or any other part of the AIDAR at anytime. Comments or questions may be addressed as specified in the **FOR FURTHER INFORMATION CONTACT** section of the Preamble.

List of Subjects in 48 CFR Parts 701, 702, 706, 709, 710, 711, 713, 715, 716, 717, 719, 722, 724, 725, 726, 732, 733, 736, 737 and 752

Government procurement.

For the reasons set out in the Preamble, 48 CFR Chapter 7 is amended as set forth below.

1. The authority citations in Parts 701, 702, 706, 709, 710, 711, 713, 715, 716, 717, 719, 722, 724, 725, 726, 732, 733, 736, 737, 752, and Appendix A continue to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

701.105 [Amended]

2. Paragraph (a) of section 701.105 is amended by removing the expiration date ''05/31/95'' shown for OMB Control Number 0412–0536 and replacing it with ''09/30/96''.

701.370 [Amended]

3. Section 701.370 is amended by removing the comma after ''Executive Order 11223'' and by removing ''and established AID policies on contracting as set forth in supplement B to AID Handbook 1'' from the first sentence.

701.470 [Amended]

4. Section 701.470 is amended by adding the following sentence to the end of paragraph (b)(1):

701.470 Procedure.

* * * * *

(b) * * *

(1) * * * Individual heads of contracting activities have authority to approve class deviations affecting only contracts within their own contracting activities, except that the Director, M/OP, has authority to approve class deviations that affect more than one contracting activity.

* * * * *

701.601 [Amended]

5. Section 701.601, paragraph (b) is revised to read as follows:

701.601 General.

* * * * *

(b) The authority of heads of contracting activities to execute contracts is limited as follows:

(1) Director, Office of Procurement. Unlimited authority to execute contracts. May issue warrants for simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) to individuals on his or her

staff (subject to termination in accordance with FAR 1.603–4).

(2) Director, Office of U.S. Foreign Disaster Assistance. Authority to execute contracts for disaster relief purposes during the first 72 hours of a disaster in a cumulative total amount not to exceed $500,000. Authority to execute simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) at any time. May issue warrants for simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) to qualified individuals on his or her staff.

(3) Director, Office of Administrative Services. Authority to execute simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) for supplies and services, except professional non-personal services and personal services. Unlimited authority when ordering against GSA or other established U.S. Government ordering agreements. May issue warrants for simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) to qualified individuals on his or her staff.

(4) Director, Center for Human Capacity Development (G/HCD). Authority to execute simplified acquisitions up to $10,000. Unlimited authority for procuring participant training based on published catalog prices, using M/OP/E approved forms. May issue warrants for simplified acquisitions up to $10,000 to qualified individuals on his or her staff.

(5) Overseas heads of contracting activities. Authority to sign contracts where the cumulative amount of the contract, as amended, does not exceed $250,000 (or local currency equivalent) for personal services contracts or $100,000 (or local currency equivalent) for all other contracts. May issue warrants for simplified acquisitions up to the amount permitted by FAR 13.101 and 13.103(b) to qualified individuals on his or her staff.

701.603–70 [Amended]

6. Section 701.603–70 is amended by adding ''direct-hire'' before ''employees'' in the last sentence.

PART 702—DEFINITIONS OF WORDS AND TERMS

702.170 [Amended]

7. Paragraph (a) of section 702.170–3 is amended by removing ''Office of International Training'' from the first full sentence and inserting ''Center for Human Capacity Development (G/HCD)'' in its place.

8. Paragraph (a)(1)(iv) of section 702.170–10 is amended by removing ''Office of International Training'' and replacing it with ''Center for Human Capacity Development (G/HCD)''.

PART 706—COMPETITION REQUIREMENTS

706.302–70 [Amended]

9. In section 706.302–70, a new paragraph (b)(5) is added, a sentence is added to the end of paragraph (c)(1) and a new paragraph (c)(4) is added to read as follows:

706.302–70 Impairment of foreign aid programs.

* * * * *

(b) * * *

(5) An award for the continued provision of highly specialized services when award to another resource would result in substantial additional costs to the government or would result in unacceptable delays.

(c) * * *

(1) * * * While the authority at 706.302–70(b)(5) is for use when the contracting officer determines that the incumbent contractor is the only practicable, potential offeror, the requirement to publicize the intended award, as required in FAR 5.201, still applies.

* * * * *

(4) Use of the authority in 706.302–70(b)(5) is subject to the approvals required in FAR 6.304. In addition, for proposed awards in excess of one year or over $250,000, approval of the Agency Competition Advocate is required.

PART 709—CONTRACTOR QUALIFICATIONS

Subpart 709.1—[Removed]

10. Subpart 709.1 is removed.

11. Part 710 is redesignated as Part 711, and the heading is revised to read as follows:

PART 711—DESCRIBING AGENCY NEEDS

711.011 [Redesignated and amended]

12. Newly designated section 711.011 is further redesignated as section 711.002–71 and amended to remove ''752.210–70'' and replace it with ''752.211–70''.

711.070 [Redesignated and amended]

13. Newly designated section 711.070 is further redesignated as section 711.022–70; paragraph (a) is amended by removing ''10.002(c)'' and replacing it with ''11.002(b)''; and paragraph (b)(1) is amended by removing ''(by signing a PIO/T or equivalent document)''.

14. Part 713 is revised to read as follows:

PART 713—SIMPLIFIED ACQUISITION PROCEDURES

713.000 Scope of part.

Subpart 713.1—General

713.101 Definitions.

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

713.000 Scope of part.

The simplified acquisition threshold applies to the cost of supplies and services, exclusive of the cost of transportation and other accessorial costs if their destination is outside the United States.

Subpart 713.1—General

713.101 Definitions.

Accessorial costs means the cost of getting supplies or services to their destination in the cooperating country (and the travel costs of returning personnel to the U.S. or other point of hire). It does not include costs such as allowances or differentials related to maintaining personnel at post which are to be considered as part of the base costs within the simplified acquisition threshold.

PART 715—CONTRACTING BY NEGOTIATION

715.605–70 [Removed]

15. Section 715.605–70 is removed.

715.608 [Redesignated and revised]

16. Section 715.608–70 is redesignated as section 715.604–70 and revised; and section 715.604 is added to read as follows:

715.604 Responsibilities.

715.604–70 Responsibilities of AID evaluation committees.

(a) *Establishment and composition of AID evaluation committees.* A technical evaluation committee shall be established for each proposed procurement. In each case, the committee shall be composed of a chair representing the cognizant technical office, a representative of the contracting office (who shall be a non-voting member of the committee), and representatives from other concerned offices as appropriate.

(b) *Technical evaluation procedures.* (1) The contracting officer will receive all proposals and provide to the chair a listing and copies of the technical proposals and instructions for conducting the evaluation.

(2) The chair will promptly call a meeting of the committee to evaluate the proposals received. The evaluation shall be based on the evaluation factors set forth in the solicitation document.

(3) The chair shall prepare and provide to the contracting officer written documentation summarizing the results of the evaluation of each proposal, including an assessment of past performance information in accordance with FAR 15.608(a)(2) and section 752.209–70. The documentation shall include narrative justification of the evaluation results and shall reflect the requirements of FAR 15.608(a)(3).

(4) The contracting officer is responsible for reviewing the documentation justifying the evaluation results to determine that it is adequate and complete. The contracting officer shall return a justification determined to be inadequate to the chair for revision.

(5) No member of the AID evaluation committee shall hold discussions with any offeror before or during the AID evaluation committee's proceedings, nor shall any information about the proposals be provided to anyone not on the committee without first obtaining the contracting officer's consent.

PART 716—TYPES OF CONTRACTS

716.301–3 [Removed]

17. Section 716.301–3 is removed.

716.501 [Removed]

18. Section 716.501 is removed.

PART 717—SPECIAL CONTRACTING METHODS

717.700 [Amended]

19. Section 717.700 is amended by revising the last sentence to read as follows:

717.700 General.

* * * Applicable policies and procedures are set forth in AID Automated Directive System Chapter 312.

PART 719—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

719.270 [Amended]

20. Section 719.270 is amended in paragraph (c)(1) by removing ''Program/project'' and replacing it with ''Cognizant technical'' and by removing ''programs/projects'' and replacing it with ''activities'' and in paragraph (d) by removing ''$25,000'' in the second sentence and replacing it with ''the simplified acquisition threshold [FAR 13.101 and 13.103(b)]''.

719.271–2 [Amended]

21. Section 719.271–2 is amended in paragraph (b)(8) by removing ''(PIO/T, PIO/C or other requisitioning document)'' and by removing ''$25,000'' and replacing it with ''the simplified acquisition threshold [FAR 13.101 and 13.103(b)]''.

718.271–3 [Amended]

22. Section 719.271–3 is amended in paragraph (g) by removing ''PIO/Ts, PIO/Cs, or other requisitioning documents)''.

719.271–4 [Amended]

23. Section 719.271–4 is amended in paragraph (c) by replacing ''program/project'' with ''cognizant technical''.

24. Section 719.271–5 is amended by revising the heading introductory text, and paragraph (b) to read as follows:

719.271–5 Cognizant technical officers.

Since the procurement process starts with the establishment of a requirement, the actions of the cognizant technical officers can affect the opportunity of small business to participate equitably; therefore, each cognizant technical officer shall, during the formulation of activities which will require contractual implementation:

* * * * *

(b) Provide sufficient procurement lead time in the activity implementation schedule to allow potential small business participation.

719.271–6 [Amended]

25. Section 719.271–6 is amended by removing ''(PIO/Ts, PIO/Cs, or other requisitioning documents)'', and removing ''$25,000'' and replacing it with ''the simplified acquisition threshold (FAR 13.101 and 13.103(b))'' in the introductory text of paragraph (a); and by removing ''(PIO/T, PIO/C, or other requisitioning document, such as an approved Noncapital Project Paper (PROP), which may be substituted for the PIO/T or PIO/C if required by the urgency of the procurement)'' in paragraph (b)(1).

PART 722—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

722.103–70, 722.103–71, 722.103–72 [Redesignated as 722.103–1, 722.103–2, 722.103.4]

26. Sections 722.103–70, 722.103–71, and 722.103–72 are redesignated as 722.103.–1, 722.103–2, and 722.103–4 respectively and section 722.103–3 is added and reserved.

27. Subpart 722.8 is revised to read as follows:

Subpart 722.8—Equal Employment Opportunity

722.805–70 Procedures.

The following procedures apply, as appropriate, for all contracts:

(a) *General.* (1) When all necessary representations and certifications (Reps and Certs) as required by FAR 22.810 are received, the contracting officer must review them to determine that they have been completed and signed as required, and are acceptable. Acceptable Reps and Certs are the first step in the EEO clearance process.

(2) If the Reps and Certs are not deemed acceptable on technical grounds (e.g. incomplete, not signed, etc.) the contracting officer must decide if they can be made acceptable within a reasonable period by corrective action on the part of the offeror, or if the fault is such that it renders the offer nonresponsive. In the first case, necessary corrective action should be taken; in the second case, negotiations with the non-responsive offeror will be terminated. If the Reps and Certs raise questions concerning EEO compliance, and this would be the basis for finding the offeror non-responsive, the matter must be referred to the cognizant regional Department of Labor Office of Federal Contract Compliance Programs (OFCCP) regardless of the estimated value of the contract; only OFCCP may make a determination of non-compliance with EEO requirements.

(b) *Contracts for $1,000,000 or more.* (1) In addition to the requirement for obtaining acceptable Reps and Certs in paragraph (a) of this section, contracts and modifications with an estimated value of $1,000,000 or more (including any modification which increases the total estimated value of a contract to $1,000,000 or more, or any modification which is itself $1,000,000 or more), must, in accordance with FAR 22.8, have OFCCP verification of EEO compliance before award. The contracting officer shall follow the procedures for obtaining EEO compliance in FAR 22.805(a). In requesting a preaward review from OFCCP, the contracting officer may need to provide the following information in addition to the items listed in FAR 22.805(a)(4):

(i) Name, title, address, and telephone number of a contract person for the prospective contractor;

(ii) A description of the type of organization (university, nonprofit, etc.) and its ownership (private, foreign, state, etc.).

(iii) Names and addresses of organizations joint venture (if any).

(iv) Type of procurement (new contract—RFP or IFB, amendment, etc.) and estimated dollar amount, and term.

(v) Copy of approved Reps and Certs.

(2) If the initial contact with OFCCP is by telephone, the contracting officer and OFCCP should mutually determine what information is to be included in the written verification request. In the event that OFCCP reports that the offeror is not in compliance, negotiations with the offeror shall be terminated.

(c) *Contracts over $10,000, but less than $1,000,000.* Contracts and amendments within this range do not require formal verification by OFCCP. The method used to verify compliance is at the discretion of the contracting officer. The contracting officer may rely on the documentation submitted by the offeror (the Reps and Certs—see § 722.805–70(a)), unless he or she is aware of some reason to doubt the documentation submitted. In case of doubt, then an informal check with OFCCP should be made. In the event that evidence of non-compliance is developed, the contracting officer must contact OFCCP for confirmation of EEO status; only OFCCP may determine non-compliance with EEO requirements. If OFCCP confirms non-compliance, negotiations with the offeror or contractor shall be terminated.

(d) *Documentation for the contract file.* (1) Every contract file must contain completed signed Reps and Certs. The file must clearly show that these documents have been reviewed and accepted by the contracting officer. If the Reps and Certs were revised to make them acceptable (see § 722.805–70(a)), the file must show what changes were required and certify that the changes were made.

(2) For contracts or amendments of $1,000,000 or more, the file must contain:

(i) A record of the initial contact with OFCCP, specifying the name, address, and telephone number of the person contacted, a summary of the information presented, and the advice given by OFCCP;

(ii) A copy of the written follow-up request for EEO compliance verification to OFCCP; and

(iii) A copy of the compliance verification from OFCCP.

(3) For contracts or amendments over $10,000 but less than $1,000,000, the file must contain a statement from the contracting officer that the contractor is considered in compliance with EEO requirements, and giving the basis for this statement (see § 722.805–70(c)). This statement may be in a separate memorandum to the file or in the memorandum of negotiation (see 704.803(a)).

(4) Documentation in the event of non-compliance. In the event that OFCCP determines that a prospective contractor is not in compliance, a copy of OFCCP's written determination, and a summary of resultant action taken (termination of negotiations, notification of offeror and cognizant technical officer, negotiation with next offeror in competitive range, resolicitation, etc.) will be placed in the contract file for any contract which may result, together with other records related to unsuccessful offers, and retained for at least six months following award.

PART 724—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

724.1—[Removed]

28. Subpart 724.1 is removed.

PART 725—FOREIGN ACQUISITION

29. Subpart 725.4 is revised to read as follows:

Subpart 725.4—Trade Agreements

§ 725.403 Exceptions.

FAR 25.4 establishes procedures for purchases under the Trade Agreements Act of 1979 (including GATT's Agreement on Government Procurement) and the North American Free Trade Agreement (NAFTA). Under both such agreements, USAID's contracts for the purpose of providing foreign assistance are not subject to the procedures set forth in FAR 25.4. In contrast, USAID's operating expense-type administrative purchases (i.e., purchases for the direct benefit and use of USAID) are subject to the procedures in FAR 25.4, unless otherwise exempted by one of the exemptions specified in FAR 25.4.

725.701 [Amended]

30. Section 725.701 is amended by removing ''AID Handbook 1, Supplement B, primarily in Chapter 5'', replacing it with ''Chapter 310 of the AID Automated Directive System (ADS)'', and by removing the second sentence.

725.702 [Amended]

31. Section 725.702 is amended by removing ''Attachment A–11, Section III, of Appendix D to AID Handbook 18'' in paragraph (b) and replacing it with ''the Agency Geographic Code Book''.

725.705 [Amended]

32. Section 725.705 is amended by removing ''Chapter 18 of AID Handbook 1, Supplement B'' and replacing it with ''Chapter 311 of the AID ADS'' in paragraph (a).

725.706 [Amended]

33. Section 725.706 is amended by revising paragraph (a) to read as follows:

725.706 Geographic source waivers.

(a) Authority to waive source, origin, nationality, and transportation service requirements is set forth in § 310.5.9 of the ADS. Additional guidance is available in ADS § 310.5.8.

* * * * *

PART 726—OTHER SOCIOECONOMIC PROGRAMS

34. Subpart heading 726.70 is added to read as follows:

Subpart 726.70—Disadvantaged Enterprises Program

726.000 [Redesignated as 726.7001 and amended]

35. § 726.000 is redesignated as section 726.7001, and the heading and first sentence are amended by replacing ''part'' with ''subpart''.

726.1 [Removed]

36. The heading ''Subpart 726.1—GENERAL'' is removed.

726.101–726.310 [Redesignated]

37. Sections 726.101 through 726.301 are redesignated as follows:

Old section	New section
726.101	726.7002
726.102	726.7003
726.103	726.7004
726.104	726.7005
726.201	726.7006
726.301	726.7007

37a. Subpart 726.2 is removed.

38. Subpart 726.71 is added to read as follows:

Subpart 726.71—Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights

Sec.

726.7101 Policy.
726.7102 PD 20 provision.

Subpart 726.71—Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights

726.7101 Policy.

USAID Policy Determination (PD) 20, ''Guidelines to Assure USAID Programs do not Result in the Loss of Jobs in the U.S.'' implemented statutory prohibitions on expenditure of appropriated funds. The PD contains a

standard provision for inclusion in USAID-funded grants and inter-agency agreements and indicates that when the PD applies to a contract, appropriate provisions covering the subject matter are to be included. When the provisions of PD 20 do apply to a contract, the cognizant technical office shall provide to the contracting officer appropriate language tailored to the specific circumstances for the contract statement of work, or if applicable to the circumstances, the provision included in the PD (see § 726.7102) may be used as a clause in the contract. The provision is not required in subcontracts.

726.7102 PD 20 provision.

Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights (Jan 1994)

No funds or other support provided hereunder may be used in an activity reasonably likely to involve the relocation or expansion outside of the United States of an enterprise located in the United States if non-U.S. production in such relocation or expansion replaces some or all of the production of, and reduces the number of employees at, said enterprise in the United States.

No funds or other support provided hereunder may be used in an activity the purpose of which is the establishment or development in a foreign country of any export processing zone or designated area where the labor, environmental, tax, tariff, and safety laws of the country would not apply, without the prior approval of USAID.

No funds or other support provided hereunder may be used in an activity which contributes to the violation of internationally recognized rights of workers in the recipient country, including those in any designated zone or area in that country.

PART 732—CONTRACT FINANCING

39. Subpart 732.1 is added to read as follows:

Subpart 732.1—General

732.111 Contract clauses.

(a) [Reserved]

(b) AID may obtain short term and (less frequently) long-term indefinite quantity professional services through Agency-specific indefinite quantity contracts that are a combination of contract types. Rather than using the fixed-price payment clauses for indefinite quantity contracts, when these IQCs provide for fixed daily rates (which may include wages, overhead, general and administrative expenses, fringe benefits, and profit) for services and reimbursement of other direct costs (such as travel and transportation) at cost, then the payment clause at 752.232–7 shall be used in the contract.

732.402 [Revised]

40. Paragraph (e) of section 732.402 is revised to read as follows:

732.402 General.

* * * * *

(e)(1) All U.S. Dollar advances to for-profit organizations require the approval of the Procurement Executive; all such approvals are subject to prior consultation with the AID/W Controller.

(2) All local currency advances to for-profit organizations require the approval of the Head of the Contracting Activity, after consultation with the Mission Controller.

732.406–71 [Amended]

41. Section 732.406–71 is amended by revising paragraphs (a) and (b) to read as follows:

732.406–71 Circumstances for use of an LOC.

* * * * *

(a) The contracting officer has determined that an advance payment is necessary and appropriate in accordance with this subpart and the guidance provided in FAR 32.4;

(b) AID has, or expects to have, a continuing relationship of at least one year with the organization, and the annual amount required for advance financing will be at least $50,000; and

* * * * *

732.406–72 [Amended].

42. Section 732.406–72 is amended by replacing ''FM/CMP/LC'' with ''FM/CMP/GIB'' in the last sentence of paragraph (a) and adding a new paragraph (b)(6) to read as follows:

732.406–72 Establishing an LOC.

(a) * * *

(b) * * *

(6) The contractor Federal Tax Identification Number.

* * * * *

PART 733—PROTESTS, DISPUTES, AND APPEALS

43. Subpart 733.70 is redesignated Subpart 733.1 and revised to read as follows:

733.1—Protests

733.101 Definitions.

(a) ''Procurement Executive'' is defined in AIDAR 702.170–13.

(b) All ''days'' referred to in this subpart are deemed to be ''calendar days'', in accordance with FAR 33.101. In the case of USAID overseas offices with non-Saturday/Sunday weekend schedules, the official post weekend applies in lieu of Saturday and Sunday.

(c) All other terms defined in FAR 33.101 are used herein with the same meaning.

733.103–70 Protests to the agency.

AID follows the agency protest procedures in FAR 33.103, as supplemented by this section.

733.103–71 Filing of protest.

(a) Protests must be in writing and addressed to the Contracting Officer for consideration by the Procurement Executive.

(b) A protest shall include, in addition to the information required in FAR 33.103(b)(3), the name of the issuing Mission or office.

(c) Material submitted by a protestor will not be withheld from any interested party outside the government or from any government agency if the Procurement Executive decides to release such material, except to the extent that the withholding of such information is permitted or required by law or regulation.

733.103–72 Responsibilities.

(a) Procurement Executive. The decision regarding an agency protest shall be made by the Procurement Executive within 30 days from the date a proper protest is filed unless the Procurement Executive determines that a longer period is necessary to resolve the protest, and so notifies the protester in writing. The Procurement Executive shall make his or her decision after personally reviewing and considering all aspects of the case as presented in the protest itself and in any documentation provided by the contracting officer, and after obtaining input and clearance from the Assistant General Counsel for Litigation and Enforcement (GC/LE). The decision shall be in writing and constitutes the final decision of the Agency.

(b) Contracting Officer. The contracting officer may make the determination in FAR 33.103(a)(2) and is responsible for requesting an extension of the time for acceptance of officers as described in FAR 33.103(a)(3).

733.103–73 Protests excluded from consideration.

(a) *Contract administration.* Disputes between a contractor and AID are resolved pursuant to the disputes clause of the contract and the Contract Disputes Act of 1978.

(b) *Small business size standards and standard industrial classification.* Challenges of established size standards or the size status of particular firms, and challenges of the selected standard industrial classification are for review

solely by the Small Business Administration.

(c) *Procurement under Section 8(a) of the Small Business Act.* Contracts are let under Section 8(a) of the Small Business Act to the Small Business Administration solely at the discretion of the Contracting Officer, and are not subject to review.

(d) *Protests filed in the General Accounting Office (GAO).* Protests filed with the GAO will not be reviewed.

(e) *Procurements funded by AID to which AID is not a party.* No protest of a procurement funded by AID shall be reviewed unless AID is a party to the acquisition agreement.

(f) *Subcontractor protests.* Subcontractor protests will not be considered.

(g) *Judicial proceedings.* Protests will not be considered when the matter involved is the subject of litigation before a court of competent jurisdiction or when the matter involved has been decided on the merits by a court of competent jurisdiction.

(h) *Determinations of responsibility by the contracting officer.* A determination by the contracting officer that a bidder or offeror is or is not capable of performing a contract will not be reviewed by the Procurement Executive.

(i) *Small Business Certificate of Competency Program.* Any referral made to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act, or any issuance of, or refusal to issue, a certificate of competency under that section will not be reviewed by the Procurement Executive.

733.71—[Redesignated]

44. Subpart 733.71 is redesignated as subpart 733.27 and sections 733.7101 and 733.7102 are redesignated as 733.2701 and 733.2702 respectively.

PART 736—CONSTRUCTION AND ARCHITECT—ENGINEER CONTRACTS

736.602–5 [Amended]

45. The heading for 736.602–5 is revised to read as follows:

736.602–5 Short selection process for procurements not to exceed the simplified acquisition threshold.

* * * * *

PART 737—SERVICE CONTRACTING

737.2—[Removed]

46. Subpart 737.2 is removed.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

752.203–1 [Removed]

47. Section 752.203–1 is removed.

48. Section 752.209–70 is amended by revising the provision date and the text of the provision itself to read as follows:

752.209–70 Requirement for past performance references.

* * * * *

Requirement for Past Performance References (July 1996)

The offeror shall submit, as part of its proposal, information on recently completed contracts or on-going contracts that are similar to the statement of work in the solicitation performed for federal, state and local governments and for commercial firms. The number of such contracts, as well as the specific details to be provided for each, shall be in accordance with the instructions provided elsewhere in Section L of this solicitation, consistent with the Government-wide past performance information collection requirements in the FAR. The offeror is expected to comply with the instructions in Section L regarding the type and amount of detail to be provided on past performance and the format to be used to submit it. If the offeror does not follow the prescribed format, then care must be taken to ensure that the substance of the requested information is provided. Failure to do so may seriously impede both the technical evaluation of the offeror's proposal and the contracting officer's ability to make a positive responsibility determination.

USAID may contact representatives from the references provided by the offeror to obtain information on the offeror's past performance. The offeror is advised that USAID may obtain past performance information from other than sources identified by the offeror. USAID will use past performance information both for the responsibility determination required in FAR 9.1 and the best value decision in accordance with the instructions in Section L and the evaluation criteria in Section M of this solicitation.

752.210–70 [Redesignated]

49. Section 752.210–70 is redesignated as section 752.211–70.

752.219–8 [Amended]

50. Section 752.219–8 is amended by removing ''$25,000'' and replacing it with ''the simplified acquisition threshold in FAR 13.000'' in the second paragraph.

752.7004 [Amended]

51. Section 752.7004 is amended by removing ''Chapters 4 and 5 of AID Handbook 1, Supplement B (Procurement Policies)'' and replacing it with ''Chapter 310 of AID's Automated Directives System (ADS)'' in the last sentence of paragraph (a) of the clause.

752.7006 [Amended]

52. Section 752.7006 is amended by adding ''U.S.'' before ''Agency for International Development'' in the paragraph beginning ''*To AID:*''.

752.7007 [Amended]

53. Section 752.7007 is amended by revising the clause heading and paragraph (b) of the clause to read as follows:

752.7007 Personnel Compensation.

* * * * *

Personnel Compensation (July 1996)

(a) * * *

(b) Compensation (i.e., the employee's base annual salary plus overseas recruitment incentive, if any) which exceeds the maximum payable annual or daily rate for an Executive Service level ES–6, as published in the Federal Register, will be reimbursed only with the approval of the Contracting Officer.

752.7012 [Revised]

54. Section 752.7012 is revised to read as follows:

752.7012 Protection of the Individual as a Research Subject.

This clause is for use in any AID contract which involves research using human subjects.

Protection of the Individual as a Research Subject (August 1995)

(a) Safeguarding the rights and welfare of human subjects in research conducted under a USAID contract is the responsibility of the contractor. USAID has adopted the Common Federal Policy for the Protection of Human Subjects. USAID's Policy is found in Part 225 of Title 22 of the Code of Federal Regulations (the ''Policy''). Additional interpretation, procedures, and implementation guidance of the Policy are found in USAID General Notice entitled ''Procedures for the Protection of Human Subjects in Research Supported by USAID'', issued April 19, 1995, as from time to time amended (a copy of which is attached to this contract). USAID's Cognizant Human Subjects Officer (CHSO) and AID/W has oversight, guidance, and interpretation responsibility for the Policy.

(b) Contractors must comply with the Policy when humans are the subject of research, as defined in 22 CFR 225.102(d), performed as part of the contract, and contractors must provide ''assurance'', as required by 22 CFR 225.103, that they follow and abide by the procedures in the Policy. See also Section 5 of the April 19, 1995, USAID General Notice which sets forth activities to which the Policy is applicable. The existence of a bona fide, applicable assurance approved by the Department of Health and Human Services (HHS) such as the ''multiple project assurance'' (MPA) will satisfy this requirement. Alternatively, contractors can provide an acceptable written assurance to USAID as described in 22 CFR 225.103. Such assurances must be determined by the CHSO to be acceptable prior to any applicable research being

initiated or conducted under the contract. In some limited instances outside the U.S., alternative systems for the protection of human subjects may be used provided they are deemed ''at least equivalent'' to those outlined in Part 225 (see 22 CFR 225.101(h)). Criteria and procedures for making this determination are described in the General Notice cited in the preceding paragraph.

(c) Since the welfare of the research subject is a matter of concern to USAID as well as to the contractor, USAID staff, consultants and advisory groups may independently review and inspect research, and research processes and procedures involving human subjects, and based on such findings, the CHSO may prohibit research which presents unacceptable hazards or otherwise fails to comply with USAID procedures. Informed consent documents must include the stipulation that the subject's records may be subject to such review.

752.7017 [Amended]

55. Section 752.7017 is amended by removing ''Chapter 5 of AID Handbook 1, Supplement B'' in paragraph (b) and replacing it with ''Chapter 310 of the AID Automated Directives System (ADS)''.

752.7018 [Amended]

56. Section 752.7018 is amended by removing ''Office of International training, AID'' in paragraph (b) and replacing it with ''Human Capacity Development Center in the Bureau for Global Programs Field Support and Research (G/HCD0), AID/W'' and by removing ''Office of International Training'' in both paragraphs (d) and (d)(1) and replacing it with ''Human Capacity Development Center''.

57. Section 752.7019 is amended by removing paragraph (g), by revising the reference to ''(g)'' in the introductory paragraph of the section and in the undesignated paragraph following paragraph (c) of the clause to read ''(f)'', and by revising the clause date and paragraphs (b), (c), and (d)(2), to read as follows:

752.7019 Participant Training.

* * * * *

Participant Training (July 1996)

* * * * *

(b) Applicable regulations. Proposals for contracts involving training of AID participants, and participant training conducted under an AID contract shall follow the policies established in Chapter 253 of the AID Automated Directive System (ADS)—''Training for Development Impact'' except to the extent that specific exceptions to ADS Chapter 253 have been provided in this contract. (Chapter 253 may be obtained by submitting a request to the Human Capacity Development Center (G/HCD), at the address specified in paragraph (c) of this section.)

(c) Reporting requirement. Once each month the Contractor shall submit three copies of form AID 1381–4, ''Participant Data Form'' to the Human Capacity Development Center (G/HCD) Bureau for Global Programs Field Support and Research, USAID, Washington, DC 20523–1601.

* * * * *

(d) * * *

(2) Cost of technical preparation and photocopying of papers and dissertations, allowances for required textbooks, the titles of which will be approved by the Contractor.

* * * * *

58. Section 752.7028 is amended by revising the date of the clause; removing ''Contractor employees'' in the third sentence of paragraph (a) and replacing it with ''regular employees of the Contractor''; by removing ''living quarters allowance'' in the second and third sentence of paragraph (b) and replacing it with ''temporary quarters subsistence allowance''; and revising paragraph (c) to read as follows:

752.7028 Differential and allowances.

* * * * *

Differentials and Allowances (July 1996)

* * * * *

(c) *Temporary quarters subsistence allowance.* Temporary quarters subsistence allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his family for a period not in excess of (i) 90 days after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) 30 days immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters, unless an extension is authorized in writing by the Mission Director. The Contractor will be reimbursed for payments made to employees and authorized dependents for temporary quarters subsistence allowance, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 120, as from time to time amended.

* * * * *

59. Appendix A to Chapter 7 is amended as follows:

(A) In paragraph 2(a), by removing the fourth sentence and ''whether it is to be'' in the sixth sentence, and by removing ''project'' and replacing it with ''activity'' in the last sentence.

(B) By revising paragraph 2(b) to read as follows:

Appendix A—Respective Roles of Contracting and Other Personnel in the Aid Procurement Process

* * * * *

2. Planning, Competition, Negotiation, and Award

* * * * *

(b) Contracting personnel act upon requirements which are formulated by the planning, technical, and research offices of the Agency. Contracting officers obtain the information they need on technical requirements by questions and discussions with the planning, technical, and research offices of the Agency. If a contract is to be tenable, the end result which is desired must be described with completeness and exactitude. The statement of work must be explicit; otherwise the contracting officer cannot assure terms in a contract by which the desired action can be enforced. If the requiring office cannot provide a point of departure in these terms and deliver to the contracting officer a clear-cut description of the purpose and outline the limits of the statement of work, results may be disappointing and the possibility of deferring the activity until these elements can be given more concrete dimensions should be considered. Finally, the requiring office should insure that the statement of work and funding information are delivered to the contracting officer with sufficient lead time to allow for proper preparation and planning of the procurement. Under most circumstances, the specific amount of funds which the Agency has available to support a contract shall not be made known to a prospective contractor; however, when a performance-based contract is planned, the contracting officer may decide that it is necessary to reveal in the announcement (CBD notice) and in the solicitation the Government estimate, or a narrow range of expected costs, in order to obtain goods and services of the highest affordable technical quality, and to ensure that offerors do not propose elaborate programs that cannot be financed by USAID.

* * * * *

(C) In paragraph 2(c), replace ''scopes'' with ''statements'' in the last sentence.

Dated: May 21, 1996.

Marcus L. Stevenson,

Procurement Executive.

[FR Doc. 96–18495 Filed 7–25–96; 8:45 am]

BILLING CODE 6116–01–M

GENERAL SERVICES ADMINISTRATION

Board of Contract Appeals

48 CFR Part 6103

RIN 3090–AG05

Rules of Procedure for Transportation Rate Cases

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Interim rule.

SUMMARY: This document specifies the rules of procedure of the GSA Board of Contract Appeals applicable to the Board's review of claims made by a carrier or freight forwarder pursuant to 31 U.S.C. 3726(g)(1). The rules are intended to implement section 211 of

the Legislative Branch Appropriations Act, 1996 (Pub. L. 104–53), which transfers certain functions of the Comptroller General to the Office of Management and Budget (OMB), and which OMB has delegated to the General Services Administration. The Board requests written comments on the rules, which will expire one year from the date of publication in the Federal Register.

DATES: This rule is effective July 26, 1996. Comments must be submitted on or before January 22, 1997.

ADDRESSES: Written comments concerning this interim rule may be mailed to Margaret S. Pfunder, GSA Board of Contract Appeals, 18th & F Streets, N.W., Washington, DC 20405, or sent electronically by using the following Internet address: Margaret.Pfunder@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, (202) 501–0272.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The General Services Administration certifies that these revisions will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

B. Paperwork Reduction Act

The Paperwork Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

C. Background

Effective June 30, 1996, section 211 of the Legislative Branch Appropriations Act, 1996 (Pub. L. 104–53), transfers certain functions of the Comptroller General to the Director of the Office of Management and Budget, and authorizes the Director to delegate any of those functions to another agency or agencies. Effective the same date, the Director delegated the function contained in 31 U.S.C. 3726(g)(1)—the authority to review claims made by a carrier or freight forwarder—to the Administrator of General Services, who redelegated that function to the Chairman of the GSA Board of Contract Appeals. In addition, the Administrator of General Services has delegated to the Board the authority to adopt and issue rules necessary for the resolution of these claims. This interim rule has been approved by majority vote of the Board's members.

List of Subjects in 48 CFR Part 6103

Administrative practice and procedure, Freight forwarders, Government procurement.

For the reasons set out in the preamble, 48 CFR Part 6103 is added to read as follows:

PART 6103—RULES OF PROCEDURE FOR TRANSPORTATION RATE CASES

Sec.

6103.1 Scope [Rule 301].
6103.2 Filing claims [Rule 302].
6103.3 Responses to claims [Rule 303].
6103.4 Reply to OTA and agency responses [Rule 304].
6103.5 Proceedings [Rule 305].
6103.6 Decisions [Rule 306].
6103.7 Reconsideration of Board decision [Rule 307].
6103.8 Payment of successful claims [Rule 308].

Authority: Sec. 211, Pub. L. 104–53, 109 Stat. 535; 31 U.S.C. 3726(g)(1); 41 U.S.C. 601–613.

§ 6103.1 [Rule 301].

(a) *Authority*. Section 211 of the Legislative Branch Appropriations Act, 1996, Public Law 104–53, transfers certain functions of the Comptroller General to the Director of the Office of Management and Budget, and authorizes the Director to delegate any of those functions to another agency or agencies. The Director has delegated the function contained in 31 U.S.C. 3726(g)(1) to the Administrator of General Services, who has redelegated that function to the General Services Administration Board of Contract Appeals.

(b) *Type of claim; review of claim*. These procedures are applicable to the review of claims made by a carrier or freight forwarder pursuant to 31 U.S.C. 3726(g)(1). The Board will issue the final agency decision on a claim based on the information submitted by the claimant, the General Services Administration Office of Transportation Audits (OTA), and the department or agency (the agency) for which the services were provided. The burden is on the claimant to establish the timeliness of its claim, the liability of the agency, and the claimant's right to payment.

§ 6103.2 Filing claims [Rule 302]

(a) *Form*. A claim shall be in writing and must be signed by the claimant or by the claimant's attorney or authorized representative. No particular form is required. The request should describe the basis for the claim and state the amount sought. The request should also include:

(1) The name, address, telephone number, and facsimile machine number, if available, of the claimant;

(2) The Government bill of lading or Government transportation request number;

(3) The claimant's bill number;

(4) The Government voucher number and date of payment;

(5) The OTA claim number;

(6) The agency for which the services were provided; and

(7) Any other identifying information.

(b) *Notice of docketing.* A request for review will be docketed by the Office of the Clerk of the Board, and a written notice of docketing will be sent promptly to the claimant, the Director of OTA, and the agency for which the services were provided. The notice of docketing will identify the judge to who the claim has been assigned.

§ 6103.3 Responses to claims [Rule 303].

(a) Within 30 calendar days after docketing by the Board, OTA and the agency for which the services were provided shall each submit to the Board:

(1) A simple, concise, and direct statement of its response to the claim;

(2) Citations to applicable statutes, regulations, and cases; and

(3) Any additional information deemed necessary to the Board's review of the claim.

(b) A copy of these submissions shall also be sent to the claimant.

§ 6103.4 Reply to OTA and agency responses [Rule 304].

If the claimant wishes to reply to the OTA or agency responses it must inform the Board within 10 calendar days after receiving the responses. The judge will establish the time frame for submission of the reply.

§ 6103.5 Proceeding [Rule 305].

(a) *Conferences*. The judge will not engage in ex parte communications involving the underlying facts or merits of the claim. The judge may hold a conference with the claimant, OTA, and the agency at any time, for any purpose. The judge may provide the participants a memorandum reflecting the results of a conference.

(b) *Additional submissions*. The judge may require the submission of additional information at any time.

§ 6103.6 Decisions [Rule 306].

The judge will issue a written decision based upon the record, which includes submissions by the claimant, OTA, and the agency, and information provided during conferences.

§ 6103.7 Reconsideration of Board decision [Rule 307].

(a) A request for reconsideration may be made by the claimant, OTA, or the agency. Such requests must be received by the Board within 15 calendar days after the date the decision was issued. The request for reconsideration should state the reasons why the Board should consider the request.

(b) Requests for reconsideration are not favored. Mere disagreement with a decision or re-argument of points already made are not sufficient grounds for reconsidering the decision.

§ 6103.8 Payment of successful claims [Rule 308].

The agency for which the services were provided shall pay amounts the Board determines are due the claimant.

Dated: July 18, 1996.

Stephen M. Daniels,

Chairman, GSA Board of Contract Appeals.

[FR Doc. 96–18654 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–AL–M

48 CFR Part 6104

RIN 3090–AG06

Board of Contract Appeals; Rules of Procedure for Travel and Relocation Expenses Cases

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Interim rule.

SUMMARY: This document specifies the rules of procedure of the GSA Board of Contract Appeals applicable to the Board's review of claims made by federal civilian employees against the United States for reimbursement of expenses incurred while on temporary duty travel or in connection with relocation to a new duty station. The rules are intended to implement section 211 of the Legislative Branch Appropriations Act, 1996 (Pub. L. 104–53), which transfers certain functions of the Comptroller General to the Office of Management and Budget (OMB), and which OMB has delegated to the General Services Administration. The Board requests written comments on the rules, which will expire one year from the date of publication in the Federal Register.

DATES: This rule is effective July 26, 1996. Comments must be submitted on or before January 22, 1997.

ADDRESSES: Written comments concerning this interim rule may be mailed to Margaret S. Pfunder, GSA Board of Contract Appeals, 18th and F Streets, NW., Washington, DC 20405, or sent electronically by using the following Internet address: Margaret.Pfunder@gsa.gov.

FOR FURTHER INFORMATION CONTACT:

Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, (202) 501–0272.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The General Services Administration certifies that these revisions will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 501 et seq.

C. Background

Effective June 30, 1996, section 211 of the Legislative Branch Appropriations Act, 1996 (Pub. L. 104–53), transfers certain functions of the Comptroller General to the Director of the Office of Management and Budget, and authorizes the Director to delegate any of those functions to another agency or agencies. Effective the same date, the Director delegated some of the functions contained in 31 U.S.C. 3702—the authority to review claims made against the United States for reimbursement of expenses incurred by federal civilian employees while on official temporary duty travel or in connection with relocation to a new duty station—to the Administrator of General Services, who redelegated that function to the Chairman of the GSA Board of Contract Appeals. In addition, the Administrator of General Services has delegated to the Board the authority to adopt and issue rules necessary for the resolution of these claims. This interim rule has been approved by majority vote of the Board's members.

List of Subjects in 48 CFR Part 6104

Administrative practice and procedure, Government procurement, Travel and transportation expenses.

For the reasons set out in the preamble, 48 CFR Part 6104 is added to read as follows:

PART 6104—RULES OF PROCEDURE FOR TRAVEL AND RELOCATION EXPENSES CASES

Sec.

6104.1 Scope [Rule 401].
6104.2 Filing claims [Rule 402].
6104.3 Response to claim [Rule 403].
6104.4 Reply to agency response [Rule 404].
6104.5 Proceedings [Rule 405].
6104.6 Decisions [Rule 406].
6104.7 Reconsideration of Board decision [Rule 407].
6104.8 Payment of successful claims [Rule 408].

Authority: Sec. 211, Pub. L. 104–53, 109 Stat. 535; 31 U.S.C. 3702; 41 U.S.C. 601–613.

§ 6104.1 Scope [Rule 401].

(a) *Authority.* Section 211 of the Legislative Branch Appropriations Act, 1996, Pub. L. 104–53, transfers certain functions of the Comptroller General to the Director of the Office of Management and Budget, and authorizes the Director to delegate any of those functions to another agency or agencies. The Director has delegate some of the functions contained in 31 U.S.C. 3702 to the Administrator of General Services, who has redelegated those functions to the General Services Administration Board of Contract Appeals.

(b) *Types of claims.* These procedures are applicable to the review of two types of claims made against the United States:

(1) Claims for reimbursement of expenses incurred while on official temporary duty; and

(2) Claims for reimbursement of expenses incurred in connection with relocation to a new duty station.

(c) *Review of claims.* Any claim for entitlement to travel or relocation expenses must first be filed with the claimant's own department or agency (the agency). The agency shall initially adjudicate the claim. A claimant disagreeing with the agency's determination may request review of the claim by the Board. The burden is on the claimant to establish the timeliness of the claim, the liability of the agency, and the claimant's right to payment. The Board will issue the final decision on a claim based on the information submitted by the claimant and the agency.

§ 6104.2 Filing claims [Rule 402].

(a) *Filing claims.* A claim may be sent to the Board in either of the following ways:

(1) *Claim filed by claimant.* A claim shall be in writing and must be signed by the claimant or by the claimant's attorney or authorized representative. No particular form is required. The

request should describe the basis for the claim and state the amount sought. The request should also include:

(i) The name, address, telephone number, and facsimile machine number, if available, of the claimant;

(ii) The name, address, telephone number, and facsimile machine number, if available, of the agency employee who denied the claim;

(iii) A copy of the denial of the claim; and

(iv) Any other information which the claimant believes the Board should consider.

(2) *Claim forwarded by agency on behalf of claimant.* If an agency has denied a claim for travel or relocation expenses, it may, at the claimant's request, forward the claim to the Board. The agency shall include the information required by § 6104.3.

(b) *Notice of docketing.* A request for review will be docketed by the Office of the Clerk of the Board, and a written notice of docketing will be sent promptly to the claimant and the agency contact. The notice of docketing will identify the judge to whom the claim has been assigned.

(c) *Service of copy.* The claimant shall send to the agency employee identified in paragraph (a)(1)(ii) of this section copies of all material provided to the Board. If an agency forwarded a claim to the Board, it shall, at the same time, send to the claimant a copy of all material sent to the Board.

§ 6104.3 Response to claim [Rule 403].

(a) When a claim has been filed with the Board by a claimant, within 30 calendar days after docketing by the Board, the agency shall submit to the Board:

(1) A simple, concise, and direct statement of its response to the claim;

(2) Citations to applicable statutes, regulations, and cases; and

(3) Any additional information deemed necessary to the Board's review of the claim.

(b) A copy of these submissions shall also be sent to the claimant.

§ 6104.4 Reply to agency response [Rule 404].

If the claimant wishes to reply to the agency response, it must inform the Board within 10 calendar days after receiving the response. If the claim has been forwarded by the agency, the claimant shall have 10 calendar days from the time the claim is docketed by the Board to request the opportunity to reply. The judge will establish the time frame for submission of the reply.

§ 6104.5 Proceedings [Rule 405].

(a) *Conferences.* The judge will not engage in ex parte communications involving the underlying facts or merits of the claim. The judge may hold a conference with the claimant and the agency contact, at any time, for any purpose. The judge may provide the participants a memorandum reflecting the results of a conference.

(b) *Additional submissions.* The judge may require the submission of additional information at any time.

§ 6104.6 Decisions [Rule 406].

The judge will issue a written decision based upon the record, which includes submissions by the claimant and the agency, and information provided during conferences.

§ 6104.7 Reconsideration of Board decision [Rule 407].

(a) A request for reconsideration may be made by the claimant or the agency. Such requests must be received by the Board within 15 calendar days after the date the decision was issued. The request for reconsideration should state the reasons why the Board should consider the request.

(b) Requests for reconsideration are not favored. Mere disagreement with a decision or re-argument of points already made are not sufficient grounds for reconsidering the decision.

§ 6104.8 Payment of successful claims [Rule 408].

The agency shall pay amounts the Board determines are due the claimant.

Dated: July 18, 1996.

Stephen M. Daniels,

Chairman, GSA Board of Contract Appeals.

[FR Doc. 96–18655 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–AL–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[I.D. 071596G]

Atlantic Shark Fisheries; Quota Adjustment

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

ACTION: Quota adjustment.

SUMMARY: NMFS announces that the catch of large coastal sharks in the Atlantic, Caribbean, and Gulf of Mexico was 1,402 metric tons (mt) during the first semiannual 1996 season. Because of the overharvest of this category quota, the second semiannual 1996 quota is adjusted accordingly.

EFFECTIVE DATE: July 16, 1996.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey; 301–713–2347; Mark Murray-Brown; 508–281–9260; or John M. Ward; 813–570–5335.

SUPPLEMENTARY INFORMATION: The Atlantic, Caribbean, and Gulf of Mexico shark fisheries are managed by NMFS according to the Fishery Management Plan (FMP) for Atlantic Sharks prepared by NMFS under authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR part 678.

Section 678.24(b) of the regulations provides for two semi-annual quotas of 1,285 mt of large coastal sharks to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters by commercial fishermen. The first semiannual quota was available for harvest from January 1 through June 30, 1996.

The Assistant Administrator for Fisheries, NOAA, is authorized under § 678.23(c) to adjust the semiannual quota to reflect actual catches during the preceding semiannual period.

With this action NMFS announces the size of the quota of Atlantic large coastal sharks group during the second semiannual 1996 quota period. Final data indicate that the catch from January through May 17, 1996, of large coastal shark species totaled 1,402 mt, which is 117 mt more than the established quota. Therefore, the adjusted quota for large coastal shark species for the second 1996 semiannual period is decreased from 1,285 mt to 1,168 mt. The adjusted quota of 1,168 mt is available for the period July 1 through December 31, 1996.

Classification

This rule is exempt from review under E.O. 12866.

Dated: July 16, 1996.

Richard H. Schaefer,

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

[FR Doc. 96–19048 Filed 7–23–96; 3:59 pm]

BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 960129018–6018–01; I.D. 072296A]

Groundfish of the Gulf of Alaska; Pacific Ocean Perch in the Central Regulatory Area

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting retention of rockfish species of the genera *Sebastes* and *Sebastolobus* by vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent overfishing of Pacific ocean perch (POP).

EFFECTIVE DATE: 1200 hours, Alaska local time (A.l.t.), July 22, 1996, until 2400 hours, A.l.t., December 31, 1996. Comments must be received at the following address no later than 4:30 p.m., A.l.t., August 6, 1996.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn. Lori Gravel, or be delivered to the fourth floor of the Federal Building, 709 West 9th Street, Juneau, AK.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Magnuson Act requires that conservation and management measures prevent overfishing. The 1996 overfishing level for POP in the Central Regulatory Area of the GOA was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4304, February 5, 1996) as 4,870 metric tons (mt), the acceptable biological catch as 3,860 mt., and the total allowable catch level as 3,333 mt. As of July 13, 1996, 4,530 mt of POP have been caught.

NMFS closed directed fishing for POP on July 11, 1996 (61 FR 37225, July 17, 1996) and prohibited retention of POP on July 15, 1996, (61 FR 37700, July 19, 1996). Substantial trawl fishing effort will be directed at remaining amounts of groundfish in the GOA during 1996. These fisheries can have significant bycatch of POP.

The Director, Alaska Region, NMFS, has determined, in accordance with § 679.25(a)(1)(i) and (a)(2)(iii), that closing the season by prohibiting retention of rockfish species of the genera *Sebastes* and *Sebastolobus* by vessels using trawl gear is necessary to prevent overfishing of POP, and is the least restrictive measure to achieve that purpose. Without this prohibition of retention, significant incidental catch of POP would occur by trawl vessels targeting rockfish and seeking to maximize retainable amounts of rockfish under the maximum retainable bycatch amounts § 679.20(e).

Therefore, NMFS is requiring that further catches of rockfish species of the genera *Sebastes* and *Sebastolobus* by vessels using trawl gear in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b)(2).

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Immediate effectiveness is necessary to prevent overfishing of POP in the Central Regulatory Area of the GOA. Under § 679.25(c)(1)(ii), interested persons are invited to submit written comments on this action to the above address by August 6, 1996.

Classification

This action is taken under § 679.20 and is exempt from OMB review under E.O. 12866.

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

Dated: July 22, 1996.

Richard W. Surdi,

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

[FR Doc. 96–18983 Filed 7–22–96; 4:27 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 145
Friday, July 26, 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.

FEDERAL TRADE COMMISSION

16 CFR Part 406

Deceptive Advertising and Labeling of Previously Used Lubricating Oil

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (the ''Commission'') announces the commencement of a rulemaking proceeding for the Trade Regulation Rule on Deceptive Advertising and Labeling of Previously Used Lubricating Oil (''the Used Oil Rule'' or ''the Rule''), 16 CFR Part 406. The proceeding will address whether or not the Used Oil Rule should be repealed. The Commission invites interested parties to submit written data, views, and arguments on how the Rule has affected consumers, businesses and others, and on whether there currently is a need for the Rule. This document includes a description of the procedures to be followed, an invitation to submit written comments, a list of questions and issues upon which the Commission particularly desires comments, and instructions for prospective witnesses and other interested persons who desire to participate in the proceeding.

DATES: Written comments must be submitted on or before August 26, 1996. Notifications of interest in testifying must be submitted on or before August 26, 1996. If interested parties request the opportunity to present testimony, the Commission will publish a document in the Federal Register stating the time and place at which the hearings will be held and describing the procedures that will be followed in conducting the hearings. In addition to submitting a request to testify, interested parties who wish to present testimony must submit, on or before August 26, 1996, a written comment or statement that describes the issues on which the party wishes to testify and the nature of the testimony to be given.

ADDRESS: Written comments and requests to testify should be submitted to Office of the Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Ave., NW., Washington, DC 20580, telephone number (202) 326–2506. Comments and requests to testify should be identified as ''16 CFR Part 406 Comment—Used Oil Rule'' and ''16 CFR Part 406 Request to Testify—Used Oil Rule,'' respectively. If possible, submit comments both in writing and on a personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format and version used). Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: Neil Blickman, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Sixth Street and Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3038.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 41–58, and the Administrative Procedure Act, 5 U.S.C. 551–59, 701–06, by this Notice of Proposed Rulemaking (''NPR'') the Commission initiates a proceeding to consider whether the Used Oil Rule should be repealed or remain in effect.[1] The Commission is undertaking this rulemaking proceeding as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to determine their effectiveness, impact, cost and need. This proceeding also responds to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations.

II. Background Information

Based on the Commission's finding that the new or used status of a lubricant was material to consumers, the Used Oil Rule was promulgated by the Commission on August 14, 1964, to prevent deception of consumers who prefer new and unused lubricating oil. The Rule requires that advertising, promotional material, and labels for lubricant made from used oil disclose such previous use. The Rule prohibits any representation that used lubricating oil is new or unused. In addition, it prohibits use of the term ''re-refined,'' or any similar term, to describe previously used lubricating oil unless the physical and chemical contaminants have been removed by a refining process.

On October 15, 1980, the Used Oil Recycling Act suspended the provision of the Used Oil Rule requiring labels to disclose the origin of lubricants made from used oil,[2] until the Commission issued rules under the Energy Policy and Conservation Act of 1975 (''EPCA''). The legislative history indicates Congressional concern that the Used Oil Rule's labeling requirement had an adverse impact on consumer acceptance of recycled oil, provided no useful information to consumers concerning the performance of the oil, and inhibited recycling. Moreover, the origin labeling requirements in the Used Oil Rule arguably are inconsistent with the intent of section 383 of EPCA, which is that ''oil should be labeled on the basis of performance characteristics and fitness for intended use, and not on the basis of the origin of the oil.'' [3]

Accordingly, on April 8, 1981, the Commission published a notice announcing the statutory suspension of the origin labeling requirements of the Used Oil Rule. In the same notice, the Commission suspended enforcement of those portions of the Used Oil Rule requiring that advertising and promotional material disclose the origin of lubricants made from used oil.[4]

The purposes of the recycled oil section of EPCA are to encourage the recycling of used oil, to promote the use of recycled oil, to reduce consumption of new oil by promoting increased utilization of recycled oil, and to reduce environmental hazards and wasteful practices associated with the disposal of used oil.[5] To achieve these goals, section 383 of EPCA directs the National Institute of Standards and Technology (''NIST'') to develop test procedures for the determination of the substantial

[1] In accordance with section 18 of the FTC Act, 15 U.S.C. 57a, the Commission submitted this NPR to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate, and the Chairman of the Committee on Commerce, United Stats House of Representatives, 30 days prior to its publication in the Federal Register.

[2] 42 U.S.C. 6363 note.

[3] *See* Legislative History Pub. L. 96–463, U.S. Code Cong. and Adm. News, pp. 4354–4356 (1980).

[4] 46 FR 20979.

[5] 42 U.S.C. 6363(a).

equivalency of re-refined or otherwise processed used oil or blend of oil (consisting of such re-refined or otherwise processed used oil and new oil or additives) with new oil distributed for a particular end use and to report such test procedures to the Commission.[6] Within 90 days after receiving such report from NIST, the Commission is required to prescribe, by rule, the substantial equivalency test procedures, as well as labeling standards applicable to containers of recycled oil.[7] EPCA further requires that the Commission's rule permit any container of processed used oil to bear a label indicating any particular end use, such as for use as engine lubricating oil, so long as a determination of ''substantial equivalency'' with new oil has been made in accordance with the test procedures prescribed by the Commission.[8]

On July 27, 1995, NIST reported to the Commission test procedures for determining the substantial equivalency of re-refined or otherwise processed used engine oils with new engine oils. Accordingly, to implement EPCA's statutory directive, on October 31, 1995, the Commission issued a rule (covering recycled engine oil) entitled Test Procedures and Labeling Standards for Recycled Oil (''Recycled Oil Rule''), 16 CFR part 311.[9] The Recycled Oil Rule adopts the test procedures developed by NIST, and allows (although it does not require) a manufacturer to represent on a recycled engine-oil container label that the oil is substantially equivalent to new engine oil, as long as the determination of equivalency is based on the NIST test procedures.

The EPCA further provides that once the Recycled Oil Rule becomes final, no Commission order or rule, and no law, regulation, or order of any State (or political subdivision thereof), may remain in effect if it has labeling requirements with respect to the comparative characteristics of recycled oil with new oil that are not identical to the labels permitted by this rule.[10] Also, no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description connoting less than substantial equivalency of such recycled oil with new oil.[11]

Under EPCA, the Recycled Oil Rule preempts the Used Oil Rule's labeling and advertising requirements for engine oils. For non-engine oils, the Used Oil Rule's labeling disclosure provisions continue to be subject to the Congressional stay, and the advertising disclosure provisions continue to be subject to the Commission's stay. The only part of the Used Oil Rule not affected by the stays is that section which prohibits the deceptive use of the term ''re-refined.'' In light of the ongoing stays, when the Commission published the Recycled Oil Rule in October 1995, it stated that, as part of its regulatory review process, it would consider the continuing need for the Used Oil Rule.[12]

Based on the foregoing, on April 3, 1996, the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') stating that it had tentatively determined that a separate Used Oil Rule is no longer necessary, and seeking comments on the proposed repeal of the Rule.[13] In accordance with section 18 of the FTC Act, 15 U.S.C. 57a, the ANPR was sent to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate, and the Chairman of the Committee on Commerce, United States House of Representatives.

The ANPR comment period closed on May 3, 1996. The Commission received one comment in response to the ANPR.[14] The comment was submitted by the Safety-Kleen Corporation (''Safety-Kleen''), a re-refiner of used oil. Safety-Kleen supports repeal of the Commission's Used Oil Rule, stating that it has been superseded effectively in the marketplace by the FTC's Recycled Oil Rule.[15]

Accordingly, after reviewing the comment submitted, and in light of promulgation of the Recycled Oil Rule, the Commission has determined that to eliminate unnecessary duplication, and any inconsistency with EPCA's goals, a separate Used Oil Rule is no longer necessary.[16] The Commission, therefore, seeks comments on the proposed repeal of the Used Oil Rule.

III. Rulemaking Procedures

The Commission finds that the public interest will be served by using expedited procedures in this proceeding. First, there do not appear to be any material issues of disputed fact to resolve in determining whether to repeal the Rule. Second, the use of expedited procedures will support the Commission's goal of eliminating obsolete or unnecessary regulations without an undue expenditure of resources, while ensuring that the public has an opportunity to submit data, views and arguments on whether the Commission should repeal the Rule.

The Commission, therefore, has determined, pursuant to 16 CFR 1.20, to use the procedures set forth in this notice. These procedures include: (1) Publishing this Notice of Proposed Rulemaking; (2) soliciting written comments on the Commission's proposal to repeal the Rule; (3) holding an informal hearing, if requested by interested parties; (4) obtaining a final recommendation from staff; and (5) announcing final Commission action in a notice published in the Federal Register.

IV. Invitation To Comment and Questions for Comment

Interested persons are requested to submit written data, views or arguments on any issue of fact, law or policy they believe may be relevant to the Commission's decision on whether to repeal the Rule. The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Commenters opposing the proposed repeal of the Rule should explain the reasons they believe the Rule is still needed and, if appropriate, suggest specific alternatives. Proposals for alternative requirements should include reasons and data that indicate why the alternatives would better protect consumers from unfair or

[6] 42 U.S.C. 6363(c).

[7] 42 U.S.C. 6363(d).

[8] 42 U.S.C. 6363(d)(1)(B).

[9] 60 FR 55414 (Oct. 31, 1995).

[10] 42 U.S.C. 6363(e)(1).

[11] 42 U.S.C. 6363(e)(2).

[12] 60 FR 55414, 55417.

[13] 61 FR 14686.

[14] The comment submitted in response to the ANPR has been placed on the public record, Commission Rulemaking Record No. R511959, and is coded ''D'' indicating that it is a public comment. In this notice, the comment is cited by identifying the commenter (by abbreviation), the comment number, and the relevant page number.

[15] Safety-Kleen, D–1, 1.

[16] Repealing the Used Oil Rule would eliminate the Commission's ability to obtain civil penalties for any future misrepresentations of the re-refined quality of oil. Nevertheless, the Commission has tentatively determined that repealing the Rule would not seriously jeopardize the Commission's ability to act effectively. The Recycled Oil Rule defines re-refined oil to mean used oil from which physical and chemical contaminants acquired through use have been removed. Although this Rule does not further address re-refined oil or provide penalties for misrepresenting used oil as ''re-refined,'' it defines for the public how the Commission interprets this term. Any significant problems that may arise could be addressed on a case-by-case basis, administratively under section 5 of the FTC Act, 15 U.S.C. 45, or through section 13(b) actions, 15 U.S.C. 53(b), filed in federal district court. Prosecuting serious misrepresentations in district court allows the Commission to obtain injunctive relief as well as equitable remedies, such as redress or disgorgement.

deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45.

Although the Commission welcomes comments on any aspect of the proposed repeal of the Rule, the Commission is particularly interested in comments on questions and issues raised in this Notice. All written comments should state clearly the question or issue that the commenter is addressing.

Before taking final action, the Commission will consider all written comments timely submitted to the Secretary of the Commission and testimony given on the record at any hearings scheduled in response to requests to testify. Written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5 p.m. at the Federal Trade Commission, Public Reference Room, Room H–130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number (202) 326–2222.

Questions

(1) Should the Used Oil Rule be kept in effect, or should it be repealed?

(2) What benefits do consumers derive from the Rule?

(3) How would repealing the Rule affect the benefits experienced by consumers?

(4) How would repealing the Rule affect the benefits and burdens experienced by firms subject to the Rule's requirements?

(5) Is misrepresentation of used oil as ''re-refined'' a significant problem in the marketplace?

(6) Are there any other federal, state, or local laws or regulations, or private industry standards, that eliminate the need for the Rule?

(7) Is the Commission's Recycled Oil Rule likely to provide all or most of the benefits now provided by the Used Oil Rule?

V. Requests for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like to present testimony at a public hearing, he or she should follow the procedures set forth in the **DATES** and **ADDRESS** sections of this notice.

VI. Preliminary Regulatory Analysis

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–12, requires an analysis of the anticipated impact of the proposed repeal of the Rule on small businesses.[17] The analysis must contain, as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed action, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules which may duplicate, overlap or conflict with the proposed action, and any significant alternatives to the proposed action that accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the objectives of the proposed repeal of the Rule have been explained elsewhere in this Notice. Repeal of the Rule would appear to have little or no effect on any small business. The Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule.

For these reasons, the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that if the Commission determines to repeal the Rule that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

VII. Paperwork Reduction Act

The Used Oil Rule imposes third-party disclosure requirements that constitute ''information collection requirements'' under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* On October 15, 1980, however, the Used Oil Recycling Act suspended the provision of the Used Oil Rule requiring labels to disclose the origin of lubricants made from used oil,[18] until the Commission issued rules under EPCA. Further, on April 8, 1981, the Commission published a notice announcing the statutory suspension of the origin labeling requirements of the Used Oil Rule. In the same notice, the Commission suspended enforcement of those portions of the Used Oil Rule requiring that advertising and promotional material disclose the origin of lubricants made from used oil.[19] Since 1981, therefore, the Rule effectively has imposed no paperwork burdens on marketers of used lubricating oil. In any event, repeal of the Used Oil Rule would permanently eliminate any burdens on the public imposed by these disclosure requirements.

VIII. Additional Information For Interested Persons

A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

B. Communications by Outside Parties to Commissioners or Their Advisors.

Pursuant to Rule 1.18(c) of the Commission's rules of practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the

[17] Section 22 of the FTC Act, 15 U.S.C. 57b–3, also requires the Commission to issue a preliminary regulatory analysis relating to proposed rules when the Commission publishes a notice of proposed rulemaking. The Commission has determined that a preliminary regulatory analysis is not required by section 22 in this proceeding because the Commission has no reason to believe that repeal of the Rule: (1) Will have an annual effect on the national economy of $100,000,000 or more; (2) will cause a substantial change in the cost or price of goods or services that are used extensively by particular industries, that are supplied extensively in particular geographical regions, or that are acquired in significant quantities by the Federal Government, or by State or local governments; or (3) otherwise will have a significant impact upon persons subject to the Rule or upon consumers.

[18] 42 U.S.C. 6363 note.

[19] 46 FR 20979.

transcript or summary will be placed promptly on the public record.

Authority: 15 U.S.C. 41–58.

List of Subjects in 16 CFR Part 406

Advertising, Labeling, Trade practices, Used lubricating oil.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–19009 Filed 7–25–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–26–94]

RIN 1545–AU34

Qualified Small Business Stock; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to notice of proposed rulemaking and notice of public hearing (IA–26–94) which was published in the Federal Register on Thursday, June 6, 1996 (61 FR 28821). The notice of proposed rulemaking and notice of public hearing relates to the 50-percent exclusion for gain from certain small business stock.

FOR FURTHER INFORMATION CONTACT: Catherine A. Prohofsky (202) 622–4930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is subject to these corrections are under section 1202 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (IA–26–94) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of proposed rulemaking (IA–26–94) which is the subject of FR Doc. 96–14231 is corrected as follows:

1. On page 28821, column 3, in the preamble, under the caption **DATES:**, lines 3 and 4, the language ''public hearing scheduled for October 3, 1996 must be'' is corrected to read ''public hearing scheduled for October 3, 1996, must be''.

§ 1.1202–0 [Corrected]

2. On page 28822, column 3, § 1.1202–0, table of contents, the entries for paragraphs (b) (1) and (2) under § 1.1202–2, are corrected to read as follows:

§ 1.1202–0 Table of contents.

* * * * *

§ 1.1202–2 Qualified Small Business Stock; Effect of Redemptions.

* * * * *

(b) * * *

(1) In general.

(2) De minimis amount.

* * * * *

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–19006 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5541–5]

Deletion of a Site from the National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the AMP Site in Glen Rock, PA, from the National Priorities List; Request for Comments.

SUMMARY: The Environmental Protection Agency (''EPA'') announces its intent to delete the AMP Site (''Site''), located in Glen Rock, Pennsylvania, from the National Priorities List (''NPL'') and requests public comment. The NPL, a list of sites EPA evaluates for priority cleanup of hazardous wastes, is found in Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, Appendix B. EPA promulgated the NCP pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'').

EPA proposes this deletion under the terms of a policy published in the Federal Register on March 20, 1995. In this policy EPA announced that, consistent with NCP criteria for deletion of sites from the NPL, the Agency would delete sites if corrective action was proceeding pursuant to the Resource Conservation and Recovery Act (''RCRA''). EPA, in consultation with the Commonwealth of Pennsylvania, has determined that this deferral to RCRA authorities is appropriate.

DATES: Comments may be submitted on or before August 26, 1996.

ADDRESSES: Comments should be mailed to Frank Vavra, Remedial Project Manager, Superfund Branch—3HW22, 841 Chestnut Street, Philadelphia, Pennsylvania 19107.

The Deletion Docket is available for inspection at the following locations and times: 1) U.S. EPA Region III, Hazardous Waste Management Division, 841 Chestnut Street, Philadelphia, PA, from 9:00 a.m. to 5:00 p.m. during Monday through Friday; 2) Martin Library, 159 East Market Street, York, PA, from 9:00 a.m. to 9:00 p.m. Monday through Thursday, from 9:00 a.m. to 5:00 p.m. on Friday, and from 9:00 a.m. to 12:00 noon on Saturdays during the summer (contact Ms. Rebecca Shives, Head of Reference).

FOR FURTHER INFORMATION CONTACT: For additional information on the AMP Site, contact Frank Vavra at the above address or phone 215–566–3221.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (''EPA'') Region III announces its intent to delete the AMP Site from the National Priorities List (''NPL''), 40 CFR part 300, and requests comments on this deletion. EPA will accept comments on the deletion of this Site for thirty days after publication of this notice in the Federal Register.

The NPL is a list of sites that EPA evaluates for priority cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601, *et seq.* Listing of a site on the NPL does not, itself, create, alter or revoke any individual rights or obligations under CERCLA, or any other law. The NPL is designed primarily for information purposes and to assist Agency management. Sites on the NPL may be remediated using the Hazardous Substances Superfund (''Superfund'' or ''Fund'') established by section 9507 of the Internal Revenue Code of 1986. Use of this fund for cleanup of hazardous substances is governed by section 111 of CERCLA, 42 U.S.C. 9611, and implementing regulations.

As a general matter, deletion of the AMP Site from the NPL will clarify that EPA Region III's Office of Resource Conservation and Recovery Act (''RCRA'') Programs will have primary responsibility for ensuring that the hazardous wastes released at the Site are appropriately remediated. Notwithstanding any such deletion of this Site from the NPL, in the event that conditions at this Site warrant additional remedial corrective action, this Site remains eligible for Fund-financed remedial action. Pursuant to § 300.425(e)(3) of the NCP, 40 CFR 300.425(e)(3): ''All releases deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the [Hazard Ranking System].'' Therefore, deletion of this, or any other, site from the NPL does not preclude eligibility for subsequent Fund-financed remedial action if future conditions warrant such action.

Section II of this notice summarizes the criteria for deleting sites from the NPL. Section III summarizes the procedural steps EPA takes prior to deleting a site from the NPL. Section IV discusses the AMP Site and explains how the AMP Site meets the deletion criteria.

II. NPL Deletion Criteria

The National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, establishes the criteria the Agency uses to delete sites from the NPL. Section 300.425(e) of the NCP, 40 CFR 300.425(e), provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the appropriate state, whether the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Consistent with § 300.425(e) of the NCP, 40 CFR 300.425(e), EPA proposes deletion of the AMP Site because, as explained further below, no further CERCLA response is appropriate. This determination is based on a new policy that EPA has adopted for implementation of the NPL deletion criteria. This new policy, entitled ''The National Priorities List for Uncontrolled Hazardous Waste Sites; Deletion Policy for Resource Conservation and Recovery Act Facilities'', was published in the Federal Register on March 20, 1995 (60 FR 14641). This new policy sets forth the following criteria and their general application for deleting RCRA facilities from the NPL:

1. If evaluated under EPA's current RCRA/NPL deferral policy [1], the site would be eligible for deferral from listing on the NPL;
2. The CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions;
3. Response under RCRA is progressing adequately; and
4. Deletion would not disrupt an ongoing CERCLA action.

Under this new policy, two types of sites may be eligible for deletion: (1) Sites that would be eligible for deferral under current deferral criteria, but were not deferred because the deferral policy at the time of listing was different; and (2) sites that were not eligible for deferral when listed, but now may be eligible because of changed conditions at the site (e.g., the site is now in compliance with a corrective action order). For facilities within the second category, the Agency reviews the original listing rationale together with current information to ascertain whether conditions at the site have changed sufficiently to warrant deletion from the NPL.

III. Deletion Procedures

Prior to deleting a site from the NPL, 40 CFR 300.425(e) requires that EPA provide the appropriate state with thirty (30) working days to review the proposed notice of intent to delete. After providing the appropriate state authorities with such opportunity for review, EPA must next provide the public with a minimum of thirty (30) calendar days to provide comments to the appropriate EPA Region. Prior to deleting a site from the NPL, EPA must receive concurrence from the appropriate state authorities. Additionally, EPA must respond to each significant comment and any significant new data submitted during the public comment period. A deletion occurs when the Regional Administrator places a notice of final deletion in the Federal Register. Generally, the NPL will reflect deletion in the final update following deletion. After the notice of final deletion is published, EPA is required to place the final deletion package in a local information repository. As mentioned in Section I (Introduction) of this document, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

With respect to this notice of intent to delete, EPA has provided the Commonwealth of Pennsylvania Department of Environmental Protection (''PADEP'') with a thirty (30) working day period for review and comment. PADEP has provided EPA Region III with its concurrence on this notice of intent to delete. Before making the final decision as to whether to delete the AMP Site from the NPL, EPA Region III will respond to each significant comment and any significant new data submitted during the public comment period in a Responsiveness Summary. In addition to this notice of intent to delete, EPA Region III has published a notice of availability of this notice of intent to delete in a major local newspaper and has placed copies of documents supporting this notice in an information repository at or near the AMP Site. After the public comment period has closed, copies of the Responsiveness Summary will be made available to interested parties by the EPA Region III. In the event that EPA issues a notice of final deletion for the AMP Site, EPA Region III will place the final deletion package in the local repository.

IV. Basis for Intended Site Deletion

The following summary provides the EPA's rationale for the intention to delete the AMP Site (''Site'') from the NPL.

A. Site Background

The Site, which is owned and operated by AMP, Incorporated (''AMP''), consists of approximately twenty (20) acres and is located in southern York County in central Pennsylvania, approximately five miles north of the Maryland-Pennsylvania border, in the City of Glen Rock. AMP's Materials Development Laboratory (''MDL'') facility is located on the Site. The MDL facility is a combined

[1] The term ''current RCRA/NPL deferral policy'' refers to the policy in effect at the time the deletion decision is made. As past Federal Register notices demonstrate, the RCRA/NCP deferral policy has changed, and may continue to change based upon the Agency's continued evaluation of how best to implement the statutory authority of RCRA and CERCLA.

manufacturing and research operation which has been active since the late 1950s. The facility consists of two buildings: the Materials Development Lab and the Plastics Building.

In the early 1980s, workers at the AMP facility complained about the taste of the drinking water. In 1984, AMP discovered that a backup supply well in an adjacent trailer park was contaminated with volatile organic compounds (''VOCs''). AMP subsequently installed monitoring wells on the AMP property and had a hydrogeological assessment of the extent and concentration of contamination performed.

Results of the 1984 groundwater sampling indicated that VOCs were present in the subsurface soils and groundwater beneath parts of the MDL facility. Total VOC concentrations in the groundwater samples from Site wells ranged from 12,191 parts per billion (''ppb'') to non-detectable in several monitoring wells. The two compounds which were found to exist in highest concentrations in the groundwater at the Site were 1,1,1-trichloroethane (''1,1,1–TCA'') and 1,1,2-trichloroethane(''1,1,2–TCA''). Trichloroethylene (''TCE''), tetrachloroethylene (''PCE'') and their decay products were detected in lesser amounts in groundwater at the Site.

EPA proposed the inclusion of the AMP Site on the NPL on June 24, 1988 (53 FR 23988). EPA listed the AMP Site on the NPL on October 4, 1989 (54 FR 41015) pursuant to section 105(a)(8)(b) of CERCLA, 42 U.S.C. 9605(a)(8)(B). At that time, AMP was not addressing the contamination at the Site pursuant to RCRA corrective action authorities and EPA determined that the NPL listing was required to protect human health and the environment.

Pursuant to section 3008(h) of RCRA, 42 U.S.C. 6928(h), EPA and AMP entered into an Administrative Consent Order (''ACO'') on January 4, 1989. Under the terms of this ACO, AMP completed a RCRA Facility Investigation (''RFI'') and a Corrective Measures Study (''CMS''). Subsequent to approving this CMS, EPA prepared a Draft RCRA Record of Decision (''ROD''), which set forth Corrective Measure Alternative #4 (''CMA #4'') as EPA's preferred corrective measure alternative for this Site. CMA #4 includes pumping and treating the groundwater, operating an infiltration trench, and monitoring groundwater and surface water at the Site.

A public notice soliciting public comment on the Draft RCRA ROD appeared in the York Daily Record during the week of July 30th—August 3rd, 1990, and was announced on WSBA radio in York, Pennsylvania, on August 14th and 15th. No public comments were received by EPA regarding the remedy selection. On January 22, 1991, EPA issued a final ROD [2] for remediation at the Site. The Regional Administrator, EPA Region III, made a final determination selecting CMA #4 as the corrective measure to be implemented by AMP.

On January 22, 1991, EPA and AMP entered into an ACO to perform Corrective Measure Implementation (''CMI'') of CMA #4. Corrective action at the Site is currently being performed pursuant to this ACO. By letter dated September 10, 1991, EPA conditionally approved the Final CMI Report. The conditions of such approval have been satisfied and, therefore, EPA has approved this Final CMI Report. In accordance with the RCRA CMI ACO, such approval indicated EPA's determination (as of that time) that the constructed project is consistent with the design specifications and that CMA #4 is progressing towards the clean-up goals set forth in the RCRA ROD.

In accordance with the Final CMI Report, eight recovery wells are used on the Site to pump and treat groundwater containing VOCs. The captured groundwater is treated by passing it through a series of two air stripping towers. Air emission control devices have been installed on the air stripping towers. The treated water is discharged to a small pond to the southeast of the Site known as Larkin Pond. Groundwater samples and one surface water sample are being collected on and off-site on a quarterly basis.

In accordance with section VI.C. of the RCRA CMI ACO, AMP is required to submit a Draft Corrective Measure Two Year Assessment Report every two years beginning two years from the effective date of the ACO. The report submitted in January 1995 reflects that final groundwater remediation goals, as set forth in the RCRA ROD, have not yet been met, but progress towards such goal has been attained. Implementation of the approved CMA will continue as planned until the VOC concentrations in the subsurface are in compliance with the clean-up criteria set forth in the RCRA ROD.

Additional details on the corrective actions being implemented under RCRA are available in the Superfund Closeout Report issued on December 14, 1995, the Administrative Record for this Site deletion, and in the RCRA Administrative Record for the AMP Record of Decision.

B. Documentation that the AMP Site Meets RCRA Deferral Criteria Set Forth in EPA's March 20, 1995 Policy

1. If evaluated under EPA's current RCRA/NPL deferral policy, the Site would be eligible for deferral from listing on the NPL.

At the time of the NPL listing, the Site posed a threat to human health and the environment that was not being addressed under either CERCLA or RCRA corrective action authorities. At that time, EPA determined that the most expeditious way to address the contamination at the Site was through the use of CERCLA authorities. Since that determination, AMP has entered into a RCRA RFI/CMS ACO and a RCRA CMI ACO and has been addressing all of the contamination at the Site pursuant to section 3008(h) of RCRA. AMP fulfilled the conditions of the RCRA RFI/CMS ACO and is currently in compliance with the RCRA CMI ACO. Consequently, if this Site were evaluated for NPL listing under the current conditions, the Site would qualify for deferral to RCRA.

2. The CERCLA Site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions.

As described previously, EPA and AMP entered into a RCRA RFI/CMS ACO, pursuant to section 3008(h) of RCRA, on January 4, 1989. Under the terms of that ACO, AMP was required to complete an on-site and off-site investigation of the nature and extent of the release of hazardous wastes from the Site and to conduct a study to evaluate various cleanup alternatives. AMP subsequently fulfilled the conditions of this ACO.

As also described previously, EPA and AMP entered into a RCRA CMI ACO, pursuant to section 3008(h) of RCRA, on January 22, 1991. This RCRA CMI ACO required AMP to implement the selected corrective action remedy set forth in EPA's ROD as CMA #4. In September 1991, pursuant to the 1991

[2] PADEP has informed EPA Region III that representatives of PADEP have not reviewed, and PADEP has not concurred on, the corrective measure alternative selected by this RCRA ROD. Additionally, PADEP has requested that EPA Region III state that this RCRA ROD did not address statutory or regulatory requirements promulgated by the Commonwealth of Pennsylvania which may be applicable or relevant and appropriate to conditions present at the AMP Site at the time of the ROD's issuance. Neither RCRA statutory provisions nor the regulatory requirements promulgated pursuant to RCRA require that: (1) EPA obtain concurrence from any state representatives prior to issuing a RCRA ROD; or (2) such state promulgated requirements be considered prior to selecting a RCRA corrective measure alternative.

RCRA CMI ACO, EPA approved the Final CMI Report. AMP is continuing to implement the selected remedy, which includes pumping and treating groundwater, operating an infiltration trench, and monitoring groundwater and surface water. The 1991 RCRA CMI ACO will remain in effect until such time when EPA determines that the terms of this order have been satisfied. AMP has been in compliance with the RCRA CMI ACO. All known groundwater contamination is being addressed through EPA's exercise of its corrective action authorities pursuant to RCRA.

3. Response under RCRA is progressing adequately.

Corrective action is progressing satisfactorily under the RCRA CMI ACO, as described above. There has been no history of protracted negotiations due to lack of cooperation. See 60 FR 14642, 14643 (March 20, 1995).

4. Deletion would not disrupt an ongoing CERCLA action.

Other than completing a CERCLA Site Assessment and listing the Site on the NPL, no response action has taken place pursuant to CERCLA. Based upon the continued compliance with the RCRA CMI ACO, no CERCLA action is planned for the future.

EPA has received the following concurrence from PADEP: ''The Commonwealth of Pennsylvania concurs in the decision to delete the site from the NPL, but reserves all of its rights, abilities and authorities to address contamination at the site and to pursue responsible parties regarding this contamination.''

EPA concludes that this Site meets the criteria under the new NPL deletion policy and announces its intention to delete the Site from the NPL.

Dated: July 9, 1996.

Thomas Maslany,

Acting Regional Administrator, U.S. EPA Region III.

[FR Doc. 96–18838 Filed 7–25–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 93–22; CC Docket No. 96–146; FCC 96–289]

Interstate Information Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted this Notice of Proposed Rule Making to address possible evasions of new statutory requirements that impose more stringent restrictions on the use of toll-free numbers to charge callers for information services and repeal the exemption to pay-per-call status accorded to any service provided pursuant to tariff. This action was taken to amend the Commission's rules to ensure that these requirements governing interstate pay-per-call and other information services contained in the Telecommunications Act of 1996 are fully realized.

DATES: Comments must be submitted on or before August 26, 1996. Reply comments must be submitted on or before September 16, 1996. Written comments by the public on the proposed and/or modified information collections are due August 26, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before September 24, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street N.W., Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Mary Romano, Enforcement Division, Common Carrier Bureau, (202) 418–0960. For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making (NPRM) in CC Docket No. 96–146 [FCC 96–289], adopted June 28, 1996 and released July 11, 1996. The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The full text of this NPRM may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800. For a document relating to this NPRM, see final rules involving interstate information services published elsewhere in this issue.

Paperwork Reduction Act

This NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due on or before August 26, 1996. OMB comments are due September 24, 1996. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Title: Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.

Type of Review: New collection.

Respondents: Information providers offering services under a presubscription or comparable arrangement.

Number of Respondents: 1,000.

Estimated Time per Response: 5.

Total Annual Burden: 5,000.

Estimated costs per respondent: $0.00.

Needs and Uses: This disclosure requirement will ensure that consumers are fully informed about an information service before entering into an agreement to purchase the service on a subscription basis.

Summary of Notice of Proposed Rule Making

1. On June 28, 1996, the Commission adopted a Notice of Proposed Rule Making (NPRM) in CC Docket No. 96–146 (released July 11, 1996; FCC 96–289) proposing changes to Part 64 of the Commission's rules which govern the provision of interstate pay-per-call and information services. In a companion Order, the Commission amended these rules to conform with amendments to Section 228 of the Communications Act of 1934, as amended, (Communications Act), 47 USC § 228, that were enacted by the Telecommunications Act of 1996,

Public Law 104–104, (1996 Act). The NPRM proposes limited additional rule changes intended to prevent evasion of the new statutory requirements.

2. Through amendments to Section 228 of the Communications Act, the 1996 Act addresses abusive practices that have threatened public confidence in toll-free numbers and left telephone subscribers vulnerable to unexpected charges for calls to information services, subject to disconnection of local and long-distance telephone service for failure to pay such charges, and unable to block access to unwanted services. In apparent efforts to avoid consumer safeguards applicable to pay-per-call (or 900 number) services, information providers (IPs) have offered their programs through collect calls, purported presubscription arrangements, and tariffed-service systems that have been available on 500, 700, 800, international and domestic POTS (''plain old telephone service'') numbers. IPs evidently move their services from one arrangement and dialing sequence to another in response to new protective regulations, rulings, or enforcement actions, sometimes with the apparent encouragement of common carriers who pay commissions to IPs in exchange for the increased traffic generated by information-service calls.

3. The provisions of Section 228 of the Communications Act attest to Congress' determination that consumers should be: (1) Provided basic information regarding the price and other material terms and conditions applicable to interstate information services before agreeing to purchase them; (2) able to block access to unwanted services; and (3) protected from disconnection of basic communications services for failure to pay information-services charges. 47 USC § 228(c) (4), (5). The revisions to Section 228 enacted by the 1996 Act are intended to ensure that consumers are not deprived of these protections by information services available through toll-free dialing sequences or tariffed-service systems.

4. The Commission determined that in analyzing the effect of the new statutory requirements, it must look not only to the practices that are now prohibited but also to the likely responses of IPs and common carriers who might seek to evade the statute. The Commission stated that its consideration of possible evasions has been influenced by awareness of past evasions that have resulted in widespread deception and abuse. The Commission concluded that it should act now to discourage future abuse. Accordingly, as set forth in the proposed rules and explained below the Commission proposed certain very limited modifications to Sections 64.1501(b), 64.1504, and 64.1510 of the rules, which contain the presubscription definition, toll-free number limitations, and billing requirements. We also seek comment on whether additional regulations are necessary to protect consumers from certain practices by common carriers involved in transmitting interstate information services that could be interpreted as not being just and reasonable under Section 201(b) of the Act.

I. Proposed Rule Changes

A. ''Definitions—Presubscription or Comparable Arrangement''—47 CFR § 64.1501(b)

5. While the 1996 Act requires written subscription to information services available through toll-free numbers, written agreements are not explicitly required for information services that might be offered through other telephone numbers. Although virtually all complaints involving purportedly presubscribed information services have involved programs available through 800 numbers, the Commission expressed concern that, without a uniform requirement for written presubscription, the same ''instant presubscription'' abuses experienced by 800-number callers when oral presubscription was permissible might emerge on other dialing sequences. Accordingly, the Commission proposed to revise the presubscription definition to include a requirement that all presubscription arrangements (not just those involving toll-free service) be executed in writing or, alternatively, through payment by direct remittance, prepaid account, or debit, credit, charge or calling card regardless of the telephone number used to access the relevant information service. The Commission also proposed to require explicitly that presubscription agreements must be executed by a legally competent adult. In addition, to prevent deceptive use of presubscription agreements tied to contests or other promotions, the Commission proposed that the presubscription document be separate or easily severable from any promotions or inducements. The Commission asked commenters to consider whether safeguards should be required to ensure that electronically transmitted presubscription agreements are valid commercial instruments and that electronic execution does not encourage the abuses that arose from oral execution of presubscription contracts.

6. The Commission also proposed to add to the presubscription definition a requirement that a consumer must use a pre-existing credit, charge, or calling cards to obtain information services and that an actual card must have been delivered to the party to be billed prior to assessment of any charges. Additionally, such cards could not operate to assess charges through automatic number identification (ANI). The Commission stated that these proposals are intended to prevent use of ''instant'' credit, charge, or calling cards that might be issued by an IP during the course of a call to an information service without confirming that the caller is, in fact, the party to be billed.

B. ''Restrictions on the Use of Toll-Free Numbers''—47 CFR § 64.1504

7. The limitations on the use of toll-free numbers to provide information services contained in Section 228(c)(7) of the Communications Act are framed to apply to ''the calling party.'' Thus, the statute explicitly protects callers to toll-free numbers from six prohibited transactions, including connection to a pay-per-call service and assessment of information-service charges absent a written agreement or payment by prepaid account, debit, credit, charge, or calling card. The Commission proposed to modify Section 64.1504 of the rules to ensure that subscribers whose telephone lines may be used to place calls to toll-free numbers likewise are not assessed charges for calls to information services provided by means specifically described in the statutory prohibitions. Thus, the Commission proposed to amend Section 64.1504 (c), (d), and (e) to state explicitly that the protections afforded to ''the calling party'' also apply to ''the subscriber to the originating line.''

8. The Commission urged parties to comment on the potential effectiveness of these provisions in combating deception and fraud that have been associated with 800 number information services and invited comment as to whether any other actions might be warranted to forestall future abuse involving toll-free numbers. The Commission asked parties to address its tentative conclusion that a carrier's billing of calls dialed to an 800 or other toll-free number on the basis of ANI is a violation of Section 228(c)(7)(A) of the Communications Act unless the call involves use of telecommunications devices for the deaf. Usually, calls to carriers' toll-free-access numbers are delivered only if a calling card is used or the call is collect. The Commission tentatively concluded that with the exception of calls using

telecommunications devices for the deaf, reliance on ANI to bill any type of call to a toll-free number—even a carrier's toll-free-access code—does not appear to satisfy a common carrier's statutory obligation to provide communications service in a just and reasonable manner under Section 201(b) of the Communications Act. The Commission sought comment on that tentative conclusion and encouraged parties to address whether it is appropriate to revisit issues involving use of ANI to bill callers to toll-free numbers now, and, if so, what would be the most effective regulatory response.

C. ''Billing and Collection of Pay-Per-Call and Similar Service Charges''—47 CFR § 64.1510

9. The Commission proposed one minor modification to Section 64.1510(c) to implement the 1996 Act's billing requirements virtually verbatim. The Commission proposed to add language to state explicitly that charges for presubscribed information services accessed through a toll-free number must be displayed separately from those for local and long-distance telephone service. The Commission asked for comment on the costs to carriers for separate billing. In addition, the Commission requested commenters' views as to whether current or predicted conditions warrant adoption of a rule covering carrier billing of presubscribed information services that are not available through toll-free numbers.

D. Redefinition of Pay-Per-Call to Remove the Tariffed Services Exemption

10. The Commission noted that in repealing the tariffed services exemption to pay-per-call status, Congress specifically sought to end service arrangements in which telephone subscribers are charged high prices for transmission of calls to ostensibly free information services. The Commission expressed concern, however, that some entities may seek to continue these arrangements despite Congress' clear intention that they be ended. Under Section 228(i)(1) of the Communications Act, imposition of a per-call or per-time-interval charge in excess of the charge assessed for transmitting a call is a requirement for pay-per-call status. Carriers who have invoked the tariffed services exemption in an effort to shelter arrangements whereby information services are provided at tariffed rates might likewise still claim that their services do not meet the criteria for pay-per-call status because callers purportedly are not charged for conveyance of information but only for transmission of calls. While recognizing that there may be some truly free information services that callers might wish to access through a toll call, the Commission concluded that it must take steps to ensure that the protective purposes underlying Congress' decision to remove the tariffed services exemption are fully realized.

11. The Commission tentatively concluded that when a common carrier charges a telephone subscriber for a call to an interstate information service, any form of remuneration from that carrier to an entity providing or advertising the service, or any reciprocal arrangement between such entities, constitutes *per se* evidence that the charge levied actually exceeds the charge for transmission. Accordingly, interstate services provided through such arrangements would fit within the pay-per-call definition and, thus, be required to be offered exclusively through 900 numbers. The Commission invited comment on this tentative conclusion and, also, as to whether, in any event, such conduct by a common carrier is just and reasonable.

II. Procedural Issues

A. Ex Parte Presentations

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

B. Initial Regulatory Flexibility Analysis

13. Pursuant to the Regulatory Flexibility Act of 1980, 5 USC 601, the Commission concluded that the proposals contained in the NPRM may have some impact on small entities due to the proposed requirement that all presubscription agreements to obtain interstate information services be executed in writing. Public comment is requested on the initial regulatory flexibility analysis set forth fully in the NPRM. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this NPRM but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis.

C. Comment Filing Procedures

14. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before August 26, 1996 and reply comments on or before September 16,1996. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

15. Parties are asked to submit comments and reply comments on diskette. Such diskette submission are in addition to the formal filing requirements addressed above. Parties submitting diskettes should submit them to Mary Romano of the Common Carrier Bureau, 2025 M Street, N.W., Room 6120, Washington, D.C. 20554. Such submissions should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

Ordering Clauses

16. It is ordered, pursuant to Sections 1, 4(i), 4(j), and 228 of the Communications Act, 47 USC §§ 152, 154(i), 154(j), and 228, that a Notice of Proposed Rule Making is hereby adopted, proposing amendment of 47 CFR Part 64 as set forth below.

17. It is further ordered that CC Docket No. 93–22 is hereby terminated.

18. It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rule Making including the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 603(a) of the Regulatory Flexibility Act.

List of Subjects in 47 CFR Part 64

Communications common carriers, Computer technology, Federal Communications Commission, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

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

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

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 USC 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat 1070, as amended, 1077; 47 USC 201, 218, 226, 228 unless otherwise noted.

2. Section 64.1501(b) is revised to read as follows:

§ 64.1501 Definitions.

* * * * *

(b) *Presubscription or comparable arrangement* means an agreement to purchase information services evidenced by:

(1) A written contractual agreement (including one transmitted through electronic medium) between an information services provider and a legally competent individual that is executed for the sole purpose of arranging purchase of information services and is separate or easily severable from any promotions or inducements, and in which:

(i) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(ii) The service provider agrees to notify the consumer at least one billing cycle in advance of any future rate changes;

(iii) The consumer agrees to use the service on the terms and conditions disclosed by the service provider; and

(iv) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers; or

(2) Disclosure of a pre-existing credit, prepaid account, debit, charge, or calling card number, along with authorization to bill that number: *Provided,* that an actual credit, charge, or calling card:

(i) Has, upon request or application, been delivered to the party to be billed prior to assessment of charges; and

(ii) Does not operate to assess charges through automatic number identification;

(3) Provided, that a presubscription arrangement to obtain information services provided by means of a toll-free number shall conform to the requirements of § 64.1504(c).

3. Section 64.1504 is amended by revising introductory text of paragraph (c) and paragraphs (d) and (e) to read as follows:

§ 64.1504 Restrictions on the use of toll-free numbers.

* * * * *

(c) The calling party or subscriber to the originating line being charged for information conveyed during the call unless:

* * * * *

(d) The calling party or subscriber to the originating line being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products; and

(e) The calling party or subscriber to the originating line being assessed by virtue of the caller being asked to connect or otherwise transfer to a pay-per-call or other information service, a charge for the call.

* * * * *

4. Section 64.1510 is amended by revising paragraph (c)(2) to read as follows:

§ 64.1510 Billing and collection of pay-per-call and similar service charges.

* * * * *

(c) * * *

(2) Clearly list the 800 or other toll-free number dialed in a location separate from local and long distance telephone charges.

[FR Doc. 96–19137 Filed 7–25–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1011, 1104, 1111, 1112, 1113, 1114, 1115 and 1121

[STB Ex Parte No. 527]

Expedited Procedures For Processing Rail Rate Reasonableness, Exemption And Revocation Proceedings

AGENCY: Surface Transportation Board.

ACTION: Notice Of Proposed Rulemaking.

SUMMARY: Under new 49 U.S.C. 10704(d), enacted as part of section 102(a) of the ICC Termination Act of 1995 (ICCTA), the Surface Transportation Board (Board) is required to establish procedures to expedite the handling of challenges to the reasonableness of railroad rates and of railroad exemption and revocation proceedings. This publication contains our proposed regulations.

DATES: Comments are due on August 21, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 527 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave., NW., Washington, DC 20423. Parties are encouraged to submit all pleadings and attachments on a 3.5-inch diskette in WordPerfect 5.1 format.

FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling, (202) 927–7312. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The Board's decision discussing this proposal is available to all persons for a charge by calling DC NEWS & DATA INC. at (202) 289–4357. The Board certifies that the rules proposed, if adopted, would not have a significant economic effect on a substantial number of small entities. The proposed rules should result in easier and quicker discovery and record-building. The Board, however, seeks comments on whether there would be effects on small entities that should be considered. If comments provide information that there would be a significant effect on small entities, the Board will prepare a regulatory flexibility analysis at the final rule stage.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1011

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

49 CFR Parts 1104, 1112, 1113, 1114, and 1115

Administrative practice and procedure.

49 CFR Part 1111

Administrative practice and procedure, Investigations.

49 CFR Part 1121

Administrative practice and procedure, Rail exemption procedures, Railroads.

Decided: July 18, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1011, 1104, 1111, 1112, 1113, 1114, 1115 and 1121 of the Code of Federal Regulations are proposed to be amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for part 1011 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 701, 721, 13702.

§ 1011.7 [Amended]

2. Section 1011.7 is amended as follows:

a. In paragraph (b)(1), remove the words ''The Chairman of the Commission'' and add in their place the words ''The Commission (Board)''.

b. Paragraph (b)(2) is removed.

PART 1104—FILING WITH THE BOARD-COPIES-VERIFICATIONS-SERVICE-PLEADINGS, GENERALLY

3. The heading of part 1104 is revised as set forth above.

4. The authority citation for part 1104 is revised to read as follows:

Authority: 5 U.S.C. 559; 21 U.S.C. 853a; 49 U.S.C. 721.

5. Part 1104 is amended as follows:

§§ 1104.3—1104.8, 1104.10 and 1104.12—1104.14 [Amended]

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1104.3(a), 1104.3(b), 1104.4(b), 1104.5(b), 1104.6, 1104.7(b), 1104.8, 1104.10(a), 1104.10(b), 1104.12(a), 1104.12(b), 1104.13(a) and 1104.14(b).

§ 1104.3, 1104.6 and 1104.11 [Amended]

b. Remove the word ''Commission's'' and add the word ''Board's'' in the following sections: §§ 1104.3(b), 1104.6 and 1104.11.

§ 1104.1 [Amended]

c. Remove the words ''Interstate Commerce Commission'' and add the words ''Surface Transportation Board'' in § 1104.1(a).

§ 1104.3 [Amended]

6. Section 1104.3 is amended by adding the following sentence to the end of paragraph (a):

(a) * * * In addition to the paper copies required to be filed with the Board, 3 copies of: (1) Textual submissions of 20 or more pages and (2) All electronic spreadsheets should be submitted on 3.5 inch, IBM compatible formatted diskettes or QIC–80 tapes. Textual materials must be in WordPerfect 5.1 format, and electronic spreadsheets must be in LOTUS 1–2–3 release 5 or earlier format.

* * * * *

7. In § 1104.15, paragraph (a) is revised to read as follows:

§ 1104.15 Certification of eligibility for Federal benefits under 21 U.S.C. 853a.

(a) An individual who is applying in his or her name for a certificate, license or permit to operate as a rail carrier must complete the certification set forth in paragraph (b) of this section. This certification is required if the transferee in a finance proceeding under 49 U.S.C. 11323 and 11324 is an individual. The certification also is required if an individual applies for authorization to acquire, to construct, to extend, or to operate a rail line.

* * * * *

8. Part 1111 is revised to read as follows:

PART 1111—COMPLAINT AND INVESTIGATION PROCEDURES

Sec.

1111.1 Content of formal complaints; joinder.
1111.2 Amended and supplemental complaints.
1111.3 Service.
1111.4 Answers and cross complaints.
1111.5 Motions to dismiss or to make more definite.
1111.6 Satisfaction of complaint.
1111.7 Investigations on the Board's own motion.
1111.8 Meeting to discuss procedural matters.

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

§ 1111.1 Content of formal complaints; joinder.

(a) *General.* A formal complaint must contain the correct, unabbreviated names and addresses of each complainant and defendant. It should set forth briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Board regulations, and should advise the Board and the defendant fully in what respects these provisions or regulations have been violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed at the hearing. In a complaint challenging the reasonableness of a rail rate, the complainant must file evidence on the absence of effective intramodal and intermodal competition with the complaint. The complainant also must make available to counsel for the defendant(s) all underlying workpapers and related documents supporting its market dominance evidence. In addition, the complainant should indicate in the complaint whether it intends to contest the rate level based on a constrained market pricing presentation and, if so, which of the constraints it will contend the railroad violated, or whether it intends to contest the rate level based on the procedures adopted pursuant to 49 U.S.C. 10701(d)(3).

(b) *Requests for oral hearing.* A formal complaint may include a request that the proceeding be handled either under the modified procedure or at oral hearing. A request for oral hearing should detail why oral hearing is required.

(c) *Multiple causes of action.* Two or more grounds of complaint concerning the same principle, subject, or statement of facts may be included in one complaint, but should be stated and numbered separately.

(d) *Joinder.* Two or more complainants may join in one complaint against one or more defendants if their respective causes of action concern substantially the same alleged violations and like facts.

§ 1111.2 Amended and supplemental complaints.

An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants. The time limits for responding to an amended or supplemental complaint are computed pursuant to §§ 1111.4 and 1111.5 of this part, as if the amended or supplemental complaint was an original complaint.

§ 1111.3 Service.

A complainant is responsible for serving formal complaints, amended or supplemental complaints, and cross complaints on the defendant(s). Service may be personal or by mail. Ten copies of the complaint should be filed with the Board together with an acknowledgment of service by the persons served or proof of service in the form of a statement of the date and manner of service, of the names of the persons served, and of the addresses to

which the papers were mailed or at which they were delivered, certified by the person who made service. If complainant cannot serve the complaint, an original of each complaint accompanied by a sufficient number of copies to enable the Board to serve one upon each defendant and to retain 10 copies in addition to the original should be filed with the Board.

§ 1111.4 Answers and cross complaints.

(a) *Generally.* An answer shall be filed within the time provided in paragraph (b) of this section. An answer should be responsive to the complaint and should fully advise the Board and the parties of the nature of the defense. In answering a complaint challenging the reasonableness of a rail rate, the defendant should indicate whether it will contend that the Board is deprived of jurisdiction to hear the complaint because the revenue-variable cost percentage generated by the traffic is less than 180 percent, or the traffic is subject to effective product or geographic competition. Evidence supporting such a contention is due 45 days after the complaint is served or within such additional time as the Board may provide. In addition, if the defendant intends to reply to a complainant's evidence on the absence of effective intramodal or intermodal competition filed with the complaint, such a reply is due 45 days after the complaint is served or within such additional time as the Board may provide. The defendant also must make available to counsel for the complainant all underlying workpapers and related documents supporting its market dominance evidence. The complaint may reply to the defendants' product or geographic competition or revenue-variable cost evidence within 20 days after such evidence is filed with the Board or within such additional time as the Board may provide.

(b) *Time for filing; copies; service.* An answer must be filed within 20 days after the service of the complaint or within such additional time as the Board may provide. The original and 10 copies of an answer must be filed with the Board. The defendant must serve copies of the answer upon the complainant and any other defendants.

(c) *Cross complaints.* A cross complaint alleging violations by other parties to the proceeding or seeking relief against them may be filed with the answer. An answer to a cross complaint shall be filed within 20 days after the service date of the cross complaint. The party shall serve copies of an answer to a cross complaint upon the other parties.

§ 1111.5 Motions to dismiss or to make more definite.

An answer to a complaint or cross complaint may be accompanied by a motion to dismiss the complaint or cross complaint or a motion to make the complaint or cross complaint more definite. At the time the answer is filed, if the defendant has reason to believe that the complaint or cross complaint should be dismissed, a motion to dismiss should be filed with the answer. If grounds for dismissing the complaint or cross complaint arise subsequent to the filing of the answer, a motion to dismiss shall be filed within 20 days of when the grounds arise. A complainant or cross complainant may, within 10 days after an answer is filed, file a motion to make the answer more definite. Any motion to make more definite must specify the defects in the particular pleading and must describe fully the additional information or details thought to be necessary.

§ 1111.6 Satisfaction of complaint.

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the complainant must be filed (original only need be filed), setting forth when and how the complaint has been satisfied. This action should be taken as expeditiously as possible.

§ 1111.7 Investigations on the Board's own motion.

(a) *Service of decision.* A decision instituting an investigation on the Board's own motion will be served by the Board upon respondents.

(b) *Default.* If within the time period stated in the decision instituting an investigation, a respondent fails to comply with any requirement specified in the decision, the respondent will be deemed in default and to have waived any further proceedings, and the investigation may be decided forthwith.

§ 1111.8 Meeting to discuss procedural matters.

Within 7 days after an answer to a complaint is filed, the parties shall meet, or discuss by telephone, discovery and procedural matters. Within 14 days after an answer to a complaint is filed, the parties, either jointly or separately, shall file a report with the Board setting forth a proposed procedural schedule to govern future activities and deadlines in the case.

PART 1112—MODIFIED PROCEDURES

9. The authority citation for part 1112 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 701.

10. Part 1112 is amended as follows:

§§ 1112.1, 1112.4 and 1112.7 [Amended]

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1112.1, 1112.4(a), introductory text, and 1112.7.

§ 1112.1 [Amended]

b. Remove the word ''Commission's'' and add the word ''Board's'' in § 1112.1.

§ 1112.4 [Amended]

c. Section 1112.4 is amended by removing paragraph (c).

d. Section 1112.10 is revised to read as follows:

§ 1112.10 Requests for oral hearings and cross examination.

(a) *Requests.* Requests for oral hearings in matters originally assigned for handling under modified procedure must include the reasons why the matter cannot be properly resolved under modified procedure. Requests for cross examination of witnesses must include the name of the witness and the subject matter of the desired cross examination.

(b) *Disposition.* Unless material facts are in dispute, oral hearings will not be held. If held, oral hearings will normally be confined to material issues upon which the parties disagree. The decision setting a matter for oral hearing will define the scope of the hearing.

PART 1113—ORAL HEARING

11. The authority citation for part 1113 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

12. Part 1113 is amended as follows:

§§ 1113.1, 1113.2, 1113.4—1113.8, 1113.10, 1113.12, 1113.13, 1113.16—1113.11 [Amended]

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1113.1(a), 1113.2(a), 1113.2(b)(1), 1113.2(d), 1113.4(a), introductory text, 1113.4(b), 1113.5, 1113.6(b), 1113.7(e), 1113.8, 1113.10, 1113.12(a), 1113.12(b), 1113.13, 1113.16, 1113.17(b) and 1113.18(c).

§ 1113.1 [Amended]

b. In § 1113.1, paragraph (c)(3) is removed.

§ 1113.3 [Amended]

c. In § 1113.3, paragraph (b)(2), add a period after the word ''complaint'' and remove the remainder of the paragraph.

§ 1113.11 [Amended]

d. In § 1113.11, first sentence, remove the words ''and in evidence'' and add the words ''in evidence and''.

§ 1113.31 [Removed]

e. Section 1113.31 is removed.

PART 1114—EVIDENCE; DISCOVERY

13. The authority citation for part 1114 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

14. Subpart A is revised to read as follows:

Subpart A—General Rules of Evidence

Sec.
1114.1 Generally.
1114.2 Suspension of rules.

Subpart A—General Rules of Evidence

§ 1114.1 Generally.

Unless a different requirement is imposed by these rules, the Board will follow the Federal Rules of Evidence and the Federal Rules of Civil Procedure used in United States district courts.

§ 1114.2 Suspension of rules.

In the interest of expediting a decision, or for other good cause shown, the Board may suspend the requirements or provisions of any of these rules in a particular case on application of a party or in its own motion and may order proceedings in accordance with its direction.

15. Subpart B is amended as follows:

§§ 1114.21, 1114.23, 1114.24, 1114.26, 1114.27, and 1114.31 [Amended]

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1114.21(c)(3), 1114.21(c)(9) and the concluding text, 1114.21(d), 1114.21(e), introductory text, 1114.23(b), 1114.23(c), 1114.23(d)(1), 1114.23(d)(2), 1114.24(b)(2), 1114.24(b)(3), 1114.24(d), 1114.24(h), 1114.26(a), 1114.27(b), 1114.31(a), 1114.31(b)(1), 1114.31(b)(2), 1114.31(c) and 1114.31(d).

§ 1114.31 [Amended]

b. Remove the word ''Commission's'' and add the word ''Board's'' in § 1114.31(b), introductory text.

§ 1114.21 [Amended]

c. In § 1114.21, paragraph (a)(1), remove the words ''(except the review boards)''.

§ 1114.26 [Amended]

d. In § 1114.26, paragraph (a), remove the second sentence.

§ 1114.26 [Amended]

e. In § 1114.26, paragraph (c), remove the words ''In those proceedings not requiring a petition for interrogatories, and unless under special circumstances and for good cause,'' and capitalize the word ''no''.

§ 1114.27 [Amended]

f. In § 1114.27, paragraph (a), remove the third and last sentences.

§ 1114.27 [Amended]

g. In § 1114.27, paragraph (c), remove the words ''In those proceedings not requiring a petition for requests for admission, and unless under special circumstances and for good cause shown,'' and capitalize the word ''no''.

§ 1114.31 [Amended]

h. In § 1114.31, paragraph (a), remove the last two sentences.

§ 1114.31 [Amended]

i. In § 1114.31, paragraph (b)(1), remove the words ''49 U.S.C. 10321 (c)(3) and (d)(4)'' and add in their place the words ''49 U.S.C. 721 (c) and (d)''.

16. The additions and revisions to subpart B are as follows:

a. Section 1114.21 is amended by revising paragraph (b) and adding a new paragraph (f) as follows:

§ 1114.21 Applicability; general provisions.

* * * * *

(b) *How discovery is obtained.* All discovery procedures may be used by parties without filing a petition and obtaining prior Board approval.

* * * * *

(f) *Service of discovery materials.* Unless otherwise ordered by the Board, depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto, shall be served on other counsel and parties, but shall not be filed with the Board. Any such materials, or portions thereof, should be appended to the appropriate pleading when used to support or to reply to a motion, or when used as an evidentiary submission.

b. Section 1114.22 is revised to read as follows:

§ 1114.22 Deposition.

(a) *Purpose.* The testimony of any person, including a party, may be taken by deposition upon oral examination.

(b) *Request.* A party requesting to take a deposition and perpetuate testimony:

(1) Should notify all parties to the proceeding and the person sought to be deposed; and

(2) Should set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom, and the cause or reason why such deposition will be taken.

c. Section 1114.30 is revised to read as follows:

§ 1114.30 Production of documents and records and entry upon land for inspection and other purposes.

(a) *Scope.* Any party may serve on any other party a request:

(1) To produce and permit the party making the request to inspect any designated documents (including writings, drawings, graphs, charts, photographs, phonograph records, tapes, and other data compilations from which information can be obtained, translated, if necessary, with or without the use of detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which are in the possession, custody, or control of the party upon whom the request is served, but if the writings or data compilations include privileged or proprietary information or information the disclosure of which is proscribed by the Act, such writings or data compilations need not be produced under this rule but may be provided pursuant to § 1114.26(b) of this part; or

(2) To permit, subject to appropriate liability releases and safety and operating considerations, entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspecting and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon.

(b) *Procedure.* Any request filed pursuant to this rule should set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity. The request should specify a reasonable time, place, and manner of making the inspection and performing the related acts.

d. Section 1114.31 is amended by adding a new paragraph (b)(2)(iv) and adding concluding text to paragraph (d) as follows:

§ 1114.31 Failure to respond to discovery.

* * * * *

(b) * * *

(2) * * *

(iv) In lieu of any of the foregoing orders, or in addition thereto, the Board shall require the party failing to obey the order or the attorney advising that party, or both, to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the Board finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

* * * * *

(d) * * *. In lieu of any such order or in addition thereto, the Board shall require the party failing to act or the attorney advising that party or both to

pay the reasonable expenses, including attorney's fees, caused by the failure, unless the Board finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

* * * * *

PART 1115—APPELLATE PROCEDURES

17. The authority citation for part 1115 is revised to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

18. Part 1115 is amended as follows:

§§ 1115.1, 1115.2 and 1115.5–1115.8 [Amended]

a. Remove the word ''Commission'' and add the word ''Board'' in the following sections: §§ 1115.1(b), 1115.1(c), 1115.2(b)(2), 1115.2(g), 1115.5(a), 1115.5(b), 1115.6, 1115.7 and 1115.8.

§ 1115.1 [Amended]

b. In § 1115.1, paragraph (c), remove the words ''Chairman of the Commission.'' at the end of the first sentence and add in their place the words ''entire Board.''.

§ 1115.7 [Amended]

c. In § 1115.7, remove the words ''Interstate Commerce Commission'' and add in their place the words ''Surface Transportation Board''.

19. The additions and revisions to part 1115 are as follows:

a. Section 1115.1, paragraph (a), is revised to read as follows:

§ 1115.1 Scope of rule.

(a) These appellate procedures apply in cases where a hearing is required by law or Board action. They do not apply to informal matters such as car service, temporary authority, suspension, special permission actions, or to other matters of an interlocutory nature. Abandonments and discontinuance proceedings instituted under 49 U.S.C. 10903 are governed by separate appellate procedures exclusive to those proceedings. (See 49 CFR part 1152)

* * * * *

b. In § 1115.2, the introductory text and paragraph (e) are revised to read as follows:

§ 1115.2 Initial decisions.

This category includes the initial decision of an administrative law judge, individual Commissioner or employee board.

* * * * *

(e) Appeals must be filed within 20 days after the service date of the decision or within any further period (not to exceed 20 days) the Board may authorize. Replies must be filed within 20 days of the date the appeal is filed.

* * * * *

c. Section 1115.3 is revised to read as follows:

§ 1115.3 Board actions other than initial decisions.

(a) A discretionary appeal of an entire Board action is permitted.

(b) The petition will be granted only upon a showing of one or more of the following points:

(1) The prior action will be affected materially because of new evidence or changed circumstances.

(2) The prior action involves material error.

(c) The petition must state in detail the nature of and reasons for the relief requested. When, in a petition filed under this section, a party seeks an opportunity to introduce evidence, the evidence must be stated briefly and must not appear to be cumulative, and an explanation must be given why it was not previously adduced.

(d) The petition and any reply must not exceed 20 pages in length. A separate preface and summary of argument, not exceeding 3 pages, may accompany petitions and replies and must accompany those that exceed 10 pages in length.

(e) Petitions must be filed within 20 days after the service of the action or within any further period (not to exceed 20 days) as the Board may authorize.

(f) The filing of a petition will not automatically stay the effect of a prior action, but the Board may stay the effect of the action on its own motion or on petition. A petition to stay may be filed in advance of the petition for reconsideration and shall be filed within 10 days of service of the action. No reply need be filed. However, if a party elects to file a reply, it must reach the Board no later than 16 days after service of the action. In all proceedings, the action, if not stayed, will become effective 30 days after it is served, unless the Board provides for the action to become effective at a different date. On the day the action is served parties may initiate judicial review.

d. Section 1115.4 is revised to read as follows:

§ 1115.4 Petitions to reopen administratively final actions.

A person at any time may file a petition to reopen any administratively final action of the Board pursuant to the requirements of § 1115.3 (c) and (d) of this part. A petition to reopen must state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances and must include a request that the Board make such a determination.

e. A new § 1115.9 is added to read as follows:

§ 1115.9 Interlocutory Appeals.

(a) Rulings of Board employees, including administrative law judges, may be appealed prior to service of the initial decision only if:

(1) The ruling denies or terminates any person's participation;

(2) The ruling grants a request for the inspection of documents not ordinarily available for public inspection and the requested documents are not otherwise subject to a protective order entered by the Board pursuant to 49 CFR 1114.21(c);

(3) The ruling overrules an objection based on privilege, the result of which ruling is to require the presentation of testimony or documents; or

(4) The ruling may result in substantial irreparable harm, substantial detriment to the public interest, or undue prejudice to a party.

(b) Any interlocutory appeal of a ruling shall be filed with the Board within three (3) business days of the ruling. Replies to any interlocutory appeal shall be filed with the Board within three (3) business days after the filing of any such appeal.

20. Part 1121 is revised to read as follows:

PART 1121—RAIL EXEMPTION PROCEDURES

Sec.
1121.1 Scope.
1121.2 Discovery.
1121.3 Content.
1121.4 Procedures.

Authority: 5 U.S.C. 553; 49 U.S.C. 10502 and 10704.

§ 1121.1 Scope.

These procedures generally govern petitions filed under 49 U.S.C. 10502 to exempt a transaction or service from 49 U.S.C. subtitle IV, or any provision of 49 U.S.C. subtitle IV, or to revoke an exemption previously granted. These procedures also apply to notices of exemption.

§ 1121.2 Discovery.

Discovery may begin upon the filing of the petition for exemption or petition for revocation of an exemption. A party may begin discovery prior to filing a petition to revoke an exemption or a notice of exemption by filing a notice of intent to file a petition for revocation. Discovery shall follow the procedures set forth at 49 CFR part 1114, subpart B.

§ 1121.3 Content.

(a) A party filing a petition for exemption shall provide its case-in-chief, along with its supporting evidence, workpapers, and related documents at the time it files its petition.

(b) A petition must comply with environmental or historic reporting and notice requirements of 49 CFR part 1105, if applicable.

§ 1121.4 Procedures.

(a) Exemption proceedings are informal, and public comments are generally not sought during consideration of exemption petition proposals, except as provided in paragraph (d) of this section. However, the Board may consider during its deliberation any public comments filed in response to a petition for exemption.

(b) If the Board determines that the criteria in 49 U.S.C. 10502 are met for the proposed exemption, it will issue the exemption and publish a notice of exemption in the Federal Register.

(c) If the impact of the proposed exemption cannot be ascertained from the information contained in the petition or accompanying submissions or if significant adverse impacts might occur if the proposed exemption were granted, the Board, in its discretion, may:

(1) Direct that additional information be filed; or

(2) Publish a notice in the Federal Register requesting public comments.

(d) Exemption petitions containing proposals that are directly related to and concurrently filed with a primary application will be considered along with that primary application.

(e) Unless otherwise specified in the decision, an exemption generally will be effective 30 days from the service date of the decision granting the exemption. Unless otherwise provided in the decision, petitions to stay must be filed within 10 days of the service date, and petitions to reopen under 49 CFR part 1115 or 49 CFR 1152.25(e) must be filed within 20 days of the service date.

(f) Petitions to revoke an exemption or the notice of exemption may be filed at any time. The person seeking revocation has the burden of showing that the revocation criteria of section 10502(d) have been met. A party seeking revocation of an exemption or a notice of exemption shall provide all of its supporting information at the time it files its petition.

(g) In abandonment exemptions, petitions to revoke in part to impose public use conditions under 49 CFR 1152.28, or to invoke the Trails Act, 16 U.S.C. 1247(d), may be filed at any time prior to the consummation of the abandonment, except that public use conditions may not prohibit disposal of the properties for any more than the statutory limit of 180 days after the effective date of the decision granting the exemption.

[FR Doc. 96–18849 Filed 7–25–96; 8:45 am]

BILLING CODE 4915–00–P

Notices

Federal Register
Vol. 61, No. 145
Friday, July 26, 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

Submission for OMB Review; Comment Request

July 19, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Officer, USDA, PACC–IRM, Ag Box 7630, Washington, DC 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Farm Service Agency

Title: Federal Agriculture Improvement and Reform Act of 1996 (1996 Act)—Delinquent Account Servicing and Inventory Property Management (7 CFR parts 1955 and 1956).

Summary: The Federal Agriculture Improvement and Reform Act eliminates the leaseback/buyback program. Information is collected for debt settlement and debt forgiveness.

Need and Use of the Information: The information is used for program decisions regarding delinquent Farm Credit borrowers.

Description of Respondents: Farms; Individuals or households.

Number of Respondents: 5,368.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 2,835.

Emergency processing of this submission has been requested by July 23, 1996.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 96–18995 Filed 7–25–96; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Clarke Mountain E.I.S.; Clearwater National Forest, Clearwater County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to disclose the environmental effects of a proposed timber harvest in the Clarke Mountain area. There will be some newly constructed roads to access some of the timber stands. The proposal also includes fishery and wildlife improvement projects such as reconstructing several roads, abandoning and/or obliterating several miles of roads, restricting access on other roads, as well as improving recreation facilities. An Off-Highway Vehicle (OHV) loop trail system will also be proposed that is approximately 33 miles long, utilizing several existing roads and trails

The area is located on the Pierce District of the Clearwater National Forest, Townships 37 and 38 North, Range 7 East, Boise Meridian.

The purpose of the proposal and subsequent effects analysis is to meet the intent of the Clearwater Forest Plan, using an ecosystem management approach for management ares included in the 12,700 acre treatment area. There are five management areas (MA) within the analysis area. MA–E1 emphasizes growth and yield of timber, MA–M2 emphasizes protection of riparian resources, MA–C4 emphasizes big-game winter range along with timber production, MA–C3 emphasizes management of big-game winter range in areas unsuitable for timber production, and MA–US are unsuitable areas for timber or big game habitat.

DATES: Comments concerning the scope of the analysis should be received in writing September 9, 1996 to receive timely consideration in the preparation of the draft EIS. The draft EIS will be filed with the Environmental Protection Agency in November 1996. The final EIS and Record of Decision is expected to be issued in February 1997.

ADDRESSES: Send written comments to Douglas Gober, District Ranger, Pierce Ranger District, Route 2, Box 191, Kamiah, ID 83536.

FOR FURTHER INFORMATION CONTACT: Brian Palmer, EIS Project Team Leader, (208) 935–2513.

RESPONSIBLE OFFICIAL: The responsible official for decisions regarding this analysis is James L. Caswell, Clearwater National Forest Supervisor. He will select the preferred alternative based upon the analysis. His address is 12730 Highway 12, Orofino, ID 83544.

SUPPLEMENTARY INFORMATION: The proposal includes timber harvest of varying intensities from precommercial thinnings to clear cuts with reserve trees. Harvest would amount to about 19 million board feet of timber from about 1200 acres, and approximately 5 miles of road would be built and about 15 miles reconstructed. Site-specific riparian buffers will be developed for each cutting unit and will meet intent of the Inland Fish Strategy (INFISH).

Because instream conditions are not meeting desired conditions for cobble embeddedness, erosion sources in the watershed would be corrected, including stabilizing and/or closing roads that are no longer needed and reconstructing roads needed for a long term transportation plan. Live stream crossings would be minimized on any new road construction.

Approximately 6500 of the 12,700 acre treatment area was acquired by the Forest Service between 1987 and 1992 in land exchanges with a private company. The majority of this acquired land had been heavily roaded and harvested before the Forest Service acquired it.

Functioning old growth areas will be analyzed and designated and future old growth areas would be planned for and will be on landtypes and in areas that historically had the best chance of maintaining old growth on them. Three of these future areas within the Clarke Mountain treatment area were identified in the Fuzzy Bighorn Environmental Assessment, but all these areas are several decades away from functioning as old growth. Presently, the Forest Service would manage biological corridors, and designate five percent or

more old growth habitat per 10,000 acre compartment.

Because use is increasing in dispersed camping areas, the Forest Service would install dispersed camping signs in the analysis area.

Because there are dying stands of white pine, lodgepole pine stands over 80 years old, several pathogens at work in many stands, a high fuel buildup in several stands, and other silvicultural treatment needs in the analysis area, the Forest Service would rehabilitate dying white pine plantations, salvage dead and dying timber, improve the species mix through commercial and precommercial thinning, and harvest stands that have reached maturity while maintaining the old growth component.

Because OHV (Off-Highway Vehicle) use is increasing, and it is generally hard to find designated areas with semi-primitive type quality and viewsheds, the Forest Service would create an OHV loop trial system that would utilize an old jeep road along Elk Mountain Ridge and improve a route to Clark Mountain Lookout. The trailhead would be at Cottonwood Flats along Orogrande Creek.

Scoping began internally with an Integrated Resource Analysis, the findings of which will be incorporated into the Clarke Mtn. EIS. Scooping will continue with the public with the announcement of this new proposal and these comments will help:

1. Identify potential issues.
2. Identify major issues to be analyzed in depth.
3. Identify alternatives to the proposed action.
4. Identify potential environmental effects of each alternative.
5. Determine potential cooperating agencies and task assignments.

Some public comments have already been received to date, Internally identified issues coupled with public concerns, points out the following issues driving alternatives:

1. The effect of building roads in a ''roadless area''.
2. Regeneration harvest units over 40 acres in size.
3. The economics of planning a viable sale because of the expense of helicopter logging.

The lead agency for this project is the U.S. Forest Service. The Forest Service will cooperate with other Country, State, Federal Agencies and tribes who display an interest in the project, and who require assessment and concurrence.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in November 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. *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 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the 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 should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the 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.

Dated: July 8, 1996.

James L. Caswell,

Forest Supervisor.

[FR Doc. 96–18989 Filed 7–25–96; 8:45 am]

BILLING CODE 3410–11–M

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: The Rural Housing Service, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for Prepayment and Displacement Prevention of Multiple Family Housing Loans.

DATES: Comments on this notice must be received by September 24, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Booker T. Reaves, Senior Loan Officer, Multi-Family Housing Portfolio Management Division, RHS, U.S. Department of Agriculture, Stop 0782, Washington, D.C. 20250, Telephone (202) 720–1617.

SUPPLEMENTARY INFORMATION:

Title: Prepayment and Displacement Prevention of Multiple Family Housing Loans

OMB Number: 0575–0155.

Expiration Date of Approval: September 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is authorized under sections 514, 515, 516, and 521 of Title V of the Housing Act of 1949, as amended, to provide loans and grants to eligible recipients for the development of rural rental housing. Such multiple family housing projects are intended to meet the housing needs of persons or families having low- to moderate-incomes, senior citizens, the handicapped, and domestic farm laborers.

RHS has the responsibility of assuring the public that the housing projects financed are owned and operated as mandated by Congress. FmHA Instruction 1965–E regulation was issued to insure proper servicing actions are accomplished for projects financed with multiple family housing loan and grant funds. Minimal requirements have been established as deemed necessary to assure that applicable laws and authorities are carried out as intended and to improve the Agency's ability to assure the continued availability of the facilities financed under RHS multiple housing programs to eligible users.

Without the provisions of this regulation, RHS would be unable to provide the necessary guidance to the RHS field staff to assist borrowers in processing servicing actions affecting their projects. RHS also would not be able to quickly respond to servicing requests from borrowers, initiate servicing actions or establish a uniform procedure for processing such requests from borrowers. RHS must be able to assure Congress and the general public that all projects financed with multiple family housing funds will be maintained for the purposes for which they are intended and for the benefit of those they are mandated to serve.

The Housing and Community Development Act of 1987 required that rural rental housing borrowers wishing to prepay their RHS financed loans must be offered a fair incentive to not prepay the loan when RHS makes the decision that the housing continues to be needed to serve low- and moderate-income tenants. If the borrower rejects the incentive, the housing must be offered for sale to a non-profit organization. Prepayment can only be accepted if RHS decided there is no need for the housing or if no nonprofit organization can be found to purchase the project at fair market value.

The information required is collected on a project-by-project basis and is in accordance with the Housing Act of 1949, as amended, so that RHS can provide guidance and be assured of compliance with the terms and conditions of loan, grant, and/or subsidy agreements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.3 hours per response.

Respondents: Individuals or households, state or local governments, farms, businesses or other for-profits, non-profit institutions, existing borrowers, transferors and/or transferees.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: 1.4.

Estimated Total Annual Burden on Respondents: 547 hours.

Copies of this information collection can be obtained from Barbara Williams, Regulations and Paperwork Management Division, at (202) 720–9725.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of 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. Comments may be sent to Barbara Williams, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Development, Stop 0743, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 14, 1996.

Maureen Kennedy,

Administrator, Rural Housing Service.

[FR Doc. 96–19061 Filed 7–25–96; 8:45 am]

BILLING CODE 3410–07–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 26, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Administrative Services

Defense Reutilization and Marketing Office, Sheppard Building, Sheppard Air Force Base, Texas
NPA: Work Services Corporation, Wichita Falls, Texas

Grounds Maintenance

Marine Corps Air Station, New River, Jacksonville, North Carolina
NPA: Coastal Enterprises of Jacksonville, Inc., Jacksonville, North Carolina

Janitorial/Grounds Maintenance

Calexico East Border Station, Calexico, California
NPA: Association for Retarded Citizens—Imperial Valley, El Centro, California

Janitorial/Grounds Maintenance

U.S. Mint, San Francisco, California
NPA: Toolworks, Inc., San Francisco, California

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–19058 Filed 7–25–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: August 26, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 3, 1995, May 10, 31 and June 7, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 FR 55835, 61 FR 21444, 27339 and 29080) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Gloves, Patient Examining
6515–01–364–8553

Services

Catering Service, Military Entrance Processing Station, Miami, Florida
Janitorial/Custodial, Department of Energy, Yucca Mountain Site Characterization Office, Las Vegas, Nevada
Janitorial/Custodial, Army & Air Force Exchange Service, Capps Building, Dallas, Texas
Recycling Service, Basewide, Dobbins Air Reserve Base, Georgia
Tray Delivery Service, Department of Veterans Affairs Medical Center, 3601 South 6th Avenue, Tucson, Arizona

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–19059 Filed 7–25–96; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 58–96]

Foreign-Trade Zone 86, Tacoma, Washington, Proposed Foreign-Trade Subzone; Texaco, Inc. (Oil Refinery Complex), Skagit County, Washington

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Tacoma (Washington), grantee of FTZ 86, requesting special-purpose subzone status for the oil refinery complex of Texaco Refining and Marketing, Inc. (wholly-owned subsidiary of Texaco, Inc.), located in Skagit County (Anacortes area), Washington. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 17, 1996.

The refinery complex (143,000 BPD, 400 employees), including a pipeline corridor and marine terminal, is located on a 640-acre site at 600 South Texas Road, Skagit County, Washington, on the Puget Sound, some 2 miles east of Anacortes (60 miles north of Seattle).

The refinery is used to produce fuels and petrochemical feedstocks. Fuels produced include gasoline, jet fuel, distillates, residual fuels and naphthas. Petrochemicals and refinery by-products include methane, ethane, propane, propylene, ethylene, benzene, toluene, xylene, butane, petroleum coke, asphalt and sulfur. Some 19 percent of the crude oil (97 percent of inputs), and some feedstocks and motor fuel blendstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free) instead of the duty rates that would otherwise apply to the foreign-sourced inputs (e.g., crude oil, natural gas condensate). The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 24, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to October 9, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, 2001 6th Ave., Suite 650, Seattle, Washington 98121
Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230

Dated: July 18, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–19063 Filed 7–25–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time

limit for the preliminary results of the new shipper antidumping duty administrative review of the antidumping duty order on certain forged stainless steel flanges from India. The review covers one manufacturer/exporter of the subject merchandise to the United States, Viraj Forgings Ltd., and the period March 1, 1995 through August 31, 1995.

EFFECTIVE DATE: July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION: We initiated this new shipper review on October 30, 1995 (60 FR 55241) . On March 21, 1996, we extended the time limits to July 19, 1996, for the preliminary results and December 16, 1996, for the final results (61 FR 11613).

Pursuant to section 751(c)(4)(C) of the Tariff Act of 1930, as amended (the Act) we have determined that this review is extraordinarily complicated because it involves involves several complex issues concerning costs of materials sourced from an affiliate, levels of trade, and affiliated party questions; it is also a review of a transition order. The Department is, therefore, extending the time limit for completion of the preliminary results until September 23, 1996, in accordance with section 751(a)(2)(B)(iv) of the Act. We will issue our final results of this review by December 23, 1996.

This extension is in accordance with section 751(a)(2)(B)(iv) of the Act (19 U.S.C. 1675(a)(2)(B)(iv)).

Dated: July 19, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Antidumping/Countervailing Duty Enforcement.

[FR Doc. 96–19062 Filed 7–25–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

International Laboratory Accreditation Conference (ILAC) 1996

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: The International Laboratory Accreditation Conference (ILAC) will meet in Amsterdam, The Netherlands, from September 9–13, 1996. Those wishing to join the U.S. delegation or to participate in review of the meeting agenda and related issues are invited to attend a pre-conference meeting at the National Institute of Standards and Technology (NIST) on August 23, 1996. ILAC, an informal organization with representatives from approximately 45 nations and 12 international organizations, aims to promote: (1) The development of national programs for accrediting testing laboratories, (2) the employment of harmonized accreditation criteria, and (3) the development of bilateral or multilateral arrangements which would encourage importers to accept the results of tests and data made by laboratories that have been accredited under a laboratory accreditation program in exporting nations.

DATES: The pre-conference meeting will be held Friday, August 23, 1996, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held in conference room 152 at the National Institute of Standards and Technology, NIST North, 820 West Diamond Avenue, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Anyone wishing to attend these meetings or seeking additional information should contact Dr. Belinda L. Collins, Director, Office of Standards Services: by mail at the National Institute of Standards and Technology, Building 820, Room 282, Gaithersburg, MD 20899; by telephone at 301–975–4000 or by fax on 301–963–2871.

SUPPLEMENTARY INFORMATION: ILAC conferences have been held since 1977 to develop information about laboratory accreditation systems, to provide a forum for discussing differences among such systems, to describe basic principles and criteria for operating such systems, and to develop bilateral or other arrangements which would establish mutual recognition of such systems or of test reports issued by laboratories accredited under such systems. These bilateral arrangements are intended to minimize technical barriers to trade.

The U.S. delegation has to date been chaired by the Director of the NIST Office of Standards Services. Those interested in serving with the U.S. delegation, using their own financial resources for registration fees, hotel accommodations, food, and travel expenses, can do so by registering with the Registration Secretariat, CAOS. Delegates should have a background in standards development, laboratory accreditation, produce testing or product certification activities. Conference registration materials are available from NIST.

Notice is given that the U.S. delegation at its August 23 meeting will review documents distributed in advance of the ILAC meeting to be held in Amsterdam during September 13–19, 1996. All persons planning to attend ILAC meeting, as well as those interested in the meeting but unable to attend, are invited to participate in this pre-conference meeting. At the meeting the agenda will be reviewed, along with committee reports and issues and recommendations to be considered at the plenary meeting. U.S. delegation consensus positions will be developed as appropriate.

Dated: July 19, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–19008 Filed 7–25–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 071696C]

Marine Mammals; Permit No. 976 (P5H)

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Donald B. Siniff, University of Minnesota, 1987 Upper Buford Circle, St. Paul, MN 55108, has requested an amendment to permit no. 976.

DATES: Written comments must be received on or before August 26, 1996.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298.

Written data or views, or requests for a public hearing on this request should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal

Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject amendment to permit no. 976, issued on August 29, 1995 (60 FR 46576) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit no. 976 authorizes the permit holder to: Capture and tag (with plastic cattle ear tags) annually up to 900 Weddell seals (*Leptonychotes weddelli*), (550 pups, 200 adult and subadult females (20% may be pregnant), and 150 adult and subadult males), 20 each of crabeater seal (*Lobodon carcinophagus*), leopard seal (*Hydrurga leptonyx*), Ross seal (*Ommatophoca rossii*), southern elephant seal, (*Mirounga leonina*), and Antarctic fur seal (*Arctocephalus gazella*); inadvertently harass up to 2000 seals up to 10 times during approach to tag, read tags, and retag animals; and blood sample up to 50 adult and 50 pup *Leptonychotes*. Two seals may be accidentally killed during the conduct of the research authorized herein. Blood samples and tooth and tissue samples collected from seals found dead may be imported.

The permit holder requests authorization to conduct the following additional activities on *Leptonychotes*: Increase the number of blood samples that can be taken from 100 to 200 [125 from adults and 75 from pups]; retain the core sample from flipper tagging; and lavage up to 50. No additional animals are requested.

Dated: July 18, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–18984 Filed 7–25–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense (Health Affairs) announces the proposed reinstatement of a public information collection and seeks public comments on the provisions thereof. Health Affairs invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed information collection; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 24, 1996.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to: the Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Requirements Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call the OCHAMPUS, Program Requirements Branch at (303) 361–1180.

Title, Associated Form and OMB Number: Health Insurance Claim Form, UB92, OMB Number 0938–0279.

Needs and Uses: This information collection requirement is necessary for a medical institution to claim benefits under the CHAMPUS. The information collected will be used by TRICARE/CHAMPUS to determine beneficiary eligibility, other health insurance liability, certification that the beneficiary received the care and that the provider is authorized to receive TRICARE/CHAMPUS payments. The form will be used by TRICARE/CHAMPUS and its contractors to determine the amount of benefits to be paid to TRICARE/CHAMPUS institutional providers.

Affected Public: Individuals, hospitals, skilled nursing facilities, hospices and other medical institutional providers.

Annual Burden Hours: 525,000 Hours.

Number of Respondents: 2,100,000.

Responses per Respondent: 1.

Average Burden per Response: 15 Minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This collection instrument is for use by medical institutions filing for reimbursement with CHAMPUS, TRICARE/CHAMPUS is a health benefits entitlement program for the dependents of active duty members of the Uniformed Services, and deceased sponsors, retirees and their dependents, dependents of Department of Transportation (Coast Guard) sponsors, and certain North Atlantic Treaty Organization, National Oceanic and Atmospheric Administration, and Public Health Service eligible beneficiaries. Use of the UB–92 (also known as HCFA 1450) continues TRICARE/CHAMPUS commitments to use the national standard claim form for reimbursement of medical services/supplies provided by institutional providers.

Dated: July 22, 1996.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–18975 Filed 7–25–96; 8:45 am]

BILLING CODE 5000–04–M

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs), DOD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense (Health Affairs) announces the proposed reinstatement of a public information collection and seeks public comments on the provisions thereof. Health Affairs invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed information collection; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 24, 1996.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to: the Office of the Assistant Secretary of Defense (Health Affairs) Health Services Operations and Readiness, (ATTN: LCDR Patrick Kelly), Five Skyline Place,

Suite 810, 5111 Leesburg Pike, Falls Church, Va., 22041–3206.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call the Office of the Assistant Secretary of Defense (Health Affairs), Health Services and Readiness Support at (703) 681–8910.

Title, Associated Form and OMB Number: Third Party Collection Program; DD Form 2569; OMB Control Number 0704–0323.

Needs and Uses: The information contained in the DD Form 2569 will be used to collect reimbursement from private insurers for medical care provided to family members of retirees and deceased Service members having health insurance. Such monetary benefits accruing to the Military Medical Treatment Facility (MTF) will be used to enhance healthcare delivery in the MTF. Information will also be used by MTF staff and CHAMPUS Fiscal Intermediaries to determine eligibility for care, deductibles, and copayments and by Health Affairs for program planning and management.

Affected Public: Family members of retirees and deceased Service members having health insurance.

Annual Burden Hours: 55,221 Hours.

Number of Respondents: 1,262,194.

Responses per Respondent: 1.05.

Average Burden per Response: 2.5 Minutes.

Frequency: Yearly or on occasion when insurance information changes.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DD Form 2569 is used to collect third party insurance information from family members of retirees and deceased Service members having health insurance. This information is collected either during the inpatient stay admission and/or discharge process or during the visit when a patient presents for an outpatient procedure.

Dated: July 22, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–18976 Filed 7–25–96; 8:45 am]

BILLING CODE 5000–04–M

Notice and Request for Comments Regarding a Proposed Extension of an Approved Information Collection Requirement

AGENCY: Department of Defense (DoD).

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through January 31, 1997. DoD proposes that OMB extend its approval for use through January 31, 2000.

DATES: Consideration will be given to all comments received by September 24, 1996.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Mr. Michael Mutty, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350. Please cite OMB Control Number 0704–0214 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Mutty, at (703) 602–0131. A copy of this information collection requirement is available electronically via the INTERNET at: http://www.dtic.mil/dfars/

Paper copies may be obtained from Mr. Michael Mutty, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 217, Special Contracting Methods, and related clauses in DFARS Part 252; OMB Control Number 0704–0214.

Needs and Uses: DFARS Part 217 (48 CFR Part 217) prescribes policies and procedures for the acquisition of supplies and services through the use of special contracting methods. The information collected in accordance with DFARS Part 217 is used by contracting officers to (1) identify contractor sources of supply so that competition can be enhanced for future acquisitions, (2) under a Master Agreement, determine that the contractor is adequately insured, and evaluate requests for reimbursement for repair or replacement of damaged material accountable under the agreement, (3) evaluate requests for change to the place of performance under contracts for bakery and dairy products, and (4) evaluate proposals for over and above work on existing contracts.

Affected Public: Businesses or other for-profit, not-for-profit institutions, and small businesses or organizations.

Annual Burden Hours: 641,175.

Number of Responses: 67,800.

Responses Per Respondent: Approximately 2.

Average Burden Per Response: 9.46 Hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information collection covers the following requirements:

a. DFARS 217.7301, 217.7302(a), and 252.217–7026 require contractors to identify their sources of supply in contracts for supplies when the acquisition is conducted under other than full and open competition.

b. DFARS 252.217–7012(d)(3) requires contractors to show evidence of insurance under Master Agreements for repair and alteration of vessels.

c. DFARS 252.217–7012(g)(1)(i) requires contractors to submit to the contracting officer a request for reimbursement of the cost to replace or repair material or equipment as a result of loss or damage to a vessel. The contractor must also submit all documentation necessary to support the request.

d. DFARS 252.217–7018(c) requires contractors to obtain contracting officer approval to change the place of performance after contract award for bakery and dairy products.

c. DFARS 252.217–7028 (c) and (e) require contractors to submit to the contracting officer a work request and a proposal for over and above work.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 96–19051 Filed 7–25–96; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Establishment and Initial Meeting of the President's Security Policy Advisory Board; Notice

SUMMARY: The President's Security Policy Advisory Board has been established pursuant to Presidential Decision Directive/NSC–29, which was signed by President on September 16, 1994.

The Board will advise the President on proposed legislative initiatives and executive orders pertaining to U.S. security policy, procedures and practices as developed by the U.S. Security Policy Board, and will function as a federal advisory committee in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act (5 U.S.C. App.).''

The President has appointed from the private sector, three of five Board members each with a prominent background and expertise related to security policy matters. General Larry Welch, USAF (Ret.) will chair the Board. Other members include: Admiral Thomas Brooks, USN (Ret.) and Ms. Nina Stewart.

The initial meeting of the Board will be held on 19 August 1996, 0900 hours at the Institute for Defense Analysis, 2001 North Beauregard Street, Alexandria, Room 121 and will be open to the public.

For further information please contact Mr. Terence Thompson, telephone: 702/602–6997.

L.M. Bynum,

Alternate OSD Federal Register Liason Officer, Department of Defense.

Dated: July 19, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–18979 Filed 7–25–96; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Defense Environmental Response Task Force

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security), DOD.

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force (DERTF). The DERTF is charged with studying and providing findings and recommendations about environmental restoration at military installations that are being closed or realigned. At the meeting the DERTF will address issues related to its 1996 Annual Report to Congress, future land use, and the environmental aspects of the base realignment and closure (BRAC) program. The DERTF also will be briefed on the cleanup program at the Defense Depot, Memphis, Tennessee. The business meeting and hearing will be open to the public. Public witnesses who wish to speak before the DERTF should contact Shah A. Choudhury, Executive Secretary, and prepare a written statement that can be summarized verbally before the DERTF at the time to be fixed for public comment as stated below. Written statements must be received by the close of business, September 5, 1996, at the Office of the Deputy Under Secretary of Defense (Environmental Security).

DATES: September 18, 1996—1:00 p.m.–7:00 p.m; September 19, 1996—9:00 a.m.–2:45 p.m.; September 20, 1996—9:00 a.m.–11:45 a.m.

Public Comment Period: September 18, 1996—6:00 p.m.–7:00 p.m.

ADDRESSES: Wilson World Hotel, 2715 Cherry Road, Memphis, Tennessee 38118.

FOR FURTHER INFORMATION CONTACT: Mr. Shah A. Choudhury, Executive Secretary, Office of the Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Room 3C767, Washington, DC 20301–3400; telephone (703) 697–7475.

Dated: July 22, 1996.

Particia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–18977 Filed 7–25–96; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on August 6, 1996; August 13, 1996; August 20, 1996; and August 27, 1996, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: July 19, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–18978 Filed 7–25–96; 8:45 am]

BILLING CODE 5000–04–M

Performance Review Board Membership

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of the Performance Review Board for the Defense Finance and Accounting Service.

EFFECTIVE DATE: July 15, 1996.

FOR FURTHER INFORMATION CONTACT: Sandra Burrell, Defense Finance and Accounting Service, DFAS–HQ/H, 1931 Jefferson Davis Highway, Arlington, VA 22240–5291.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives:

Gary Amlin, Principal Deputy Director, Defense Finance and Accounting Service

Gregory Bitz, Director—Indianapolis Center, Defense Finance and Accounting Service

Robert Burke, Deputy Director for Information Management, Defense Finance and Accounting Service

Charles Coffee, Director—Columbus Center, Defense Finance and Accounting Service

Michael Dugan, Assistant Deputy Director for Resource Management, Defense Finance and Accounting Service

Stephen E. Freeman, Deputy Director for Human Resources, Defense Finance and Accounting Service
Ida Faye Groves, Principal Deputy Director—Columbus Center, Defense Finance and Accounting Service
Edward Harris, Deputy Director for Business Funds, Defense Finance and Accounting Service
Phyllis Hudson, Director—Cleveland Center, Defense Finance and Accounting Service
John Nabil, Director—Denver Center, Defense Finance and Accounting Service
Michael Wilson, Deputy Director for Customer Service and Performance Assessment, Defense Finance and Accounting Service

Dated: July 19, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–18980 Filed 7–25–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Office of Energy Research; DOE/NSF Nuclear Science Advisory Committee; Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the DOE/NSF Nuclear Science Advisory Committee.

DATES: Friday, August 9, 1996, 8:30 a.m. to 10:00 p.m.

ADDRESSES: 3rd Floor Conference Room, Relativistic Heavy Ion Collider (RHIC) Collider Building, Brookhaven National Laboratory, Upton, New York 11973.

FOR FURTHER INFORMATION CONTACT: Mrs. Cathy A. Hanlin, Division of Nuclear Physics, U.S. Department of Energy, ER–23, GTN, Germantown, Maryland 20874–1290, Telephone Number: 301–903–3613.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To advise the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda

Friday, August 9, 1996

- Status Report of DOE (D. Hendrie).
- Status Report of NSF (J. Lightbody).
- Presentation of RHIC Operating Funding Subcommittee Report (R. Orr).
- Brookhaven National Laboratory Presentation on RHIC Operating Funding including Question and Answer Session.
- Tour of the Relativistic Heavy Ion Collider Facility.
- Discussion of the RHIC Operating Funding Subcommittee Report.
- Public Comment.

Public Participation: The meeting is open to the public. Members of the public who wish to make oral statements pertaining to agenda items should contact Cathy Hanlin at the address or telephone number listed above. Requests to make oral statements must be received five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on July 23, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–19017 Filed 7–25–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, August 1, 1996, 6:00 p.m.–9:30 p.m.

ADDRESSES: Westminster City Hall, 4800 West 92nd Avenue, Westminster, CO 80030, (lower level Multi-Purpose Room).

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

(1) The Board will hear a presentation about the new Ten-Year Plan to clean up Rocky Flats. The status of this planning effort, which is part of a national effort to clean up contaminated sites throughout DOE's nuclear weapons complex within ten years.

(2) The Board is planning to complete its work on a set of principles that the agencies should use to guide environmental cleanup plans at Rocky Flats.

(3) Other business includes a discussion about plans to develop the 1997 Rocky Flats Board work plan.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday- Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 a.m. and 4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on July 22, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–19016 Filed 7–25–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP96–637–000]

East Tennessee Natural Gas Company; Notice of Request Under Blanket Authorization

July 22, 1996.

Take notice that on July 11, 1996, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP96–637–000, a request pursuant to Section 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install a new delivery point to provide for continued natural gas service to the Unicoi County Gas Utility District (Unicoi). East Tennessee makes such request, under its blanket certificate issued in Docket No. CP82–412–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, East Tennessee is proposing to install a 3-inch hot tap, and electronic gas measurement equipment, on it's system in Unicoi County, Tennessee, to provide continued firm natural gas transportation service to Unicoi, a local distribution company. East Tennessee indicates that it intends to provide said service to Unicoi under its FT–GS Rate Schedule. It is further stated that East Tennessee proposes to inspect Unicoi's installation of approximately 25 feet of 3-inch interconnecting piping and a 4-inch turbine meter.

It is averred that Unicoi will provide a meter site adjacent to and along East Tennessee's existing right-of-way, and that Unicoi will install, own, operate and maintain the interconnecting piping, and will install, own and maintain the measurement facilities. East Tennessee states that it will install, own, operate and maintain the hot tap and the electronic gas measurement equipment. East Tennessee further states that Unicoi will reimburse it for the approximate $60,004 project cost.

East Tennessee states that it has sufficient capacity to accomplish deliveries at the proposed new delivery point without detriment or disadvantage to East Tennessee's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19001 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–77–000]

Iroquois Gas Transmission System, L.P.; Notice of GRI Refunds

July 23, 1996.

Take notice that on July 19, 1996, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing a report of Gas Research Institute (GRI) refunds to Iroquois for the period from January 1, 1995 to December 31, 1995.

Iroquois states that the refunds have been based on a total refund from GRI to Iroquois of $277,287 and have been allocated among Iroquois' firm shippers based on their relative contributions to GRI funding during 1995. Iroquois asserts that the refunds were credited to its customers in invoices which were transmitted on July 5, 1996. Iroquois further states that customers which did not receive an invoice were issued a refund check.

Iroquois states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with 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. All such motions or protests should be filed on or before July 30, 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 inspections.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19128 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–315–000]

Koch Gateway Pipeline Company; Notice of proposed Changes in FERC Gas Tariff

July 23, 1996.

Take notice that on July 19, 1996, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets to become effective August 19, 1996:

Second Revised Sheet No. 1300
First Revised Sheet No. 1301
First Revised Sheet No. 1302
First Revised Sheet No. 1303

Koch Gateway states that these revised tariff sheets are being filed to make Koch Gateway's EBB Section of its General Terms and Conditions clearer. Koch Gateway states that it has removed specific details which it feels are no longer necessary and which cause confusion to the customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19022 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–76–000]

National Fuel Gas Supply Corporation; Notice of Refund Report

July 23, 1996.

Take notice that on July 19, 1996, National Fuel Gas Supply Corporation (National) tendered for filing a refund

report pursuant to the Commission's May 3, 1995, ''Order Granting Clarification'' issued in Docket No. RP95–124–001.

National states that it has refunded the Gas Research Institute demand surcharge based on the non-discounted GRI dollars paid by each firm shipper during the 1995 calendar year as a percentage of the total non-discounted GRI demand dollars paid by all firm shippers. National further states that it made these refunds in the form of credits to invoices issued on July 10, 1996. National states that the total credit amounted to $577,261.

National states that notice of the refund and refund amounts have been posted on National's EBB and copies of National's filing were served on National's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions to intervene or protests should be filed on or before July 30, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19127 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–314–000]

Natural Gas Pipeline Company of America; Notice of Termination of Service Filing

July 23, 1996.

Take notice that on July 18, 1996, Natural Gas Pipeline Company of America (Natural), filed in Docket No. RP96–314–000 a request pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. Section 717C and the Federal Energy Regulatory Commission's (Commission) policy set forth in its order on rehearing in Arkla Gas Services Company, 69 FERC Paragraph 61,280 (December 2, 1994), for authorization to terminate service through certain non-certificated facilities located in Hansford, Ochiltree and Roberts Counties, Texas, in order for Natural to sell and transfer such facilities to MidCon Gas Products Corp., an affiliated non-jurisdictional gatherer.

Natural states that copies of the filing are being mailed to the eight ITS customers which have nominated volumes on the subject facilities during 1995 and the first six months of 1996, and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19021 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–272–001]

Northern Natural Gas Company; Notice of Compliance Filing

July 23, 1996.

Take notice that on July 19, 1996, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective July 7, 1996:

Second Revised Sheet No. 206
Original Sheet No. 206A
Substitute Second Revised Sheet No. 252
Substitute Third Revised Sheet No. 287
Original Sheet No. 287A
Substitute First Revised Sheet No. 299
Original Sheet No. 299A

Reason for Filing

On June 7, 1996, in Docket No. RP96–272–000, Northern filed tariff sheets to give it the ability to negotiate rates as contemplated by the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking Methodologies, issued January 31, 1996. On July 5, 1996, the Commission issued an Order Accepting Tariff Sheets Subject To Conditions in docket No. RP96–272–000. The reason for this filing is to comply with the Commission's Order.

Northern states that copies of the filing were served upon the company's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19126 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–220–015]

Northwest Pipeline Corporation; Notice of Refund Report

July 23, 1996.

Take notice that on July 19, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing a refund report pursuant to Section 2.3 of its Stipulation and Agreement of Settlement filed on November 14, 1995, in its Docket No. RP94–220 general rate proceeding. The settlement was accepted and approved by the Commission on February 16, 1996.

Northwest states that refunds totaling $23,142,962.81 were made to Northwest's customers on June 19, 1996. Northwest states that the refund covers the period from November 1, 1994, through January 31, 1996.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before July 30, 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. Copies of this filing are

on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19027 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–285–001]

South Georgia Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 23, 1996.

Take notice that on July 18, 1996, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following substitute tariff sheets to become effective August 16, 1996:

First Substitute Second Revised Sheet No. 66
First Substitute Second Revised Sheet No. 67
First Substitute Third Revised Sheet No. 124
First Substitute First Revised Sheet Nos. 125–128

South Georgia states that the tariff sheets are being filed to correct inadvertent errors contained in the original filing made by South Georgia in this docket on June 25, 1996, to make three revisions to the capacity release procedures in its tariff.

South Georgia states that it did not made any substantive changes in its filing, but merely corrected the errors and resubmitted the entire filing to avoid any further confusion.

South Georgia states that copies of the filing have been served on all shippers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19125 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–312–001]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

July 23, 1996.

Take notice that on July 18, 1996, Tennessee Gas Pipeline Company (Tennessee), submitted for filing, in Docket No. RP96–312–000, Fifth Revised Sheet No. 317 to its FERC Gas Tariff, Fifth Revised Volume 1, to be effective on September 1, 1996.

Tennessee states that it is filing the proposed tariff sheet to correct a pagination error which occurred when proposed Fourth Revised Sheet No. 317 was submitted both in this docket and in Docket No. RP96–308–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19124 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–425–001]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 23, 1996.

Take notice that on July 18, 1996, Transwestern Pipeline company (Transwestern) tendered for filing an amendment to its August 31, 1995 tariff filing to recover certain take-or-pay settlement, buy-out, buy-down contract reformation costs (TCR II costs).

Trnaswestern states that on May 21, 1996 it and the parties protesting the August 31, 1995 filing have resolved all issues in this proceeding as to the eligibility of severance taxes and royalty payments. In addition, the recovery of such taxes and royalty payments will be pursuant to the agreed-upon eligibility standards contained in the May 21 Stipulation in Docket No. RP95–271 and RP94–227, and as provided in this Amendment in Docket No. RP95–271 and RP94–227, and as provided in this Amendment. The Amendment is subject to Commission approval of the May 21, 1996 Stipulation.

As a result of the determinations described above, Transwestern states that it is amending its August 31st filing to remove approximately $159,121.09 of TCR II costs from the TCR II cost recovery mechanism. Transwestern further agrees it will not refile these costs in a future TCR II cost proceeding. Since this total amount has a minimal impact on Transwestern's TCR II surcharge (i.e. $0.000070 for Transwestern's highest load factor shipper), Transwestern shall reflect the effect of removing such costs in its upcoming annual RCR II true-up filing to be effective November 1, 1996 and there will be no effect to the tariff sheets currently on file with the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19026 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL96–61–000, et al.]

Michigan Power Company , et al.; Electric Rate and Corporate Regulation Filings

July 19, 1996.

Take notice that the following filings have been made with the Commission:

1. Michigan Power Company

[Docket No. EL96–61–000]

Take notice that on June 20, 1996, Michigan Power Company tendered for filing an Emergency Request For Declaratory order on Enforcement of Filing Requirements.

Comment date: August 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Torco Energy Marketing, Inc., Energy Source Power, Inc., Power Company of America, L.P., The Utility-Trade Corporation, Multi Energies USA Inc.

[Docket Nos. ER92–429–009; ER94–1168–009; ER95–111–007; ER95–1382–004; ER96–203–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On July 15, 1996, Torco Energy Marketing, Inc. filed certain information as required by the Commission's May 18, 1992, order in docket No. ER92–429–000.

On July 11, 1996, Energy Source Power, Inc. filed certain information as required by the Commission's July 8, 1994, order in docket No. ER94–1168–000.

On July 2, 1996, Power Company of America, L.P. filed certain information as required by the Commission's December 30, 1994, order in docket No. ER95–111–000.

On July 15, 1996, The Utility-Trade Corporation filed certain information as required by the Commission's August 25, 1995, order in docket No. ER95–1382–000.

On July 12, 1996, Multi Energies USA Inc. filed certain information as required by the Commission's December 8, 1995, order in docket No. ER96–203–000.

3. Rochester Gas and Electric Corporation v. Niagara Mohawk Power Corporation

[Docket No. EL96–62–000]

Take notice that on June 28, 1996, Rochester Gas and Electric Corporation (RG&E) filed a Complaint against Niagara Mohawk Power Corporation (Niagara Mohawk). In its Complaint, RG&E alleges that Niagara Mohawk has diminished the quality of RG&E's firm transmission service for which RG&E has contracted pursuant to a May 28, 1991, Transmission Service Agreement for reasons other than to maintain the reliability of the transmission system. In so doing, Niagara Mohawk has prevented RG&E from delivering capacity and energy sold pursuant to a wholesale power sales agreement entered into in reliance on the availability of firm transmission service over the Niagara Mohawk system.

Copies of the filing have been served on Niagara Mohawk.

Comment date: August 19, 1996, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint shall be due on or before August 19, 1996.

4. Dominion Resources, Inc.

[Docket No. EL96–63–000]

Take notice that on July 2, 1996, Dominion Resources, Inc. tendered for filing a Petition for Declaratory Order regarding its impacted megawatt mile transmission service tariff proposal.

Comment date: August 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Tennessee Power Company

[Docket No. EL96–64–000]

Take notice that on July 9, 1996, Tennessee Power Company, tendered for filing an application requesting that the Commission take enforcement action requiring the Tennessee Valley Authority to (1) Provide Tennessee Power Company data from which the Tennessee Valley Authority's avoided costs may be derived; and (2) purchase itself, and allow its wholesale customers to purchase, the output of qualifying facilities represented by Tennessee Power Company at rates which are just and reasonable, do not discriminate, accurately reflect avoided costs, and are sufficient to encourage cogeneration and small power production.

Comment date: August 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. PSI Energy, Inc.

[Docket No. ER89–672–011]

Take notice that on July 2, 1996, PSI Energy, Inc. (PSI) filed certain information as required by the Commission's order issued on June 28, 1990 [51 FERC 61,367 (1990)], and pursuant to Section T of their Transmission Service Tariff. Copies of PSI's informational filing are on file with the Commission and are available for public inspection.

7. Public Service Company of New Mexico

[Docket No. ER96–1551–001]

Take notice that on June 25, 1996, Public Service Company of New Mexico tendered for filing its compliance filing in the above-referenced docket.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Electric & Gas Company

[Docket No. ER96–2037–000]

Take notice that on July 10, 1996, Public Service Electric & Gas Company tendered for filing an amendment in the above-referenced docket.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–2340–000]

Take notice that on July 8, 1996, Duke Power Company (Duke) tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Vitol Gas & Electric LLC (VGE). Duke states that the TSA sets out the transmission arrangements under which Duke will provide VGE non-firm transmission service under its Transmission Service Tariff.

Comment date: August 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power Company

[Docket No. ER96–2341–000]

Take notice that on July 8, 1996, Duke Power Company (Duke) tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Carolina Power & Light Company (CPL). Duke states that the TSA sets out the transmission arrangements under which Duke will provide CPL non-firm transmission service under its Transmission Service Tariff.

Comment date: August 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company

[Docket No. ER96–2342–000]

Take notice that on July 8, 1996, Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) (collectively, the Companies) tendered for filing service schedules for the Sale, Assignment and Transfer of Transmission Capacity under each of the Companies' respective Coordination Sales Tariffs.

The Companies request an effective date of July 9, 1996, and have, therefore, requested that the Commission waive the Commission's notice requirement. Copies of this filing have been served on the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission, the Public Utility Commission of Texas and all customers with service agreements under one or more of the four individual CST–1 Tariffs.

Comment date: August 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Illinois Power Company

[Docket No. ER96–2344–000]

Take notice that on July 8, 1996, Illinois Power Company (Illinois Power) tendered for filing firm transmission service agreements under which United States of America, acting through the Administrator of General Services pursuant to the authority contained in Section 201(a) of the Federal Property and Administrative Services, Act of 1949, as amended (40 U.S.C. 481(a)) for the operation of its Scott Air Force Base facilities which will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Comment date: August 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Central Power and Light Company West Texas Utilities Company

[Docket No. ER96–2345–000]

Take notice that on July 8, 1996, Central Power and Light Company and West Texas Utilities Company, (jointly, the Companies) tendered for filing a service agreement under which they will provide transmission service to UtiliCorp United, Inc. (UtiliCorp) under their point-to-point transmission service tariff.

The Companies state that copies of the filing have been served on UtiliCorp.

Comment date: August 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of Oklahoma, Southwestern Electric Power Company

[Docket No. ER96–2346–000]

Take notice that on July 8, 1996, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the Companies) tendered for filing a service agreement under which they will provide transmission service to UtiliCorp United, Inc. (UtiliCorp) under their point-to-point transmission service tariff.

The Companies state that copies of the filing have been served on UtiliCorp.

Comment date: August 2, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. North Carolina Utilities Commission

[Docket No. IR–188–001]

On June 11, 1996, the North Carolina Utilities Commission (NCUC), pursuant to Section 292.402 of the Commission's Regulations, filed a petition for waiver of certain obligations imposed under Section 292.303(a) of the Commission's Regulations (18 CFR Part 292 Subpart C) which implement Section 210 of the Public Utilities Regulatory Policies Act of 1978 (PURPA). The NCUC has duly implemented the Commission's PURPA Regulations by filing a PURPA implementation plan on March 19, 1981.

The NCUC requests a waiver on behalf of the Nantahala Power and Light Company (Nantahala). Specifically, the NCUC seeks waiver on behalf of Nantahala of the obligation under 18 CFR 292.303(a) to purchase energy and capacity that is made available to Qfs.

Comment date: August 12, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–18999 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER95–1050–004, et al.]

Sonat Power Marketing Inc., et al.; Electric Rate and Corporate Regulation Filings

July 18, 1996.

Take notice that the following filings have been made with the Commission:

1. Sonat Power Marketing Inc.

[Docket No. ER95–1050–004]

Take notice that on July 3, 1996, Sonat Power Marketing Inc. (SPMI) filed an application to amend its currently approved Rate Schedule FERC No. 1 consistent with the Commission's policy announced in *USGen Power Services L.P.,* to report a change in status, and to request clarification as to reporting requirements in connection therewith.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. PECO Energy Company

[Docket No. ER96–2363–000]

Take notice that on July 10, 1996, PECO Energy Company (PECO), filed a Service Agreement dated July 3, 1996 with Niagara Mohawk Power Corporation (NMPC) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds NMPC as a customer under the Tariff.

PECO requests an effective date of July 3, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to NMPC and to the Pennsylvania Public Utility Commission.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. PECO Energy Company

[Docket No. ER96–2364–000]

Take notice that on July 10, 1996, PECO Energy Company (PECO), filed a Service Agreement dated July 3, 1996 with PanEnergy Trading and Market Services, Inc. (PANENERGY) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds PANENERGY as a customer under the Tariff.

PECO requests an effective date of July 3, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to PANENERGY and to the Pennsylvania Public Utility Commission.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER96–2365–000]

Take notice that on July 10, 1996, PECO Energy Company (PECO), filed a Service Agreement dated June 28, 1996 with Alabama Electric Cooperative, Inc. (AEC) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds AEC as a customer under the Tariff.

PECO requests an effective date of June 28, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to AEC and to the Pennsylvania Public Utility Commission.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. PECO Energy Company

[Docket No. ER96–2366–000]

Take notice that on July 10, 1996, PECO Energy Company (PECO), filed a Service Agreement dated July 3, 1996 with Eastex Power Marketing, Inc. (EASTEX) under PECO's FERC Electric Tariff, First Revised Volume No. 4 (Tariff). The Service Agreement adds EASTEX as a customer under the Tariff.

PECO requests an effective date of July 3, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to EASTEX and to the Pennsylvania Public Utility Commission.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Cinergy Services, Inc.

[Docket No. ER96–2369–000]

Take notice that on July 10, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into between Cinergy and Vastar Power Marketing, Inc.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Services, Inc.

[Docket No. ER96–2370–000]

Take notice that on July 10, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Point-to-Point Transmission Service Tariff (the Tariff) entered into between Cinergy and Delhi Energy Services, Inc.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER96–2376–000]

Take notice that on July 11, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated June 1, 1996 between Cinergy, CG&E, PSI and Michigan Public Power Agency (MPPA).

The Interchange Agreement provides for the following service between Cinergy and MPPA.

1. Exhibit A—Power Sales by MPPA
2. Exhibit B—Power Sales by Cinergy

Cinergy and MPPA have requested an effective date of July 15, 1996.

Copies of the filing were served on Michigan Public Power Agency, the Michigan Public Service Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Sonat Power Marketing L.P.

[Docket No. ER96–2343–000]

Take notice that on July 3, 1996, Sonat Power Marketing L.P. (SPMLP), filed an application requesting acceptance of its proposed Rate Schedule FERC No. 1 authorizing market-based rates, granting waivers of certain Commission regulations and granting certain blanket approvals. Consistent with these requests, SPMLP seeks authority to engage in the business of power marketing and to sell power at market-based rates.

SPMLP is a limited partnership whose general partner is Sonat Power Marketing Inc. (SPMI), a Commission-authorized power marketer. SPMI owns a 65% interest in SPMLP. The other 35% limited partnership interest is owned by a wholly owned subsidiary of AGL Resources Inc. SPMLP is not in the business of generating, transmitting, or distributing electric power.

Comment date: August 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company Commonwealth Edison Company of Indiana, Inc.

[Docket No. ER96–2367–000]

Take notice that on July 10, 1996, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd), tendered for filing revised pages to ComEd's Open Access Transmission Service Tariff filed on July 9, 1996 (Tariff).

ComEd requests an effective date of July 11, 1996 and has therefore requested that the Commission waive the Commission's notice requirement. Copies of this filing have been served by overnight delivery on all persons that were required to be served with the Tariff.

Comment date: August 1, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19000 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–U

[Docket No. ER96–2377–000, et al.]

Wisconsin Power and Light Company, et al.; Electric Rate and Corporate Regulation Filings

July 22, 1996.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Power and Light Company

[Docket No. ER96–2377–000]

Take notice that on July 11, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing a signed Service Agreement under WP&L's Bulk Power Tariff between itself and Coastal Electric Services Company. WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of July 1, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Power and Light Company

[Docket No. ER96–2378–000]

Take notice that on July 11, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing a signed Service Agreement under WP&L's Bulk Power Tariff between itself and Centerior. WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of July 3, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Texas Utilities Electric Company

[Docket No. ER96–2383–000]

Take notice that on July 12, 1996, Texas Utilities Electric Company (TU Electric), tendered for filing four executed transmission service agreements (TSA's) with Rainbow Energy Marketing Corp; Cinergy Services, Inc. as agent for and on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., Southern Energy Marketing, Inc.; and

Entergy Services, Inc. as agent for and on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. for certain Economy Energy Transmission Service under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TU Electric requests an effective date for the TSA's that will permit them to become effective on or before the service commencement date under each of the four TSA's. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on Rainbow Energy Marketing Corp., Cinergy Services, Inc. as agent for and on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., Southern Energy Marketing, Inc., and Entergy Services, Inc. as agent for and on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. as well as the Public Utility Commission of Texas.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER96–2384–000]

Take notice that on July 12, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Orange and Rockland Utilities, Inc.

Cinergy and Orange and Rockland Utilities, Inc. are requesting an effective date of July 1, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER96–2385–000]

Take notice that on July 12, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Alpena Power Company.

Cinergy and Alpena Power Company are requesting an effective date of July 15, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket No. ER96–2386–000]

Take notice that on July 12, 1996, American Electric Power Service Corporation (AEPSC), tendered for filing service agreements, executed by AEPSC and the following Parties, under the AEP Companies' Power Sales and/or Point-to-Point Transmission Service Tariffs: Federal Energy Sales, Inc., Niagara Mohawk Power Corporation, and Virginia Electric and Power Company.

The Power Sales Tariff has been designated as FERC Electric Tariff, First Revised Volume No. 2, effective October 1, 1995. The Point-to-Point Transmission Tariff has been designated AEPSC FERC Electric Tariff Second Revised Volume No. 1, effective September 7, 1993. Further, on July 9, 1996, AEP filed a new Transmission Tariff in compliance with Commission Order No. 888, requesting that, at the earliest possible date, this Tariff be designated to supersede the existing Point-to-Point Transmission Tariff. AEPSC requests waiver of notice to permit the Service Agreements to be made effective for service billed on and after June 12, 1996.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commission of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Anoka Electric Cooperative

[Docket No. ER96–2387–000]

Take notice that on July 12, 1996, Anoka Electric Cooperative (Anoka) submitted for filing as an initial rate schedule a power sales agreement between Anoka and Elk River Municipal Utilities. The power sales agreement is a wholesale all requirements contract. Anoka states that none of its facilities are utilized to effectuate the sale. Anoka requests a waiver of the Commission's notice requirements for good cause shown and an effective date of February 27, 1996. Anoka states that it has served a copy of this filing on the purchaser and the state public utilities commission.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Portland General Electric Company

[Docket No. ER96–2388–000]

Take notice that on July 12, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, an executed Service Agreement between PGE and Pacific Northwest Generating Cooperative.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002); PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective July 1, 1996.

Copies of this filing were served upon Pacific Northwest Generating Cooperative.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Central Illinois Light Company

[Docket No. ER96–2389–000]

Take notice that on July 12, 1996, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreements for three new customers.

CILCO requested an effective date of July 7, 1996.

Copies of the filing were served on all affected customers parties and the Illinois Commerce Commission.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Duquesne Light Company

[Docket No. ER96–2390–000]

Take notice that on July 12, 1996, Duquesne Light Company has filed a capacity reservation transmission tariff that includes marginal cost pricing of transmission usage.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power Corporation

[Docket No. ER96–2391–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Oglethorpe Power Corporation pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Florida Power Corporation

[Docket No. ER96–2392–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Fort Pierce Utilities Company pursuant to its

initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power Corporation

[Docket No. ER96–2393–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Gainesville Regional Utilities pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER96–2394–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Lake Worth Utilities pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Florida Power Corporation

[Docket No. ER96–2395–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Central Power & Lime, Inc. pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Florida Power Corporation

[Docket No. ER96–2396–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to the City of Vero Beach pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power Corporation

[Docket No. ER96–2397–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Tennessee Valley Authority pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Florida Power Corporation

[Docket No. ER96–2398–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to the City of Homestead pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Florida Power Corporation

[Docket No. ER96–2399–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to the Utility Board of the City of Key West pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power Corporation

[Docket No. ER96–2400–000]

Take notice that on July 12, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to the City of Lakeland pursuant to its initial open access transmission tariff (the T–2 Tariff). The purpose of this filing is to supplement partially executed versions of the agreements filed on December 1, 1995 in Docket No. ER96–526–000, and accepted for filing on January 30, 1996.

Comment date: August 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Arizona Public Service Company

[Docket No. ER96–2401–000]

Take notice that on July 12, 1996, Arizona Public Service Company (APS), tendered for filing its Open Access Transmission Tariff, Revision No. 1 (Revised Tariff).

The Revised Tariff proposes minor revisions to some terms and conditions that reflect regional practices and APS procedures. Additionally, the Revised Tariff includes three additional unbundled services.

APS proposed Revised Tariff is consistent with the Commission's Pro Forma Tariff and the proposed rates are conforming rates as established in the Commission's Policy Statement of Transmission Service by Public Utilities.

APS requests a waiver of the Commission's Notice Requirements in accordance with 18 CFR 35.11 to allow for an effective date of August 1, 1996.

A copy of this filing has been served on all parties of the Service List.

Comment date: August 5, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–19002 Filed 7–25–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5471–6]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed July 15, 1996 Through July 19, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960329, Final EIS, NPS, ID, Hagerman Fossil Beds National Monument, General Management Plan, Implementation, Twin Falls and Gooding Counties, Due: August 26, 1996, Contact: Rick Ernenwein (303) 969–2274.

EIS No. 960330, Final EIS, FHW, MO, MO–179 Extension, MO–50 west to the West Edgewood Boulevard, Funding, Right-of-Way and COE Section 404 Permit, Jefferson City, Cole County, MO, Due: August 26, 1996, Contact: Don Neumann (314) 636–7104.

EIS No. 960331, Final EIS, AFS, MT, Berray Mountain Timber Sale, Harvesting Timber, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT, Due: August 26, 1996, Contact: Dave Clay (406) 827–3682.

EIS No. 960332, Final EIS, FHW, CA, CA–30 Improvements, CA–66/ Foothill Boulevard to I–215, Funding and COE Section 404 Permit, Los Angeles and San Bernardino Counties, CA, Due: August 26, 1996, Contact: Jeffery Lewis (916) 498–5035.

EIS No. 960333, Draft EIS, AFS, PA, Electric Utility Rights-of-Way, A Substation, and A Radio Tower Site Vegetation Management Plan, Implementation, Allegheny National Forest, Warren, McKean, Forest and Elk Counties, PA, Due: September 16, 1996, Contact: Robert L. White (814) 723–5150.

EIS No. 960334, Final EIS, AFS, CA, NV, North Shore Ecosystem Management Project, Implementation, Lake Tahoe Basin Management Unit, Washoe and Placer Counties, CA and NV, Due: August 26, 1996, Contact: Joe Oden (916) 573–2600.

EIS No. 960335, Final EIS, FRC, CA, New Don Pedro Reservoir Project (NDPP) (FERC. No. 2299–024), Reservoir Release Requirements for Fish, Continuation and Maintenance, Issuance of Licenses, Tuolumne River and San Joaquin River Turlock and Malesto Irrigation Districts, Stanislaus County, CA, Due: August 26, 1996, Contact: Monica A. Maynard (202) 219–2652.

EIS No. 960336, Final EIS, AFS, OR, Paw Timber Sale, Timber Harvest and Road Construction, Implementation, Umpqua National Forest, Diamond Lake Ranger District, Douglas County, OR, Due: August 26, 1996, Contact: Phil Mattson (503) 326–3865.

EIS No. 960337, Final EIS, FAA, MA, Boston Logan International Airport, Implementation, Alternative Turbojet Departure Procedures at Runway 27, City of Boston, MA, Due: August 26, 1996, Contact: John Silva (617) 238–7602.

EIS No. 960338, Draft Supplement, FHW, CO, CO–82 Highway Transportation Project, Improvements, to ''Entrance to Aspen'', Updated and Additional Information on Additional Alternatives, Funding and COE Section 404 Permit, City of Aspen, Pitkin County, CO, Due: September 09, 1996, Contact: Ron Speral (303) 969–6737.

EIS No. 960339, Draft EIS, NIH, MD, National Institutes of Health Animal Center, 1995 Master Plan, Implementation, Poolesville, Montgomery County, MD, Due: October 04, 1996, Contact: Janyce Hedetniemi (301) 496–3931.

Amended Notices

EIS No. 950170, Draft EIS, FHW, WI, US 12 Highway Improvement, Sauk City to Middleton, Funding and COE Section 404 Permits Issuance, Sauk and Dane Counties, WI, Due: October 01, 1996, Contact: Richard Madrzak (608) 264–5968. Published FR 05–05–95—Review Period Extended.

Dated: July 23, 1996.

William D. Dickerson,

Director NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–19049 Filed 7–25–96; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–5471–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 8, 1996 Through July 12, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7153. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1996 (61 FR 15251).

Draft EISs

ERP No. D–AFS–L65253–OR

Trail System and Off-Highway Vehicle Management and Development, Implementation, Ochoco National Forest and Crooked River National Grassland, Crook, Grant, Jefferson, Harney and Wheeler Counties, OR.

Summary: Our abbreviated review of the proposed project revealed no environmental concerns to EPA.

ERP No. D–AFS–L65257–ID

Beaver/Cedar Land Change Project, Implementation, Clearwater National Forest, North Fork and Palause Ranger Districts, Clearwater and Latah Counties, ID.

Summary: Our abbreviated review of the proposed project revealed no environmental concerns to EPA.

ERP No. D–BOP–C81015–NY

Rating EC2 New York Federal Detention Center, Construction and Operation, Possible Site Selection, Alboin Site and Batavia Site, NY.

Summary: EPA expressed environmental concerns regarding potential impacts of wetlands. Accordingly, additional information must be provided in the final EIS to address this issue.

ERP No. D–COE–E36175–MS

Rating EC2, Jackson Metropolitan Area Flood Control Project, In Portions of Pearl River Basin, Implementation, Madison, Hinds an Rankin Countries, MS.

Summary: EPA expressed environmental concern regarding the short-term adverse impacts associated with levee construction, as well as long-term pressures to continue developing the Pearl River floodplain. EPA requested additional information on these issues.

ERP No. D–FDA–C81016–NY

Rating EC2, U.S. Food and Drug Administration, Construction of Regional Office and Laboratory, Site Specific, Jamacia Site, Queen County, NY.

Summary: EPA expressed environmental concerns regarding the

proposed project's impacts to air and ground water quality, and hazardous waste issues. Accordingly, EPA requested that additional information be provided in the final EIS to address these issues.

ERP No. D–FHW–L40198–WA

Rating LO, North Spokane Freeway Project, Improvements Transportation through the City of Spokane and Spokane County between I–90, Spokane County, WA.

Summary: EPA had no objection to the action as proposed.

ERP No. D–GSA–D81027–MD

Rating EC2, U.S. Food and Drug Administration (FDA) Consolidation of the following: Center for Drug Evaluation and Research (CDER), Center for Devices and Radiological Health (CDRH), Center for Biologies Evaluation and Research (CBER) and Office of Commissioner (OC), Site Selection, White Oak Naval Surface Weapons Center, Motgomery, MD.

Summary: EPA expressed environmental concerns regarding potential loss of 25 acres of woodlands, impacts to Class III stream and air quality impacts anticipated from increased vehicular traffic in an area where intersections already are at or exceed maximum capacity at peak times. Additional information and clarification is needed regarding air modeling and traffic analysis.

ERP No. D–GSA–K80038–CA

Rating LO, New San Francisco Federal Building Office Building Construction, Implementation, City and County of San Francisco, CA.

Summary: EPA had no objection to the proposed action.

ERP No. D–NOA–C91003–00

Rating LO, Queen Conch Resources Fishery Management Plan, Implementation, Atlantic Ocean and Caribbean Portions of the Exclusive Economic Zone (EEZ) adjacent to the State Waters of Puerto Rico and the U.S. Virgin Islands.

Summary: EPA believed that the proposed project would not result in significant adverse environmental impacts; therefore, EPA had no objection to its implementation.

ERP No. DS–USA–K11016–CA

Rating EC2, Fort Ord Disposal and Reuse Installation, Implementation, Additional Information, Establishment of Presido of Monterey (POM) Ammex, Cities of Marina and Seaside, Monterey County, CA.

Summary: EPA expressed environmental concerns regarding potential impacts to resources and wetlands. In addition, EPA asked that a no-project alternative be developed for the Final SEIS.

Final EISs

ERP No. F–FAA–C51017–NJ

Newark International Airport Ground Access Monorail-Northeast Corridor Connection Project, Funding, Construction, Operation, Airport Layout Plant and Approval, Essex and Union Counties, NJ.

Summary: EPA's previous concerns have been addressed, therefore, EPA had no objection to the action as proposed.

Dated: July 23, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–19050 Filed 7–25–96; 8:45 am]

BILLING CODE 6560–50–U

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the August 8, 1996 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Wednesday, August 28, 1996 at 10:00 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: July 23, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–19168 Filed 7–24–96; 11:43 am]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. § 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Seabourn Cruise Line Limited and Seabourn Maritime Management A/S, 55 Francisco Street, San Francisco, California 94133

Vessel: Seabourn Legend

Dated: July 22, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–18986 Filed 7–25–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 15. 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Joseph Thomas McLane, Poplar Bluff, Missouri; to acquire an additional 43.40 percent, for a total of 43.42 percent, of the voting shares of Midwest Bancshares, Inc., Poplar Bluff, Missouri, and thereby indirectly acquire Carter County State Bank, Van Buren, Missouri, First Midwest Bank of Dexter, Dexter, Missouri, First Midwest Bank of Chaffee, and First Midwest Bank of Piedmont, Piedmont, Missouri.

Board of Governors of the Federal Reserve System, July 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–19046 Filed 7-25-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 19, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Oak Park River Forest Bankshares, Inc., Oak Park, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Oak Park River Forest, Oak Park, Illinois (in organization).

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Commercial Corporation, Little Rock, Arkansas; to acquire 100 percent of the voting shares of Security National Bank, Nacogdoches, Texas.

2. The Norma McLane-Smith Family Limited Partnership, Poplar Bluff, Missouri; to become a bank holding company by acquiring 53.77 percent of the voting shares of Poplar Bluff Banc Company, Poplar Bluff, Missouri, and First Midwest Bank of Poplar Bluff, Poplar Bluff, Missouri. Applicant also has applied to acquire 11.10 percent of the voting shares of Midwest Bancshares, Inc., Poplar Bluff, Missouri, First Midwest Bank of Chaffee, Chaffee, Missouri, First Midwest Bank of Piedmont, Piedmont, Missouri, Carter County State Bank, Van Buren, Missouri, and First Midwest Bank of Dexter, Dexter, Missouri.

Board of Governors of the Federal Reserve System, July 22, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–19044 Filed 7-25-96; 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 August 9, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Merrill Merchants Bancshares, Inc., Bangor, Maine; to engage *de novo* through its subsidiary, M&M Consulting Limited Liability Company, Bangor, Maine, in management consulting pursuant to § 225.25(b)(11) of the Board's Regulation Y. Such services would include loan review, regulatory compliance and auditing. In addition, M&M Consulting would represent an initial joint venture between Merrill Merchants Bancshares, Inc.'s subsidiary bank, Merrill Merchants Bank, Bangor, Maine, and MSB Leasing, a subsidiary of Machias Savings Bank, Machias, Maine. These activities will be conducted in the state of Maine.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. NBN Corp., Newport, Tennessee; to engage *de novo* through its subsidiary Smoky Mountain Financial Services, Inc., Jefferson City, Tennessee in credit related insurance, pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y. These activities will be conducted throughout the state of Tennessee.

Board of Governors of the Federal Reserve System, July 22, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–19045 Filed 7-25-96; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, July 31, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Reports regarding the Federal Reserve Board's Affirmative Action and Equal Employment Opportunity programs.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 24, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–19167 Filed 7–24–96; 11:42 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: At-risk child care program, Annual Report, ACF–301.

OMB No.: 0970–126.

Description: Completing this form partially fulfills the reporting requirements of Section 402(i)(6)(B) of the Social Security Act (the Act) whereby the Secretary of DHHS must compile and report certain information annually that is pertinent to the At-Risk program. Additionally the report provides a means for each State to report subsequent period expenditures to determine the State's compliance with the non-supplantation provisions found at Section 402(i)(5)(D) of the Act.

Respondents: State, Local or Tribal Govt.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–301	54	1	3.5	189
Estimated Total Annual Burden Hours: 189				

Additional Information

Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: July 22, 1996.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 96–19039 Filed 7–25–96; 8:45 am]

BILLING CODE 4184–01–M

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C. 20005, (202) 219–9657. For information on the Health Resouces and Services Administration's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 8A35, Rockville, MD 20857, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated her responsibility under the Program to

HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the Federal Register a notice of each petition filed. Set forth below is a partial list of petitions received by HRSA on January 4, 1993 through September 2, 1994.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Marty Brock on behalf of Traci Lynn Brock, Hattiesburg, Mississippi, Court of Federal Claims Number 93–0001 V
2. Charlene Smith on behalf of G.R. Smith, Omaha, Nebraska, Court of Federal Claims Number 93–0005 V
3. Wayne Suitor on behalf of Jessica Suitor, Texarkana, Texas, Court of Federal Claims Number 93–0011 V
4. Bridget Honaker on behalf of Austin Van Honaker, Scarbro, West Virginia, Court of Federal Claims Number 93–0013 V
5. Ronald Hood on behalf of Hillary Nicole Hood, Portland, Oregon, Court of Federal Claims Number 93–0017 V
6. Wayne and Veronica Engen on behalf of Kira Nicole Engen, Rice Lake, Wisconsin, Court of Federal Claims Number 93–0024 V
7. Robin J. Krouse on behalf of Kevin Krouse, Bellefontaine, Ohio, Court of Federal Claims Number 93–0048 V
8. Melanie Denise Palmore, Swainsboro, Georgia, Court of Federal Claims Number 93–0049 V
9. Lynnette Patterson on behalf of Kayla Rene Patterson, South Bend, Indiana, Court of Federal Claims Number 93–0053 V
10. Rhonda Lane on behalf of James Curtis Lane, Jr., Deceased, Anchorage, Alaska, Court of Federal Claims Number 93–0054 V
11. Regina Pearce on behalf of Annalisa Pearce, Grand Junction, Colorado, Court of Federal Claims Number 93–0055 V
12. Jennifer Block, Brooklyn, New York, Court of Federal Claims Number 93–0058 V
13. Debra A. Major on behalf of Mark A. Major, Clearwater, Florida, Court of Federal Claims Number 93–0069 V
14. Kathleen Krey on behalf of Hilary Krey, Eagan, Minnesota, Court of Federal Claims Number 93–0070 V
15. Laurie Bertsch on behalf of Ashley Lynn Bertsch, Elizabeth, New Jersey, Court of Federal Claims Number 93–0072 V
16. David and Cynthia Goldenberg on behalf of Garrett Goldenberg, Los Angeles, California, Court of Federal Claims Number 93–0080 V
17. William Coultas, Lexington, Kentucky, Court of Federal Claims Number 93–0081 V
18. Robert and Nancy Bruechert on behalf of John Bruechert, Bryn Mawr, Pennsylvania, Court of Federal Claims Number 93–0082 V
19. Becky Carlson on behalf of Aubrey Carlson, Columbus, Nebraska, Court of Federal Claims Number 93–0086 V
20. Miriam and Steven Silvermintz on behalf of Nathan Silvermintz, Deceased, Fair Lawn, New Jersey, Court of Federal Claims Number 93–0090 V
21. Lynne McCaffry, Indianapolis, Indiana, Court of Federal Claims Number 93–0091 V
22. Donald Brewer, Sr. on behalf of Donald J. Brewer, Jr., Worthington, Ohio, Court of Federal Claims Number 93–0092 V
23. James and Tina Liebo on behalf of Eric W. Liebo, Carrollton, Texas, Court of Federal Claims Number 93–0098 V
24. Joyce and Eric Erickson on behalf of Richard Erickson, Burke, Virginia, Court of Federal Claims Number 93–0102 V
25. Victor and Maria Santamaria, Sr. on behalf of Victor Joseph Santamaria, Jr., Deceased, Angleton, Texas, Court of Federal Claims Number 93–0103 V
26. Phillip and Phyllis Janssen on behalf of Corwin Janssen, Nuremberg, Germany, Court of Federal Claims Number 93–0104 V
27. Sharon Sauer, Rhinelander, Wisconsin, Court of Federal Claims Number 93–0106 V
28. Barbara Arquieta on behalf of Treasure Juanita Arquieta, Fontana, California, Court of Federal Claims Number 93–0109 V
29. Mark and Anita Selph on behalf of Emily Selph, Glendale, Arizona, Court of Federal Claims Number 93–0113 V
30. Brenda Glasser on behalf of Martin Glasser, Pensacola, Florida, Court of Federal Claims Number 93–0116 V
31. Bertram and Carole Kono on behalf of Ricky C.N. Kono, Honolulu, Hawaii, Court of Federal Claims Number 93–0123 V
32. Martha Ebert-Baum on behalf of Andrew Baum, Philadelphia, Pennsylvania, Court of Federal Claims Number 93–0139 V
33. Delbert and Michelle Wilson on behalf of Diane Wilson, South Bend, Indiana, Court of Federal Claims Number 93–0141 V

34. Lyle Alexson, Coon Rapids, Minnesota, Court of Federal Claims Number 93–0149 V
35. Sandra Crosby, Harvey, Illinois, Court of Federal Claims Number 93–0151 V
36. Susan and Robert Cromwell on behalf of Joseph Cromwell, Overland Park, Kansas, Court of Federal Claims Number 93–0152 V
37. Dennis and Mary Axman on behalf of Dana M. Axman, Macon, Georgia, Court of Federal Claims Number 93–0154 V
38. Claude and Cheryl Everts on behalf of Breanna Everts, Coeur D'Alene, Idaho, Court of Federal Claims Number 93–0160 V
39. Wendy and William Krull on behalf of Logan Krull, Denver, Colorado, Court of Federal Claims Number 93–0166 V
40. Vincent and Diane Peers on behalf of Andrew Peers, Hauppauge, New York, Court of Federal Claims Number 93–0170 V
41. Patricia Stansfield, Elizabeth, New Jersey, Court of Federal Claims Number 93–0172 V
42. James and Tonya Regan on behalf of Thomas Arron Regan, Sumter, South Carolina, Court of Federal Claims Number 93–0173 V
43. Paula Brodsky, Philadelphia, Pennylvania, Court of Federal Claims Number 93–0174 V
44. Steve and Heidi L. Bokry on behalf of Stephen Bokry, Youngstown, Ohio, Court of Federal Claims Number 93–0176 V
45. John and Kim Horton on behalf of Kalynn Horton, Tulsa, Oklahoma, Court of Federal Claims Number 93–0187 V
46. Georgetta Smith on behalf of Sherron Smith, Deceased, Camden, New Jersey, Court of Federal Claims Number 93–0189 V
47. Barbara Kopacz on behalf of Max Kopacz, Nashua, New Hampshire, Court of Federal Claims Number 93–0193 V
48. Dawn Murphy on behalf of Jeffery Murphy, Sacramento, California, Court of Federal Claims Number 93–0194 V
49. Cheryl Ann Smith on behalf of Reginald Smith, Deceased, Shreveport, Louisiana, Court of Federal Claims Number 93–0202 V
50. Gina and Leonard Rhodes on behalf of Jazmin Rhodes, Deceased, Los Angeles, California, Court of Federal Claims Number 93–0209 V
51. Arthur and Janet Levan, Sr. on behalf of Arthur Levan, Jr., Washington, D.C., Court of Federal Claims Number 93–0211 V
52. Hether and Keith Champlain on behalf of Chase Cordon Champlain, Wheat Ridge, Colorado, Court of Federal Claims Number 93–0218 V
53. Sharee-Rene Allen on behalf of Freeman A. Easterly, IV, Deceased, Gowanda, New York, Court of Federal Claims Number 93–0223 V
54. Douglas and Sally Beicht on behalf of Daniel Beicht, Phoenix, Arizona, Court of Federal Claims Number 93–0225 V
55. Gregory and Peggy Chambers on behalf of Peggy Chambers, Phoenix, Arizona, Court of Federal Claims Number 93–0229 V
56. Seth P. Platt, Spring Valley, New York, Court of Federal Claims Number 93–0264 V
57. Penny Reece on behalf of Leslie Reece, Castle Dale, Utah, Court of Federal Claims Number 93–0269 V
58. James and Patricia Huber on behalf of Carl Huber, Deceased, Wyomissing, Pennsylvania, Court of Federal Claims Number 93–0285 V
59. Tonya Hayes and Donald Wright on behalf of Darrius Hayes, Durham, North Carolina, Court of Federal Claims Number 93–0287 V
60. Michael and Debbie Benevelli on behalf of Samantha Benevelli, Palos Heights, Illinois, Court of Federal Claims Number 93–0291 V
61. Cynthia Holle, Norwich, Connecticut, Court of Federal Claims Number 93–0298 V
62. Lisa and Thomas Mickelson on behalf of Jenna Mickelson, Phoenix, Arizona, Court of Federal Claims Number 93–0299 V
63. Robert and Sandra Nieto on behalf of Luis Adrian Nieto, El Paso, Texas, Court of Federal Claims Number 93–0311 V
64. Debra and Chris Allen on behalf of Mary Catherine Allen, Annandale, Virginia, Court of Federal Claims Number 93–0312 V
65. Michelle Cosman on behalf of Rebecca Jean Cosman, Woodhaven, Michigan, Court of Federal Claims Number 93–0315 V
66. Charles and Tina Lee on behalf of Randall Lee, Warner Robins, Georgia, Court of Federal Claims Number 93–0324 V
67. Kimberly Gomez on behalf of Kevin C. Gomez, Cerritos, California, Court of Federal Claims Number 93–0328 V
68. Albert Phipps and Yvette Harris on behalf of Ebony Phipps, Gainesville, Florida, Court of Federal Claims Number 93–0333 V
69. Robert and Anita Wuttke on behalf of Chad A. Wuttke, Austin, Texas, Court of Federal Claims Number 93–0334 V
70. John W. Fort, Bremerton, Washington, Court of Federal Claims Number 93–0335 V
71. Steven and Sally Gaer on behalf of Margaret Gaer, Des Moines, Iowa, Court of Federal Claims Number 93–0346 V
72. Rodney and Cynthia Wilson on behalf of Spencer Wilson, Salinas, California, Court of Federal Claims Number 93–0351 V
73. Susan Garzonio, Monroe, Wisconsin, Court of Federal Claims Number 93–0362 V
74. Julie and Stephen Snedeker on behalf of David and Tyson Snedeker, Brandon, Florida, Court of Federal Claims Number 93–0375 V
75. Jesse Ferguson, Milwaukee, Wisconsin, Court of Federal Claims Number 93–0376 V
76. Miranda and Darren Bailey on behalf of Brooke Bailey, Angleton, Texas, Court of Federal Claims Number 93–0389 V
77. Adriane Walker and Melvin Johns on behalf of Aria Johns, Orlando, Florida, Court of Federal Claims Number 93–0398 V
78. Sharon Canino on behalf of Jessica Canino, La Habra, California, Court of Federal Claims Number 93–0401 V
79. Jose Bernal on behalf of Jose Armand Mancilla, Napa, California, Court of Federal Claims Number 93–0402 V
80. Antonia and Michael Britt on behalf of Margaret Jones, Nashville, Tennessee, Court of Federal Claims Number 93–0414 V
81. Arlene Norber, Banning, California, Court of Federal Claims Number 93–0418 V
82. Jennifer and Dale Spencer on behalf of Katherine Spencer, Exeter, New Hampshire, Court of Federal Claims Number 93–0427 V
83. Lowell and Carol Feil on behalf of Ashley Feil, Los Gatos, California, Court of Federal Claims Number 93–0431 V
84. Luisita dela Rosa on behalf of Omolara Emiola, Ames, Iowa, Court of Federal Claims Number 93–0433 V
85. Danyelle Carraggio and Mark Anderson on behalf of Jason Anderson, Deceased, Spokane, Washington, Court of Federal Claims Number 93–0438 V
86. Olga Krel on behalf of Rinata Krel, Panorama City, California, Court of Federal Claims Number 93–0462 V
87. Terri Keith on behalf of Christopher Carr, Montgomery, Alabama, Court of Federal Claims Number 93–0474 V
88. Kelly and Duane Hildenbrand on behalf of Dustin Hildenbrand, Deceased, Brooklyn Center, Minnesota, Court of Federal Claims Number 93–0478 V
89. James and Lorena Clark on behalf of Kourtney Clark, McKinney, Texas, Court of Federal Claims Number 93–0482 V

90. Barbara Schmidt on behalf of Michael Schmidt, San Clemente, California, Court of Federal Claims Number 93–0484 V
91. Sandra Colt on behalf of Michael Colt, Pepperell, Massachusetts, Court of Federal Claims Number 93–0495 V
92. Randy Pierson on behalf of Gordon Pierson, Jackson, Tennessee, Court of Federal Claims Number 93–0498 V
93. Robert and Christine Luckey, Jr. on behalf of Robert Luckey, III, Cincinnati, Ohio, Court of Federal Claims Number 93–0499 V
94. Kenneth and Michelle Walker, III on behalf of Kenneth Walker IV, Deceased, Tinton Falls, New Jersey, Court of Federal Claims Number 93–0529 V
95. Pamela Robinson, Arlington, Texas, Court of Federal Claims Number 93–0530 V
96. James Hollis, Jr., Magnolia, Arkansas, Court of Federal Claims Number 93–0533
97. Jose and Monserrate Caban on behalf of Stephanie Caban, Lares, Puerto Rico, Court of Federal Claims Number 93–0554 V
98. Betty Chiller on behalf of Emily Chiller, Seattle, Washington, Court of Federal Claims Number 93–0568 V
99. Nancy Hirt and Charles Perry on behalf of Kaylin Hirt, Norfolk, Virginia, Court of Federal Claims Number 93–0570 V
100. Gordon Miller, Iowa City, Iowa, Court of Federal Claims Number 93–0572 V
101. James and Kimberly Boykin on behalf of Michael Boykin, Dallas, Texas, Court of Federal Claims Number 93–0576 V
102. Peter and Marilyn Wintheiser on behalf of William Wintheiser, State College, Pennsylvania, Court of Federal Claims Number 93–0577 V
103. Pablo and Araceli Olascoaga on behalf of Franco Olascoaga, Houston, Texas, Court of Federal Claims Number 93–0616 V
104. John and Alice Salamone on behalf of David Salamone, Vienna, Virginia, Court of Federal Claims Number 93–0619 V
105. Katherine Kamedula, Wilmington, Delaware, Court of Federal Claims Number 93–0621 V
106. Donald and Debra Frame on behalf of Donald Frame, III, Schenectady, New York, Court of Federal Claims Number 93–0622 V
107. Nanette Woodage, Danbury, Connecticut, Court of Federal Claims Number 93–0633 V
108. Laura and Charles Boles on behalf of Ashley Boles, Deceased, Baton Rouge, Louisiana, Court of Federal Claims Number 93–0637 V
109. Gina and Leonard Rhodes on behalf of Jazmin Rhodes, Deceased, Los Angeles, California, Court of Federal Claims Number 93–0650 V
110. Kristina Martin, Munfordville, Kentucky, Court of Federal Claims Number 93–0652 V
111. Patricia Pason, Amherst, New York, Court of Federal Claims Number 93–0662 V
112. Susan and Jack Rounds on behalf of Paul Rounds, Rome, New York, Court of Federal Claims Number 93–0668 V
113. Dawn Knoeller on behalf of Edward Knoeller, Forked River, New Jersey, Court of Federal Claims Number 93–0681 V
114. Maria Rooks on behalf of Randall Rooks, Clanton, Alabama, Court of Federal Claims Number 93–0689 V
115. June Ganley on behalf of Katelyn Ganley, Santa Clara, California, Court of Federal Claims Number 93–0735 V
116. Edith Warmkessel on behalf of Alfred Parker, IV, Deceased, Wilmington, Delaware, Court of Federal Claims Number 93–0741 V
117. Dennis and Tamsey Alting on behalf of Chelsea Alting, Deceased, Boyertown, Pennsylvania, Court of Federal Claims Number 93–0758 V
118. Jeanne Rodgers on behalf of Shelbi Rodgers, Las Vegas, Nevada, Court of Federal Claims Number 93–0767 V
119. William Ross, Jr. on behalf of William Ross, III, Roseville, California, Court of Federal Claims Number 93–0778 V
120. Jennifer and Jerry Cook on behalf of Christina Cook, Deceased, Fallston, Maryland, Court of Federal Claims Number 94–0003 V
121. Jaime Monino, Miami, Florida, Court of Federal Claims Number 94–0005 V
122. Linda Leach, Abingdon, Maryland, Court of Federal Claims Number 94–0006 V
123. Jennifer and Mike Schmidt on behalf of Justin Schmidt, Camdenton, Missouri, Court of Federal Claims Number 94–0012 V
124. Renee Wright on behalf of Damion Seaborough, Savannah, Georgia, Court of Federal Claims Number 94–0014 V
125. Michael and Rebecca Crockett on behalf of Lauren Crockett, Charleston, South Carolina, Court of Federal Claims Number 94–0015 V
126. Dianne Carter Ross, Saint Augustine, Florida, Court of Federal Claims Number 94–0030 V
127. Brian and Kelly McGinn on behalf of Connor McGinn, Las Cruces, New Mexico, Court of Federal Claims Number 94–0036 V
128. Vanessa Morgan on behalf of Jeremy Jackson, Tallahassee, Florida, Court of Federal Claims Number 94–0042 V
129. E. Barbara Snyder, Atlantic City, New Jersey, Court of Federal Claims Number 94–0058 V
130. Victoria and Anthony Vitale on behalf of Nicole Vitale, Yorktown Heights, New York, Court of Federal Claims Number 94–0060 V
131. Steve and Shawna Waugh on behalf of William Waugh, Deceased, Silver Spring, Maryland, Court of Federal Claims Number 94–0065 V
132. John and Patricia Hoag on behalf of Cassandra Hoag, Trenton, Florida, Court of Federal Claims Number 94–0067 V
133. Mario Leonidas Benavidez on behalf of Mario Alfredo Benavidez, Pharr, Texas, Court of Federal Claims Number 94–0075 V
134. Helen Rogers, Opelika, Alabama, Court of Federal Claims Number 94–0089 V
135. Kenneth and Shirley Shumway on behalf of Taylor Shumway, Springerville, Arizona, Court of Federal Claims Number 94–0094 V
136. Darren and Amber Black on behalf of Ryan Black, Deceased, Oklahoma City, Oklahoma, Court of Federal Claims Number 94–0100 V
137. Sandra Sanders on behalf of DeCarlo Sanders, Akron, Ohio, Court of Federal Claims Number 94–0101 V
138. Daria Melendez on behalf of Bianca Melendez, Hollywood, Florida, Court of Federal Claims Number 94–0103 V
139. Timothy and Lee Ann McCollum on behalf of Grant McCollum, Poughkeepsie, New York, Court of Federal Claims Number 94–0136 V
140. William and Lucille Addington, Jr. on behalf of Kathryn Addington, Daytona Beach, Florida, Court of Federal Claims Number 94–0137 V
141. Patricia Stanley, Annapolis, Maryland, Court of Federal Claims Number 94–0166 V
142. Vicente Soltero, Sr. on behalf of Vicente Soltero, Jr., Los Angeles, California, Court of Federal Claims Number 94–0167 V
143. Jeanne Monaco on behalf of Chelsea Monaco, Braintree, Massachusetts, Court of Federal Claims Number 94–0175 V
144. Richard A. Stedman, Tacoma, Washington, Court of Federal Claims Number 94–0178 V
145. Arthella Kellum on behalf of Negus Greene, Saint Louis, Missouri, Court of Federal Claims Number 94–0194 V
146. Alice Stroud, Cincinnati, Ohio, Court of Federal Claims Number 94–0197 V
147. Donald and Wanda Miller on behalf of Shawn Miller, Fredericktown, Ohio, Court of Federal Claims Number 94–0200 V

148. Michelle Collyard on behalf of Chelsea Collyard, Minneapolis, Minnesota, Court of Federal Claims Number 94–0205 V
149. Jacqueline and Kenny Eggleston on behalf of Sean Eggleston, Toledo, Ohio, Court of Federal Claims Number 94–0224 V
150. Joanne Jennerich, Hackensack, New Jersey, Court of Federal Claims Number 94–0225 V
151. Joseph and Lynda Giles on behalf of Garrett Giles, Deceased, Winter Haven, Florida, Court of Federal Claims Number 94–0230 V
152. Patrick Hayes, Sr. on behalf of Patrick Hayes, Jr., Lake Worth, Florida, Court of Federal Claims Number 94–0241 V
153. Tamara Coleman on behalf of Christina Cacchione, Erie, Pennsylvania, Court of Federal Claims Number 94–0243 V
154. Kendall and Jeri Jackson on behalf of Tori Ann Jackson, Dodge City, Kansas, Court of Federal Claims Number 94–0246 V
155. William Jones, Jr., Oklahoma City, Oklahoma, Court of Federal Claims Number 94–0247 V
156. Yolanda Bernard on behalf of Kimberly Bernard, Alamosa, Colorado, Court of Federal Claims Number 94–0249 V
157. Kimberly Beckham on behalf of Christopher Beckham, Sheffield, Alabama, Court of Federal Claims Number 94–0250 V
158. Gayle Mallan, Longwood, Florida, Court of Federal Claims Number 94–0267 V
159. Jeanne Daniels, Concord, New Hampshire, Court of Federal Claims Number 94–0303 V
160. Kathi Long, Las Vegas, Nevada, Court of Federal Claims Number 94–0310 V
161. Suzanne Humphries, Norfolk, Virginia, Court of Federal Claims Number 94–0314 V
162. John and Christine Buhk on behalf of Molly Buhk, Deceased, Juneau, Wisconsin, Court of Federal Claims Number 94–0326 V
163. Steven Frank on behalf of Zachary Hinkle, Deceased, Hampton, Virginia, Court of Federal Claims Number 94–0329 V
164. Michael and Stacey Sookoo on behalf of Michael Sookoo, New York City, New York, Court of Federal Claims Number 94–0331 V
165. Pamela Carey on behalf of Brett Carey, Fort Myers, Florida, Court of Federal Claims Number 94–0349 V
166. Stuart and Robin Cohen on behalf of Drew Cohen, Philadelphia, Pennsylvania, Court of Federal Claims Number 94–0353 V
167. Peter and Victoria Nelezen on behalf of Edward Nelezen, Bettendorf, Iowa, Court of Federal Claims Number 94–0367 V
168. Sharleen Rawnsley on behalf of Austin Rawnsley, Thousand Oaks, California, Court of Federal Claims Number 94–0368 V
169. Whitney Shultz on behalf of Tamarin Shultz, Ocala, Florida, Court of Federal Claims Number 94–0369 V
170. Andrew and Kathy Schaus on behalf of Robert Schaus, Little Rock, Arkansas, Court of Federal Claims Number 94–0370 V
171. Martin and Denise Lehtio, II on behalf of Martin Lehtio, III, Fort Lauderdale, Florida, Court of Federal Claims Number 94–0385 V
172. Teresa Raeder, Palmdale, California, Court of Federal Claims Number 94–0387 V
173. Donald Hutchings, Atlanta, Georgia, Court of Federal Claims Number 94–0388 V
174. Michele Palechek on behalf of Dean Palechek, Orlando, Florida, Court of Federal Claims Number 94–0397 V
175. Thomas and Marie Moore on behalf of Alyssa Moore, Deceased, Detroit, Michigan, Court of Federal Claims Number 94–0400 V
176. Maria and Kevin Grice on behalf of Dallas Grice, Fort Myers, Florida, Court of Federal Claims Number 94–0410 V
177. Scott and Teri Orwin on behalf of Cody Orwin, Orem, Utah, Court of Federal Claims Number 94–0413 V
178. Kent and Jaime Wilson on behalf of Kourtney Wilson, Hurricane, Utah, Court of Federal Claims Number 94–0415 V
179. Billy David Housand, Fort Sam Houston, Texas, Court of Federal Claims Number 94–0441 V
180. Cathy and Charles Price on behalf of Cathy Price, Merrillville, Indiana, Court of Federal Claims Number 94–0443 V
181. Betty Graves, Pittsfield, Massachusetts, Court of Federal Claims Number 94–0444 V
182. Zhongyang Zhang, Carbondale, Illinois, Court of Federal Claims Number 94–0445 V
183. Jean Lowry on behalf of Erick Lowry, Elverta, California, Court of Federal Claims Number 94–0451 V
184. Patrick Horning and Lisa Riedel on behalf of Adair Horning, Clallam Bay, Washington, Court of Federal Claims Number 94–0455 V
185. John Wisner and Theresa Baggett on behalf of Dennis Wisner, Centreville, Mississippi, Court of Federal Claims Number 94–0475 V
186. Rogelio and Felice Martinez, Jr. on behalf of Rogelio Martinez, III, San Antonio, Texas, Court of Federal Claims Number 94–0481 V
187. Miriam Dominguez on behalf of Luis Dominguez, Minneapolis, Minnesota, Court of Federal Claims Number 94–0482 V
188. Richard A. Stedman, Tacoma, Washington, Court of Federal Claims Number 94–0489 V
189. Carolyn Charette on behalf of Gary G. Charette, Deceased, Chicopee, Massachusetts, Court of Federal Claims Number 94–0492 V
190. Theresa Gutierrez on behalf of Anthony Gutierrez, Woodstock, Illinois, Court of Federal Claims Number 94–0500 V
191. Angela Walker on behalf of Zenobia Walker, Waynesboro, Georgia, Court of Federal Claims Number 94–0504 V
192. Rosemary Beach on behalf of Darcey Beach, Boston, Massachusetts, Court of Federal Claims Number 94–0511 V
193. Jerry and Lea Weddel on behalf of Cassie Weddel, Corpus Christi, Texas, Court of Federal Claims Number 94–0524 V
194. Jack and Glena Burkes on behalf of Benjamin Burkes, Dardanelle, Arkansas, Court of Federal Claims Number 94–0528 V
195. Paula Teal on behalf of Derek Teal, Deceased, Woburn, Massachusetts, Court of Federal Claims Number 94–0543 V
196. Ann and Michael Bergner on behalf of Austin Bergner, Page, Arizona, Court of Federal Claims Number 94–0560 V
197. Joseph and Karen Donohue on behalf of Thomas Donohue, Lancaster, Ohio, Court of Federal Claims Number 94–0561 V
198. Tina and David Jones on behalf of Tiffany Jones, Kingsport, Tennessee, Court of Federal Claims Number 94–0565 V
199. Joseph and Susan Fahey on behalf of Victoria Fahey, Basking Ridge, New Jersey, Court of Federal Claims Number 94–0568 V
200. Barbara Strobush on behalf of Andrew Strobush, Deceased, Memphis, Tennessee, Court of Federal Claims Number 94–0579 V

Dated: July 22, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–18957 Filed 7–25–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Submission for OMB Review; Comment Request; NIH Undergraduate Scholarship Program for Individuals From Disadvantaged Backgrounds (UGSP)

AGENCY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Loan Repayment and Scholarship Programs/OIR, the National Institutes of Health has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the Federal Register on March 22, 1996, page 11851, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is the allow an additional 30 days for public comment. The NIH may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED DATA COLLECTION: *Title:* NIH Undergraduate Scholarship Program for Individual from Disadvantaged Backgrounds (UGSP). *Type of Information Request:* New. *Need and Use of Information Collection:* The information collected is needed to assess eligibility and potential of applicants for the UGSP, a program intended to recruit undergraduate students into research field required by the NIH. The program is for students from disadvantaged backgrounds and provides full-time undergraduate students with scholarship of up to $20,000 per year for up to 4 years. As part of the UGSP scholars must enter research service agreements with the NIH for 10 consecutive weeks during the summer and, after graduation, 1 year for each scholarship year. *Frequency of Response:* Annual. *Affected Public:* Individuals; small business entities. *Type of Respondents:* Students applying for the scholarships, educational institutions, and persons recommending the applicants. The annual reporting burden is presented below:

Type of respondent	Estimate Number of respondents	Number of responses per respondent	Average hourly burden	Estimated total annual burden hours requested
Student Applicant	500	1	3.0	1,500
Educational Institution	500	1	0.5	500
Recommenders	1,500	1	0.5	750
Totals	2,500	.....	.....	2,750

The annualized cost to respondents is estimated at: $34,798. There are no capital costs to report. There are no operating or maintenance costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the purposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Mr. Marc S. Horowitz, Director, Office of Loan Repayment and Scholarship Programs/OIR/NIH, Rm. 604, 7550 Wisconsin Ave., Bethesda, MD 20892–9121, or call non-toll-free number (301) 402–5666 or e-mail your request, including your address, to <mh8k@nih.gov> or access the Scholarship Office on the Internet at <HTTP://HELIX.NIH.GOV:8001/OSE/CATALOG/LOANREPAY.HTML.>

COMMENTS DUE DATES: Comments regarding this information collection are best assured of having their full effect if received on or before August 26, 1996.

Dated: July 18, 1996.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 96–18967 Filed 7–25–96; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESS: Licensing information and copies of the U.S. patent applications and issued patents listed below may be obtained by contacting Cindy K. Fuchs, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7735 ext 232; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Inhibition of Retroviral LTR Promoters by Calcium Response Modifiers

EC Kohn, LA Liotta, KL Gardner (NCI)
Filed 12 Dec 94
Serial No. 08/353,765

The pathogenesis of HIV infection can be divided into two phases based upon the activity of the HIV virus. The latent phase is characterized by low transciptional activity and/or low

replication frequency of the virus whereas the lytic phase is characterized by high transcriptional activity and/or high replication frequency. Although the mechanism(s) involved in the switch from the latent to lytic phase is not completely understood, inhibition of the viral LTR promoter is an important strategy in AIDS treatment. The invention concerns the use of the compound carboxyamidotriazole (CAI), a calcium response modifier, and structurally related compounds that are capable of preventing the activation of the LTR promoter in the treatment of HIV infection and AIDS. In addition, CAI has antimetastatic properties and currently is being tested in clinical trials for the treatment of cancer. A further advantage is that CAI has shown no severe side effects during these trials. Therefore treatment of AIDS patients with CAI would also allow for the treatment of related cancers such as Kaposi's sarcoma. (portfolio: Infectious Diseases—Therapeutics, anti-virals, AIDS)

Diastereoselective Process Leading to a Key Intermediate for the Preparation of Fluorinated Reverse Transcriptase Inhibitors

VE Marquez, JS Driscoll, MA Siddiqui (NCI)
Serial No. 08/189,095 filed 31 Jan 94
U.S. Patent No. 5,498,719 issued 12 Mar 96

A novel process has been developed for synthesizing a key intermediate in the preparation of fluorinated reverse transcriptase inhibitors. Recently, several fluorinated dideoxynucleotides have been found to be effective inhibitors of reverse transcriptase and, thus, offer promise for replacing or augmenting current drugs for the treatment of HIV–1 infection; however, chemically synthesizing these fluorinated dideoxynucleotides is quite expensive, making it economically difficult to produce large-scale amounts for testing. This new process allows the synthesis of a key intermediate in the production of fluorinated dideoxynucleotides at much lower costs because the reaction is diastereoselective, meaning that there are fewer side reactions and more primary product is produced. (portfolio: Infectious Diseases—Therapeutics, anti-virals, AIDS)

C–C Chemokines That Inhibit Retrovirus Infection

P Lusso, R Gallo, F Cocchi, A De Vico, A Garzino-Demo (NCI)
Filed 30 Nov 95
DHHS Reference No. E–008–96/0

This invention concerns three members of the human C-C chemokine family, RANTES, macrophage inflammatory protein 1α (MIP–1α) and macrophage inflammatory protein 1β (MIP–1β), which are produced and secreted by several cell types, including CD8-positive T lymphocytes, and which act *in vitro* as HIV suppressive factors. These factors and their respective genes may be used in the diagnosis, prognosis, treatment and prevention of AIDS and other retrovirus-induced diseases. The invention provides a therapeutic preparation, methods for therapeutic and prophylactic treatment of retroviral infection, and a method of prognosis for retroviral infection. The technology was reported in *BioWorld Today* (6(234):1 (December 7, 1995) and *Science* 270(8):1560–1561 (December 8, 1995). (portfolio: Infectious Diseases—Therapeutics, anti-virals, AIDS; Infectious Diseases—Diagnostics, viral, AIDS)

Dated: July 16, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–18969 Filed 7–25–96; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Jaconda Wagner, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7735 ext 284; fax: 301/402–0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods of Treating Established Colitis Using Antibodies Against IL–12

W Strober, M Neurath, I Fuss (NIAID)
Filed 25 Oct 95
Serial No. 08/547,979

Interleukin-12 (IL–12) is a recently characterized cytokine with unique structure and pleiotropic effects. IL–12 is produced mainly by macrophages/monocytes and can be efficiently induced by intracellular parasites, bacteria and bacterial products. A method for treating the established colitis of an inflammatory bowel disease, including Cohn's disease and ulcerative colitis, by inhibiting the colitis-inducing effects of the cytokine IL–12 has been invented. Additionally, a method for treating their effectiveness in reducing the inflammatory response is also presented. (portfolio: Internal Medicine—Diagnostics, anti-inflammatory; Internal Medicine—Therapeutics, anti-inflammatory; Internal Medicine—Miscellaneous)

Truncated Hepatocyte Growth Factor Variants

AML Chan, JS Rubin, DP Bottaro, SA Aaronson, SJ Stahl,
PT Wingfield, V Cioce (NCI)
Filed 07 Jun 95
Serial No. 08/484,841 (CIP of 08/130,134, which is CIP of 07/655,502)

[HGF/NK2], a truncated form of a hepatocyte growth factor (HGF), may offer an improved method of diagnosing and treating proliferative disorders such as cancers. Elevated levels of HGF are associated with both cancerous and noncancerous conditions. This truncated form of HGF is an antagonist of HGF and can be used to effectively counteract its effects on cells. Its cDNA can also be used as a probe to detect increased levels of HGF mRNA in cells.

HGF/NK1, another truncated form of HGF, has partial agonist/antagonist properties. Thus, it may be useful either as an antagonist of an HGF or as an agonist to reinforce the action of endogenous growth factor, depending on the circumstances. A technique has been developed to produce large quantities of biologically active HGF/NK1 and HGF/NK2 using a prokaryotic expression system. (portfolio: Cancer—Therapeutics, biological response modifiers, growth factors; Cancer—Diagnostics)

IL–13 Receptor Specific Chimeric Proteins and Uses Thereof

R Puri (FDA), W Debinski (Penn State), I Pastan (NCI), N Obiri (FDA)
Filed 15 Mar 95
Serial No. 08/404,685

A chimeric molecule that binds specifically to IL–13 receptors has been identified. The molecule, IL13–PE38QQR, targets tumor cells with less binding to healthy cells in comparison

to other chimeric molecules. The improved specific targeting of this molecule is premised upon the discovery that tumor cells overexpress IL–13 receptors at extremely high levels. This phenomena permits the use of lower dosages of chimeric molecules to deliver effecter molecules to targeted tumor cells.

This invention will be useful in the treatment of cancer. The targeting method could be used in conjunction with current methods, e.g., chemotherapy to help maintain the healthy cells. To date, the molecule has been shown to be effective against a variety of solid tumor cancers, including adenocarcinoma, colon cancer, breast cancer, ovarian cancer, kidney cancer, brain cancer and AIDS associated Kaposi's sarcoma. (portfolio: Cancer—Diagnostics, in vivo, conjugate chemistry; Cancer—Therapeutics, immunoconjugates, toxins; Cancer—Therapeutics, immunomodulators and immunostimulants)

Janus Family Kinases (JAK) and Identification of Immune Modulators

JJ O'Shea, WJ Leonard, JA Johnston, SM Russell, D McVicar, M Kawamura (NCI)
Filed 13 Jan 95
Serial No. 08/373,934

This invention relates to an isolated polynucleotide encoding the JAK–3 protein. JAK–3 is a protein tyrosine kinase having a molecular weight of approximately 125 kDa and tandem non-identical catalytic domians, lacks SH2 or SH3 domains, and is expressed in NK cells and stimulated or transformed T cells, but not in resting T cells. The JAK–3 protein itself, antibodies to this protein, and methods of identifying therapeutic agents for modulating the immune system which make use of the foregoing. (portfolio: Cancer—Research Reagents; Cancer—Diagnostics)

Pigment Epithelium Derived Factor: Characterization of its Novel Biological Activity and Sequences Encoding and Expressing the Protein

GJ Chader, SP Becerra, JP Schwartz, T Taniwaki (NEI)
Filed 07 Jun 94
Serial No. 08/257,963 (CIP of 07/952,796)

Pigment epithelium-derived factor (PEDF), which is also known as pigment epithelium differentiation factor and is a neurotrophic, neuron-survival and gliastatic protein, has been produced using recombinant DNA techniques. The invention concerns nucleic acids encoding PEDF and functional fragments thereof, vectors comprising the nucleic acids, host cells containing the vectors, a recombinant method for producing PEDF and equivalent proteins, antibodies (monoclonal and polyclonal) to PEDF, and an immunoassay for PEDF. This technology has potential therapeutic use in the treatment of inflammatory, vascular, degenerative, and dystrophic diseases of the retina and central nervous system (CNS). (portfolio: Ophthalmology—Diagnostics; Ophthalmology—Therapeutics, biological; Ophthalmology—Miscellaneous)

T Cell Receptor Ligands, And Methods For Use

RN Germain, L Racioppi (NIAID)
Filed 15 Jan 93
Serial No. 08/004,936

T lymphocytes are key cellular elements of the immune system. The growth, effector functions (cytokine secretion, cytotoxicity), and survival of these cells are regulated by signals arising from the interaction of ligands consisting of polypeptide-MHC molecule complexes with specific receptors (TCR) on the cell membrane. All antigen-specific attempts at modulation of T-cell dependent immunity involve this key TCR-ligand interaction. This application describes a novel class of TCR ligands (called variant TCR ligands, a sometimes referred to in the scientific literature as altered peptide ligands) with selective antagonist or mixed agonist-antagonist properties that can modulate the function of T cells in unique ways. For example, these compounds can induce T lymphocyte unresponsiveness while preventing T cell effector activity or can permit secretion of some cytokines while inhibiting the secretion of others typically produced upon exposure to the normal stimulatory ligand of the TCR in question. These effects can thus modulate *in vivo* immune responses by inactivating T cells or by changing the effector response of such cells from a damaging to a benign pattern. These properties should be extremely useful in the development of antigen-specific immunotherapies for various autoimmune diseases, including but not limited to diabetes, rheumatoid arthritis, and multiple sclerosis. These compounds could also be useful in modifying responses to tumor antigens, to vaccine components, or tissue transplants. Because these novel immunomodulatory compounds are produced by slight alteration of the normal peptide-MHC molecule ligand for the TCR, it is believed that all current attempts to modify such diseases using as antigen either species variants or synthetic variants rather than native, unmodified human self-antigens involve materials whose properties and mode of action fall within the scope of this patent application. (portfolio: Cancer—Therapeutics, immunomodulators and immunostimulants)

Macrophage Stimulating Protein

EJ Leonard, AH Skeel, T Yoshimura, E Appella, S Showalter, S Tanaka (NCI)
Serial No. 07/586,085 filed 21 Sep 90
U.S. Patent No. 5,219,991 issued 15 Jun 93 and
Serial No. 08/076,880 filed 6/15/93 (DIV of 07/586,085)
U.S. Patent No. 5,527,685 issued 18 Jun 96

Macrophage stimulating protein (MSP), a relative of the hepatocyte growth factor (HGF), is a component of human and animal (mammalian) blood plasma which accelerates the movement and increases the activity of macrophages. Macrophages, when activated, can kill foreign microorganisms and tumor cells.

This invention describes the preparation of highly purified MSP and the production of antibodies to the purified MSP. These methods overcome the primary problem with natural MSP, i.e., that its concentration in the plasma is too low for purification by conventional techniques and for use as an effective therapeutic agent. The highly purified MSP and/or its antibodies can be used as a diagnostic and therapeutic agent and a basic research tool for diseases characterized by macrophage-mediated inflammation. The invention also describes a bioassay for the detection of antibodies to that bind MSP. (portfolio: Internal Medicine—Diagnostics; Internal Medicine—Therapeutics; Internal Medicine—Miscellaneous)

75 Kilodalton Interleukin-2 Receptor Proteins and Their Use

KA Smith
Serial No. 06/944,337 filed 19 Dec 86
U.S. Patent 5,352,772 issued 04 Oct 94

A cellular protein produced by activated T cells and involved in high affinity binding of interleukin-2 has been discovered. The protein is substantially unreactive with anti-Tac antibodies and is believed to interact with the previous 55,000 dilaton receptor protein to form high affinity interleukin-2 receptor which triggers the growth and mitosis of T cells during an immune response. Methods for isolating and purifying the protein and raising monoclonal antibodies to the proteins

are included as well as techniques for cloning and expressing the protein in related materials.

T cells play a central role in the induction and regulation of the immune response. Thus, the structure of IL–2 receptors and their relationship to T cell growth and proliferation is on considerable scientific and clinical importance. The present technology could be used in the development of T cell antagonists compounds which could be to treat a wide range of autoimmune diseases, such as rheumatoid arthritis and other T cell-driven inflammatory diseases. The technology could also be used to develop immunosuppressants, which could be useful in combating tissue and organ graft rejection in kidney, liver, heart and other transplants and so-called ''graft versus host'' disease in bone marrow transplants without the side effect associate with conventional immunosuppressants. (portfolio: Internal Medicine—Miscellaneous; Internal Medicine—Diagnostics, anti-inflammatory; Internal Medicine—Therapeutics, anti-inflammatory)

Soluble Interleukin-2 Receptor as a Disease Indicator and a Method of Assaying the Same

D Nelson, W Biddison, L Rubin, W Greene, W Leonard, R Yarchoan (NCI)
Serial No. 06/724,897 filed 19 Apr 85
U.S. Patent No. 4,707,443 issued 17 Nov 87

Soluble IL–2 receptor is produced in response to immune activation and by some malignant cells. For instance, elevated levels of IL–2 have been detected in patients with adult T-cell leukemia, Sezary syndrome, Hodgkin's disease, chronic lymphocytic leukemia, multiple myeloma, and solid tumors. The systemic level of IL–2 receptor is also relevant in the diagnosis and treatment of such diseases as rheumatoid arthritis and systemic lupus erythematosis and may be used to titrate immunosuppressive therapy in such applications as graft rejection.

The invention disclosed in the patent is a sandwich immunoassay useful for determining the amount of IL–2 receptor in a sample. The invention also discloses a method of detecting such disturbed or abnormal conditions in humans which release soluble IL–2 receptor in bodily fluids. (portfolio: Internal Medicine—Diagnostics, anti-inflammatory; Internal Medicine—Therapeutics, anti-inflammatory; Cancer—Diagnostics; Cancer—Therapeutics, biological response modifiers)

Enhanced Stem Cell Engraftment Using Cytokines

M. Mardiney III, HL Malech (NIAID)
Filed 21 Jul 95
Serial No. 60/001,386

The invention relates to be a method for establishing high levels of chimerism of transplanted hematopoietic stem cells in humans to treat disease, more particularly, to accomplish this with a significant reduction in the level of recipient conditioning prior to transplantation. This technology can be used to achieve successful engraftment in individuals who must undergo bone marrow transplantation.

The practice of bone marrow transplantation or peripheral blood stem cell transplantation involves placing a suspension of allogeneic or autologous hematopoietic pluripotent cells into the blood stream of the recipient. Successful engraftment of these cells requires conditioning of the recipient prior to transplantation. This is accomplished by subjecting the recipient to systemic radiation, or chemotherapy, or a combination of radiation and chemotherapy. This treatment kills bone marrow cells, including stem cells, and open spaces for transplanted stem cells to engraft. However, current conditioning regimens used to ensure successful engraftment are associated with immune deficiency, multi-organ toxicity, secondary malignancies, and increased risk of death.

The current invention provides a method for successful transplantation by enhancing radiation or chemotherapy potentiated engraftment at doses which are much smaller than those used in current practice. The mechanism of this process relates, in part, to the ability of cytokines to upregulate receptors necessary for homing of transplanted hematopoietic stem cells. Thus, successful transplantation can be performed with minimal conditioning-related morbidity. (portfolio: Cancer—Therapeutics, biological response modifiers, growth factors; Infectious Diseases—Miscellaneous; Internal Medicine—Miscellaneous)

Depigmenting Activity of Agouti Signal Protein and Peptides Thereof

VJ Hearing (NCIA)
Filed 23 Jun 95
DHHS Reference No. E–165–95/0

Pigmentation is controlled at many levels in mammals. One important regulatory protein known to be physiologically active is the Agouti signal protein (ASP), which has depigmenting activity. This invention provides biologically active peptides of ASP and a method of using ASP and its peptides to inhibit melanin synthesis by down regulating the melanogenic enzymes involved in melanin synthesis. Using a method also provided in this invention, ASP and its peptides can be used to treat hyperpigmentary conditions, such as melasma photoaging spots, solar keratosis, and hyperpigmentation at wound healing sites. ASP and its peptides are also useful for cosmetic purposes. These compounds may potentially be used for other therapeutics in the prevention or treatment of damaged skin. The invention also gives a pharmaceutical composition of ASP or its peptides and a screening method for ASP peptides. Issuance of a patent for this invention is currently pending. (portfolio: Internal Medicine—Therapeutics, skin disorders, other)

Selective Elimination of T-Cells That Recognize Specific Preselected Targets

A Rosenberg (FDA)

Filed 30 Aug 95

DHHS Reference No. E–116–95/0

The invention relates to methods and compositions for the elimination of T cells that recognize specific preselected targets which can be used to treat autoimmune diseases and graft rejection.

The invention provides a method for selectively inhibiting or killing T cells that recognize a specific preselected target molecule and also for modified killer cells that bear a signal transduction molecule to which is attached the preselected target molecule. Recognition of the preselected molecule by a T-cell activates the killer cell which then kills or inhibits the T cell. Where the preselected molecule is an extracellular domain of an MHC from a xenograft or an allograft, treatment of the graft recipient with the modified killer T-cells delays or inhibits graft rejection. Similarly, where the preselected molecule is an MHC that binds the antigenic determinant of the autoimmune disease, treatment of the organism with the modified T-cells mitigates the autoimmune response directed against that antigenic determinant. (portfolio: Internal Medicine—Miscellaneous; Internal Medicine—Therapeutics, anti-inflammatory)

Dated: July 16, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–18970 Filed 7–25–96; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors on August 7–8, 1996. Except as noted below, the meeting of the Board will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board meeting will be closed to the public in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) for the review, discussion and evaluation of a site visit report and programs and projects. The review and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, National Institutes of Health, Executive Plaza North, Room 630E, 9000 Rockville Pike, Bethesda, Maryland 20892 (301/496–5708), will provide summaries of the meetings and rosters of the Board members, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Carole Frank, Committee Management Specialist, at 301/496–5708 in advance of the meeting.

Name of Committee: Board of Scientific Advisors.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Room 600C, 6130 Executive Boulevard, Bethesda, MD 20892–7405; (301) 496–4218.

Dates of Meeting: August 7–8, 1996.

Place of Meeting: Conference Room 10, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: August 7–8:30 am to 4:45 pm.

Agenda: The Director's Report on the National Cancer Institute; New Business; Discuss the NCI Budget; Status of Program Review Groups; Discussion of Managed Care.

Closed: August 7–4:45 pm to 5 pm.

Agenda: For Review of a Site Visit Report and the Discussion of Administrative Confidential Matters that Pertain to the Board of Scientific Advisors.

Open: August 8–8 am to 12 pm.

Agenda: To Discuss Requests for Applications and Contract Concepts; Status Report on the Howard Temin Award; Program Review.

This notice is being published less than 15 days prior to the meeting due to the urgent need to proceed with the meeting as scheduled to address these issues in a timely manner.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: July 18, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–18971 Filed 7–25–96; 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: July 23, 1996.

Time: 11 a.m.

Place: Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 24, 1996.

Time: 2 p.m.

Place: Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 30, 1996.

Time: 11 a.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: W. Gregory Zimmerman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: August 5, 1996.

Time: 4 p.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Lawrence E. Chaitkin, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: August 5, 1996.

Time: 4 p.m.

Place: Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: August 7, 1996.

Time: 2 p.m.

Place: Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Donna Ricketts, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: August 15, 1996.

Time: 11 a.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: W. Gregory Zimmerman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

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.

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: July 18, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–18968 Filed 7–25–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; 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:

Committee Name: National Institute of General Medical Sciences Special Emphasis Panel.

Date ; July 25, 1996.

Time: 1:00 p.m.

Place: 45 Center Drive, Room 1AS–13H, Bethesda, Maryland 20892–6200, (Teleconference).

Contact Person: Arthur Zachary, Ph.D., Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–13H, bethesda, MD 20892–6200.

Purpose: To review a research training grant application which was previously deferred.

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. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, 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 above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS].)

Dated: July 22, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–19174 Filed 7–24–96; 1:53 pm]

BILLING CODE 4140–01–M

National Institutes of Health 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: Biological and Physiological Sciences.

Date: August 16, 1996.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4148, Telephone Conference.

Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Biological and Physiological Sciences.

Date: August 20, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4150, Telephone Conference.

Contact Person: Dr. Marcia Litwack, Scientific Review Administrator, 6701 Rockledge Drive, Room 4150, Bethesda, Maryland 20892, (301) 435–1719.

Name of SEP: Clinical Sciences.

Date: August 23, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4138, Telephone Conference.

Contact Person: Dr. Anthony Chung, Scientific Review Administrator, 6701 Rockledge Drive, Room 4138, Bethesda, Maryland 20892, (301) 435–1213.

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: July 22, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–18966 Filed 7–25–96; 8:45 am]

BILLING CODE 4410–01–M

Substance Abuse and Mental Health Services Administration

Statement of Organization, Functions, and Delegations of Authority

Part M of the Substance Abuse and Mental Health Services Administration (SAMHSA) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (as amended most recently at 61 F.R. 30617–30619 dated June 17, 1996) is amended to reflect the reorganization of the major offices and the three Centers of SAMHSA, namely the Office of the Administrator, the Office of Program Services, the Center for Mental Health Services, the Center for Substance Abuse Prevention, and the Center for Substance Abuse Treatment. On June 10, 1996, the Administrator, SAMHSA, approved the reorganization of SAMHSA. Numerous changes in the SAMHSA structure are now necessary to reflect current operational requirements. The revised statement is as follows:

Section M–20, Functions.

After the title *Office of the Administrator (MA),* insert the following titles and functional statements:

Immediate Office of the Administrator (MA–1): Provides leadership and direction to the programs and activities of the Substance Abuse and Mental Health Services Administration as follows: (1) responsible for program policy development; (2) carries out SAMHSA-wide functions relating to equal employment opportunity, AIDS, women's services, minority affairs, and alcohol prevention and treatment policies; (3) provides correspondence control for the Administrator and controls all agency public correspondence directed to the Administrator; (4) provides liaison with other HHS components, other Federal organizations, the office of the National Drug Control Policy, and outside groups; and (5) provides oversight for coordination between SAMHSA components and the alcohol, drug abuse, and mental health Institutes of the National Institutes of Health.

Office of Managed Care (MAA): Serves as the Agency's focal point for managed care (MC) activities and as such: (1) advises the Administrator, SAMHSA, and senior staff and provides leadership and direction for SAMHSA managed care activities; (2) facilitates and coordinates the collection of information about the Agency's managed care activities; (3) provides staff direction and support to the Agency's managed care team; (4) participates in Agency-wide planning and budget execution; and (5) serves as liaison with other governmental organizations concerned with managed care activities.

Office of Communications (MAB): Serves as a focal point for SAMHSA communications activities as follows: (1) Coordinates agency communications activities; (2) plans public events, including press conferences, speeches, and site visits for the Administrator and DHHS representatives; (3) publishes SAMHSA brochures, factsheets, and quarterly SAMHSA News; (4) coordinates electronic dissemination of information—within the Agency and through the Internet and World-Wide Web; (5) develops communications channels and targets media placements; (6) develops and disseminates news releases and coordinates media contacts with Agency representatives; (7) provides editorial and policy review of all agency publications; (8) fulfills public affairs requirements of DHHS; (9) supports the efforts of the Secretary's substance abuse prevention initiative work group; and (10) responds to Freedom of Information Act requests.

Office of Policy and Program Coordination (MAC): (1) Provides leadership and guidance in the analysis, planning, and coordination of overall Agency and interagency programs and program policies; (2) provides leadership in formulating and carrying out the Agency's national leadership role; (3) manages a variety of teams comprised of representatives within and outside the Agency in order to address issues of central importance to the

agency and to the field, promoting coordination and collaboration in these problem-solving efforts; (4) carries out program development activities in cross-cutting priority areas such as co-occurring disorders, performance measurement, child and family issues, and public health impact of substance abuse and mental illnesses; (5) reviews Agency work products for policy implications; (6) provides leadership and advice on intergovernmental activities, interagency relationships, and customer and constituent relations; and (7) carries out Agency-level policy, planning, legislative, and extramural functions.

After the title *Office of Program Services (MB),* insert the following titles and functional statements:

Office of the Director (MB–1): (1) Provides leadership and guidance for the range of administrative and program services which the Office provides to all SAMHSA components; (2) provides general policy review and executive oversight of crosscutting management and administrative issues and program initiatives; (3) promotes coordination and communication among the Centers and the Office of the Administrator; (4) works to streamline, improve, and integrate administrative systems; (5) assists in the design and implementation of crosscutting automated systems; (6) coordinates special and crosscutting tasks and initiatives; and (7) manages the grant and contract appeals processes.

Division of Information Resources Management (MBA): (1) Provides leadership, guidance, and technical expertise in the Agency's transition from conventional information system to a data base environment, including the continual improvement of Agency systems; (2) provides coordination for Agency-wide data base administration and systems configuration management; (3) serves as the focal point for Agency-wide information resources management, office automation, and information systems policy, strategic planning, budget preparation, coordination, and security; (4) maintains information resources management support through the local area network (LAN); (5) maintains, operates, and provides services for the LAN and/personal computers, data bases, voice mail/faxes, and general machine repairs; (6) exercises clearance authority for Agency-wide information resources management and office automation projects and procurement; (7) provides advice, assistance, and training to Agency staff in obtaining maximum utilization and services from its information systems and data bases; (8) trains Agency staff in the use of new products and applications as necessary; (9) develops and secures new programming software to meet individual program needs, as sell as broad Agency needs; (10) stays abreast of new information resources management developments and ensures necessary support services are provided; and (11) initiates and carries out studies to implement improvements in systems and services.

Division of Financial Management (MBB): (1) Coordinates the Centers' budget plans and formulates and presents SAMHSA's future budget and financial management activities; (2) prepares budget justification documents which support Center/Agency priorities and decisions; (3) coordinates responses to the Department, the Office of Management and Budget, and others which require input from all Agency components; (4) prepares technical budget schedules and material necessary in support of Agency budget recommendations; (5) develops briefing material for the Center Directors and the Administrator for budget hearings and on ad hoc issues which arise; (6) provides day-to-day liaison with budget staff at other levels; (7) evaluates internal fiscal controls to assure compliance with laws regulations, policies, and sound business practices; (8) conducts key aspects of Agency budget execution, including the apportionment and allotment processes, overhead and assessment changes, and monitoring of overall expenditures; (9) coordinates Agency response to outside financial management initiatives, such as the Federal Managers' Financial Integrity Act, financial aspects of the Government Performance and Results Act, and audited financial statements; and (10) exercises oversight in executing the annual budget of the Office of the Administrator, the Office of Applied Studies, and other Agency components.

Division of Human Resources Management (MBC): Provides leadership and direction in developing and administering the personnel management program for SAMHSA, including: (1) central personnel services in areas such as placement and staffing, position classification and pay management, employee management relations, labor relations, career development and training, and performance management; (2) advisory services to seniors Agency officials and staff support on matters relating to the development and administration of personnel policies and program designed to obtain, compensate, train and develop, utilize, and retain a qualified, effective and efficient work force; (3) advisory services to managers and supervisors in such matters as supervisor-employee relations and communications, motivation and recognition, training and development and employee services; (4) represents the Agency in personnel matters with the Department of Health and Human Services, the U.S. Office of Personnel Management, and other Federal agencies; and (5) initiates actions, initiatives, and activities resulting in the continual improvement of Agency human resource systems and processes.

Division of Grants Management (MBE): (1) Conducts all aspects of the SAMHSA grants management process; (2) develops, implements, and coordinates the application of Agency standards, methods and procedures for the management of grants and cooperative agreements; (3) provides guidance to the Agency, applicants, and grantees on the management and administrative aspects of grant programs; (4) reviews applications, reports, and active projects to ensure compliance with management policies and procedures; (5) prepares, processes, and disseminates award documents; and (6) prepares special and recurring reports relating to applications and awards.

Division of Contracts Management (MBF): (1) Conducts all aspects of the SAMHSA contracts management process; (2) develops and implements standards and procedures for the management of the Agency's contracts and Purchase Card programs; (3) reviews and evaluates contract proposals to determine technical acceptability and cost reasonableness; (4) advises Agency personnel on contracts management policies and procedures established by law and Agency guidelines; (5) maintains internal control over the contracts management function for the Agency; (6) issues contract awards following appropriate laws, regulations, guidelines and policies; and (7) coordinates and participates in all phases of the acquisition cycle, including pre-solicitation, solicitation, negotiation, award, administration and closeout of the Agency's contracts.

Division of Administrative Services (MBG): (1) Provides centralized administrative services for the Agency, including processing and coordinating requests for and providing advice on procurement actions, travel, property, facilities, personnel and other activities; (2) provides advice and assistance to the Office of the Administrator, the Centers, and other SAMHSA components on administrative policy to improve program operations, management, and

the implementation of plans, systems and procedures Agency-wide; (3) provides advice and guidance to staff on the processing of travel orders, acquisition requests, and personnel documents; (4) ensures administrative actions are consistent with any regulations or other requirements which may be relevant, and implements general management policies as prescribed by SAMHSA and higher authorities; (5) serves as the Agency focal point for planning, coordinating, and performing various management activities such as records management and forms management; (6) coordinates and ensures support for the materiel management and property within the Agency; (7) coordinates actions as necessary with other HHS components such as the Program Support Center (PSC) accounting and procurement staffs, the contract travel agency; and (8) serves as the Agency's focal point for the Agency's payroll activities, including timekeeping.

After the title *Center for Mental Health Services (MS),* insert the following titles and functional statements:

Office of the Director (MS–1): (1) Provides leadership in planning, implementing, and evaluating the Center's goals, priorities, policies, and programs, including equal employment opportunity, and is the focal point for the Department's efforts in mental health services; (2) plans, directs, and provides overall administration of the programs of CMHS; (3) conducts and coordinates Center interagency, interdepartmental, intergovernmental, and international activities; (4) provides information to the public and constituent organizations on CMHS programs; (5) maintains liaison with national organizations, other Federal departments/agencies, the National Institute on Mental Health and with other SAMHSA Centers; (6) administers committee management and reports clearance activities; and (7) promotes the prevention of HIV infection in people at risk, the delivery of effective mental services for people with HIV infection, and the education of health care providers to address the neuropsychiatric and the psychosocial aspects of HIV infection and AIDS; and (8) conducts managed care activities and coordinates these activities with other components in SAMHSA.

Office of Policy, Planning, and Administration (MSA): (1) Provides leadership and guidance in the administration, analysis, planning, and coordination of Center policies and programs; (2) analyzes legislative issues and provides liaison with the office of the Administrator on legislative issues; (3) identifies and coordinates analyses, program assessments, or special studies of key issues relevant to policy direction; (4) directs the Center's long-term planning process and conducts, analyzes, and supports planning activities; (5) provides Center leadership in interdepartmental and intergovernmental activities and constituent relations; (6) coordinates, guides, and leads the Center's international activities; and (7) provides coordination, assistance and planning of administrative and budget functions within the Center and the Office of Program Services.

Office of External Liaison (MSB): (1) Administers CMHS communications, education, and information projects to increase public, consumer and family, and health care provider awareness about mental health issues, programs, and services; (2) works in partnership with CMHS program staff and public/private partners to promote the Center's national leadership role in improving the quality of mental health services; (3) develops and implements national education initiatives to increase public understanding of mental illnesses and serious emotional disturbances, to improve early recognition and treatment, to increase access, to reduce stigma, and to facilitate consumer and family participation in policy development and the design, delivery, an evaluation of services; (4) plans, implements, and oversees public affairs activities and coordinates with the Office of Communications, Office of the Administrator; (5) directs a clearing house that serves as a one-stop information and referral service for the public, consumers and family members, educators, policy makers, and for those who design, finance, and deliver mental health services; (6) establishes and implements policies and procedures for the development, review, processing, quality control, evaluation, and dissemination of CMHS materials to communicate information about mental illnesses and mental health services, and about issues impacting those services; (7) administers clearance and production of CMHS publications; (8) controls, tracks, edits, writes, and documents the correspondence coming to the Director and Deputy Director, and correspondence from the White House, the Secretary of HHS, and other SAMHSA components involving mental health services; (9) researches, writes, and edits speeches and audio/visual presentations; (10) conducts outreach to the media and related organizations to facilitate new coverage of Center programs; (11) facilitates and designs graphic arts for presentations, publications, and other printed materials; (12) designs and manages the Center's exhibit program to effectively communicate CMHS programs and policies; (13) serves as a focal point for Freedom of Information Act inquiries; and (14) coordinates with the National Institute on Mental Health and other Centers of SAMHSA to develop strategies to translate research findings into clinical practice.

Division of Program Development, Special Populations and Projects (MSC): (1) Oversees the monitoring of community mental health centers that have received Federal construction grants; (2) serves as Center liaison with the District of Columbia Government for coordinating Federal post-transition responsibilities for St. Elizabeths Hospital; (3) serves as the focal point in planning for alcohol, drug abuse, and mental health services during national disasters; (4) cooperates with the Office of Emergency Preparedness and the Federal Emergency Management Agency (FEMA) to coordinate disaster assistance, community response, and other mental health emergency services as a consequence of national disasters; (5) serves as a focal point for refugee mental health programs, including liaison with other Federal agencies; and (6) conducts program development activities to promote effective programs and policies for special populations including women, minorities, and elderly persons.

Division of State and Community Systems Development (MSE): (1) Administers the Community mental Health Services Block Grant, including monitoring State implementation of the Mental Health State Plan, compliance with the provisions of the Public Health Service Act, as amended, regarding use of the payments, and maintenance of effort; (2) provides technical assistance to the States with respect to the planning, development, financing, and operation of any program or service carried out pursuant to the block grant program; (3) administers a program of State Human Resource Development; (4) plans and supports programs of mental health education, with emphasis on targeted populations; (5) plans and supports programs to provide protection and advocacy services for persons with severe mental disorders; and (6) supports programs for: (a) obtaining, enalyzing, and disseminating national statistics on mental health services, (b) developing methodologies for data collection in biometry and mental health economics, and (c) consulting with and providing technical assistance

to State and local mental health agencies on statistical methodology, mental health information systems, and the use of statistical and demographic data.

Division of Knowledge Development and Systems Change (MSF): (1) Develops, plans, implements, and monitors national knowledge development and application activities (KDA's) designed to increase the knowledge base and to improve systems and service delivery for persons with, or at risk for, mental health problems; (2) administers the Projects for Assistance in Transition from Homelessness (PATH) program; and (3) directs the Comprehensive Community Mental Health Services for Children with Serious Emotional Disturbances Program. In particular the division: (a) places priority on two target populations, the adults with severe mental illness (including those who are homeless) and children and adolescents with serious mental disturbances; (b) emphasizes acquisition, exchange, and application of knowledge in all of its activities; (c) develops Guidance for Application and Requests for Contracts to implement these activities; (d) monitors grants, cooperative agreements, contracts, interagency agreements, and memoranda of understanding; (e) identifies needs for and provides technical assistance to a variety of customers through both direct and indirect activities, including the development of standards and guidelines; (f) establishes and maintains collaborative relationship with other Federal, State, and local governmental agencies, national organizations, local communities, providers, consumers, and families; and (g) promotes adoption of practices in communities through the Nation by synthesizing knowledge, exchanging information, and providing opportunities for consensus building.

After the title Center for *Substance Abuse Prevention (MP),* insert the following titles and functional statements:

Office of the Director (MP–1): (1) Provides leadership, coordination, and direction in the development and implementation of CSAP goals and priorities, and serves as the focal point for the Department's efforts on substance abuse prevention; (2) plans, directs, and provides overall administration of the programs and activities of CSAP; (3) provides overall coordination and support for the Center's Managed Care initiative; (4) provides leadership and expert medical, clinical, and technical assistance in the integration of primary care medical and early intervention knowledge and information into major CSAP program efforts; (5) participates with the Agency's Women's Services component to coordinate women's services programs; (6) organizes and manages CSAP's special projects, intergovernmental and international activities; and (7) monitors the conduct of the equal employment opportunity activities of CSAP.

Office of Policy and Planning (MPA): (1) Plans, develops, and implements new prevention policies and programs, and monitors and evaluates progress toward established objectives; (2) participates in the formulation and implementation of major CSAP national program operations; (3) develops and prepares position papers on policies and programs; (4) coordinates with the Office of the Administrator (OA) in reviews of executive congressional, and departmental policies, regulations, and plans for their impact on existing or planned CSAP programs; (5) represents CSAP in the development, establishment, and coordination of SAMHSA extramural program policies; (6) prepares annual forward plans in connection with the Department's strategic planning process and develops recommendations for future activities; (7) serves as a focal point for liaison with the Divisions and management activities of the SAMHSA Office of Program Services; (8) establishes accounting procedures for, and monitors the execution of, the CSAP budget; (9) provides liaison with OA on legislative activities; (10) coordinates and responds to request for information under the Freedom of Information Act; (11) manages correspondence control in CSAP; (12) provides program support for the operation of the CSAP National Advisory Council; and (13) develops and implements general management policies within CSAP as prescribed by SAMHSA and higher authorities.

Division of Knowledge Development and Evaluation (MPC): (1) Provides leadership in advancing CSAP's prevention knowledge development agenda by employing a broad range of mechanisms; (2) conducts extramural studies at the individual, family, community and systems levels; (3) manage the portfolio of knowledge development demonstration grant programs; (4) conducts national cross-cite evaluation studies on the portfolio of knowledge development demonstration grant programs in the high risk youth and community partnership areas; (5) conducts secondary analysis of original prevention research studies; (6) synthesizes knowledge acquired through grants, cooperative agreements, contracts, and field input; (7) promotes the develop of new methodologies for conducting prevention studies; (8) supports the professional development in the science of prevention of individuals traditionally under represented in science; (9) represents CSAP in the development of SAMHSA scientific extramural policy: (10) provides information to CSAP and other SAMHSA components, other HHS components, the Congress, and other Federal entities concerning the most effective prevention approaches that focus on the prevention needs of individuals with multiple, co-occurring drug, alcohol, mental, and physical problems; and (11) collaborates with other Federal departments and agencies that are relevant to CSAP's knowledge development mission including other HHS components such as the institutes of the Nation Institutes of Health, the Agency for Health Care Policy and Research, the Administration on Children and Families, the Centers for Disease Control, and the Office of Disease Prevention and Health Promotion.

Division of State and Community Systems Development (MPB): (1) Promotes and establishes comprehensive, long-term State and community alcohol, tobacco, and other drug abuse prevention/intervention strategies, programs, and support activities; (2) administers the primary prevention set-aside of the Substance Abuse Prevention and Treatment (SAPT) block grant and reviews and analyzes the SAPT plans submitted by the States; (3) administers community and State demonstration grant programs to support anti-drug coalitions and related health promotion systems; (4) develops and updates regulations and/or guidelines for the use of the primary prevention and tobacco provisions of SAPT; (5) provides technical assistance and capacity-building to States and communities in the planning, development, and operation of prevention programs and systems; (6) promotes interagency collaboration with both the public and private sector at the Federal, State and local levels, including among others, foundations, business, industry, labor, law enforcement, education, faith communities, health and social welfare entities, to optimize the use of fiscal and human resources and needed program development in new and existing prevention systems nationally; (7) develops guidelines for state-of-the-art prevention programs and systems while conducting quality assurance activities such as the Prevention Enhancement

Protocol (PEP); (8) compiles State and local prevention outcome findings and promising practices to support CSAP's on-going capacity-building role; and (9) develops and integrates the use of geomapping technology into applications for State and community prevention systems for the improvement planning efforts in substance abuse prevention nationally.

Division of Workplace Programs (MPE): (1) Establishes goals and objectives in the administration of a national program designed to promote substance abuse free workplaces; (2) provides leadership and oversight to assure that effective employee assistance programs are developed and evaluated to prevent substance abuse in the workplace; (3) develops, implements, and evaluates employee education/prevention programs, access to counseling, early intervention, and referral treatment/rehabilitation, and support services for employees following treatment/rehabilitation; (4) advises, coordinates, and certifies activities related to the implementation and administration of Federal drug free workplace programs; conducts Drug Testing Advisory Board; and conducts surveys on Federal programs; (5) commits CSAP and advises other SAMHSA components and HHS regarding workplace programmatic directions and actions and enters into collaborative arrangements with other Federal agencies; (6) collaborates in the development and implementation of substance abuse prevention and early intervention strategies for public/private sector use at the State and community levels; and operates the Workplace Hotline Contract as a means for dissemination, outreach and technical assistance to businesses, States and communities; (7) provides technical assistance to facilitate national training and certification programs for substance abuse professionals and practitioners, provides staff expertise in training and credentialling standards for medical Review Officers (MROS) and the Department of Transportation mandated Substance Abuse professionals; (8) provides leadership within SAMHSA in the development, training and use of the Geographic Information System (GIS) to support policy development for Federal substance abuse prevention, early intervention and treatment, managed care, violence and workplace initiatives, and to expand use of GIS resources at the Federal, State and community levels; (9) provides leadership within SAMHSA and the field in developing and disseminating knowledge in workplace violence related to substance abuse, including risk factors in the workplace and community and the role of the workplace as a substance abuse and violence prevention agent within the community and family; and (10) evaluates managed care and other treatment provider practices as they are applied in the workplace.

Division of Community Education (MPF): (1) Provides national leadership in the development, coordination, and assessment of information for purposes of knowledge transfer and application; (2) develops and disseminates information and knowledge about alcohol, tobacco, and drugs; (3) assesses the need for, and promotes the development and widespread use of, prevention/intervention-related messages, materials and technologies by national, State and community organizations, especially directed towards traditionally under-served audiences and those at high risk; (4) develops and coordinates national media campaigns and stimulates media coverage of substance abuse issues with an emphasis on prevention; (5) prepares and acquires materials based on needs of target audiences; (6) manages the CSAP National Clearinghouse for Alcohol and Drug Information and the Regional Alcohol and Drug Awareness Resource Network; (7) demonstrates national leadership in electronic information technologies through PREVLine, Internet, and other mechanisms; (8) develops, in collaboration with other CSAP offices, material and technologies which provide learning opportunities for all CSAP staff to enhance and promote their ability to transfer and apply prevention knowledge for the benefit of CSAP customers; (9) promotes and provides training and technical assistance for increased capacity of State agencies and key constituent organizations to carry out knowledge transfer and application activities; (10) sponsors and conducts workshops, conferences, and related efforts to foster state-of-the-art knowledge transfer and application activities; (11) develops, implements, and evaluates a nationwide extramural grant/cooperative agreement program to demonstrate effective communication, diffusion and knowledge exchange to help reduce substance abuse; (12) reviews and/or prepares clearance documents for all communication products developed by the Center; and (13) provides public affairs liaison with the Office of the Administrator, Office of Communications, and other HHS components.

Under *Center for Substance Abuse Treatment (MT)* change item (2) to read: ''provides a focus for addressing the treatment need of individuals with multiple, co-occurring drug, alcohol, mental, and physical problems.''

After the title *Center for Substance Abuse Treatment (MT),* insert the following titles and functional statements:

Office of the Director (MT–1): (1) Provides leadership and direction toward the development of the Center's goals and serves as the focal point for the Department's effort to improve and expand substance abuse treatment; (2) plans, directs, and provides overall administration of the programs of CSAT; (3) coordinates Center managed care activities; (4) coordinates Center chemotherapeutic interventions and alternative therapy activities; and (5) monitors the conduct of Equal Employment Opportunity activities of CSAT.

Office of Communications and External Liaison (MTA): (1) Plans, implements, and oversees a comprehensive public information program on behalf of the Center, including dissemination of news and information to the media, general public, Federal departments, State and local Governments, professional organizations, and public interest groups; (2) develops strategy for educating the public about the value of substance abuse treatment; (3) maintains the Center Director's Hotline; (4) serves as the Center coordinating point for manuscript clearance; and (5) serves as public affairs point of contact with constituency groups, consumers, and families.

Office of Policy Coordination and Planning (MTB): (1) Provides leadership and guidance in the analysis, planning, coordination, and assessment of overall CSAT policies and activities; (2) identifies, coordinates, and performs special analyses and policy studies; (3) provides general policy review and executive oversight of CSAT correspondence, and departmental assignments; (4) develops policy and program positions on critical issues to the substance abuse treatment field; (5) performs legislative and policy analyses relevant to substance abuse treatment; (6) provides liaison with the Office of the Administrator on legislative issues; (7) provides Center leadership in interdepartmental and intergovernmental activities and constituent relations; (8) serves as the Center focal point for the Freedom of information Act activities; (9) serves as the focal point with the Office of Program Services, concerning all aspects of administrative management, service, and operations; (10) develops budget

spending plan and executes Center budget; (11) provides recommendations concerning Center personnel actions and monitors Center workload performance and productivity; (12) provides staff support for the CSAT National Advisory Council; (13) coordinates the development of an agenda of priorities for new knowledge development and application (KDA) activities; and (14) coordinates the preparation and review of Guidance for Applications (GFA's) soliciting applications for new KDA programs.

Office of Evaluation, Scientific Analysis, and Synthesis (MTC): (1) Oversees the design and plan for evaluations of treatment programs funded by CSAT; (2) maintains current information regarding developments in alcohol and other substance abuse, including related infectious diseases; (3) works with relevant Federal, State, professional, and scientific organizations to identify significant advances in treatment that should be incorporated into standards of care; (4) incorporates and diffuses into treatment practice, those approaches, methods, and procedures identified as ''best practices;'' (5) serves as the focus for data collection and analysis, evaluation, and information exchange on areas of special knowledge among CSAT, other SAMHSA organizations and other Federal agencies, national organizations, and State and local Governments on matters relating to substance abuse treatment programs; (6) establishes, develops and maintains for use by staff of CSAT the State Information System to analyze data for State profiles and other relevant activities; (7) conducts and supports studies of need for treatment at the State level, providing technical assistance for States in carrying out these studies; (8) based on analysis of needs assessments, project information, and evaluation report publishes, communicates, and disseminates data and information regarding increasing treatment effectiveness and efficiency; (9) develops and manages the professional development program for substance abuse treatment; (10) conducts and supports meetings and conferences designed to upgrade treatment evaluation practices and communicates new developments to treatment personnel from a variety of professional disciplines; and (11) works collaboratively with other CSAT staff to develop guidance for Applications for future knowledge development and application programs.

Division of State and Community Assistance (MTE): (1) Administers the CSAT Performance Partnership Grant (PPG) negotiating PPG agreements with States; (2) monitors and ensures State compliance with legislative and regulatory provisions which apply to PPG funds at State and provider levels; (3) provides guidance and technical assistance to States in preparation of State Substance Abuse plans; (4) conducts performance reviews of State agencies and treatment programs; (5) works closely with data and evaluation to assure proper reporting and data integrity; and (6) reviews requests for Medicaid Waivers for the Health Care Financing Administration.

Division of Practice and Systems Development (MTF): (1) Develops, plans, implements, and monitors national knowledge development activities (KDA's) designed to increase the knowledge base to improve substance abuse treatment (both clinical and systems of care) throughout the United States; (2) collaborates on development of Guidance for Applications and Requests for Contracts for the national KDA agenda; (3) monitors grants, cooperative agreements, contracts, interagency agreements, and memoranda of understanding for knowledge development, and assists grantees in project implementation; (4) identifies need for, develops and provides technical assistance to, national knowledge development activities; (5) establishes and maintains collaborative relationships with other Federal, State and local governmental agencies; national organizations; and constituency groups; (6) maintains internal expertise and collaborates with national experts on knowledge development topical areas, and issues of policy significance; (7) provides national leadership in areas related to substance abuse treatment knowledge development and provides advice on related policy issues to the Director, CSAT; and (8) develops funding levels for division programs and activities.

These organizational changes are effective July 19, 1996.

Dated: July 19, 1996.

Nelba Chavez,

Administrator.

[FR Doc. 96–19030 Filed 7–25–96; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3778–N–95]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identified unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 19, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 96–18803 Filed 7–25–96; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Request for Approval

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Fish and Wildlife Service (Service) is planning to submit a proposal for the

collection of information described below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995. The Service is soliciting comments and suggestions on the requirement as described below. Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's Information Collection Clearance Officer at the phone number listed below.

DATES: Comments must be submitted on or before September 24, 1996.

ADDRESSES: Comments and materials concerning this request should be sent to Information Collection Clearance Officer, Fish and Wildlife Service, (MS 224–ARLSQ), 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Service Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax) or Nancy Marx, Division of Refuges, 703/358–2029.

SUPPLEMENTARY INFORMATION:

Title: Customer Service Evaluation Card for Visitors to Service Field Stations.

OMB Approval Number: Approval pending.

Abstract: The Service is required, under Executive Order 12862, and the National Performance Review, to develop customer service standards and to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The Service developed customer service standards, and in 1995, developed a customer service evaluation card. The information gained from these surveys will enable the staff to provide better customer service to their visitors. The Service will use the evaluation card on field stations nationwide as a management tool for enhancing customer service in their public use programs.

Frequency: On occasion.

Description of Respondents: Individuals or households who visit field stations where recreational and educational opportunities are provided.

Estimated Completion Time: The reporting burden is estimated to average 0.0833 (or 5 minutes) per response.

Annual Responses: 30,000.

Annual Burden Hours: 2,500.

Dated: July 19, 1996.

Carolyn A. Bohan,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 96–19060 Filed 7–25–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[MT–921–06–1320–01–P; MTM 85105]

Amended Coal Exploration License Application MTM 85105

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of invitation.

By Federal Register, dated June 3, 1996, members of the public were invited to participate with Decker Coal Company in a program for the exploration of coal deposits owned by the United States of America. The application has been amended to include the following-described lands located in Big Horn County, Montana:

T. 8 S., R. 40 E., P.M.M.
Sec. 27: S½S½SW¼
Sec. 28: NE¼SE¼NE¼, S½S½SW¼
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, SW¼SE¼, W½SE¼SE¼, SE¼SE¼SE¼
Sec. 4: Lot 4, SW¼NW¼
Sec. 5: Lots 1, 2, S½NE¼, N½SE¼
920.73 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: July 17, 1996.

Francis R. Cherry, Jr.,

Acting State Director.

[FR Doc. 96–18990 Filed 7–25–96; 8:45 am]

BILLING CODE 4310–DN–P

[Docket No. D–930–1020–01]

Lower Snake River District, Upper Snake River District, and Upper Columbia Salmon Clearwater District Resource Advisory Councils' Joint Meeting (Tri-RAC, Idaho)

ACTION: Notice of meeting.

SUMMARY: The Lower Snake River District, Upper Snake River District, and Upper Columbia Salmon Clearwater District Resource Advisory Councils (RACs) will meet August 23, 1996, at 9:00 a.m. The meeting is scheduled to review statewide standards for rangeland health and guidelines for managing livestock grazing on federal lands in Idaho as they appear in the Draft Environmental Impact Statement (DEIS) for the Upper Columbia River Basin (UCRB) project. The meeting will begin with an overview by Idaho State Director Martha Hahn of the Interior Columbia Basin Ecosystem Management Project (ICBEMP) and how the rangeland standards and guidelines will be integrated with the ICBEMP. Steve Mealey, Project Director for the UCRB, will provide a briefing on the ICBEMP and on the UCRB Draft Environmental Impact Statement (DEIS). A public comment period will be held at 11:30 a.m.

DATES: August 23, 1996, at 9:00 a.m.

ADDRESSES: The meeting will be held at the Weston Plaza Convention Center, 1350 Blue Lakes Blvd., North, Twin Falls, ID 83301.

FOR FURTHER INFORMATION CONTACT:

J. David Brunner, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706; Phone 208–384–3056.

SUPPLEMENTARY INFORMATION: The UCRB schedule extends beyond the Healthy Rangelands Initiative schedule for implementation of standards and guidelines. Both schedules will be discussed in terms of how the two projects will be integrated. The RACS are expected to break out into discussion groups to discuss alternatives and recommend preferred alternative for the UCRB DEIS.

J. David Brunner,

Deputy State Director for Resource Services.

[FR Doc. 96–19010 Filed 7–25–96; 8:45 am]

BILLING CODE 1020–GG–M

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Milwaukee Public Museum, Milwaukee, WI

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate a cultural item in the possession of the Milwaukee Public Museum which meets the definition of ''cultural patrimony'' under Section 2 of the Act.

The item is a Parrot Clan mask consisting of wood, hide, cotton cloth, basketry, and paint.

During the summer of 1911, Dr. Samuel A. Barrett, Curator of Anthropology at the Milwaukee Public Museum, collected this mask at Orayvi, Third Mesa, in Arizona. There is no accession information concerning the actual acquisition of this mask.

Authorized representatives of the Hopi Tribe acting on behalf of the Parrot Clan of Orayvi have identified the mask as an object having ongoing historical, traditional, and cultural importance central to the Hopi Tribe. Further, consultation evidence presented by tribal representatives indicate this mask is the communal property of the village of Orayvi, and could not have been alienated, appropriated, or conveyed by any individual. This consultation evidence is further supported by other written ethnographic documentation regarding this mask.

Officials of the Milwaukee Public Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(D), this cultural item has ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Officials of the Milwaukee Public Museum have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these items and the Hopi Tribe.

This notice has been sent to officials of the Hopi Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Ann McMullen, Ph.D., Curator of North American Ethnology, Milwaukee Public Museum, 800 West Wells St., Milwaukee, WI 53233, telephone (414) 278–2786, fax (414) 278–6100, before August 26, 1996. Repatriation of these objects to the Hopi tribe may begin after that date if no additional claimants come forward.

Dated: July 23, 1996.

Francis P. McManamon,

Departmental Consulting Archeologist, Chief, Archeology & Ethnography Program.

[FR Doc. 96–19066 Filed 7–25–96; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA No. 150F]

1996 Revised Aggregate Production Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Not of final revised aggregate production quotas for 1996.

SUMMARY: This notice establishes revised 1996 aggregate production quotas for controlled substances in Schedules I and II of the controlled Substances Act (CSA).

EFFECTIVE DATE: July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

On May 23, 1996, a notice of the proposed revised 1996 aggregate production quotas for controlled substances in Schedules I and II was published in the Federal Register (61 FR 25895). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before June 24, 1996.

Several companies commented that the revised 1996 aggregate production quotas for codeine (for sale), desoxyephedrine, dextropropoxyphene, diphenoxylate, dihydrocodeine, hydrocodone (for sale), hydromorphone, levorphanol, methylphenidate, noroxymorphone (for sale), opium, oxycodone (for conversion) oxymorphone and pentobarbital were insufficient to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and for the establishment and maintenance of reserve stocks.

The DEA has reviewed the involved companies' 1995 year-end inventories, their initial 1996 manufacturing quotas, 1996 export requirements and their actual and projected 1996 sales. Based on this data, the DEA has adjusted the revised 1996 aggregate production quotas for desoxyephedrine, levorphanol, methylphenidate, noroxymorphone (for sale), and pentobarbital to meet the estimated medical, scientific, research and industrial needs of the United States.

Regarding codeine (for sale), dextropropoxyphene, dihydrocodeine, diphenoxylate, hydrocodone (for sale), hydromorphone, opium, oxycodone (for conversion) and oxymorphone, the DEA has decided that no adjustments are necessary to meet the 1996 estimated medical, scientific, research and industrial needs of the United States.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et. seq. The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), delegated to the Administrator by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator of the DEA by Section 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator

hereby orders that the 1996 revised aggregate production quotas, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Established revised 1996 quotas
Schedule I:	
Acetylmethadol	7
Alphacetylmethadol	7
Aminorex	7
Cathinone	9
Difenoxin	14,000
Dihydromorphine	7
2,5-Dimethoxyamphetamine	10,650,000
Dimethylamphetamine	7
Ethylamine analog of Phencyclidine	5
N-Ethylamphetamine	7
Heroin	5
Lysergic acid diethylamide	58
Mescaline	7
Methaqualone	17
Methcathinone	9
4-Methoxyamphetamine	17
4-Methylaminorex	2
3,4-Methylenedioxy-amphetamine	17
3,4-Methylenedioxy-N-ethylamphetamine	27
3,4-Methylenedioxy-methamphetamine	42
3-Methylfentanyl	14
Normethadone	7
Normorphine	7
Psilocybin	2
Psilocyn	2
Tetrahydrocannabinols	55,100
Schedule II:	
Alfentanil	8,500
Amobarbital	301,000
Amphetamine	2,280,000
Cocaine	550,040
Codeine (for sale)	47,000,000
Codeine (for conversion)	17,519,000
Desoxyephedrine [1]	1,755,100
Dextropropoxyphene	118,066,000
Dihydrocodeine	214,000
Diphenoxylate	1,002,000
Ecogonine (for conversion)	650,100
Ethylmorphine	12
Fentanyl	143,000
Hydrocodone (for sale)	12,145,000
Hydrocodone (for conv)	2,800,000
Hydromorphone	718,000
Isomethadone	12
Levo-alpha-acetylmethadol	200,000
Levorphanol	17,000
Meperidine	10,822,000
Methadone	4,551,000
Methadone (for conv)	364,000
Methadone Int. (for conv)	5,534,000
Methamphetamine (for conv)	723,000
Methylphenidate	11,775,100
Morphine (for sale)	12,450,000
Morphine (for conv)	76,735,000
Noroxymorphone (for sale)	27,000
Noroxymorphone (for conv)	3,400,000
Opium	714,000
Oxycodone (for sale)	5,571,000
Oxycodone (for conv)	37,300
Oxymorphone	11,200
Pentobarbital	18,000,000
Phencyclidine	40
Phenylacetone (for conv)	10
1-Phenylcyclohexylamine	10
1-Piperidinocyclo-hexanecarbonitrile	12
Secobarbital	400,000
Sufentanil	1,000
Thebaine	9,387,000

[1] 1,700,00 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product and 55,100 grams for methamphetamine.

Dated: July 18, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–19019 Filed 7–25–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 23, 1996.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of the individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley (202) 219–5095. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration or the Bureau of Labor Statistics, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202}) 395–7316, on or before August 26, 1996.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

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

Agency: Employment and Training Administration.

Title: Unemployment Insurance Benefits Accuracy Measurement.

Program (formerly Benefits Quality Control).

OMB Number: 1205–0245.

Agency Number: ETA Handbook 395.

Frequency: Weekly.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 23,760.

Estimated Time Per Respondent: 3 hours 10 minutes annually.

Total Burden Hours: 75,319.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Benefits Accuracy Measurement (BAM) program provided reliable estimates of the accuracy of benefit payments in the Unemployment Insurance program and identifies the sources of mispayments so that their causes can be eliminated. This submission proposes extending the BAM program for three years while reducing average sample sizes and permitting States more flexibility in how they verify information pertinent to the sampled payments.

Agency: Bureau of Labor Statistics.

Title: Current Population Survey (CPS).

OMB Number: 1220–0100.

Frequency: Monthly.

Affected Public: Individuals or households.

Number of Respondents: 48,000.

Estimated Time Per Respondent: 7 minutes.

Total Burden Hours: 67,200.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The labor force data collected in the Current Population

Survey help to determine the employment situation of specific population groups as well as general trends in employment and unemployment.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–19055 Filed 7–25–96; 8:45 am]

BILLING CODE 4510–30–M

Advisory Council on Employee Welfare and Pension Benefit Plans; Announcement of Vacancies Request for Nominations

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an ''Advisory Council on Employee Welfare and Pension Benefit Plans'' (the Council), which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his or her functions under ERISA, and to submit to the Secretary, or his or her designee, recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire Thursday, November 14, 1996. The groups or fields represented are as follows: employee organizations (multiemployer plans), investment management, corporate trust, employers and the general public (pensioners).

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph, may submit recommendations to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, N.W., Suite N–5677, Washington, D.C. 20210. Recommendations must be delivered or mailed on or before October 1, 1996. Recommendations may be in the form of a letter, resolution or petition, signed by the person making the recommendation or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation should identify the candidate by name, occupation or position, telephone number and address. It should also include a brief description of the candidate's qualifications, the group or field which he or she would represent for the purposes of Section 512 of ERISA, the candidates' political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, D.C. this 22nd day of July, 1996.

Olena Berg,

Assistant Secretary of Labor, Pension and Welfare Benefits Administration.

[FR Doc. 96–19056 Filed 7–25–96; 8:45 am]

BILLING CODE 4510–29–M

Employment and Training Administration

Unemployment Insurance Service; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paper work and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed reinstatement of the ETA 191, Statement of Expenditures and Financial Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Servicemembers. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 24, 1996.

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Wanda J. Drew, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S4231, 200 Constitution Ave., N.W., Washington, D.C. 20210; telephone number (202) 219–5309 (this is not a toll-free number); fax (202) 219–8506.

SUPPLEMENTARY INFORMATION:

I. Background

Public Law 97–362, Miscellaneous Revenue Act of 1982 amended the Unemployment Compensation for Ex-Servicemembers (UCX) law (5 U.S.C. 8509) and Public Law 96–499, Omnibus Reconciliation Act amended the Unemployment Compensation for Federal Employees (UCFE) law (5 U.S.C. 8501, et. seq.) requiring each Federal employing agency to pay the costs of regular and extended UCFE/UCX benefits paid to its employees by the State employment security agencies (SESAs). The ETA 191 report submitted

quarterly by each SESA shows the amount of benefits that should be charged to each Federal employing agency. The Employment and Training Administration uses this information to aggregate the SESA quarterly charges and submit one official bill to each Federal agency being charged. Federal agencies then reimburse the Federal Employees Compensation (FEC) Account, maintained by the U.S. Treasury.

II. Current Actions

This collection continues to be needed to assure that the provision of the law are met regarding the requirement that each federal agency meets its obligations for paying its unemployment compensation costs and to assure that SESAs are reimbursed properly for their expenditures of UCFE and UCX benefits on behalf of the Federal agencies.

Type of Review: Reinstatement (without change).

Agency: Employment and Training Administration.

Title: ETA 191, Statement of Expenditures and Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Servicemembers (UCFE/UCX).

OMB Number: 1205–0162.

Agency Number: ETA 191.

Affected Public: State Government.

Total Respondents: 53.

Frequency: Quarterly.

Total Responses: 212.

Average Time per Response: 6 hrs.

Estimated Total Burden Hours. 1,272.

Total Burden Costs (operating/maintaining): $25,100.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 22, 1996.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service, Employment and Training Administration.

[FR Doc. 96–19053 Filed 7–25–96; 8:45 am]

BILLING CODE 4510–30–M

Job Corps Enrollee Allotment Determination; Comment Request; Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed reinstatement collection of the Job Corps enrollee Allotment Determination.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 24, 1996.

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSEE: Dana Davidson Johnson, Office of Job Corps, Division of Program Management and Review, U.S. Department of Labor, 200 Constitution NW, Room N4656, Washington, D.C. 20210. Telephone: (202) 219–6568 (this is not a toll-free number), Fax (202) 501–5469.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this form is to obtain information from the enrollee as to the allottee designation and to obtain documentary evidence to support the enrollee's claim for qualification for allotment.

II. Current Actions

The Department of Labor handles all student payments. If this information was not collected, ETA could not comply with the regulations and the student could not receive an allotment. This is a basic source document initiating the allotment eligibility and payment process. The information obtained and displayed on this document is not readily obtainable elsewhere.

Type of Review: Reinstatement.

Agency: Employment and Training Administration.

Title: Job Corps Enrollee Allotment Determination.

OMB Number: 1205–0030.

Agency Number: ETA 658.

Affected Public: Individuals or households; Federal agencies or employees.

Total Respondents: 7,200.

Frequency: On occasion.

Total Responses: 7,200.

Average Time per Response: 12 minutes.

Estimated Total Burden Hours: 1,440.

Total Burden Cost (operating/maintaining): $10,000.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 23, 1996.

Mary H. Silva,

National Director, Job Corps.

[FR Doc. 96–19057 Filed 7–25–96; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation as part of its role in the administration of the Federal-State unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the Federal Register in order to inform the public.

UIPL 29–83, Change 3

When one employer is acquired by another employer, a transfer of the first

employer's experience with unemployment may take place for purposes of determining UI tax rates. Although States are not required to make any provision for transfers of experience, 52 States do so.

Departmental guidance concerning transfers of experience has not been updated recently. What guidance is available is incomplete, and due to changes in Federal law, out of date. This UIPL supersedes previous guidance concerning transfers of experience. Even though there are some minor changes in the Department's position, we are not aware of any State which will be required to change its law as a result of this interpretation of Federal requirements.

Dated: July 22, 1996.

Timothy M. Barnicle,

Assistant Secretary of Labor.

DIRECTIVE: Unemployment Insurance Program Letter No. 29–83 Change 3
TO: All State Employment Security Agencies
FROM: Mary Ann Wyrsch, Director, Unemployment Insurance Service
SUBJECT: Transfers of Experience

1. *Purpose.* To advise the States of the Department of Labor's interpretation of Federal law requirements relating to transfers of experience.

2. *References.* Section 3303(a) of the Federal Unemployment Tax Act (FUTA); UIPL 29–83, dated June 23, 1983; UIPL 29–83, Change 1, dated September 24, 1991; UIPL 15–87, dated March 30, 1987; and Sections 3770 through 3776, Part V, of the *Employment Security Manual* (*ESM*).

3. *Background.* When one employer (called the predecessor) is acquired by another employer (called the successor), a transfer of the predecessor's experience may occur. Following the transfer, rates are assigned based on the combined experience of the predecessor and successor. Although States are not required to make any provision for transferring experience, 52 States do so. Some States also provide for interstate transfers of experience.

The *ESM* contains the only major Departmental discussion of transfers of experience. However, it is both incomplete and, due to amendments to Federal law relating to new employer rates and the standard rate, out of date. As a result, the Department regularly receives inquiries concerning its position on transfers of experience. Also, a disproportionately large number of conformity issues relate to transfers of experience. To address these matters and assist the States in assuring that Federal requirements are met, this UIPL is being issued.

This UIPL supersedes the *ESM* material on transfers of experience. The Department has identified only two instances where a position taken in the *ESM*, other issuances, or correspondence is changed by the UIPL. The first relates to the use of managerial experience in certain transfers and is discussed in item 5.C. The second, which is more in the nature of a clarification, relates to the use of computation dates and is discussed in footnote 4 and the accompanying text. The Department knows of no State which will be required to amend its law due to these changes.

4. *Basis for Transfers of Experience.* Section 3303(a)(1), FUTA, requires, as a condition of employers receiving the additional credit against the Federal unemployment tax, that—

> no reduced rate of contributions to a pooled fund or to a partially pooled account is permitted to a person (or group of persons) having individuals in his (or their) employ except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk during not less than the 3 consecutive years immediately preceding the computation date.

Although the term ''experience'' is often used (as it is here) as convenient shorthand, no State actually measures ''experience.'' Instead what is actually measured are ''factors bearing a direct relation to unemployment risk.'' Typically, the factor used is benefits paid.

This section prescribes the conditions under which a reduced rate of contributions to a pooled fund may be permitted by State law ''to a person (or group of persons).''[1] UIPL 29–83 states that the authority for group accounts is the basis for allowing transfers of experience. There is, however, an additional, underlying reason for permitting transfers of experience: when a predecessor is acquired, the experience follows the work force, organization, trade and other assets to the successor.

Transfers of experience are not required by FUTA. Provided the transfers are consistent with FUTA's experience rating requirements, determining when and if a transfer takes place is a matter that has been left to the States. As a result, a State could, for example, require transfers when the ownership of the predecessor is substantially the same as that of the successor, but otherwise require the successor to petition the State for a transfer. As another example, a State could mandate transfers in most cases, while not requiring transfers when predecessors in bankruptcy court are acquired.

A single legal entity, which may or may not have been a subject[2] employer prior to the transfer, may obtain the experience of a predecessor in two cases:

- In a total transfer, the successor acquires the predecessor's organization, trade, or business and substantially all of the predecessor's assets to such an extent that the predecessor is unable to continue in business.
- In a partial transfer, the experience of the predecessor, in proportion to percentage of the payroll or employees assignable to the transferred portion, is transferred to the successor when it acquires part of the predecessor's business. For a partial transfer of experience to take place, there must be a clearly segregable and identifiable part of the predecessor's enterprise transferred, otherwise there will be no relation between the part of the business transferred and the experience attributable to the part transferred. What part of the experience of the predecessor is attributable to the part of the business transferred is a question of fact to be determined on a case by case basis.

5. *Application of Experience Rating Requirements to Transfers.* If a State chooses to transfer experience, it must do so in accordance with all the requirements of Section 3303(a)(1), FUTA. Following is a discussion of the requirements which have been identified as affecting transfers:

a. *Use of Experience.* Section 3303(a)(1), FUTA, requires that the assignment of reduced rates be ''on the basis of his (or their) [i.e., the employer's] experience with respect to unemployment or other factors bearing a direct relation to unemployment risk * * *.'' This means that—

- Only actual experience may be used. This is why partial transfers must be allocated proportionally and are limited to instances where there is a segregable and identifiable part of the predecessor acquired by the successor. Since States must use actual experience, they may not make assumptions about what an employer's experience might have been when, for example, there is a lack of data. (See UIPL 15–87 which transmitted the Secretary of Labor's decision in the 1986 State of Washington Conformity Proceedings on the use of actual experience.)
- Once experience has been transferred, it becomes the successor's experience, and must be used in determining the successor's rates for any rate year following the year in which the transfer occurs. (An exception exists when the successor, following the transfer, still does not have 3 years of experience. See item 5.c below.) Since the transferred experience now belongs to the successor, it may no longer be used for computing rates for the predecessor for subsequent rate years.
- Any benefits paid which are based on wages paid by the predecessor prior to the transfer *must* be charged to the successor. Just as the successor acquires the organization, trade, business, assets and experience of a predecessor as of the date of transfer, so must it also acquire the benefit charges for current or future claims related to the predecessor (or segregable part of the predecessor) prior to the transfer.

b. *The Uniform Method Requirement.* Under the ''uniform method'' requirement, the experience of all employers in a State must be measured by the same factor or combination of factors throughout the same period of time. (See UIPL 29–83 and 29–83, Change 1.) Therefore, no exceptions may be made to the State's method of measuring experience simply because the experience was transferred. Except as provided for partial transfers (item 4.), the State may not allow the transfer of only a portion of experience. For example, a reserve ration State must transfer the entire experience of the employer, not merely the three years

[1] Section 7701(a)(1) of the Internal Revenue Code of 1986 defines ''person'' to ''mean and include an individual, a trust, estate, trust or estate, partnership, association or corporation.''

[2] A ''subject'' employer is one that is required to pay taxes/file reports under State law.

preceding the computation date. As another example, a State using benefits as the measure of experience may not, in the case of a total successorship of the organization, trade, business and assets of the predecessor, transfer only a portion of benefit charges.

c. *The 3-year Requirement.* Section 3303(a)(1), FUTA, requires that, if an employer has at least three years of experience, then experience must be measured ''during not less than the 3 *consecutive* years immediately preceding the computation date.''[3] (Emphasis added.) As a result, any successor with 3 or more years of experience must be assigned a rate based on experience for rate years following the year the transfer took place. The years of experience must be consecutive; summing concurrent experience periods does not increase the number of consecutive years of experience.

If, immediately preceding the acquisition of the predecessor, the successor already has more years of experience than any predecessor, then the State will need to use only the period of time the successor has had experience to determine if the 3-year requirement is met. If the successor has less experience than the predecessor, then the State will need to determine whether the 3-year requirement is met by summing: (1) The years of experience transferred from the predecessor with the longest experience period and (2) the years of experience earned by the successor since the date of the transfer.

For example, as of the date of transfer, Predecessor A has 2 years of experience, Predecessor B has 1.5 years and the successor has 1 year. Since Predecessor A has the longest experience period, then Predecessor A's years of experience determine whether the 3-year requirement is met. As of the computation date, which occurs six months later, the successor now has 2.5 years of experience: 2 years of transferred experience plus one-half year of experience following the date of the transfer. The successor may continue to receive a new employer rate for the following rate year. However, as of the computation date one year later, the successor will have 3.5 years of experience and any reduced rate must be assigned based on the combined experience.

The 3-year requirement also applies to partial transfers of experience. In determining whether a successor will be assigned a reduced rate, only so much of the experience of the predecessor as is attributable to the transferred business and the experience of the successor (if any) may be used in determining if the 3-year requirement is met.

The above discussion assumes that a State requires 3 years of experience before assigning a reduced rate based on experience. Under the last paragraph of Section 3303(a), FUTA, a State may use as little as one year of experience in assigning reduced rates to newly subject employers. Accordingly, States assigning rates using less than 3 years of experience should use their own minimum experience periods in determining whether a rate based on experience is to be assigned.

The Department has reevaluated a provision found in Section 3776, Part V *ESM.* That section in part provided that, for certain partial transfers, the State may provide that the successor will be immediately eligible for a reduced rate when part of the over-all managerial experience of the predecessor is attributed to the successor. The Department finds no relationship between the predecessor's transferred experience and over-all managerial experience. As discussed in item 5.a, the ''experience'' for the 3-year period would not be based on actual experience.

6. *Rate Assignments During the Year in which the Transfer Occurs.* Because FUTA mandates a rate computation based on experience only once a year, it is not necessary for a State to recalculate either the predecessor's or successor's rate for the remainder of the rate year during which the transfer occurs. If the State chooses to assign a different rate to the successor for the remainder of the rate year, then the reassignment must be done in accordance with Section 3303(a)(1), FUTA. The following methods have been determined as acceptable for determining the rate for the period beginning the first day of the quarter in which the transfer occurs and ending with the next effective date for computation of rates of contribution:

a. If the successor was not a subject employer prior to the transfer, it may be assigned the predecessor's rate. If more than one predecessor is acquired, only the highest rate assigned to any of the predecessors may be assigned to the successor. Assigning a lower rate would reduce the employer's rate without recognizing the experience of the higher-rated predecessor(s). (However, averaging rates is permissible when the size of each predecessor is taken into account.) Since assigning the highest rate results in an increased rate (even though it may be less than the standard rate), there is no conflict with FUTA.

b. If the successor was not a subject employer prior to the transfer, a new employer rate of not less than 1 percent may be assigned under the authority provided by the last paragraph of Section 3303(a), FUTA.

c. A newly computed rate may be assigned to the successor based on the combined experience of the predecessor(s) and the successor using the computation date in effect for all other employers in the current rate year.[4] (In the case of a partial transfer, it is not necessary to recompute the predecessor's rate for the remainder of the rate year).

d. The standard rate under the State's law may be assigned.[5]

When the predecessor and successor become a single legal entity, a State may not assign one rate for transferred experience and another for all other experience. This is because Section 3303(a)(1), FUTA, provides that ''no reduced *rates* or contributions * * * is permitted to a *person* * * *'' (Emphasis added.) Since, after the transfer, there is only a single person, that person must be assigned a single rate based on all of its experience.

7. *Interstate Transfers.* Since nothing in Federal law prohibits interstate transfers of experience, States began providing for these transfers in the late of 1940's. Interstate transfers differ from intrastate transfers in that a successor does not acquire a predecessor. Instead, the same employer transfers operations from one State (the prior State) to another (the new State).[6] As in the case of intrastate transfers, all requirements of Section 3303(a) must be met for the transfer of experience to take place. Those of special importance to interstate transfers are:

a. *Use of Experience.* Only experience attributable to the transferred operation may be transferred. Like an intrastate transfer of experience, the experience follows the work force, organization, trade and assets of the predecessor. Further, when benefits are paid and charged (or noncharged as the case may be) in the prior State based on wages paid prior to the transfer, these charges (or noncharges) must also be transferred to the new State. Otherwise, the employer would escape experience. (In addition, the uniform method requirement would not be met since charged to some employers, but not to others. Also, the 3-year requirement would not be met since not all experience in the 3 years preceding the computation date would be used.)

b. *The Uniform Method Requirement.* The transferred experience must be converted into the factor used to measure experience in the new State, otherwise different factors will be used over the same period of time. For example, to assure uniformity of charging benefits, an amount noncharged in the prior State may be noncharged in the new State only if the new State allows for noncharging in the identical circumstances. As another example, a reserve ratio State (which uses the entire history of an employer) must reconstruct the entire history of an employer transferring experience from a benefit ratio State (which typically uses only 3 years of experience.)

The complexity and variety of experience rating provisions makes it exceedingly difficult for the new State to convert the employer's experience in the prior State. A simpler alternative is for the new State to

[3] The computation date is the end of the experience period being measured. See UIPL 29–83 and Section 3303(c)(7), FUTA.

[4] The Department previously appeared to allow the use of a computation date ''occurring within 27 weeks prior to the effective date of the newly computed rate.'' (*ESM,* Part V, Sections 3770.B and 3772.A.5.) This suggests that a successor employer could have its rate computed using a computation date which is different from that used by all other employers. However, as this is inconsistent with the ''uniform method'' requirement, discussed in item 5.5. above, this is not an acceptable option.

[5] Section 3303(a)(1), FUTA, applies only to reduced rates. ''Reduced rate'' is defined as a rate ''lower than the standard rate.'' (Section 3303(c)(8), FUTA.) Some State laws use ''standard rate'' to mean the rate for new employers. This is not the standard rate for purposes of Section 3303(a)(1), FUTA. For identifying the standard rate in State law for experience rating purposes, refer to UIPL 15–84. Currently, every State has a standard rate of 5.4% or higher.

[6] This discussion of interstate transfers is limited to the transfer of operations since, when an out-of-State employer acquires an already subject employer in a State, then the same situation exists as when a non-subject successor acquires a predecessor.

assign a special new employer rate (of not less than 1 percent) in accordance with the last paragraph of Section 3303(a), FUTA, to employers transferring operations.[7]

8. *Action*. States are to review existing State law and rules involving transfers of experience to ensure that the Federal law requirements as set forth in this program letter are met.

9. *Inquiries.* Please direct inquiries to the appropriate Regional Office.

[FR Doc. 96–19052 Filed 7–25–96; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Availability of Benefit Accuracy Measurement (Formerly Benefits Quality Control) Annual Report Results

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of the Unemployment Insurance Benefit Accuracy Measurement (Formerly Benefits Quality Control) Annual Report for Calendar Year 1995.

SUMMARY: The purpose of this notice is to announce the availability of the Unemployment Insurance (UI) Benefit Accuracy Measurement (BAM) (formerly Benefits Quality Control (BQC) 1995 Annual Report which contains the results of each State's Benefit Accuracy Measurement Program and how it may be obtained.

DATES: The Federal digest will be available after July 31, 1996.

ADDRESSES: Copies may be obtained by writing to Mary Ann Wyrsch, Director, Unemployment Insurance Service, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, N.W., Room S–4231, Washington, D.C. 20210. The digest and this notice contain a list of names and addresses of persons in each State who will provide additional information regarding the individual State report and clarifications upon request.

FOR FURTHER INFORMATION CONTACT: Burman Skrable, Division of Performance Review, Data Analysis and Data Validation Team, 202–219–5922. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Each week, staff in each State's Employment Security Agency investigate random samples of UI benefit payments and record information based on interviews with claimants, employers, and third parties to determine whether State law, policy, and procedure were followed correctly in processing the sampled payment.

The Department of Labor is publishing results from the investigations in a digest which includes information of the 52 jurisdictions participating in the UI BAM program. Five items are reported for each State: Total UI benefit dollars paid to the population of claimants, size of the BAM samples, and the percentages of proper payments, overpayments, and underpayments in the population estimated from the BAM investigations. Ninety-five percent confidence intervals have been computed for each of the three percentages presented (proper payments, overpayments, and underpayments). States have been encouraged to provide narratives to further clarify the meaning of the data based on their specific situations.

Since States' laws, policies, and procedures vary considerably, the data cannot be used to draw comparisons among States.

Effective with calendar year 1995, States are no longer required to publish their report data; however, persons wanting clarification or additional information concerning a specific State's report are encouraged to contact the individual identified in the following mailing list.

Signed at Washington, D.C., on July 19, 1996.

Timothy Barnicle,

Assistant Secretary of Labor for Employment and Training.

UI BAM Annual Report CY 1995—State Contacts

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[7] From a solvency perspective this is also more prudent. For example, an employer transferring a large reserve balance for experience rating purposes is not transferring the contributions which created the balance. If the transferring employer eventually laid off large numbers of workers, the new State's fund as a whole will subsidize the transferring employer. At the same time, the transferring employer may not see any significant change in its rate of contribution to make up for this subsidization. Since a new employer rate is temporary, the risk to the fund would not be as great.

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[FR Doc. 96–19054 Filed 7–25–96; 8:45 am]
BILLING CODE 4510–30–M

Employment Standards Administration/Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the

specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Act,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

Volume III

Florida
FL960102 (July 26, 1996)

Volume V

Texas
TX960119 (July 26, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis—Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

None

Volume II

Pennsylvania
PA960008 (March 15, 1996)
PA960010 (March 15, 1996)
PA960012 (March 15, 1996)
PA960021 (March 15, 1996)
PA960023 (March 15, 1996)
PA960028 (March 15, 1996)
West Virginia
WV960002 (March 15, 1996)
WV960003 (March 15, 1996)

Volume III

Florida
FL960001 (March 15, 1996)
FL960011 (March 15, 1996)
FL960017 (March 15, 1996)
FL960032 (March 15, 1996)
FL960095 (March 15, 1996)
Kentucky
KY960004 (March 15, 1996)
KY960007 (March 15, 1996)
KY960027 (March 15, 1996)
KY960028 (March 15, 1996)
KY960029 (March 15, 1996)
KY960035 (March 15, 1996)

Volume IV

Indiana
IN960001 (May 15, 1996)
IN960002 (March 15, 1996)
IN960003 (March 15, 1996)
IN960004 (March 15, 1996)
IN960005 (March 15, 1996)
IN960006 (March 15, 1996)
IN960016 (March 15, 1996)
IN960020 (March 15, 1996)
Minnesota
MN960003 (March 15, 1996)
MN960007 (March 15, 1996)
MN960008 (March 15, 1996)
MN960012 (March 15, 1996)
MN960015 (March 15, 1996)
MN960027 (March 15, 1996)
MN960031 (March 15, 1996)
MN960035 (March 15, 1996)
MN960039 (March 15, 1996)
MN960058 (March 15, 1996)
MN960059 (March 15, 1996)
MN960061 (March 15, 1996)
Ohio
OH960001 (March 15, 1996)
OH960002 (March 15, 1996)
OH960027 (March 15, 1996)
OH960029 (March 15, 1996)
OH960034 (March 15, 1996)
OH960038 (March 15, 1996)
Wisconsin
WI960011 (March 15, 1996)

Volume V

Kansas
KS960063 (March 15, 1996)
Louisiana
LA960005 (March 15, 1996)
LA960009 (March 15, 1996)
LA960018 (March 15, 1996)
New Mexico
NM960001 (March 15, 1996)
Oklahoma
OK960044 (April 12, 1996)
Texas
TX960003 (March 15, 1996)
TX960014 (March 15, 1996)
TX960018 (March 15, 1996)
TX960066 (March 15, 1996)

Volume VI

Arizona
AZ960002 (March 15, 1996)
Colorado
CO960001 (March 15, 1996)
South Dakota
SD960003 (March 15, 1996)
SD960005 (March 15, 1996)
SD960041 (March 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 19th day of July 1996.

Phillip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–18761 Filed 7–25–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before September 9, 1996. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Agriculture, Office of Communication (N1–16–96–1). Audiovisual proposals and reports.

2. Department of Agriculture, Economic Research Service ((N1–354–96–1). Reference files of history office.

3. Department of the Air Force (N1–AFU–96–16). Authorization for early disposal of short-term temporary records.

4. Department of the Air Force (N–1–AFU–96–17). Administrative records of Family Support Centers.

5. Department of Defense Inspector General (N1–509–93–2). Criminal investigative case files. (Cases dealing with subjects such as environmental, nuclear and internal security concerns are proposed as permanent).

6. Department of Housing and Urban Development (N1–196–96–1). Routine correspondence and administrative files of the Public Housing Administration Deputy Commissioner, 1953–1960, and desk calendars of Assistant Public Housing Administration Commissioner, 1935–1953.

7. Department of Justice (N1–60–96–3). Investigative case files of the New England Bank Fraud Task Force.

8. Department of State, Office of the Legal Adviser (N1–59–95–11). Routine, facilitative, and duplicative records. Unique policy and program records scheduled for transfer to the National Archives.

9. Department of the Treasury, Internal Revenue Service (N1–58–96–3). Routine administrative support records from the defunct Executive Secretariat (program records are designated for permanent retention by the National Archives).

10. Department of Treasury, Internal Revenue Service (N1–58–96–5). Reduction of retention period for records generated by the Wage Information Retrieval System.

11. Advisory Board on Child Abuse and Neglect (N1–220–96–10). Comprehensive records schedule.

12. Bureau of Alcohol, Tobacco, and Firearms (N1–436–94–2). Taxpayer record files and enforced collection forms.

13. The Corporation for National and Community Service (N1–362–96–2). General correspondence of the Office of the Inspector General.

14. Indian Health Service (N1–513–96–1). Grant case files (exclusive of grant products, which are to be preserved).

15. Panama Canal Commission (N1–185–96–3). Photographic negatives of floating equipment.

16. Tennessee Valley Authority (N1–142–92–21). Hydraulic data systems technical file

17. Thrift Depositor Protection Oversight Board (N1–56–95–4). Audit files, litigation files, and administrative support records.

Dated: July 18, 1996.

James W. Moore,

Assistant Archivist for Records Administration.

[FR Doc. 96–19047 Filed 7–25–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: August 12, 1996, 5:00 p.m.; August 13, 1996, 8:30 a.m. to 5:00 p.m.; August 14, 1996, 8:30 a.m. to 4:00 p.m.

Place: University of Virginia Center for Biological Timing, Charlottesville, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Machi Dilworth [Division of Integrative Biology and

Neuroscience], National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1420.

Purpose of Meeting: To review the renewal proposal, evaluate the Science and Technology Center, and make a recommendation concerning future funding of the Science and Technology Center.

Agenda: To evaluate: (a) The research program; (b) educational and outreach activities; and (c) the knowledge transfer activities and the management of the STC. To make a recommendation on the future funding of the STC.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18958 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; 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 Cross Disciplinary Activities (#1193).

Date and Time: August 14–16, 1996; 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 380, 365 and 370, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person(s): Caroline Wardle, Program Director, CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Collaborative Research Learning Technology 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: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18964 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (1194) submitted to the Phase I Small Business Innovation Research Program in the areas of Integrative Biology and Neuroscience, Molecular and Cellular Biosciences, Environmental Biology, Biological Instrumentation Research, Astronomy, Knowledge Representation and Processing, Robotics and Intelligent Perception, and User-System Interfaces. In order to review the large volume of proposals, panel meetings will be held on August 14, 15, and 16, 1996 in rooms 340, 360, 375, and 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA. from 8:30 a.m. to 5:00 p.m. each day.

Contact Person: George Patrick Johnson, SBIR Program Manager, SBIR Office, (703) 306–1391, Anthony Centodocati, SBIR Program Manager, SBIR Office, (703) 306–1391, Jim Koenig, Program Officer, BIO, (703) 306–1423, John Cross, BIO, Program Officer, (703) 306–1472, Barbara Zain, Program Officer, BIO, (703) 306–1442, James Rodman, Program Officer, BIO, (703) 306–1480, Ben Snavely, Program Officer, Astronomy/MPS, (703) 306–1828, Gary Strong, Program Officer, CISE, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

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: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18960 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463,as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (1194) submitted to the Phase I Small Business Innovation Research Program in the areas of Electronic Systems and Devices and Electrical and Communications Systems: Engineering Systems. In order to review the large volume of proposals, panel meetings will be held on August 13 and 14, 1996 in rooms 340, 375, and 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA. from 8:30 a.m. to 5:00 p.m. each day.

Contact Person: Yousef Hashimi, SBIR Program Manager, SBIR Office, (703) 306–1391, Kish Baheti, Program Officer, Electrical and Communications Systems, (703) 306–1339, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such a 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: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18961 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (1194) submitted to the Phase I Small Business Innovation Research Program in the areas of Electronic Materials and Devices and Materials Research: Polymers. In order to review the large volume of proposals, panel meetings will be held on August 12, 1996 in rooms 340, and 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, VA. from 8:30 a.m. to 5:00 p.m. each day.

Contact Person: Yousef Hashimi, SBIR Program Manager, SBIR Office, (703) 306–1391, Deborah Crawford, Program Officer, Electrical and Communications Systems (703) 306–1339, Darryl Gorman, SBIR Program Manager, SBIR Office, (703) 306–1391, Liselotte Schioler, Program Officer, Materials Research, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

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: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18962 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Engineering.

Date and Time: August 15–16, 1996; 8:00 a.m.–3:00 p.m.

Place: 4201 Wilson Boulevard, Arlington, Virginia, Room 580.

Type of Meeting: Closed.

Contact Person: Dr. Win Aung, Senior Staff Associate, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, 22230. Telephone: (703) 306–1380.

Purpose of Meeting: Committee of Visitors, State/Industry University Cooperative Research Centers Program, Engineering Education and Centers Division. To provide assessment of program-level technical and managerial matters pertaining to proposal decisions and program operations.

Agenda: To assess the proposal review process and technical management of the State/Industry University Cooperative Research Centers Program.

Reason for Closing: The files being reviewed include information of a proprietary of 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: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18965 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Geosciences; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences; Committee of Visitors (1755).

Date and Time: August 12 and August 13, 1996; 8:30 am to 5:00 pm.

Place: Room 770, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Richard A. Behnke, Head, Upper Atmosphere Research Section; Division of Atmospheric Sciences; Room 775; 4201 Wilson Boulevard; Arlington, VA 22230; telephone number (703) 306–1518.

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 Upper Atmosphere Research Section.

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: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18959 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences #1756.

Date and Time: Tuesday and Wednesday, August 13 and 14, 1996 9 a.m.–4 p.m.

Place: Room 365, August 13, Room 730, August 14, Stafford Place, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. J. Paul Dauphin, Associate Program Director, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1581.

Agenda: To review and evaluate the US Science Support Program (USSSP) associated with the Ocean Drilling Program proposals as part of the selection process for awards.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 22, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–18963 Filed 7–25–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

GPU Nuclear Corporation; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear Corporation (the licensee) to withdraw its May 13, 1992, application for proposed amendment to Facility Operating License No. DPR–50 for the Three Mile Island, Unit 1, located in Dauphin County, Pennsylvania.

The proposed amendment would have revised License Condition 2(c)(8)(2) regarding the primary-to-secondary steam generator leakage limits.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on October 14, 1992, (57 FR 47137). However, by letter dated June 12, 1996, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 13, 1992, and the licensee's letter dated June 12, 1996, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 5th day of July 1996.

For the Nuclear Regulatory Commission.

Jan A. Norris,

Senior Project Manager, Project Directorate I–3, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–19032 Filed 7–25–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting

AGENCY: Office of Management and Budget.

ACTION: Notice of document availability.

SUMMARY: This Notice indicates the availability of the seventh Statement of Federal Financial Accounting Standards, ''Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting,'' adopted by the Office of Management and Budget (OMB). The statement was recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in its entirety by OMB. This Notice also indicates the availability of an implementation guide developed by the FASAB to assist users in implementing the statement.

ADDRESSES: Copies of the Statement of Federal Financial Accounting Standards No. 7, ''Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting,'' and accompanying implementation guide may be obtained for $18.00 per set from the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–783–3238), Stock No. 041–001–00475–1.

FOR FURTHER INFORMATION CONTACT: Ronald Longo (telephone: 202- 395–3993), Office of Federal Financial Management, Office of Management and Budget, 725–17th Street, N.W.—Room 6025, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: This Notice indicates the availability of the seventh Statement of Federal Financial Accounting Standards, ''Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting.'' The standard was recommended by the Federal Accounting Standards Advisory Board (FASAB) in April 1996, and adopted in its entirety by the Office of Management and Budget (OMB). This Notice also indicates the availability of an implementation guide developed by the FASAB to assist users in implementing the statement.

Under a Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and OMB on Federal Government Accounting Standards, the Comptroller General, the Secretary of the Treasury, and the Director of OMB decide upon principles and standards after considering the recommendations of FASAB. After agreement to specific principles and standards, they are to be published in the Federal Register and distributed throughout the Federal Government.

G. Edward DeSeve,

Controller.

[FR Doc. 96–18981 Filed 7–25–96; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26545]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 19, 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 August 12, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 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 premitted to become effective.

Applachian Power Company (70–8873)

Appalachian Power Company (''APCo''), 40 Franklin Road, Roanoke, Virginia 24022, a wholly-owned electric utility subsidiary of American Electric Power Company, Inc. (''AEP''), a registered holding company, has filed an application under sections 9 and 10 of the Act and rules 53 and 54 thereunder.

APCo's central machine shop, located in South Charleston, West Virginia (''Shop''), renovated, rebuilds and modifies major pieces of power plant equipment, such as turbine shells and rotors, pump rotors, motors and similar equipment used by AEP system companies in their power plant generation operations. APCo requests authorization for the Shop to perform work for nonaffiliates of the same type it currently performs for AEP system companies for an initial period through December 31, 2001.

APCo expects that the current annual level of power plant equipment maintenance required by AEP system companies will remain constant in the future. Due to the increasingly cyclical nature of power plant maintenance, APCo proposes to perform work for nonaffiliates during Shop's reduced workload periods, thereby avoiding layoffs of experienced personnel, promoting more efficient use of assets and labor and lowering the average cost of work to user AEP system companies. APCo intends to charge nonaffiliates a price that will include a profit component. Revenues derived from work performed for nonaffiliates would be used to reduce Shop overheads, thereby lowering the cost of maintenance services to AEP system companies.

CSW International, Inc., et al. (70–8885)

Centeral and South West Corporation (''CSW''), a registered holding company, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, and its nonutility subsidiaries, CSW International, Inc. (''CSWI'') and CSW Energy, Inc. (''Energy''), both of 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, have filed an application-declaration under sections 6(a), 7 and 12(b) of the Act and rule 45 thereunder.

Since 1990, CSW, directly or through its wholly-owned subsidiary, Energy, has engaged in development activities involving, among other types of facilities, exempt wholesale generators (''EWGs''), as defined in section 32 of the Act. Since 1994, CSW, directly or through its wholly-owned subsidiary, CSWI, has engaged in development and investment activities relating to EWGs and foreign utility companies (''FUCOs''), as defined in section 33 of the Act. By orders of the Commission,[1] CSW is authorized to finance the operations of Energy, CSWI and their respective subsidiaries through acquisitions of securities, capital contributions, open account advances, loans, guarantees and other forms of credit support. In respect of Energy, CSW is authorized, among other things, to make loans, capital contributions and

[1] *See* HCAR Nos. 26417 (Nov. 28, 1995); 26416 (Nov. 28, 1995); and 26383 (Sept. 27, 1995).

open account advances (collectively, the ''Advances'') through December 31, 2000, in an aggregate amount not to exceed $250 million.

Energy intends to issue up to $500 million aggregate principal amount of debt securities from time to time through December 31, 2006 (the ''Securities'') to third parties.[2] The applicants state that the third parties will have no recourse to CSW or any of its domestic public utility subsidiaries in respect of the Securities. From time to time, Energy will loan all or a portion of the proceeds of the sale of the Securities to CSWI,[3] which will use the proceeds to invest in EWGs and FUCOs. From time to time, Energy will use all or portion of the proceeds of the sale of the Securities to invest in EWGs.

CSWI requests authorization, during the period ending five years after issuance of the Commission's order in this matter, the guarantee Energy's performance obligations under the Securities. No fees or interest will be paid to CSWI by Energy or any other associate company in connection with the guaranty. In addition, CSW will not seek reimbursement of the Advances until the maturity of the Securities. The applicants state that any funds separately provided by CSW to Energy or CSWI, in the form of intercompany loans, capital contributions and open account advances, will not be used by Energy or CSWI, as the case may be, towards their respective obligations under the Securities.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–18993 Filed 7–25–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 22083; International Series Rel. No. 1008; 812–10188]

Van Kampen American Capital Equity Opportunity Trust, Series 28; Notice of Application

July 19, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''Act'').

APPLICANT: Van Kampen American Capital Equity Opportunity Trust, Series 28.

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 12(d)(3).

SUMMARY OF APPLICATION: Applicant requests an order on behalf of itself and certain subsequent series (each a ''Series'') to permit certain Series (the ''Strategic Five Series'') to invest up to 20.5% and other Series (the ''Strategic Ten Series'') to invest up to 10.5% of their respective total assets in securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATES: The application was filed on June 7, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 13, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Van Kampen American Capital Distributors, Inc., One Parkview Plaza, Oakbrook Terrace, Illinois 60181.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942–0583, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Each Series will be a series of Van Kampen American Capital Equity Opportunity Trust, a unit investment trust registered under the Act. Van Kampen American Capital Distributors, Inc. is the depositor for the Trust (the ''Sponsor'').

2. Each Strategic Five Series will invest approximately 20%, but in no event more than 20.5%, of the value of its total assets in each of the five stocks with the second through the sixth lowest per share stock price of the ten common stocks having the highest dividend yields in the Dow Jones Industrial Average (the ''DJIA''), the Financial Times Industrial Ordinary Share Index (the ''FT Index''), the Hang Seng Index, the Nikkei 225 Index, the German Stock Index (the ''DAX''), the Chilean IPSA Index (the ''IPSA''), the Mexican Bolsa Index (the ''IPC''), or the Straits Times Industrial Index (the ''Straits'') (collectively, the ''Strategic Five Indexes'').[1] Each Strategic Ten Series will invest approximately 10%, but in no event more than 10.5%, of the value of the Series' total assets in each of the ten common stocks having the highest dividend yields on the Nikkei 225 Index, the DAX, the IPSA, the IPC, or the Straits (collectively, the ''Strategic Ten Indexes''). Dividend yields will be calculated as of a date no more than five business days prior to the Series' initial date of deposit. Each Series will hold its stocks for approximately one year.

3. Each Index is recognized indicator of the stock market in its respective country. The DJIA, which is the property of DOW Jones & Company, Inc., comprises 30 common stocks chosen by the editors of The Wall Street Journal. The FT Index comprises 30 common stocks chosen by the editors of the Financial Times as representative of British industry and commerce. The Hang Seng Index comprises 33 of the stocks listed on the Stock Exchange of Hong Kong Ltd. The Nikkei 225 index is comprised of 225 Japanese companies listed on the Tokyo Stock Exchange. The DAX is a total return index of 30 selected German blue chip stocks traded on the Frankfurt Stock Exchange. The IPSA is a capitalization-weighted index of 40 stocks trading on the Santiago Stock Exchange. The IPC is a capitalization-weighted index of the leading stocks on the Mexican Stock Exchange. The Straits is a price-weighted index of 30 stocks traded on the Stock Exchange of Singapore compiled by the Straits Times newspaper of Singapore. The publishers of the Indexes are not affiliated with any Series or the Sponsor, and do not

[2] Applicants state that the Securities will be issued pursuant to the exemption afforded by rule 52.

[3] Applicants state that the loans will also be exempt pursuant to rule 52.

[1] The Sponsor will attempt to purchase equal values of each of the common stocks in a Series' portfolio. However, it is more efficient if securities are purchased in 100 share lots and 50 share lots. As a result, each Strategic Five Series may purchase securities of a securities related issuer that represent in excess of 20%, but in no event more than 20.5%, of such Series' assets on the initial date of deposit. Similarly, each Strategic Ten Series may purchase securities of a securities related issuer that represent over 10%, but in no event more than 10.5%, of such Series' assets.

participate in any way in the creation of any Series or the selection of its stocks.

4. The securities deposited in each Series will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsor. The Sponsor is authorized to determine the date of deposit, to purchase securities for deposit in the Series, and do supervise each Series' portfolio. The Sponsor will have no discretion as to which securities are purchased. Securities deposited in a Series may include securities of securities related issuers.

5. The portfolios of the Series will not be actively managed. Sales of portfolio securities will be made in connection with redemptions, for payment of expenses, and at termination of the Series on a date specified a year in advance. The Sponsor does not have discretion as to when securities will be sold except in extremely limited circumstances, such as a default in the payment of any outstanding obligation, a decrease in the price of a security, or other credit factors so that, in the opinion of the Sponsor, the retention of the securities would be detrimental to the Series.

Applicant's Legal Analysis

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 thereunder exempts the purchase of securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested to more than 5% of the value of its total assets in securities of the issuer.

2. Section 6(c) of the Act provides that the SEC may exempt any person, transaction, or class of transactions from any provision of the Act or any rule thereunder, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the provision of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicant requests an exemption under section 6(c) from section 12(d)(3) to permit a Strategic Five Series to invest up to approximately 20%, but in no event more than 20.5%, of the value of its total assets in securities of a securities related issuer, and to permit a Strategic Ten Series to invest up to 10%, but in no event more than 10.5%, of the value of its total assets in securities of a securities related issuer. Each Series will comply with all of the conditions of rule 12d3–1, except the condition prohibiting an investment company from investing more than 5% of the value of its total assets in securities of a securities related issuer.

4. Section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicant believes that this concern does not arise in connection with its application because neither the Series nor the Sponsor has discretion in choosing the portfolio securities or amount purchased. The security must first be included in the appropriate Index, each of which is unaffiliated with the Sponsor and the applicant. In addition, with respect to the Strategic Five Series, each security must also qualify as one of the five stocks with the second through the sixth lowest dollar per share stock price of the ten highest dividend yielding stocks in the relevant Strategic Five Index. With respect to the Strategic Ten Series, the securities must also qualify as one of the ten highest dividend yielding securities in the relevant Strategic Ten Index.

5. Applicant also believes that the effect of a Series' purchase on the stock of parents of broker-dealers would be *de minimis*. The common stocks of securities related issuers represented in the Indexes are widely held, have active markets, and that potential purchases by any Series would represent an insignificant amount of the outstanding common stock and trading volume of any of these issues. Accordingly, applicant believes it is highly unlikely that purchases of these securities by a Series would have any significant impact on the market value of such securities.

6. Another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the profitability of the broker-dealer or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicant agrees, as a condition of this application, that no company held in the portfolio of a Series, nor any affiliate thereof, will act as a broker for any Series in the purchase or sale of any security in its portfolio. In light of the above, applicant believes that its proposal meets the section 6(c) standards.

Applicant's Condition

Applicant agrees that the requested exemptive order may be conditioned upon no company held in the portfolio of a Series, nor any affiliate thereof, acting as broker for any Series in the purchase or sale of any security for the Series' portfolio.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–18994 Filed 7–25–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37458; File No. SR–Amex–96–13]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to Amendments to Rule 117 (Trading Halts Due to Extraordinary Market Volatility)

July 19, 1996.

I. Introduction

On April 11, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its circuit breaker rules.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37146 (Apr. 26, 1996), 61 FR 19650 (May 2, 1996).[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission has received one comment letter specifically addressing the Amex proposal as well as the identical rule proposal of the New York Stock Exchange (''NYSE''). *See* Letter from Joseph R. Hardiman, President, National Association of Securities Dealers, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996. The Commission has also received three additional comment letters on the NYSE's proposal. *See* Letter from William R. Rothe, Chairman, and John L. Watson III, President, Security Traders Association, to Jonathan G. Katz, Secretary, SEC, dated May 10, 1996; Letter from Peter W. Jenkins, Chairman, and Holly A. Stark, Vice Chairman, Securities Traders Association's Institutional Committee, to Jonathan G. Katz, Secretary, SEC, dated May 17, 1996; Letter from

Continued

On July 10, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Description of Proposal

Currently, Amex Rule 117 provides that if the Dow Jones Industrial Average (''DJIA'')[5] falls 250 or more points below its previous trading day's closing value, trading in all stocks on the Exchange will halt for one hour. It further provides that, if on the same day the DJIA drops 400 or more points from its previous trading day's close, trading on the Exchange will halt for two hours.

Moreover, Commentary .03 to Amex Rule 117 provides that if the 250-point trigger is reached during the last hour, but before the last half-hour, of trading, or if the 400-point trigger is reached during the last two hours, but before the last hour, of trading, the Exchange may use abbreviated reopening procedures either to permit trading to reopen before 4:00 p.m. or to establish closing prices. Current Commentary .03 to Amex Rule 117 further provides that if the 250-point trigger is reached during the last half-hour, or if the 400-point trigger is reached during the last hour, the Exchange shall not reopen for trading on that day.[6]

With the proposed rule change, the Exchange proposes to revise its circuit breaker rules so that the time periods for halting trading when the 250-point or 400-point level is triggered would be shortened from one hour and two hours to one-half hour and one hour, respectively.[7] The Exchange believes the proposed amendments are an appropriate, measured response to the significant technological progress made by the securities markets and the broker-dealer community since 1988 in efficiently accommodating large order imbalances that may occur under volatile market conditions. The Exchange believes that the shortened time periods should now provide sufficient opportunity for market participants to evaluate market conditions and avoid unnecessary delays in resumption of trading.

With respect to Commentary .03, in its original proposal, the Exchange proposed to replace the provision with an amendment, which would provide that if the 250-point trigger is reached during the last half-hour of trading, or if the 400-point trigger is reached during the last hour of trading, the Exchange may use abbreviated reopening procedures to establish new last sale prices.[8] Subsequently, the Exchange filed Amendment No. 1 to eliminate the proposed provision for the abbreviated reopening procedures to establish new last sale prices if trigger values are reached in the last one-half hour or hour of trading.[9] Therefore, the Exchange now proposes to delete the current provision in Commentary .03 without adding new language.

III. Discussion

After careful review of the Exchange's proposed amendments to the circuit breaker rules and for the reasons discussed below, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[10] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In 1988, the Commission approved the Exchange's circuit breaker proposal, along with those of the other securities exchanges and the National Association of Securities Dealers (''NASD''), because the Commission believed that the circuit breaker rules proposed would help promote stability in the equity and equity-related markets by providing for an enhanced opportunity for market participants to assess information during times of extreme market movements.[11] The proposals, in part, were in response to the events of October 19, 1987, when the DJIA declined 22.6%. The Commission believed that the circuit breaker proposals would provide market participants with an opportunity during a severe market decline to reestablish an equilibrium between buying and selling interest in a more orderly fashion. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.[12]

Since the implementation of the circuit breakers, the DJIA has risen significantly. The 250 point and 400 point triggers, which represented 12% and 19% of the DJIA when implemented, now represent 4.5% and 7% of the DJIA. The Exchange and members of the industry have continued to study the circuit breaker rules and to consider the possible effects of triggering the current circuit breakers in light of the rise in the DJIA since their implementation.

While the Exchange evaluates the need to change the circuit breaker trigger levels, the Commission believes, in the near term, it is reasonable for the Exchange to shorten the length of the trading halts. The Exchange believes and the Commission agrees that, with advances in technology and increases in

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Paul Schott Stevens, Senior Vice President and General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996. Because the NYSE's proposal is identical to that of Amex, issues raised in these comment letters apply equally to both rule proposals. The comment letters are summarized in the Commission's NYSE order and the Commission's discussion in the NYSE order is applicable to this order. *See* Securities Exchange Act Release No. 37457 (July 19, 1996) (approving NYSE's proposal to shorten the periods for halting trading when circuit breakers levels are triggered).

[4] *See* letter from Geraldine M. Brindisi, Vice President and Corporate Secretary, Amex, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated July 9, 1996 (''Amendment No. 1''). For a description of Amendment No. 1, *see infra* note 9 and accompanying text.

[5] ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.

[6] Amex Rule 117 was approved by the Commission on a pilot basis on October 19, 1988 and has been extended annually since then, with the most recent extension expiring on October 31, 1996. The Exchange proposes to adopt amendments to Amex Rule 117 to coincide with the year-to-year pilot program. *See* Securities Exchange Act Release Nos. 26198 (Oct. 19, 1988), 53 FR 41637 (Oct. 24, 1988); 36414 (Oct. 25, 1995), 60 FR 55630 (Nov. 1, 1995).

[7] The Exchange has represented to the Commission that it will use the intermarket telecommunications system known as Information Network for Futures, Options, and Equities (''INFOE'') system as well as the Consolidated Tape to announce the precise time when the circuit breaker thresholds are reached. Telephone conversation between Michael Cavalier, Assistant General Counsel, Amex, and Jennifer S. Choi, Attorney, Division of Market Regulation, SEC, on July 9, 1996.

[8] In conjunction with its proposal for abbreviated reopening procedures, the Exchange proposed to amend Amex Rule 1 to provide that the 9:30 a.m. to 4:00 p.m. trading session may be extended to permit closing transactions pursuant to Rule 117. *See* Securities Exchange Act Release No. 37146 (Apr. 26, 1996), 61 FR 19650 (May 2, 1996).

[9] The Exchange also withdrew from the proposed rule change amendments to Rule 1 because the abbreviated reopening procedures are no longer being proposed in the rule filing. *See* Amendment No. 1, *supra* note 4.

[10] 15 U.S.C. 78f(b).

[11] *See* Securities Exchange Act Release No. 26198, *supra* note 6.

[12] *See* Letter from Todd E. Petzel, Vice President, Financial Research, Chicago Mercantile Exchange (''CME''), to Jean A. Webb, Secretary, Commodity Futures Trading Commission (''CFTC''), dated September 1, 1988. *See also* letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade (''CBT''), dated July 29, 1988; Michael Braude, President, Kansas City Board of Trade (''KCBT''), dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and surveillance, New York Futures Exchange (''NYFE''), dated September 2, 1988.

the operational capacity of the markets, the current length of the trading halts may not be necessary for market participants to become aware of and respond to significant price movements. The shorter time periods proposed by the Exchange for halting all trades should be sufficient to allow market participants to evaluate and act on changing market conditions without unduly constraining market activities.[13] Nevertheless, the Commission encourages the Exchange and members of the industry to continue to evaluate the trigger levels for the trading halts in light of the changing circumstances of the markets since 1988.[14]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Exchange's original proposal was published in the Federal Register for the full statutory period [15] and Amendment No. 1, which deletes the provision in the proposal that provides for an abbreviated reopening session, was submitted in response to the comments received.[16] Moreover, the Commission believes that deleting this provision is appropriate where the details of such a session were not fully developed and might have created confusion on the Exchange or among the various equities and futures markets during times of extreme volatility. Based on the above, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act, to accelerate approval of the amended proposed rule change.

The Commission also believes that the circuit breaker mechanisms must be coordinated across the U.S. equity, futures and options markets to be effective in times of extreme proposal will become effective on July 22, 1996, which will also be the effective date of the amended rules of the other markets, so that the circuit breaker trading halts will continue to be coordinated among the different markets.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–96–13 and should be submitted by August 16, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–96–13) is approved and effective on July 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–19036 Filed 7–25–96; 8:45 am]

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[13] The Commission also believes that shortening the length of the trading halts does not need to be delayed pending the resolution of any other circuit breaker issues. While an examination of the broader issue of raising the circuit breaker triggers may be warranted, the trading halt periods should be shortend irrespective of the level of the trigger points. *See* Securities Exchange Act Release No. 37457, *supra* note 3 (some comment letters discuss other circuit breaker issues that are not directly involved in the specific proposal before the Commission).

[14] To coordinate trading halts across all securities and futures markets, the regional and futures exchanges have submitted amendments to their circuit breaker rules. For more detail on the specifics of these proposals, *see* Securities Exchange Act Release No. 37459 (July 19, 1996); Letter from Norman E. Mains, Senior Vice President, Chief Economist, and Director of Research, CME, to Jean A. Webb, Secretary, Commodity Futures Trading Commission, dated July 5, 1996. The NASD's Policy Statement on Market Closings state that the NASD will, upon the request of the Commission, act to halt domestic trading in all securities quoted on the Nasdaq system and domestic trading in equity or equity-related securities in the over-the-counter market. The Commission notes that it has a standing request with the NASD to halt trading as quickly as practicable whenever the NYSE and other equity markets have suspended trading. The Amex's and NYSE's proposed rule change does not affect the Commission's standing request. *See* Letter from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, to Howard, to Howard Kramer, Associate Director, SEC, dated July 18, 1996.

[15] *See* Securities Exchange Act Release No. 37146, *supra* note 8.

[16] For a detailed discussion about the comments received, *see* Securities Exchange Act Release No. 37457, *supra* note 3.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

[Release No. 34–37460; File No. SR–Amex–96–21]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Dissemination of Indications in Connection With Circuit Breaker Trading Halts Under Rule 117

July 19, 1996.

I. Introduction

On June 17, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement guidelines for dissemination of indications to the consolidated tape in connection with the resumption of trading following a ''circuit breaker'' trading halt pursuant to the Amex's Rule 117.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37356 (June 24, 1996), 61 FR 33786 (June 28, 1996). No comments were received on the proposals.[3]

II. Description of the Proposal

The Exchange proposes to implement guidelines for the mandatory dissemination of indications to the consolidated tape in connection with the resumption of trading following a ''circuit breaker'' halt pursuant to its Rule 117.[4] The purpose of the proposed criteria is to provide guidance to the Exchange's specialists as to the specific

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that the comment period ends on July 19, 1996, and that as of yet, no comments have been received.

[4] The Commission notes that Rule 117—the Exchange's ''circuit breaker'' rule—provides that trading in securities on the Exchange shall halt (a ''Rule 117 halt'') and not reopen for one hour if the Dow Jones Industrial Average (''DJIA'') falls 250 points or more below its closing value on the previous trading day. The rule provides further that trading on the Exchange shall halt for two hours if the DJIA falls 400 points or more on that same day. Rule 117 was approved by the Commission on a pilot basis on October 17, 1988 and has been extended annually since then. *See* Securities Exchange Act Release No. 36414 (Oct. 25, 1995), 60 FR 55630 (Nov. 1, 1995) (Commission's most recent order extending temporary approval of Rule 117).

The Amex has filed a proposal to amend Rule 117 to reduce from one hour to thirty minutes the time period during which trading is halted due to a decline in the DJIA of 250 points below its closing value on the previous trading day, and to reduce from two hours to one hour the time period for a halt due to a 400 points decline in the DJIA. *See* Securities Exchange Act Release No. 37146 (April 26, 1996), 61 FR 19650 May 2, 1996).

circumstances under which they are required to disseminate indications if a significant decline in the price of a stock from the previous last sale on the Exchange is anticipated when trading resumes following a circuit breaker halt.

The Exchange proposed to implement the following guidelines:

- Dissemination of an indication shall be mandatory prior to the reopening of trading if such reopening will result in a price change constituting the lesser of 10% or three points from the last sale reported on the Amex, or five points if the previous reported last sale in $100 or higher. No indications would be required if the price change is less than one point.[5]
- If, on any day that a Rule 117 halt is in effect, trading in a security has not reopened by one-half hour after the resumption of trading on the Exchange, the matter should be treated as a delayed opening, and would require an indication as well as a Floor Official's supervision.

According to the Exchange, it has existing procedures which require dissemination of indications prior to delayed openings and reopening following regulatory or non-regulatory halts in individual securities. The Exchange will continue to require dissemination of indications in those situations.[6]

III. Discussion

After careful consideration of the Amex's proposal to implement guidelines for dissemination of indications to the consolidated tape in connection with the resumption of trading following a ''circuit breaker'' trading halt pursuant to the Amex's Rule 117, the Commission finds that the proposal is consistent with the requirements of Section 6[7] of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposal will implement more specific guidelines for the dissemination of indications of interest for a resumption of trading following a ''circuit breaker'' halt. This will provide more clarity as to the reopening procedures in these circumstances.

The Commission finds good cause for approving the Exchange's proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. The proposal is virtually identical to procedures that have been in place for several years at the NYSE. In addition, clarification of dissemination procedures will help provide more certainty to the Amex procedures, which is important in the maintenance of fair and orderly markets. Therefore, the Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with Sections 6 and 19(b)(2) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Amex–96–21) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–19037 Filed 7–25–96; 8:45 am]

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[5] For example, if the last sale price of a stock was $6, and the stock would reopen at a price change of ⅞, no indication would be required even though the price change was greater than 10% of the last sale price because the price change was less than one point.

[6] The Exchange noted that the proposed criteria are identical to those currently in place at the New York Stock Exchange (''NYSE'') in connection with circuit breaker halts under NYSE Rule 80B. *See* Securities Exchange Act Release No. 26419 (January 5, 1989), 54 FR 1041 (January 11, 1989).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

[Release No. 34–37462; File No. SR–Amex–96–25]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to a Pilot Program for Execution of Odd-Lot Orders

July 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 5, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for four months its existing pilot program under Amex Rule 205 requiring execution of odd-lot market orders at the prevailing Amex quote with no differential charged.[2]

The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose. The Commission has approved, on a pilot basis extending to August 8, 1996, amendments to Amex Rule 205 to require execution of odd-lot market orders at the Amex quote with no odd-lot differential charged.[3] The procedures were initially approved by the Commission in 1989[4] and were most recently extended in February 1996.[5]

[2] The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program, which expires on August 8, 1996, to continue without interruption.

[3] Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03).

[4] Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR–Amex–88–23).

[5] *See* Securities Exchange Act Release No. 36821 (Feb. 8, 1996), 61 FR 6050 (approving File No. SR–Amex–96–06). Prior to this release, the Commission had extended this pilot program eleven times. *See* Securities Exchange Act Release Nos. 34949 (Nov. 8, 1994), 59 FR 58863 (approving File No. SR–Amex–94–47); 34496 (Aug. 8, 1994), 59 FR 41807 (approving File No. SR–Amex–94–28); 33584 (Feb. 7, 1994), 59 FR 6983 (approving File No. SR–Amex–93–45); 32726 (Aug. 9, 1993), 58 FR 43394 (approving File No. SR–Amex–93–24); 31828 (Feb. 5, 1993), 58 FR 84234 (approving File No. SR–

In approving prior extensions to the Exchange's odd-lot pilot program, the Commission has expressed interest in the feasibility of the Exchange utilizing the Intermarket Trading System (''ITS'') best bid or offer, rather than the Amex bid or offer, for purposes of the Exchange's odd-lot pricing system. In File No. SR–Amex–95–03, requesting a further extension of the pilot program, the Exchange stated that it had determined to proceed with systems modifications to provide for execution of odd-lot market orders at the ITS best bid or offer.[6]

The Commission has approved amendments to Amex Rule 205 to accommodate the prospective modifications to the Exchange's odd-lot pricing system.[7] Specifically, amended Amex Rule 205 would provide that odd-lot market orders to buy or sell would be filled at the ''adjusted ITS offer'' or ''adjusted ITS bid,'' respectively, which would be defined in Amex Rule 205, Commentary .04, as the lowest offer and highest bid disseminated by the Amex or by another ITS participant market.[8] Where quotation information is not available (*e.g.*, when quotation collection or dissemination facilities are inoperable) odd-lot market orders would be executed at the prevailing Amex bid or offer, or at a price deemed appropriate under prevailing market conditions. These procedures also will apply to odd-lot limit orders that are immediately executable based on the Amex quote at the time the order is received at the trading post or through PER.

As the Exchange noted in SR–Amex–95–24, it will implement these amendments upon completion of the necessary systems enhancements by the Exchange and the Securities Information Automation Corporation (''SIAC''). Upon implementation of the amended rule, the Exchange will notify the Commission, as well as Exchange members and member organizations. In order to provide the additional time necessary to implement these systems enhancements, the Exchange proposes to extend the existing pilot program procedures under Amex Rule 205 for an additional four-month period.

2. *Statutory Basis.* The Exchange believes the proposed rule change is consistent with Section 6(b)[9] of the Act in general and furthers the objectives of Section 6(b)(5)[10] and Section 11A(a)(1)[11] in particular in that it is designed to facilitate the economically efficient execution of odd-lot transactions and to improve the execution of customers' orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–96–25 and should be submitted by August 16, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the Exchange's proposal to extend its pilot program concerning the execution of odd-lot orders to December 8, 1996, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) and Section 11A(a)(1) of the Act[12] because the Exchange's proposed pricing procedures are designed to facilitate transactions in odd-lot orders, to help ensure the economically efficient execution of these transactions, and, in general, to protect investors and the public interest. The Commission further believes the revised procedures should provide investors with more timely executions of their odd-lot orders and should produce execution prices that more accurately reflect market conditions than would otherwise be the case under the pre-pilot pricing procedures.[13]

Nevertheless, the Commission is concerned that the Exchange has been unable to implement the new odd-lot pricing procedures as planned. Under the current pilot pricing procedures, which only use the Amex quote in establishing the execution prices, some odd-lot orders may be receiving the best available price.[14] Therefore, the Commission strongly encourages the Exchange to complete the systems modifications upon which implementation of the new odd-lot pricing procedures depend as soon as possible.[15] To ensure that the Commission is adequately informed of the Exchange's progress towards such completion, the Commission again requests that the Exchange provide the Commission with a status report regarding this project on the first day of every month until the necessary system modifications are completed. Finally,

Amex–93–06); 30305 (Jan. 20, 1992), 57 FR 4653 (approving File No. SR–Amex–92–04); 29922 (Nov. 8, 1991), 56 FR 58409 (approving File No. SR–Amex–91–30); 29186 (May 19, 1991), 56 FR 22488 (approving File No. SR–Amex–91–09); 28758 (Jan. 10, 1991), 56 FR 1656 (approving File No. SR–Amex–90–39); 27590 (Jan. 5, 1990), 55 FR 1123 (approving File No. SR–Amex–89–31).

[6] *See* Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430 (approving File No. SR–Amex–95–03).

[7] *See* Securities Exchange Act Release No. 36181 (Sept. 1. 1995), 60 FR 47194 (approving File No. SR–Amex–95–24).

[8] In order to protect against the inclusion of incorrect or stale quotations when determining the highest bid and lowest offer, Amex Rule 205, Commentary .04, contains seven criteria that must be met before a quotation in a stock from another ITS market center will be considered. If the ITS quotation fails to meet one of the specified criteria, the best bid or offer disseminated by the Exchange will be used. *See* Securities Exchange Act Release No. 36181 (Sept. 1, 1995), 60 FR 47194 (approving File No. SR–Amex–95–24).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1(a)(1).

[12] 15 U.S.C. 78f(b)(5) and 78k–1(a)(1).

[13] Prior to the 1989 pilot program, odd-lot market orders were routed to a specialist and held in accumulation in the PER system or by the specialist until a round-lot execution in that security took place on the Exchange. Subsequent to the round-lot execution, the odd-lot order received the same price as the last Exchange round-lot transaction, plus or minus an odd-lot dealer differential. *See* Securities Exchange Act Release No. 26445 (Jan. 10, 1989), 54 FR 2248 (approving File No. SR–Amex–88–23).

[14] *See* Securities Exchange Act Release No. 35344, (Feb. 8, 1995), 60 FR 8430 (noting that the Exchange's current pricing formula does not include quotations from other markets.)

[15] As noted above, the new procedures provide for odd-lot market orders to be filled at the ''adjusted ITS best bid or offer.''

upon completion of the systems modifications, the Exchange should give advance notice to the Commission of the date when the new odd-lot pricing procedures are to be implemented.[16]

The Commission finds good causes for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. This will permit the pilot program to continue on an uninterrupted basis while the Amex works to implement the new procedures. In addition, the procedures the Exchange proposes to continue using are identical to the procedures that were published previously in the Federal Register for the full comment period and were approved by the Commission.[17]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, [18] that the proposed rule change (SR–Amex–96–25) is approved on a pilot basis for a four-month period ending on December 8, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

[FR Doc. 96–19038 Filed 7–25–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37459; File Nos. SR–BSE–96–4, SR–CBOE–96–27, SR–CHX–96–20, SR–Phlx–96–12]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., and Philadelphia Stock Exchange Inc., Relating to Amendments to Trading Halts Due to Extraordinary Market Volatility (''Certain Market-Wide Circuit Breaker Provisions'')

July 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 12, 1996, the Chicago Stock Exchange, Incorporated (''CHX''); on July 15, 1996 the Boston Stock Exchange, Inc. (''BSE''); on July 17, 1996 the Chicago Board Options Exchange, Incorporated (''CBOE''); and on July 18, 1996 the Philadelphia Stock Exchange, Inc. (''Phlx''), respectively (each individually referred to herein as an ''Exchange'' and two or more collectively referred to as ''Exchanges''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organizations. The Phlx submitted to the Commission Amendment No. 1 to its proposal on July 19, 1996.[3] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. As discussed below the Commission is also granting accelerated approval of these proposed rule changes.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

In 1988, the Commission approved circuit breaker rules proposals by the Exchanges.[4] In general, the Exchanges' circuit breaker rules provide that trading would halt for one hour if the Dow Jones Industrial Average (''DJIA'')[5] were to decline 250 points from its previous day's closing level and, thereafter, trading would halt for an additional two hours if the DJIA were to decline 400 points from its previous day's close.

The Exchanges' rules further provide that if the 250-point trigger is reached during the last hour but before the last half-hour of scheduled trading, or the 400-point trigger is reached during the last two hours, but before the last hour of trading, the Exchanges may then use abbreviated reopening procedures either to permit trading to reopen before the established close, or to establish closing prices. However, if the 250-point trigger is reached during the last half-hour, or if the 400-point trigger is reached during the last hour, the Exchanges shall not reopen for trading on that day.

The Exchanges propose to amend their circuit breaker rules to modify the time periods for halting trading on the Exchanges when the DJIA has declined by 250 or 400 points. The Exchanges propose to revise those time periods to one-half hour and one hour, respectively, from the one hour and two hours. The Exchanges also are proposing to amend their rules to eliminate the reference to using abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish new last sales prices if trigger values are reached in the last one-half hour or hour of trading.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the self-regulatory organizations included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizations have prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Purpose

The Exchanges believe that it is appropriate to reduce the time period during which trading will be halted, particularly given the current level of automation support for trading process. The Exchanges believe that these revised time periods should be sufficient to provide a meaningful ''time out'' for participants to evaluate changing market conditions, without unduly constraining trading activity. The Exchanges are not proposing, at this time, to revise the 250/400 point trigger.

With respect to the use of abbreviated reopening procedures, the Exchanges

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[16] The Commission expects the Amex to implement the new off-lot pricing procedures no later than the December 8, 1996 expiration of this pilot extension.

[17] *See* Securities Exchange Act Release No. 35344 (Feb. 8, 1995), 60 FR 8430; Securities Exchange Act Release No. 36821 (Feb. 8, 1996), 61 FR 6050.

[18] 15 U.S.C. 78s(b)(2).

[19] 17 C.F.R. 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.194–4.

[3] In Amendment No. 1, the Phlx indicated that the pilot period extension of its circuit breaker program will expire on October 31, 1996. *See* Letter from Murray L. Ross, Secretary, Phlx, to Chester McPherson, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated July 18, 1996.

[4] In 1988, the Commission approved the following circuit breaker proposals by the self-regulatory organizations (''SROs'') on a pilot basis: *See* Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (American Stock Exchange (''AMEX''), National Association of Securities Dealers (''NASD'') and New York Stock Exchange (''NYSE'')); 26218 (October 26, 1988), 53 FR 44137 (CHX); 26357 (December 14, 1988), 53 FR 51182 (BSE); and 26386 (December 22, 1988), 53 FR 52904 (Phlx). Since the initial approval of the circuit breaker rules on a pilot basis, the Commission has extended the pilot program each year. The most recent extensions expire on October 31, 1996 for the Amex, NYSE and Phlx, and on October 31, 1997 for the BSE and CHX. *See* Securities Exchange Act Release No. 36414 (Oct. 25, 1995) 60 FR 55630. The Commission approved on a permanent basis the proposals by the CBOE, Cincinnati Stock Exchange (''CSE'') and Pacific Stock Exchange (''PSE''). *See* Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (CBOE); 26440 (January 10, 1989) 54 FR 1830 (CSE); and 26368 (December 16, 1988), 53 FR 51942 (PSE).

[5] ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.

also are proposing to amend their rules to eliminate the reference to using abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish new last sales prices if trigger values are reached in the last one-half hour or hour of trading.[6]

In conjunction with its proposed amendment to its circuit breaker rules, the BSE also has filed to renumber Section 34, Chapter II of its rules as Section 34A, and to add a new section, Section 34B (Limitation on Trading During Significant Market Moves). This new section would adopt the language contained in the NYSE's Rule 80A(c) pertaining to the execution of index arbitrage orders during periods of significant market declines and advances. The BSE believes that the codification of this limitation will prevent orders that are prohibited in the primary market during periods of market stress from finding a safe harbor on the Exchange. In addition, the Exchange seeks to delete the redundant ''80A'' language contained in the Procedures for Competing Specialist contained in Chapter XV, Section 18, No. 14.

2. Statutory Basis

The proposed rule changes are consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade. The Exchanges believe that amending their circuit breaker rules is consistent with these objectives in that the revised trading halt periods still provide market participants with a reasonable opportunity to become aware of and respond to significant price movements, thereby facilitating, in an orderly manner, the maintenance of an equilibrium between buying and selling interest.

B. Self-Regulatory Organization's Statements on Burden on Competition

The Exchanges do not believe that any burden will be placed on competition as a result of the proposed rule change.

[6] The PSE and CSE have general rules that require them to halt trading during the intermarket circuit breakers. *See supra* note 4. Consequently, they do not need to file conforming rule changes because their circuit breaker halts will automatically conform to the shortened halt periods adopted by the other exchanges. *See* Letters to Howard L. Kramer, Associate Director, OMS, Market Regulation, Commission, from David P. Semak, Vice President, Regulation, PSE, dated July 17, 1996; and Adam W. Gurwitz, Director of Legal Affairs, CSE, dated July 17, 1996.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The Exchanges request that the Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving the proposed amendments to their circuit breaker rules prior to the 30th day after publication of the proposed rule change in the Federal Register.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File Nos. SR–BSE–96–4, SR–CBOE–96–27, SR–CHX–96–20, and SR–Phlx–96–12 and should be submitted by August 16, 1996.

V. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Changes

After careful review of the Exchange's proposed amendments to their circuit breaker rules and for the reasons discussed below, the Commission believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[7] Specifically, the Commission believes the proposals are consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

[7] 15 U.S.C. 78f(b).

In 1988, the Commission approved circuit breaker proposals by the SROs as a coordinated mechanism to deal with potential strains that may develop during periods of extreme market volatility.[8] These market-wide circuit breakers were intended to provide market participants with an opportunity to reestablish an equilibrium between buying and selling interest by ensuring that they had a reasonable opportunity to become aware of and respond to significant movements. In approving these proposals, the Commission also noted that an Interim Report of the Working Group on Financial Markets (''Working Group'')[9] had recommended that in periods of rapid market decline that threaten to create panic conditions, trading halts and reopening procedures should be coordinated within the financial market place.[10] Specifically, the Working Group recommended that all U.S. markets for equity and equity-related products—stocks, individual stock options, stock index options, and stock index futures—halt trading during such periods of market volatility.[11] These recommendations, in part, were in response to the events of October 19, 1987, when the DJIA declined over 22.6%. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.[12]

Since the implementation of the circuit breakers, the DJIA has risen

[8] *See supra* note 4.

[9] The Working Group on Financial Markets was established by the President in March 1988 in response to the 1987 market break. It consisted of the Under Secretary for Finance of the Department of the Treasury and the Chairmen of the Commission, the Commodity Futures Trading Commission, and the Board of Governors of the Federal Reserve System. Its mandate was to determine the extent to which coordinated regulatory action was necessary to strengthen the nation's financial markets.

[10] *See supra* note 4.

[11] *Id.*

[12] *See* Letter from Todd E. Petzel, Vice President, Financial Research, Chicago Mercantile Exchange (''CME''), to Jean A. Webb, Secretary, Commodity Futures Trading Commission (''CFTC''), dated September 1, 1988. *See also* letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade (''CBT''), dated July 29, 1988; Michael Braude, President, Kansas City Board of Trade (''KCBT''), dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and Surveillance, New York Futures Exchange (''NYFE''), dated September 2, 1988.

significantly. The 250 point and 400 point triggers, which represented 12% and 19% of the DJIA when implemented, now represent 4.5% and 7% of the DJIA. The self-regulatory organizations and members of the industry have continued to study the circuit breaker rules and to consider the possible effects of triggering the current circuit breakers in light of the rise in the DJIA since their implementation.

While the Exchanges evaluate the need to change their circuit breaker trigger levels, the Commission believes, in the near term, it is reasonable for the Exchanges to shorten the length of trading halts. The Exchanges believe and the Commission agrees that, with advances in technology and increases in the operational capacity of the markets, the current length of the trading halts may not be necessary for market participants to become aware of and respond to significant price movements. The shorter time periods proposed by the Exchanges for halting all trades should be sufficient to allow market participants to evaluate and act on changing market conditions without unduly constraining market activities.

Moreover, the Commission believes that shortening the length of trading halts does not need to be delayed pending the resolution of other circuit breaker issues. While an examination of the broader issues of raising the circuit breaker triggers may be warranted, the trading halt periods should be shortened irrespective of the level of the trigger points. Nevertheless, the Commission encourages the Exchanges and members of the industry to continue to evaluate the trigger levels for trading halts in light of the changing circumstances of the market since 1988.

The Exchanges further propose to amend their rules to eliminate the provisions for conducting an abbreviated trading session either to permit trading to reopen before the scheduled closing or to establish new last sales prices if the 250-point trigger is reached within one hour of the scheduled close of trading for the day, or if the 400-point trigger is reached within two hours of the scheduled close of trading for the day.

With the Exchanges' current proposals, the circuit breaker rules would conform with those filed by the NYSE and the Amex.[13] Circuit breaker rules are a coordinated effort by the equities and futures markets to halt trading in all stocks stock options, stock index options, stock index futures, and options on stock index futures when the DJIA reaches certain established trigger values. The Commission believes that the proposed amendments by the Exchanges would serve to maintain the coordinated approach that now exists for trading halts that are applicable during large, rapid market declines, and are therefore consistent with Section 6 of the Act[14] in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest.

The BSE also is proposing to renumber Section 34, Chapter II of its rules as Section 34A, and to add a new section, Section 34B. This addition would codify the BSE's practice pertaining to index arbitrage orders during periods of significant market declines and advances. The current practice of the BSE is that on any day when the DJIA has advances by 50 points or more from its closing value on the previous day, it requires all index arbitrage orders to buy any component stock of the S&P 500 Stock Price Index[15] to be entered with the instruction ''buy minus.'' If on that same day the DJIA subsequently reaches a value that is 25 points or less above the closing value on the previous trading day, this requirement would no longer apply.

Section 34B also would codify a similar practice of the BSE when the DJIA has declined by 50 points or more from its closing value on the previous trading day. Then, all index arbitrage orders to sell must be entered with the instruction ''sell plus;'' and if on that day the DJIA subsequently reaches a value that is 25 points or less below the closing value on the previous trading day, the requirement does not apply.

The addition of Section 34B now brings the BSE in line with the other exchanges that have already codified this practice, and will prevent orders that are prohibited in the primary market during a period of market stress from finding a safe harbor on the Exchange. Section 34B would also make the index arbitrage language contained in the Exchange's procedures for Competing Specialist in Chapter XV, Section 18, No. 14 redundant; therefore, the Commission also approves the deletion of this now redundant language.

The Commission believes that the BSE's proposal to renumber Section 34 as 34A, and add new Section 34B is consistent with the requirements of Section 6(b)(5) of the Act[16] and the rules and regulations thereunder applicable to a national securities exchange in that they are designed to remove impediments to, and perfect the mechanism of, a free and open market, and to protect investors and the public interest.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the Federal Register. The Commission believes that the circuit breaker mechanisms should be coordinated across the U.S. equity, futures and options markets to be effective in time of market volatility. In light of the Commission's approval today of analogous proposals by the NYSE and Amex, it is important that the Exchanges' circuit breaker procedures be approved simultaneously to preserve market uniformity. Based on the above, the Commission, therefore, finds that there is good cause, consistent with Section 6(b)(5) of the Act,[17] to accelerate approval of the amended proposed rule changes.[18]

The Exchanges' proposals, as well as the new NYSE and Amex circuit breaker proposals,[19] will become effective on July 22, 1996.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that proposed rule changes (SR–BSE–96–4, SR–CBOE–9627, SR–CHX–96–20, and SR–Phlx–96–12) are approved and effective on July 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–19034 Filed 7–25–96; 8:45 am]

BILLING CODE 8010–01–M

[13] *See* Securities Exchange Act Release Nos. 37457 (July 19, 1996) (NYSE); 37458 (July 19, 1996) (Amex).

[14] 15 U.S.C. 78f(b).

[15] ''Standard & Poor's 500 Stock Price Index'' is a service mark of Standard & Poor's Corporation.''

[16] 15 U.S.C. § 78f(b).

[17] *Id.*

[18] The Commission finds good cause to approve the BSE's changes to its Section 34 because they merely clarify current BSE practice.

[19] *See supra* note 13.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

[Release No. 34–37464; File No. SR–CBOE–96–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Enforcement of OEX RAES Participation Requirements

July 22, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 17, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to establish an interim enforcement procedure for the Exchange's new log-on requirement for market-makers participating in the CBOE's Retail Automatic Execution System (''RAES'') for transactions in Standard & Poor's 100 Index (''OEX'') options.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish an interim enforcement mechanism for the Exchange's new log-on requirement for market-makers participating in RAES for transactions in OEX options. The new log-on requirement requires individual market-makers who are eligible to participate on OEX RAES to log onto OEX RAES any time they are present in the OEX trading crowd until the expiration occurring in that expiration month if they have logged onto OEX RAES at any earlier time in that expiration month.[1] Previously, Rule 24.17(a) only required individual market-makers to log onto OEX RAES on the business day prior to expiration to the extent the market-maker was present in the OEX trading crowd on that day.[2] The recent rule change also moved jurisdiction for the rule from the OEX Floor Procedure Committee to the OEX Market Performance Committee (''OEXMPC''). This change was made so that the OEXMPC could focus its efforts on the market performance issues of the OEX trading post, such as market-maker participation in RAES, thus allowing the OEX Floor Procedure Committee to focus on other issues.

The change to require an individual market-maker to log onto OEX RAES each time the market-maker is in the trading crowd during an expiration month is intended to ensure continued adequate RAES participation by market-makers in every type of market situation. In addition, the OEXMPC plans to take other actions to secure continued market-maker participation in RAES including using the discretion currently permitted under the rule (i) to refer market-makers who repeatedly violate the log-on and/or log-off requirement for disciplinary action under Chapter XVII of Exchange rules and (ii) to suspend members from participation on RAES when the OEXMPC determines such action is necessary.

In order to facilitate the individual market-makers in their compliance with the new requirement and in order to facilitate the efforts of the OEXMPC at implementing the new procedures, the OEXMPC is recommending to implement a few enforcement procedures for the recent rule change. First, all prior log-on and log-off failures through July 19 of this year for all market-makers, including those participating in joint accounts and those participating as nominees of members organizations, will not be considered in determining the fee amount under paragraph (f)(i) of Rule 24.17. The Exchange believes this change is justified by the heightened emphasis that will be placed on compliance with the rule on a prospective basis. Second, for the first two lot-on or log-off failures of a particular market-maker in the August expiration month, *i.e.*, the period from July 22 through August 16, warning letters will be issued in lieu of assessing a fee. After August 16 or upon the third log-on or log-off failure, whichever comes first, fees will be assessed according to the schedule set forth in paragraph (f)(i) of Rule 24.17. A market-maker who has failed to log-on or to log-off three times in the August expiration period will be considered to have only one violation for the calendar year for the purpose of calculating the fee amount. Fee assessments may be appealed under Chapter XIX of the Exchange's rules.

The Exchange represents to the Commission that it will submit a report to the Commission regarding the enforcement of the log-on and log-off requirements on OEX RAES during the August expiration month. The report will detail how many market-makers received one warning letter, how many received two warning letters, and how many received fees.

By adopting enforcement procedures to facilitate market-makers in complying with new procedures and to facilitate the OEXMPC in enforcing the new OEX RAES procedures the Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general and with Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members; Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4 thereunder. At any time within 60 days

[1] *See* Securities Exchange Act Release No. 37313 (June 14, 1996), 61 FR 32470 (June 24, 1996).

[2] The CBOE notes that market-makers participating on RAES in joint accounts or as nominees of a member organization were already required to be logged onto OEX RAES each time they were in the trading crowd before the recent rule change.

of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington D.C. Copies of all such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–96–50 and should be submitted by August 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–19033 Filed 7–25–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37457; File No. SR–NYSE–96–09]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to Amendments to Rule 80B (Trading Halts Due to Extraordinary Market Volatility)

July 19, 1996.

I. Introduction

On April 11, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its circuit breaker rules.

The proposed rule change was published for comment in Securities Exchange Act Release No. 37145 (Apr. 26, 1996), 61 FR 19651 (May 2, 1996). On July 9, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[3] This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Description of Proposal

Currently, NYSE Rule 80B provides that if the Dow Jones Industrial Average (''DJIA'')[4] falls 250 or more points below its previous trading day's closing value, trading in all stocks on the Exchange will halt for one hour. It further provides that, if on the same day the DJIA drops 400 or more points from its previous trading day's close, trading on the exchange will halt for two hours.

Moreover, under the current Supplementary Material .30 to NYSE Rule 80B, if the 250-point trigger is reached during the last hour, but before the last half-hour, of trading, or if the 400-point trigger is reached during the last two hours, but before the last hour, of trading, the Exchange may use abbreviated reopening procedures either to permit trading to reopen before 4:00 p.m. or to establish closing prices. The current provision further provides that if the 250-point trigger is reached during the last half-hour, or if the 400-point trigger is reached during the last hour, the Exchange shall not reopen for trading on that day.[5]

With the proposed rule change, the Exchange proposes to shorten the time periods for halting trading when the 250-point or 400-point level is triggered from one hour and two hours to one-half hour and one hour, respectively.[6] After consulting with its constituents, other markets, and the Commission, the Exchange believes that it is appropriate to reduce the time periods during which trading will be halted, particularly given the current level of automation support for the trading process. The Exchange believes that these revised time periods should be sufficient to provide a meaningful ''time out'' for participants to evaluate changing market conditions, without unduly constraining trading activity. The Exchange states that it intends to continue discussions with its constituents as to whether any revisions to these point parameters might be appropriate.

With respect to Supplementary Material .30, in its original proposal, the Exchange proposed to replace the provision with an amendment, which would provide that if the 250-point trigger is reached during the last half-hour of trading, or if the 400-point trigger is reached during the last hour of trading, the Exchange may use abbreviated reopening procedures to establish new last sale prices.[7] Subsequently, after discussing the proposed changes to Rule 80B with constituent groups, the Investment Company Institute, and other self-regulatory organizations, the Exchange filed Amendment No. 1 to eliminate the proposed provision for the abbreviated reopening procedures to establish new last sale prices if trigger values are reached in the last one-half hour or hour of trading.[8] Therefore, the Exchange now proposes to delete the current provision in Supplementary Material .30 without adding new language.

III. Summary of Comments

The Commission received four comment letters on the NYSE's rule proposal.[9] Two comment letters were

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[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated July 3, 1996 (''Amendment No. 1''). For a description of Amendment No. 1, *see infra* note 8 and accompanying text.

[4] ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.

[5] *See* Securities Exchange Act Release No. 26198 (Oct. 19, 1988), 53 FR 41637 (Oct. 24, 1988). Since the initial approval of the circuit breaker rules on a pilot basis, the Commission has extended the pilot program each year. The most recent extension of the pilot program was approved on October 25, 1995, and is scheduled to expire on October 31, 1996. *See* Securities Exchange Act Release No. 36414 (Oct. 25, 1995), 60 FR 55630 (Nov. 1, 1995).

[6] The Exchange has represented to the Commission that it will use the intermarket telecommunications system known as Information Network for Futures, Options, and Equities (''INFOE'') system as well as the Consolidated Tape to announce the precise time when the circuit breaker thresholds are reached. Telephone conversation between Brian McNamara, Vice President, Market Surveillance, NYSE, and Alton Harvey, Office Head, Division of Market Regulation, SEC, on April 24, 1996.

[7] In conjunction with its proposal for abbreviated reopening procedures, the Exchange proposed to amend Rule 51 to provide that the 9:30 a.m. to 4:00 p.m. trading session may be extended to permit closing transactions pursuant to Rule 80B. *See* Securities Exchange Act Release No. 37145 (Apr. 26, 1996), 61 FR 19651 (May 2, 1996).

[8] The Exchange also withdrew from the proposed rule change amendments to Rule 51 because the abbreviated reopening procedures are no longer being proposed in the rule filing. *See* Amendment No. 1, *supra* note 3.

[9] *See* Letter from William R. Rothe, Chairman, and John L. Watson III, President, Security Traders Association, to Jonathan G. Katz, Secretary, SEC, dated May 10, 1996 (''STA Letter''); Letter from

generally supportive of the NYSE's proposal to reduce the time periods for halting trading when the circuit breaker threshold levels are triggered,[10] and two comment letters questioned whether trading should ever be halted on the Exchange.[11]

With respect to the specific features of the NYSE's proposal, three commenters addressed the NYSE's proposed abbreviated closing session.[12] They believed that there should be no reopening after 4:00 p.m. because reopening could confuse investors and disrupt end of the day procedures such as mutual fund pricing. One commenter expressed concern that the NYSE provided no details regarding such ''abbreviated reopening procedures.'' [13] In response, the NYSE withdrew its proposal to allow the NYSE to use abbreviated reopening procedures to establish new last sale prices.[14]

Beyond the specific proposals currently before the Commission, all of the commenters expressed their concerns about circuit breakers in general. They believed that the circuit breaker thresholds of 250 and 400 points should be increased because these trigger levels no longer reflect extraordinary market volatility due to the growth in market values since the initial adoption of the circuit breaker rules. One commenter urged the Commission not to take any action on the NYSE's proposal until there has been an opportunity for public comment on increasing the trading halt trigger levels.[15] One commenter argued that the circuit breaker trigger levels should be increased to reflect a 10% movement in the DJIA.[16] Another commenter questioned why the circuit breaker trading halts are based on static numbers instead of percentage movements in the DJIA.[17] Finally, two commenters believed that the DJIA may not be the appropriate index to activate circuit breaker trading halts because it does not reflect the overall market and that using a broader-based index may be a better approach.[18]

IV. Discussion

After careful review of the Exchange's proposed amendments to the circuit breaker rules and the comments thereto and for the reasons discussed below, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[19] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In 1988, the Commission approved the Exchange's circuit breaker proposal, along with those of the other securities exchanges and the National Association of Securities Dealers (''NASD''), because the Commission believed that the circuit breaker rules proposed would help promote stability in the equity and equity-related markets by providing for an enhanced opportunity for market participants to assess information during times of extreme market movements.[20] The proposals, in part, were in response to the events of October 19, 1987, when the DJIA declined 22.6%. The Commission believed that the circuit breaker proposals would provide market participants with an opportunity during a severe market decline to reestablish an equilibrium between buying and selling interest in a more orderly fashion. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.[21]

Since the implementation of the circuit breakers, the DJIA has risen significantly. The 250 point and 400 point triggers, which represented 12% and 19% of the DJIA when implemented, now represent 4.5% and 7% of the DJIA. The Exchange and members of the industry have continued to study the circuit breaker rules and to consider the possible effects of triggering the current circuit breakers in light of the rise in the DJIA since their implementation.

While the Exchange evaluates the need to change the circuit breaker trigger levels, the Commission believes, in the near term, it is reasonable for the Exchange to shorten the length of the trading halts. The Exchange believes and the Commission agrees that, with advances in technology and increases in the operational capacity of the markets, the current length of the trading halts may not be necessary for market participants to become aware of and respond to significant price movements. The shorter time periods proposed by the Exchange for halting all trades should be sufficient to allow market participants to evaluate and act on changing market conditions without unduly constraining market activities.

Moreover, the Commission believes that shortening the length of the trading halts does not need to be delayed pending the resolution of other circuit breaker issues. While an examination of the broader issue of raising the circuit breaker triggers may be warranted, the trading halt periods should be shortened irrespective of the level of the trigger points. Nevertheless, the Commission encourages the Exchange and members of the industry to continue to evaluate the trigger levels for the trading halts in light of the changing circumstances of the markets since 1988.[22]

Peter W. Jenkins, Chairman, and Holly A. Stark, Vice Chairman, Securities Traders Association's Institutional Committee, to Jonathan G. Katz, Secretary, SEC, dated May 17, 1996 (''STA Institutional Committee Letter''); Letter from Joseph R. Hardiman, President, National Association of Securities Dealers, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996 (''NASD Letter''); Letter from Paul Schott Stevens, Senior Vice President and General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996 (''ICI Letter'').

[10] *See* NASD Letter and ICI Letter, *supra* note 9.

[11] *See* STA Letter and STA Institutional Committee Letter, *supra* note 9.

[12] *See* STA Letter, NASD Letter, and ICI Letter, *supra* note 9.

[13] *See* ICI Letter, *supra* note 9.

[14] *See* Amendment No. 1, *supra* note 3. The Exchange plans to continue holding discussions as to whether additional procedures may be appropriate for expiration days.

[15] *See* ICI Letter, *supra* note 9.

[16] *See* STA Letter, *supra* note 9. Another commenter believed that the circuit breaker levels should be periodically reset to reflect percentage movements of 10% to 15%. *See* NASD Letter, *supra* note 9.

[17] *See* STA Institutional Committee Letter, *supra* note 9.

[18] *See* STA Institutional Committee Letter and NASD Letter, *supra* note 9.

[19] 15 U.S.C. 78f(b).

[20] *See* Securities Exchange Act Release No. 26198, *supra* note 5.

[21] *See* Letter from Todd E. Petzel, Vice President, Financial Research, Chicago Mercantile Exchange (''CME''), to Jean A. Webb, Secretary, Commodity Futures Trading Commission (''CFTC''), dated September 1, 1988. *See also* letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade (''CBT''), dated July 29, 1988; Michael Braude, President, Kansas City Board of Trade (''KCBT''), dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and Surveillance, New York Futures Exchange (''NYFE''), dated September 2, 1988.

[22] To coordinate trading halts across all securities and futures markets, the regional and futures exchanges have submitted amendments to their circuit breaker rules. For more detail on the specifics of these proposals, *see* Securities Exchange Act Release No. 37459 (July 19, 1996); Letter from Norman E. Mains, Senior Vice President, Chief, Economist, and Director of Research, CME, to Jean A. Webb, Secretary, Commodity Futures Trading Commission, dated July 5, 1996. The NASD's Policy Statement on Market Closings state that the NASD will, upon the request of the Commission, act to halt domestic trading in all securities quoted on the Nasdaq system and domestic trading in equity or equity-related securities in the over-the-counter market.

Continued

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Exchange's original proposal was published in the Federal Register for the full statutory period and Amendment No. 1, which deletes the provision in the proposal that provides for an abbreviated reopening session, was submitted in response to the comments received. Moreover, the Commission believes that deleting this provision is appropriate where the details of such a session were not fully developed and might have created confusion on the Exchange or among the various equities and futures markets during times of extreme volatility. Based on the above, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act, to accelerate approval of the amended proposed rule change.

The Commission also believes that the circuit breaker mechanisms must be coordinated across the U.S. equity, futures and options markets to be effective in times of extreme market volatility. Therefore, the new NYSE circuit breaker proposal will become effective on July 22, 1996, which will also be the effective date of the amended rules of the other markets, so that the circuit breaker trading halts will continue to be coordinated among the different markets.[23]

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–96–09 and should be submitted by August 16, 1996.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSE–96–09) is approved and effective on July 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–19035 Filed 7–25–96; 8:45 am]

BILLING CODE 8010–01–M

The Commission notes that it has a standing request with the NASD to halt trading as quickly as practicable whenever the NYSE and other equity markets have suspended trading. The NYSE's proposed rule change does not affect the Commission's standing request. *See* Letter from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, to Howard Kramer, Associate Director, Division of Market Regulation, SEC, dated July 18, 1996.

[23] *See* Securities Exchange Act Release No. 37145, *supra* note 7.

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collections listed below, which were published in the Federal Register on May 31, 1996, have been submitted to OMB.

(Call Reports Clearance Officer on (410) 965–4125 for copies of package.)

OMB Desk Officer: Laura Oliven.

SSA Reports Clearance Officer: Judith T. Hasche.

1. Statement of Income and Resources—0960–0124. The form SSA–8010 is used to obtain information about income and resources of individuals whose income may be ''deemed'' (considered available) to applicants/recipients of SSI. The information is used by the Social Security Administration to make initial or continuing eligibility determinations and to determine the amount of the SSI payment. The respondents are individuals whose income may be ''deemed'' to the SSI applicant/recipient.

Number of Respondents: 355,000.

Frequency of Response: 1.

Average Burden Per Response: 25 minutes.

Estimated Annual Burden: 147,917 hours.

2. Application for Supplemental Security Income—0960–0444. The information collected on the SSA–8001 is used by the Social Security Administration to determine whether applicants for SSI benefits meet all statutory and regulatory requirements for eligibility and, if so, the amount of benefits payable. The respondents and, if so, the amount of benefits payable. The respondents are applicants for SSI benefits.

Number of Respondents: 1,781,849.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 445,462.

3. Application for Widows or Widowers Insurance Benefits—0960–0004. The information collected on form SSA–10 is used by the Social Security Administration to determine whether applicants for widow's/widower's benefits meet all the statutory and regulatory requirements for eligibility. The respondents are surviving widows and widowers age 60 or older, or age 50, if disabled.

Number of Respondents: 640,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 160,000 hours.

4. Request for Waiver and Recovery Questionnaire—0960–0037. The form SSA–632 collects information on the circumstances surrounding overpayments of Social Security benefits to recipients. The information is used by the Social Security benefits to recipients. The information is used by the Social Security Administration to determine if recovery of the overpayment amount can be waived or must be repaid, and if so, how recovery will be made. The respondents are recipients who have been overpaid Social Security, Medicare, Black Lung or SSI benefits.

Number of Respondents: 500,000.

Frequency of Response: On occasion.

Average Burden Per Response: 25 minutes.

Estimated Annual Burden: 208,333 hours.

5. Application for Parent's Insurance Benefits—0960–0012. The information collected on form SSA–7 is used by the Social Security Administration to determine entitlement of an individual to parent's insurance benefits. The respondents are parents who were

dependent on the worker for at least one-half of their support.

Number of Respondents: 1,400.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 350 hours.

6. Permanent Residence in the U.S.—0960–451. The information collected by the Social Security Administration is used to determine if aliens meet the statutory and regulatory requirements for eligibility for SSI benefits. The respondents are aliens who apply for and are recipients of SSI payments.

Number of Respondents: 271,800.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 22,650 hours.

Written comments and recommendations regarding these information collections should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235

Dated: July 19, 1996.

Judith T. Hasche,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–19018 Filed 7–25–96; 8:45 am]

BILLING CODE 4190–29–P–M

COMMISSION ON UNITED STATES–PACIFIC TRADE AND INVESTMENT

Office of the United States Trade Representative

Notice of Meeting of the Commission on United States Pacific Trade and Investment Policy

AGENCY: Commission on United States—Pacific Trade and Investment Policy/ Office of the United States Trade Representative.

ACTION: Notice that the next two meetings of the Commission on United States—Pacific Trade and Investment Policy will be held on July 31, 1996, from 9:00 a.m. to 5:30 p.m. and on August 8th, from 8:30 a.m. to 5:30 p.m. These meetings will be closed to the public.

SUMMARY: The Commission on United States—Pacific Trade and Investment Policy will hold meetings on July 31, 1996, from 9:00 a.m. to 5:30 p.m. and on August 8th, 1996 from 8:30 a.m. to 5:30 p.m. These meetings will be closed to the public. July 31, 1996 meeting and the August 8th, 1996 meeting will include a review and discussion of current issues affecting U.S. trade policy with Asia. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, the USTR has determined that these meetings will address 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. These meetings will be closed to the public. At the July 31st, 1996 meeting, the Commission will continue to meet with CEO's and Senior Government Officials to examine key issues, including competition policy and the strategies of our major trading partners toward Asia. The August 8th, 1996 meeting will begin internal Commission deleberations on possible recommendations on future policy options.

DATES: the meeting is scheduled for July 31, 1996 and August 8th, 1996, unless otherwise notified.

ADDRESSES: The July 31 meeting will be held at the White House Conference; and the August 8 meeting will be held at the Department of Commerce unless otherwise notified.

FOR FURTHER INFORMATION CONTACT:

Nancy Adams, Executive Director of the Commission on United States—Pacific Trade and Investment Policy, Room 400, 600 17th Street, NW, Washington, D.C. 20508, (202) 395–9679.

Nancy Adams,

Executive Director, Commission on United States—Pacific Trade and Investment Policy.

Charlene Barshesky,

Acting United States Trade Representative.

[FR Doc. 96–19015 Filed 7–25–96; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Allocation to Mexico of the Tariff-Rate Quota Increase for Refined Sugar and Modification of the Allocation to Mexico of the Tariff-Rate Quota for Raw Sugar

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that the 7,258 metric ton (mt) increase in the tariff-rate quota for imported refined sugar for the period that begins October 1, 1995, and ends September 30, 1996 is allocated to Mexico, and that Mexico's total allocation for both the raw and refined sugar tariff-rate quotas combined for this period is not to exceed 7,258 metric tons.

EFFECTIVE DATE: July 26, 1996.

ADDRESSES: Inquiries may be mailed or delivered to Audrae Erickson, Senior Economist, Office of Agricultural Affairs (Room 421), Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Audrae Erickson, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains tariff-rate quotas for imports of refined and raw sugar. The in-quota quantity of the tariff-rate quota for refined sugar for the period October 1, 1995–September 30, 1996, was increased by 7,258 metric tons by the Secretary of Agriculture on July 19, 1996, resulting in a new total of 29,258 metric tons, raw value.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under paragraph (3) of Presidential Proclamation No. 6763 (60 FR 1007).

USTR has allocated to Mexico 7,258 metric tons, raw value, of the tariff-rate quota for raw cane sugar (60 FR 46330). USTR is modifying that allocation to make it subject to the condition that the total imports of raw and refined sugar from Mexico, combined, is not to exceed 7,258 metric tons raw value.

USTR is allocating to Mexico the increase of 7,258 metric tons, raw value,

in the tariff-rate quota for refined sugar for the October 1, 1995–September 30, 1996 period. This allocation is also subject to the condition that the total imports of raw and refined sugar from Mexico, combined, is not to exceed 7,258 metric tons raw value.

These modifications in the allocations fulfill obligations pursuant to the North American Free Trade Agreement (NAFTA). Under the NAFTA, the United States is to provide total access for raw and refined sugar from Mexico of 7,258 metric tons, raw value, for this quota period.

Charlene Barshefsky,

Acting United States Trade Representative.

[FR Doc. 96–18985 Filed 7–25–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board [1]

[STB Finance Docket No. 32997]

Soo Line Railroad Company—Trackage Rights Exemption—Wisconsin Central Ltd.

Wisconsin Central Ltd. (WCL), a Class II railroad, will agree to grant overhead trackage rights to Soo Line Railroad Company (Soo), a Class I railroad, over its trackage between milepost 10.9+/− at Forest Park to milepost 16.78+/− at Franklin Park, Cook County, IL, a total of approximately 5.88+/− miles of rail line.

The transaction was scheduled to be consummated on July 19, 1996.

The trackage rights will enable Soo to operate its trains between Forest Park and Franklin Park, IL.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32997, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Larry D. Starns, Esq., 1000 Soo Line Building, P.O. Box 530, 105 South Fifth Street, Minneapolis, MN 55402.

Decided: July 18, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–18912 Filed 7–25–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 32998]

Soo Line Railroad Company—Trackage Rights Exemption—Wisconsin Central Ltd.

Wisconsin Central Ltd. (WCL), a Class II railroad, will agree to grant overhead trackage rights to Soo Line Railroad Company (Soo), a Class I railroad, over its trackage between milepost 15.35+/− at Franklin Park to milepost 18.75+/− at Schiller Park, Cook County, IL, a total of approximately 3.40+/− miles of rail line.

The transaction was scheduled to be consummated on July 19, 1996.

The trackage rights will enable Soo to operate its trains to and from its intermodal facility located at Schiller Park, IL.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32998, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Larry D. Starns, Esq., 1000 Soo Line Building, P.O. Box 530, 105 South Fifth Street, Minneapolis, MN 55402.

Decided: July 18, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–18914 Filed 7–25–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 32995]

Wisconsin Central Ltd. and Soo Line Railroad Company—Joint Relocation Project Exemption—Schiller Park, IL

Wisconsin Central Ltd. (WCL), a Class II railroad, and Soo Line Railroad Company, d/b/a CP Rail System, (Soo), a Class I railroad, have jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to enter into a project to exchange rail lines through a rail yard in Schiller Park, IL (Schiller Park Yard).[2]

To unify the underlying ownership interest in the affected lines with existing operational patterns, to facilitate efficient train operations, and to accommodate an on-going commuter rail project on WCL's line being undertaken by Metra, the commuter rail authority for the metropolitan Chicago area, WCL and Soo have determined that a permanent restructuring of property rights at Schiller Park Yard is warranted. WCL will acquire Soo's Gauntlet Track extending from the current Soo property line at milepost

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

[2] In *Wisconsin Central Ltd.—Exemption Acquisition and Operation—Certain Lines of Soo Line Railroad Company,* Finance Docket No. 31102 (ICC served Sept. 11, 1987, Oct. 8, 1987 and July 28, 1988), WCL acquired Soo's line extending south from the Wisconsin border to Forest Park, in the Chicago area. Soo, however, retained ownership of the Schiller Park Yard, for use as an intermodal facility. WCL's main line bisects the yard on a 66-foot right of way. Because of potential difficulties with this arrangement, WCL and Soo agreed to exchange operational control of routes through Schiller Park Yard. Under that arrangement, until such time as Soo relocated its intermodal facility from Schiller Park Yard, WCL would temporarily operate Soo's Gauntlet Track around the Schiller Park Yard, and Soo would temporarily assume control of WCL's Track 6 and 7. That arrangement has continued since 1987.

16.28± to milepost 18.60±, a distance of approximately 2.3 miles. Soo will acquire WCL's main line through Schiller Park Yard (Tracks 6 and 7) extending from milepost 16.78± to milepost 18.60±, a distance of approximately 1.8 miles. WCL will temporarily retain the right to operate on a portion of Track 7 as part of a bypass route while the Gauntlet Track is upgraded.

The notice states that, because WCL already controls, maintains, and operates over the Gauntlet Track, and Soo already controls, maintains, and operates over Tracks 6 and 7, this property exchange will not change existing rail operations or service, or expand operations of WCL or Soo into new territory. Under these circumstances, the transaction qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the transaction will be protected under *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32995, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423. In addition, a copy must be served on: Janet H. Gilbert, Assistant General Counsel, Wisconsin Central Ltd., P.O. Box 5062, Rosemont, IL 60018; and Larry D. Starns, General Attorney, Soo Line Railroad Company, 1000 Soo Line Building, 105 South 5th Street, Minneapolis, MN 55402.

Decided: July 18, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–18913 Filed 7–25–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Bahrain
Iraq
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: July 18, 1996.

Joseph Guttentag,

International Tax Counsel (Tax Policy).

[FR Doc. 96–19042 Filed 7–25–96; 8:45 am]

BILLING CODE 4810–25–M

Internal Revenue Service

Proposed Collection; Comment Request for Form W–4V

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–4V, Voluntary Withholding Request.

DATES: Written comments should be received on or before September 24, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form W–4V, Voluntary Withholding Request.

OMB Number: To be assigned later.

Form Number: W–4V.

Abstract: If an individual receives any of the following government payments, he/she may voluntarily complete Form W–4V to request that the payer withhold Federal income tax. Those payments are unemployment compensation, social security benefits, tier I railroad retirement benefits, Commodity Credit Corporation loans, or certain crop disaster payments under the Agricultural Act of 1949 or title II of the Disaster Assistance Act of 1988.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Individuals or households, and farms.

Estimated Number of Respondents: 19,700,000.

Estimated Time Per Respondent: 29 minutes.

Estimated Total Annual Burden Hours: 9,653,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Approved: July 19, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–18972 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 8404

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8404, Interest Charge on DISC-Related Deferred Tax Liability.

DATES: Written comments should be received on or before September 24, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Interest Charge on DISC-Related Deferred Tax Liability.

OMB Number: 1545–0939.

Form Number: 8404.

Abstract: Shareholders of Interest Charge Domestic International Sales Corporations (IC-DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

Current Actions: There are no changes being made to this form.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 9 hr., 1 min.

Estimated Total Annual Burden Hours: 18,020.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 18, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–18973 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 10001

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 10001, Request for Closing Agreement Relating to Advance Refunding Issue Under Sections 148 and 7121 and Rev. Proc. 96–41.

DATES: Written comments should be received on or before September 24, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Request for Closing Agreement Relating to Advance Refunding Issue Under Sections 148 and 7121 and Rev. Proc. 96–41.

OMB Number: 1545–1492.

Form Number: Form 10001.

Abstract: Form 10001 will be used in conjunction with a closing agreement program involving certain issuers of tax-exempt advance refunding bonds. A revenue procedure covering this voluntary compliance program will be issued concurrently with the issuance of the form.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local or Tribal Government, and not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 19, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–18974 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

Tax Counseling for the Elderly (TCE) Program; Availability of Application Packages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Availability of TCE application packages.

SUMMARY: This document provides notice of the availability of Application Packages for the 1997 Tax Counseling for the Elderly (TCE) Program.

DATES: Application Packages are available from the IRS at this time. The deadline for submitting an application package to the IRS for the 1997 Tax Counseling for the Elderly (TCE) Program is August 21, 1996.

ADDRESSES: Application Packages may be requested by contacting: Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: Program Manager, Tax Counseling for the Elderly Program, T:T:Q:V, Room 1053, Salubria Building.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Haag, T:T:Q:V, Room 1053 (Salubria Building), Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224. The non-toll-free telephone number is: (202) 283–0192.

SUPPLEMENTARY INFORMATION: Authority for the Tax Counseling for the Elderly (TCE) Program is contained in Section 163 of the Revenue Act of 1978, Public Law 95–600, (92 Stat. 12810), November 6, 1978. Regulations were published in the Federal Register at 44 FR 72113 on December 13, 1979. Section 163 gives the I RS authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative agreements will be entered into based upon competition among eligible agencies and organizations. Because applications are being solicited before the FY 1997 budget has been approved, cooperative agreements will be entered into subject to appropriation of funds. Once funded, sponsoring agencies and organizations will receive a grant from the IRS for administrative expenses and to reimburse volunteers for expenses incurred in training and in providing tax return assistance. The Tax Counseling for the Elderly (TCE) Program is referenced in the Catalog of Federal Domestic Assistance in Section 21.006.

Thomas Marusin,

Director, Office of Compliance Education.

[FR Doc. 96–19064 Filed 7–25–96; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Degas: Beyond Impressionism'' (See list),[1] imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the National Gallery, London from on or about May 22, 1996, through August 26, 1996 and the Art Institute on or about September 30, 1996 through January 5, 1997, is in the national interest. Public Notice of this determination is ordered to be published in the Federal Register.

Dated: July 23, 1996.

Les Jin,

General Counsel.

[FR Doc. 96–19065 Filed 7–25–96; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001.

Federal Register

Friday
July 26, 1996

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Ch. I, et al.

Federal Acquisition Regulations (FAR); Final and Interim Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 90–40; Introduction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules with request for comment.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules which follow it in the order listed below. The FAR Council is issuing Federal Acquisition Circular (FAC) 90–40 to amend the Federal Acquisition Regulation (FAR). A companion document, the Small Entities Compliance Guide, follows this FAC and may be located on the Internet at http://www.gsa.gov/far/compliance.

DATES: For effective dates and comment dates, see separate documents which follow. Please cite FAC 90–40 and the appropriate FAR case number(s) in all correspondence related to the following documents.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears (in the table below) in relation to each FAR case or subject area. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–40 and specific FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90–40 amends the Federal Acquisition Regulation (FAR) as specified below:

Item	Subject	FAR case	Analyst
I	Contingent Fee Representation	93–009	DeStefano.
II	Simplified Acquisition Threshold/Federal Acquisition Computer Network; and Micro-Purchase Procedures.	94–770 94–771	Linfield.
III	Gratuities (Interim)	96–300	DeStefano.
IV	Disaster Relief Act	93–303	Klein.
V	Responsibility Determinations	95–007	DeStefano.
VI	Task and Delivery Orders	94–711	McAndrew.
VII	Multiyear Contracting	94–712	McAndrew.
VIII	Small Business/Simplified Acquisition Threshold	94–782	Moss.
IX	Indian-Owned Economic Enterprises	91–028	DeStefano.
X	General Agreement on Tariffs and Trade Patent Authorization	95–308	O'Neill.
XI	Performance and Payment Bonds	91–027	O'Such.
XII	Employee Compensation Costs	93–005	Olson.
XIII	Agency Procurement Protests (Interim)	95–309	O'Neill.
XIV	Value Engineering	96–315	O'Such.
XV	Termination Inventory Schedules	94–003	Klein.

Item I—Contingent Fee Representation (FAR Case 93–009)

This final rule amends FAR Subpart 3.4 to remove the requirement for prospective contractors to provide certain information regarding contingent fee arrangements. Accordingly, the provision at 52.203–4, Contingent Fee Representation and Agreement, and Standard Form 119, Statement of Contingent or Other Fees, are also removed. The underlying policy pertaining to contingent fee arrangements, as set forth in Subpart 3.4, remains the same.

Item II—Simplified Acquisition Threshold/Federal Acquisition Computer Network; and Micro-Purchase Procedures (FAR Cases 94–770 and 94–771)

The interim rules published as Item II of FAC 90–24 and Item III of FAC 90–29 are amended and adopted as final. The rules implement the micro-purchase, simplified acquisition, and Federal Acquisition Computer Network (FACNET) provisions of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355), and Section 4302(b) of the Federal Acquisition Reform Act of 1996 (Public Law 104–106). The final rules differ from the interim rules in that they (1) move definitions pertaining to micro-purchases, simplified acquisition procedures, and FACNET from Parts 4 and 13 to Part 2; (2) remove the requirement for interim FACNET certification before a contracting office may use simplified acquisition procedures for contract actions exceeding $50,000; (3) remove the clause at 52.222–40, Service Contract Act of 1965, as Amended—Contracts of $2,500 or Less, based upon a change in Department of Labor regulations; and (4) provide a telephone number for information regarding FACNET at 4.503.

Item III—Gratuities (FAR Case 96–300)

This interim rule amends FAR 3.202 and 52.203–3 to implement Section 801 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106). Section 801 amends 10 U.S.C. 2207, generally referred to as the Gratuities Act, to exempt contracts which do not exceed the simplified acquisition threshold from application of the Act. Therefore, the clause at 52.203–3, Gratuities, is now prescribed for inclusion in only those contracts which exceed the simplified acquisition threshold.

Item IV—Disaster Relief Act (FAR Case 93–303)

This final rule amends FAR 6.302–5, and adds FAR Subpart 26.2, to implement the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150). Section 5150 establishes a preference for local sources in the award of contracts for major disaster or emergency assistance activities.

Item V—Responsibility Determinations (FAR Case 95–007)

This final rule amends FAR Subpart 9.1 to emphasize the use of commercial sources of information for determining the responsibility of prospective contractors, and to clarify that preaward surveys normally should be requested only when information on hand or readily available is not sufficient.

Item VI—Task and Delivery Orders (FAR Case 94–711)

The interim rule published as Item III of FAC 90–33 is amended and adopted as final. The interim rule added FAR

Section 16.500 to define the scope of the multiple award preference established by Subpart 16.5 for indefinite-quantity contracts. The final rule differs from the interim rule in that it amends Section 16.500 to clarify that the multiple award preference does not apply to architect-engineer contracts subject to the procedures in Subpart 36.6. However, agencies are not precluded from making multiple awards for architect-engineer services, provided the selection of contractors and placement of orders is consistent with Subpart 36.6. The rule also amends Section 16.504 to clarify procedures for determining if multiple awards are appropriate.

Item VII—Multiyear Contracting (FAR Case 94–712)

This final rule revises FAR Subpart 17.1, removes the clause at 52.217–1, and revises the clause at 52.217–2 to implement Sections 1022 and 1072 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355). Sections 1022 and 1072 provide for use of multiyear contracting in a manner that will encourage competition or promote economy in administration, performance, and operation of an agency's programs.

Item VIII—Small Business/Simplified Acquisition Threshold (FAR Case 94–782)

This final rule amends FAR Part 19 and the clauses at 52.219–6, 52.219–7, and 52.219–18 to implement Section 4004 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355). Section 4004 amends Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) to reserve each contract for supplies or services that has an anticipated value greater than $2,500, but not greater than $100,000, for exclusive participation by small business concerns, unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with regard to price, quality, and delivery. This rule also reflects a final rule published by the Small Business Administration at 13 CFR 121.406, which provides that, where the procurement of a manufactured item is processed under FAR Part 13 procedures, set aside for small business concerns, and not expected to exceed $25,000, an offeror need not supply the end product of a small business concern as long as the product is manufactured or produced in the United States.

Item IX—Indian-Owned Economic Enterprises (FAR Case 91–028)

The interim rule published as Item VIII of FAC 90–7 is amended and adopted as final. The rule implements 25 U.S.C. 1544, which provides for payment of incentives to prime contractors who use Indian organizations or Indian-owned economic enterprises as subcontractors. The principal difference between the interim rule and the final rule is the method of incentive payment contained in each. The interim rule permitted prime contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises based on the difference in price between the acceptable low non-Indian subcontractor and the acceptable low Indian subcontractor, when the Indian subcontractor's price exceeded the price of the non-Indian subcontractor. The final rule instead permits an incentive payment to the prime contractor in an amount which equals 5 percent of the amount of the subcontract awarded to the Indian organization or Indian-owned economic enterprise. The applicable amendments are in Subpart 26.1 and the clause at 52.226–1.

Item X—General Agreement on Tariffs and Trade Patent Authorization (FAR Case 95–308)

This final rule adds FAR Section 27.209 to provide guidance pertaining to the use of patented technology under the General Agreement on Tariffs and Trade.

Item XI—Performance and Payment Bonds (FAR Case 91–027)

This final rule amends FAR Subpart 28.1 and the clause at 52.228–1, and adds two clauses at 52.228–15 and 52.228–16, and new SF 1418 to update, clarify, and standardize policy pertaining to bid guarantees and performance and payment bonds.

Item XII—Employee Compensation Costs (FAR Case 93–005)

This final rule amends FAR Part 31 to clarify the allowability of personal services compensation costs. The rule adds definitions at 31.001; clarifies the standard for reasonableness of labor-management compensation agreements at 31.205–6(b); revises 31.205–6(b)(1)(i) to clearly allow offsets of allowable elements of employee compensation packages among jobs of the same grade or level; and revises 31.205–6(i) to provide a general allowability rule pertaining to corporate securities.

Item XIII—Agency Procurement Protests (FAR Case 95–309)

This interim rule revises FAR 33.103 to implement Executive Order 12979, Agency Procurement Protests. Executive Order 12979 provides for inexpensive, informal, procedurally simple, and expeditious resolution of agency protests, including, where appropriate and permitted by law, the use of alternative dispute resolution techniques, third party neutrals, and another agency's personnel.

Item XIV—Value Engineering (FAR Case 96–315)

This final rule amends FAR Part 48 to revise the definition of value engineering and to require agencies to establish and maintain cost-effective value engineering procedures and processes. The rule implements Section 4306 of the Federal Acquisition Reform Act of 1996 (Public Law 104–106).

Item XV—Termination Inventory Schedules (FAR Case 94–003)

This final rule amends FAR Part 49 and the clauses at 52.249–2, 52.249–3, 52.249–5, 52.249–6, and 52.249–11 to require contractors under terminated contracts to submit termination inventory schedules within 120 days from the date of termination, unless this period is extended by the contracting officer.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

FEDERAL ACQUISITION CIRCULAR

Number 90–40

Federal Acquisition Circular (FAC) 90–40 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90–40 are effective September 24, 1996, except for Items III, VI thru VIII, and XIII, which are effective July 26, 1996, and Items II and XIV, which are effective August 26, 1996.

Dated: July 12, 1996.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: July 8, 1996.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy, General Services Administration.

Dated: July 15, 1996.

Tom Luedtke,

Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 96–18497 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 3, 4, 13, 31, 52, and 53

[FAC 90–40; FAR Case 93–009; Item I]

RIN 9000–AG83

Federal Acquisition Regulation; Contingent Fee Representation

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to delete the provision requiring an offeror to provide a contingent fee representation and agreement and to submit a statement of contingent or other fees. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 93–009.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 3.404(b) requires the contracting officer to insert the provision at 52.203–4, Contingent Fee Representation and Agreement, in all solicitations, with six exceptions. The provision requires offerors to provide a contingent fee representation as requested by the contracting officer. When the representation is answered affirmatively, the offeror must also provide a completed Standard Form (SF) 119, Statement of Contingent or Other Fees, or a signed statement indicating the SF 119 was previously submitted to the same contracting office. A proposed rule was published in the Federal Register at 60 FR 57140, November 13, 1995. This final rule revises FAR 3.404 to remove the requirement for the solicitation provision and removes the accompanying sections 3.405 through 3.408 which deal with the SF 119. FAR 3.409 and 3.410 have been renumbered.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because there is a slight beneficial impact on small entities since offerors will no longer be required to provide contingent fee representations and agreements or to submit statements of contingent or other fees. However, the underlying policy pertaining to contingent fee arrangements has not changed.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the final rule eliminates a previously approved information collection requirement under Office of Management and Budget (OMB) number 9000–0003, Statement of Contingent or Other Fees (SF 119). Accordingly, a request for elimination of the information collection requirement is being submitted to OMB.

List of Subjects in 48 CFR Parts 1, 3, 4, 13, 31, 52, and 53

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 1, 3, 4, 13, 31, 52, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 3, 4, 13, 31, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

2. Section 1.106 is amended in the list of ''FAR Segments'' and ''OMB Control Numbers'' following the introductory text by removing ''52.203–4'' and ''9000–0003'', and ''SF 119'' and ''9000–0003''.

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Section 3.404 is revised to read as follows:

3.404 Contract clause.

The contracting officer shall insert the clause at 52.203–5, Covenant Against Contingent Fees, in all solicitations and contracts exceeding the simplified acquisition threshold, other than those for commercial items (see parts 2 and 12).

3.405 through 3.408–2 [Removed]

4. Sections 3.405 through 3.408–2 are removed.

3.409 and 3.410 [Redesignated as 3.405 and 3.406]

5. Sections 3.409 and 3.410 are redesignated as 3.405 and 3.406.

6. The newly designated 3.406 is amended by revising the first sentence to read as follows:

3.406 Records.

For enforcement purposes, agencies shall preserve any specific evidence of one or more of the violations in 3.405(a), together with all other pertinent data, including a record of actions taken.

* * *

PART 4—ADMINISTRATIVE MATTERS

7. Section 4.803 is amended by revising paragraph (a)(11) to read as follows:

4.803 Contents of contract files.

* * * * *

(a) * * *

(11) Contractor's certifications and representatives.

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.111 [Amended]

8. Section 13.111 is amended by removing paragraph (c) and redesignating paragraphs (d) through (j) as (c) through (i).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–38 [Amended]

9. Section 31.205–38 is amended at the end of paragraph (f) by removing the parenthetical ''(see 3.408–2)''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.203–4 [Reserved]

10. Section 52.203–4 is removed and reserved.

52.203–5 [Amended]

11. Section 52.203–5 is amended in the introductory paragraph by removing ''3.404(c)'' and inserting ''3.404''.

PART 53—FORMS

53.203 [Amended]

12. Section 53.203 is amended by removing paragraph (a) and the designation of paragraph (b).

53.301–119 [Removed]

13. Section 53.301–119 is removed.

[FR Doc. 96–18498 Filed 7–25–96; 8:45 am]
BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 4, 5, 8, 11, 12, 13, 15, 16, 19, 22, 23, 25, 28, 29, 32, 36, 41, 42, 43, 44, 45, 46, 47, 52, and 53

[FAC 90–40; FAR Cases 94–770 and 94–771; Item II]

RIN 9000–AG18/9000–AG26

Federal Acquisition Regulation; Simplified Acquisition Threshold/ Federal Acquisition Computer Network; and Micro-Purchase Procedures

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rules adopted as final with changes.

SUMMARY: The Federal Acquisition Regulatory Council is amending the Federal Acquisition Regulation (FAR) to finalize the interim rules concerning simplified acquisition procedures and Federal Acquisition Computer Network (FACNET) requirements of the Federal Acquisition Streamlining Act of 1994. This rule also implements section 4302 of the Federal Acquisition Reform Act which deleted the requirement for attaining interim FACNET certification before simplified acquisition procedures could be used between $50,000 and $100,000. This is a significant rule within the meaning of Executive Order 12866; however, it is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Linfield at (202) 501–1757 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–40, FAR cases 94–770 and 94–771.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (FASA), provided a number of authorities that streamlined the acquisition process and made a number of substantial changes in the manner in which relatively low dollar procurements are conducted. FASA created a micro-purchase threshold of $2,500, a simplified acquisition threshold of $100,000, provided for the use of simplified acquisition procedures up to the $100,000 threshold, and created the Federal Acquisition Computer Network (FACNET). FASA limited use of simplified acquisition procedures by procurement activities not having certified interim FACNET to procurements not exceeding $50,000. The Federal Acquisition Reform Act of 1996 (Division D of the National Defense Authorization Act for Fiscal Year 1996), Public Law 104–106 (FARA), deleted the requirement for attaining interim FACNET certification before simplified acquisition procedures could be used between $50,000 and $100,000. This final rule implements that provision of FARA, as well as the aforementioned provisions of FASA.

The simplified acquisition procedures of FASA were implemented in the FAR at 60 FR 34741 on July 3, 1995, in FAC 90–29, FAR case 94–770. The micro-purchase provisions of FASA were implemented in the FAR at 59 FR 64786 on December 15, 1994, in FAC 90–24, FAR case 94–771. Also published in FAC 90–29 was an interim rule on FAR case 91–104, Electronic Contracting, which remains interim and is not being finalized at this time.

An interagency team is considering technical issues pertaining to Central Contractor Registration at FAR 4.503. There may be additional changes to that section as part of FAR case 94–772.

Among the changes in this final rule are:

—Definitions contained in the rule have been moved to FAR 2.101.
—The requirement for interim FACNET to be accomplished before simplified acquisition procedures can be used for acquisitions between $50,000 and $100,000 has been deleted.
—The clause at 52.222–40, Service Contract Act of 1965, as amended, Contracts of $2,500 or Less, has been deleted based upon a regulatory change by the Department of Labor.
—An information phone number for FACNET is provided in 4.503.
—The coverage in Part 13 on small business programs has been moved to Part 19 under FAR case 94–782 of this Federal Acquisition Circular.

Note that for non-FACNET acquisitions over $25,000, a synopsis for 15 days is still required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule, and a Final Regulatory Flexibility Analysis (FRFA) has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration. This rule implements the simplified acquisition procedures and Federal Acquisition Computer Network (FACNET) requirements of the Federal Acquisition Streamlining Act of 1994 (the Act) (Public Law 103–355). The rule applies to all businesses, large and small organizations, educational and nonprofit, who are interested in participating in Government acquisitions at or below the simplified acquisition threshold of $100,000. The implementation of FACNET provides for the electronic exchange of acquisition information between the private sector and the Federal Government. It is estimated that the electronic exchange of acquisition information will improve business opportunities for more than 300,000 vendors currently doing business with the Government. A copy of the FRFA may be obtained from the FAR Secretariat at the General Services Administration, 18th and F Streets NW., Washington, DC 20405.

C. Paperwork Reduction Act

This final rule does impose an additional reporting or recordkeeping requirement on the public which requires the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* Contractors are required to electronically register with

the Central Contractor Registration operated by the Defense Information Megacenter. The information to be provided is information currently reported under several existing forms including the SF 129, Solicitation Mailing List Application, the SF 3881, ACH Vendor/Miscellaneous Payment Enrollment Form, and the DD–1052, Request for Assignment of a Commercial and Government Entity (CAGE) Code. Contractors are required to provide information pertaining to their electronic data interchange (EDI) capabilities. Establishment of a central registration system should eliminate the need to submit multiple registrations with each contracting office the contractor wishes to do business with.

A request for approval of the information collection requirement concerning simplified acquisition procedures was submitted to OMB and approved through April 30, 1998, under OMB Control Number 9000–0137. Public comments concerning this request were invited through a Federal Register notice at 60 FR 11659, March 2, 1995. No comments were received in response to this notice.

D. Public Comments

Public comments were solicited at 59 FR 64786, December 15, 1994, and 60 FR 34741, July 3, 1995. In response to the Federal Register notice, 30 commenters responded with hundreds of specific comments. These comments were considered in the formulation of the final rule. A matrix of comments is available from the FAR Secretariat.

List of Subjects in 48 CFR Parts 1, 2, 3, 4, 5, 8, 11, 12, 13, 15, 16, 19, 22, 23, 25, 28, 29, 32, 36, 41, 42, 43, 44, 45, 46, 47, 52, and 53

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, the interim rules for FAR case 94–770 (60 FR 34741, July 3, 1995) and FAR case 94–771 (59 FR 64786, December 15, 1994) are adopted as final with the following changes:

1. The authority citation for 48 CFR 1, 2, 3, 4, 5, 8, 11, 12, 13, 15, 16, 19, 22, 23, 25, 28, 29, 32, 36, 41, 42, 43, 44, 45, 46, 47, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Chapter 1 [Amended]

2. The following sections are amended by removing the words ''in Part 13'':

2.201
3.502–3
3.503–2
4.603
4.805(b)(13) introductory text
5.303(b), introductory text
8.203–1(a)(1)
15.106–1(b)(1)
16.504(c)(1)(v)
19.702, introductory text
19.708(a)
28.310(a)
29.401–3
29.401–4
32.202–1(b)(2)
32.908(c)
41.201(b)
42.903
43.205 (d)(2) and (e)
44.201–2(b)(2)
44.204(e)
45.106(e)
46.805 (a) and (b) heading and introductory text;
47.104–4 (a)(2) and (b)
47.200(b)(4)
47.305–16(b)

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

3. Section 1.304 is amended by revising paragraph (a) to read as follows:

1.304 Agency control and compliance procedures.

(a) Under the authorities of 1.301(c), agencies shall control and limit issuance of agency acquisition regulations and, in particular, local agency directives that restrain the flexibilities found in the FAR, and shall establish formal procedures for the review of these documents to assure compliance with this part 1.

* * * * *

4. Section 1.603–3 is revised to read as follows:

1.603–3 Appointment.

(a) Contracting officers shall be appointed in writing on an SF 1402, Certificate of Appointment, which shall state any limitations on the scope of authority to be exercised, other than limitations contained in applicable law or regulation. Appointing officials shall maintain files containing copies of all appointments that have not been terminated.

(b) Agency heads are encouraged to delegate micro-purchase authority to individuals who are employees of an executive agency or members of the Armed Forces of the United States who will be using the supplies or services being purchased. Individuals delegated this authority are not required to be appointed on an SF 1402, but shall be appointed in writing in accordance with agency procedures.

PART 2–DEFINITIONS OF WORDS AND TERMS

5. Section 2.101 is amended to add, in alphabetical order, the definitions of ''delivery order,'' ''Federal Acquisition Computer Network (FACNET) Architecture,'' ''full FACNET,'' ''Governmentwide FACNET,'' ''interim FACNET,'' ''micro-purchase,'' ''micro-purchase threshold,'' ''simplified acquisition procedures,'' ''simplified acquisition threshold,'' and ''task order'' to read as follows:

2.101 Definitions.

* * * * *

Delivery order means an order for supplies placed against an established contract or with Government sources.

* * * * *

Federal Acquisition Computer Network (FACNET) Architecture means the Governmentwide Electronic Commerce/Electronic Data Interchange (EC/EDI) operational capability for the acquisition of supplies and services that provides for electronic data interchange of acquisition information between the Government and the private sector, employs nationally and internationally recognized data formats, and provides universal user access.

* * * * *

Full FACNET means an agency has certified that it has implemented all of the FACNET functions outlined in 4.504, and more than 75 percent of eligible contracts (not otherwise exempted from FACNET) in amounts exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, were entered into by the agency during the preceding fiscal year using an interim FACNET certified electronic automated information system.

Governmentwide FACNET means that the Federal Government has certified its FACNET capability, and more than 75 percent of eligible contracts (not otherwise exempted from FACNET) in amounts exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, entered into by the executive agencies during the preceding fiscal year were made through electronic automated information systems with full FACNET certification.

* * * * *

Interim FACNET means a contracting office has been certified as having implemented the electronic automated information systems capability to provide widespread public notice of contracting opportunities, issue solicitations, and receive responses to solicitations and associated requests for

information. Such capability must allow the private sector to access notices of solicitations, access and review solicitations, and respond to solicitations.

* * * * *

Micro-purchase means an acquisition of supplies or services (except construction), the aggregate amount of which does not exceed $2,500, except that in the case of construction, the limit is $2,000.

Micro-purchase threshold means $2,500.

* * * * *

Simplified acquisition procedures means the methods prescribed in part 13 for making purchases of supplies or services.

Simplified acquisition threshold means $100,000, except that in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation as defined in 10 U.S.C. 101(a)(13), the term means $200,000.

* * * * *

Task order means an order for services placed against an established contract or with Government sources.

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

6. Section 3.104–4 is amended by revising paragraph (h)(5) to read as follows:

3.104–4 Definitions.

* * * * *

(h) * * *

(5) For purposes of 3.104–4(h), the term *procurement official* does not include contracting officers or other individuals whose authority is limited to the micro-purchase threshold if the head of the contracting activity determines that it is unlikely that the individual will make purchases in a total amount greater than $20,000 in any 12-month period.

3.104–10 [Amended]

7. Section 3.104–10 is amended in paragraph (c) by removing the parenthetical ''(see Part 13).''

8. Section 3.502–2 is amended to revise the heading and the introductory text of paragraph (i) and to add paragraph (j) to read as follows:

3.502–2 Subcontractor kickbacks.

* * * * *

(i) Requires each contracting agency to include in each prime contract exceeding $100,000 for other than commercial items (see part 12), a requirement that the prime contractor shall—

* * * * *

(j) Notwithstanding paragraph (i) of this subsection, a prime contractor shall cooperate fully with any Federal government agency investigating a violation of Section 3 of the Anti-Kickback Act of 1986 (41 U.S.C. 51–58).

PART 4—ADMINISTRATIVE MATTERS

9. Section 4.501 is amended—

a. By removing the definitions of ''Federal Acquisition Computer Network (FACNET),'' ''Full FACNET,'' ''Governmentwide FACNET,'' ''Interim FACNET,'' ''Value-Added Network (VAN),'' and ''Value-Added Service (VAS)'';

b. By revising the heading of the definition of ''ANSI X.12'' to read ''ANSI X12, as used in this subpart,'';

c. By inserting, following the end of the definition headings for ''electronic commerce (EC),'' ''electronic data interchange (EDI),'' and ''transaction set'', the phrase '', as used in this subpart,''; and

d. By adding, in alphabetical order, the definitions of ''Implementation convention'' and ''Trading partner''. The revised text reads as follows:

4.501 Definitions.

* * * * *

Implementation convention (IC), as used in this subpart, means the common practices and/or interpretations of the use of ANSI X12 standards. Conventions define how trading partners will use the standards for their mutual needs. The Federal IC will be used by organizational elements of the Federal community and by government organizations and by Trading Partners to exchange data with the Federal community.

Trading Partner, as used in this subpart, means a business that has agreed to exchange business information electronically.

* * * * *

10. Section 4.502 is amended by revising paragraph (a); by removing paragraphs (b) and (c), and redesignating paragraph (d) as (b) to read as follows:

4.502 Policy.

(a) The Federal Government shall use FACNET whenever practicable or cost-effective. Contracting officers may supplement FACNET transactions by using other media to meet the requirements of any contract action governed by the FAR (*e.g.*, transmit hard copy of drawings).

* * * * *

11. Section 4.503 is revised to read as follows:

4.503 Contractor registration.

(a) In order for a contractor to conduct electronic commerce with the Federal Government, the contractor must provide registration information to the Central Contractor Registration (CCR). Phone (800) EDI–3414 for information regarding FACNET.

(b) The contractor will be required to submit trading partner profile information, including a Data Universal Numbering System (DUNS) number, in accordance with the Federal implementation conventions of the appropriate ANSI X12 transaction set for contractor registration.

12. Section 4.504 is amended by revising the introductory text for paragraphs (a) and (b) to read as follows:

4.504 FACNET functions.

(a) For agencies—

* * * * *

(b) For the private sector—

* * * * *

4.507 [Removed]

13. Section 4.507 is removed.

4.800 [Amended]

14. Section 4.800 is amended in the parenthetical by removing the reference ''12.106–2'' and inserting ''13.106–2(d)'' in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

15. Section 5.101 is amended by revising the first sentence of paragraph (a)(2) and by revising paragraph (a)(2)(ii) to read as follows:

5.101 Methods of disseminating information.

* * * * *

(a) * * *

* * * * *

(2) For proposed contract actions expected to exceed $10,000, but not expected to exceed $25,000, by displaying in a public place, including on an electronic bulletin board, or any other appropriate electronic means located at the contracting office issuing the solicitation, an unclassified notice of the solicitation or a copy of the solicitation satisfying the requirements of 5.207 (c) and (f). * * *

* * * * *

(ii) The contracting officer need not comply with the display requirements of this section when the exemptions at 5.202 (a)(1), (a)(4) through (a)(9), or (a)(11) apply, or when oral or FACNET solicitations are used.

* * * * *

16. Section 5.202 is amended to revise paragraphs (a)(2) and (a)(14) to read as follows:

5.202 Exceptions.

* * * * *

(a) * * *

(2) The contract action is made under the conditions described in 6.302–2 (or, for purchases conducted using simplified acquisition procedures, if unusual and compelling urgency precludes competition to the maximum extent practicable) and the Government would be seriously injured if the agency complies with the time periods specified in 5.203;

* * * * *

(14) The contract action is for an amount at or below $250,000 and is made through FACNET after Governmentwide FACNET has been certified pursuant to 4.505–3; or

* * * * *

5.203 [Amended]

17. Section 5.203 is amended in the first sentence of paragraph (b) by removing ''respond for'' and inserting ''respond to''.

18. Section 5.205 is amended in paragraph (d)(2) by revising the first sentence to read as follows:

5.205 Special situations.

* * * * *

(d) * * *

(2) When the total fee is expected to exceed $10,000 but not exceed $25,000, the contracting officer shall comply with 5.101(a)(2). * * *

* * * * *

19. Section 5.207 is amended by revising paragraph (c)(2)(xiv) and the first sentence of (e)(3) to read as follows:

5.207 Preparation and transmittal of synopses.

* * * * *

(c) * * *

(2) * * *

(xiv) In the case of noncompetitive contract actions (including those that do not exceed the simplified acquisition threshold), identify the intended source (see 5.207(e)(3)) and insert a statement of the reason justifying the lack of competition.

* * * * *

(e) * * *

(3) In the case of a noncompetitive contract action expected to exceed the simplified acquisition threshold, the synopsis shall refer to Numbered Note 22. * * *

20. Section 5.503 is amended in paragraph (a) by designating the existing text as (a)(1) and adding paragraph (a)(2); by removing paragraph (c) and redesignating paragraphs (d) and (e), as (c) and (d), respectively. The revised text reads as follows:

5.503 Procedures.

(a) *General.* (1) * * *

(2) The contracting officer shall use the SF 1449 for paper solicitations. The SF 1449 shall be used to make awards or place orders unless the award/order is made via FACNET or by using the Governmentwide commercial purchase card for micro-purchases.

* * * * *

PART 11—DESCRIBING AGENCY NEEDS

21. Section 11.002 is amended to revise paragraph (a)(1)(i) to read as follows:

11.002 Policy.

(a) * * *

(1) * * *

(i) Promote full and open competition (see part 6), or maximum practicable competition when using simplified acquisition procedures, with due regard to the nature of the supplies or services to be acquired; and

* * * * *

22. Section 11.104 is amended to add paragraph (c) to read as follows:

11.104 Items peculiar to one manufacturer.

* * * * *

(c) The basis for not providing for maximum practicable competition is documented in the file when the acquisition is awarded using simplified acquisition procedures.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.102 [Amended]

23. Section 12.102 is amended in paragraphs (d)(1) and (d)(4) by removing the parenthetical ''(see Subpart 13.6)'' and by revising the parenthetical in paragraph (d)(2) to read ''(see 13.505)''.

12.206 [Amended]

24. Section 12.206 is amended in the last sentence by revising ''13.106–1'' to read ''13.106–2''.

12.301 [Amended]

25. Section 12.301 is amended in paragraph (c)(2) by revising ''13.106–1'' to read ''13.106–2''.

12.602 [Amended]

26. Section 12.602 is amended in the first sentence of paragraph (a) and the sixth sentence of paragraph (b) by revising ''13.106–1'' to read ''13.106–2''.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

27. Section 13.000 is revised to read as follows:

13.000 Scope of part.

This part prescribes policies and procedures for the acquisition of supplies and services, including construction, research and development, and commercial items, the aggregate amount of which does not exceed the simplified acquisition threshold (see 2.101). See part 12, Acquisition of Commercial Items, for policies applicable to the acquisition of commercial items exceeding the micro-purchase threshold. See 36.602–5 for simplified procedures to be used when acquiring architect-engineer services.

28. Section 13.101 is amended by removing the definitions of ''delivery order,'' ''micro-purchase,'' ''micro-purchase threshold,'' ''simplified acquisition procedures,'' and ''simplified acquisition threshold''; by inserting, following the end of the definition heading ''bulk funding'', '', as used in this part,''; by revising the definition of ''Governmentwide commercial purchase card''; by inserting following the end of the definition headings ''imprest fund,'' and ''purchase order'', '', as used in this part,''; and by adding, in alphabetical order, the definition for ''third party draft'' to read as follows:

13.101 Definitions.

* * * * *

Governmentwide commercial purchase card, as used in this part, means a purchase card, similar in nature to a commercial credit card, issued to authorized agency personnel to use to acquire and to pay for supplies and services.

* * * * *

Third party draft, as used in this part, means an agency bank draft, similar to a check, which is used to acquire and to pay for supplies and services. (See Treasury Financial Manual Section 3040.70.)

29. Section 13.102 is amended by revising paragraph (b) and by removing the comma at the end of paragraph (c) to read as follows:

13.102 Purpose.

* * * * *

(b) Improve opportunities for small business, small disadvantaged business, and women-owned small business concerns to obtain a fair proportion of Government contracts;

* * * * *

30. Section 13.103 is revised to read as follows:

13.103 Policy.

(a) Simplified acquisition procedures shall be used to the maximum extent practicable for all purchases of supplies or services not exceeding the simplified acquisition threshold (including purchases below the micro-purchase threshold), unless requirements can be met by using required sources of supply under part 8 (*e.g.,* Federal Prison Industries, Committee for Purchase from People Who Are Blind or Severely Disabled, and Federal Supply Schedule contracts), GSA Nonmandatory Schedule Contracts for FIP Resources, existing indefinite delivery/indefinite quantity contracts, or other established contracts.

(b) The contracting office shall not use simplified acquisition procedures for contract actions exceeding $50,000 after December 31, 1999, unless the office's cognizant agency has certified full FACNET capability in accordance with 4.505–2.

(c) Simplified acquisition procedures shall not be used in the acquisition of supplies and services initially estimated to exceed the simplified acquisition threshold even though resulting awards do not exceed that threshold. Requirements aggregating more than the simplified acquisition threshold or the micro-purchase threshold shall not be broken down into several purchases that are less than the applicable threshold merely to permit use of simplified acquisition procedures, or to avoid any requirements that apply to purchases exceeding the micro-purchase threshold.

(d) Simplified acquisition procedures may be used to acquire personal services if the agency has specific statutory authority to acquire personal services (see 37.104).

(e) The Governmentwide commercial purchase card is the preferred means to purchase and pay for micro-purchases. This is not intended to limit use of the purchase card to micro-purchases, if otherwise authorized under agency procedures, nor is it intended to preclude use of electronic purchasing techniques.

(f) Agencies are encouraged to use the Governmentwide commercial purchase card and electronic purchasing techniques to the maximum extent practicable. The Governmentwide commercial purchase card may be used to purchase and pay for purchases under part 8 procedures when authorized, under existing indefinite delivery/indefinite quantity contracts, or from other established contracts in accordance with agency procedures.

(g) FACNET shall be used to acquire supplies and services (including construction, research and development, and architect-engineer) for contract actions exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold when practicable and cost-effective (see 4.506). Drawings and lengthy specifications can be provided off-line in hard copy or through other appropriate means.

(h) Contracting officers shall establish deadlines for the submission of responses to solicitations which afford suppliers a reasonable opportunity to respond in accordance with 5.203, Publicizing and response time.

(i) Contracting officers shall consider all quotes/offers that are timely received.

(j) Contracting officers are encouraged to use innovative approaches in awarding contracts using the simplified acquisition procedures under the authority of this part. For commercial items, contracting officers may use either the streamlined solicitation procedure in subpart 12.6 or the existing procedures in parts 13, 14, 15, 35, or 36 as applicable, if they are more streamlined and beneficial, thereby allowing maximum flexibility. For other than commercial items, the procedures in other FAR parts may be appropriate. Other FAR parts that may be used include, but are not limited to parts 14, 15, 35, or 36.

(k) Micro-purchases may be awarded using any of the purchasing methods covered in this part, provided the purchaser is authorized and trained, pursuant to agency regulations, to use those methods.

31. Section 13.104 is amended by revising paragraphs (b), (e), and (f) to read as follows:

13.104 Procedures.

* * * * *

(b) Related items (such as small hardware items or spare parts for vehicles) may be included in one solicitation and the award made on an ''all-or-none'' or ''multiple award'' basis if suppliers are so advised when quotations are requested.

* * * * *

(e) Agencies shall use United States-owned excess or near-excess foreign currency, if appropriate, in making payments under simplified acquisition procedures (see subpart 25.3).

(f) For proposed purchases covered by this part, see 5.101 and 5.203 to determine if public display and synopsis requirements apply.

* * * * *

32. Section 13.105 is revised to read as follows:

13.105 Small business set-asides.

(a) Each acquisition (non-FACNET and FACNET) of supplies or services that has an anticipated dollar value exceeding $2,500 and not exceeding $100,000, is reserved exclusively for small business concerns and shall be set aside in accordance with subpart 19.5.

(b) Each written solicitation under a set-aside shall contain the appropriate provisions prescribed by part 19. If the solicitation is oral, however, information substantially identical to that which is in the provision shall be given to potential quoters.

33. Sections 13.106, 13.106–1 and 13.106–2 are revised to read as follows:

13.106 Soliciting competition, evaluation of quotes, and award.

13.106–1 Purchases at or below the micro-purchase threshold.

(a) *Soliciting competition, evaluation of quotes, and award.* (1) To the extent practicable, micro-purchases shall be distributed equitably among qualified suppliers.

(2) Micro-purchases (as defined in 2.101) may be awarded without soliciting competitive quotations if the contracting officer or individual appointed in accordance with 1.603–3(b) considers the price reasonable.

(3) The administrative cost of verifying the reasonableness of the price for purchases at or below the micro-purchase threshold may more than offset potential savings from detecting instances of overpricing. Therefore, action to verify price reasonableness need only be taken if—

(i) The contracting officer or individual appointed in accordance with 1.603–3(b) suspects or has information to indicate that the price may not be reasonable (*e.g.,* comparison to the previous price paid or personal knowledge of the supply or service); or

(ii) Purchasing a supply or service for which no comparable pricing information is readily available (*e.g.,* a supply or service that is not the same as, or is not similar to, other supplies or services that have recently been purchased on a competitive basis).

(4) Prompt payment discounts should be solicited.

(5) Clauses are not required for micro-purchases using any method in part 12 or 13. However, this does not prohibit the use of any clause prescribed elsewhere in this chapter when

determined necessary by the contracting officer.

(b) *Documentation.* Minimize the documentation to support micro-purchases.

13.106–2 Purchases exceeding the micro-purchase threshold.

(a) *Soliciting competition.* (1) Contracting officers shall promote competition to the maximum extent practicable to ensure that the purchase is advantageous to the Government, based, as appropriate, on either price alone or price and other factors (*e.g.*, past performance and quality) including the administrative cost of the purchase. Solicitations shall notify suppliers of the basis upon which award is to be made.

(2) If FACNET is not available, or an exemption set forth in 4.506 applies, quotations may be solicited through other appropriate means. The contracting officer shall comply with the requirements of 5.101 when not soliciting via FACNET.

(3) Requests for quotations should be solicited orally to the maximum extent practicable when FACNET is not available or a written determination has been made that it is not practicable or cost-effective to purchase via FACNET. However, oral solicitations may not be practicable for contract actions exceeding $25,000 because of the synopsis requirement in 5.101. Sufficient information to permit suppliers to develop quotations may be incorporated into a combined synopsis/solicitation. In such cases, the contracting officer is not required to issue a separate solicitation. Paper solicitations for contract actions not expected to exceed $25,000 should only be issued when obtaining electronic or oral quotations is not considered economical or practical. Written solicitations shall be issued for construction contracts over $2,000.

(4) If using simplified acquisition procedures and not using FACNET, maximum practicable competition ordinarily can be obtained without soliciting quotations or offers from sources outside the local trade area. Generally, solicitation of at least three sources may be considered to promote competition to the maximum extent practicable if the contract action does not require synopsis pursuant to 5.101 and 5.202. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations. The following factors influence the number of quotations required in connection with any particular purchase:

(i) The nature of the article or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or is relatively noncompetitive.

(ii) Information obtained in making recent purchases of the same or similar item.

(iii) The urgency of the proposed purchase.

(iv) The dollar value of the proposed purchase.

(v) Past experience concerning specific dealers' prices.

(5) Contracting officers may solicit from one source if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available.

(6) Contracting officers shall not limit solicitations to suppliers of well-known and widely distributed makes or brands (see 11.104), or solicit quotations on a personal preference basis.

(7) In accordance with 14.408–3, contracting officers shall make every effort to obtain trade and prompt payment discounts. However, prompt payment discounts shall not be considered in the evaluation of quotations.

(8)(i) Each contracting office should maintain a source list (or lists, if more convenient). New supply sources for the list may be obtained from a variety of sources, including the Central Contractor Registration (CCR) data base (see 4.503). The list should identify the status of each source (when the status is made known to the contracting office) in the following categories:

(A) Small business.

(B) Small disadvantaged business.

(C) Women-owned small business.

(ii) The status information may be used as the basis to ensure that small business concerns are given opportunities to respond to solicitations issued using simplified acquisition procedures.

(b) *Evaluation of quotes or offers.*

(1) Contracting officers may evaluate quotes or offers based on price alone or price and other factors (see 13.106–2(a)(1)). Contracting officers are encouraged to use best value. Formal evaluation plans, conduct of discussions, and scoring of quotes or offers are not required. Evaluation of other factors, such as past performance, does not require the creation or existence of a formal data base, but may be based on such information as the contracting officer's knowledge of and previous experience with the item or service being purchased, customer surveys, or other reasonable basis. When evaluating quotes or offers on price and other factors, the evaluation must be performed based on the criteria established in the solicitation.

(2) Standing price quotations may be used in lieu of obtaining individual quotations each time a purchase is contemplated. In such cases, contracting officers shall ensure that the pricing information is current and that the Government obtains the benefit of maximum discounts before award is made.

(3) Contracting officers shall evaluate quotations inclusive of transportation charges from the shipping point of the supplier to the delivery destination.

(4) Contracting officers shall comply with the policy in 7.202 relating to economic purchase quantities, when practicable.

(c) *Award.* (1) Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity that either unreasonably exceeds stated quantity requirements or results in an unreasonable price for the quantities required. In these instances, the contracting officer should inform the requiring activity of all facts regarding the quotation and ask it to confirm or alter its requirement. The file shall be documented to support the final action taken.

(2) Except for awards conducted through FACNET, notification to unsuccessful suppliers shall be given only if requested.

(3) If a supplier requests information on an award which was based on factors other than price, a brief explanation of the basis for the contract award decision shall be provided (see 15.1002(c)(2)).

(d) *Data to support purchases.* (1) The determination that a proposed price is reasonable should be based on competitive quotations/offers. If only one response is received, a statement shall be included in the contract file giving the basis of the determination of fair and reasonable price. The determination may be based on market research, a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the contracting officer's personal knowledge of the item being purchased, comparison to an independent government estimate, or any other reasonable basis.

(2) When other than price-related factors are considered in selecting the supplier (see 13.106–2(b)(1)), the contracting officer shall document the file to support the final award decision.

(3) If only one source is solicited, an additional notation shall be made to explain the absence of competition,

except for acquisition of utility services available from only one source.

(4) Documentation should be kept to a minimum. The following illustrate the extent to which quotation/offer information should be recorded:

(i) *Oral solicitations.* The contracting office should establish and maintain informal records of oral price quotations in order to reflect clearly the propriety of placing the order at the price paid with the supplier concerned. In most cases, this will consist merely of showing the names of the suppliers contacted and the prices and other terms and conditions quoted by each.

(ii) *Written solicitations (see 2.101).* Written records of solicitations/offers may be limited to notes or abstracts to show prices, delivery, references to printed price lists used, the supplier or suppliers contacted, and other pertinent data.

(5) Purchasing offices shall retain data supporting purchases (paper or electronic) to the minimum extent and duration necessary for management review purposes (see subpart 4.8) when using simplified acquisition procedures.

34. Section 13.107 is revised to read as follows:

13.107 Solicitation forms.

(a) The SF 1449, Solicitation/Contract/Order for Commercial Items, shall be used by the contracting officer when issuing a paper solicitation for commercial items, except when using a combined synopsis/solicitation (see subpart 12.6). This form may be used for other than commercial items.

(b) Except when quotations are solicited via FACNET, other electronic means, or orally, the SF 1449; SF 18, Request for Quotations; or other agency authorized form/automated format may be used for other than commercial items.

(c) OF 336, Continuation Sheet, may be used when additional space is needed.

35. Section 13.108 is amended by revising the first sentence of paragraph (b) to read as follows:

13.108 Legal effect of quotations.

* * * * *

(b) When appropriate, the contracting officer may ask the supplier to indicate acceptance of an order by notification to the Government, preferably in writing, as defined at 2.101. * * *

* * * * *

13.109 [Amended]

36. Section 13.109 is amended in the first sentence by inserting ''task or'' before ''delivery orders'', and in the beginning of the second sentence by removing ''Therefore,''.

37. Section 13.110 is amended by revising paragraphs (a)(2) and (a)(3); by removing paragraphs (a)(8), (a)(9), (a)(11), (a)(12), and (a)(13), and redesignating (a)(10) as (a)(8) to read as follows:

13.110 Federal Acquisition Streamlining Act of 1994 (FASA) list of inapplicable laws.

(a) * * *

(2) 40 U.S.C. 270a (Miller Act). (Although the Miller Act no longer applies to contracts at or below the simplified acquisition threshold, alternative forms of payment protection for suppliers of labor and material are still required if the contract exceeds $25,000.)

(3) 40 U.S.C. 327 to 333 (Contract Work Hours and Safety Standards Act).

* * * * *

38. Section 13.111 is amended by revising the introductory text and paragraph (a); removing paragraph (b) and redesignating the existing paragraphs (c) through (i) as paragraphs (b) through (h); revising the newly designated paragraph (e); in the newly designated paragraph (g) by removing ''and''; in the newly designated paragraph (h) by removing the ''period'' and inserting ''; and''; and by adding a new paragraph (i) to read as follows:

13.111 Inapplicable provisions and clauses.

While certain statutes still apply, pursuant to Public Law 103–355, the following provisions and clauses are inapplicable to contracts and subcontracts at or below the simplified acquisition threshold—

(a) Clauses implementing Miller Act requirements in 28.102–3;

* * * * *

(e) 52.215–2, Audit and Records—Negotiation;

* * * * *

(i) 52.223–8, Estimate of Percentage of Recovered Material for Designated Items to be Used in the Performance of the Contract.

39. Section 13.202 is revised to read as follows:

13.202 Establishment of blanket purchase agreements (BPAs).

(a) The following are circumstances under which contracting officers may establish BPAs:

(1) There is a wide variety of items in a broad class of supplies or services that are generally purchased, but the exact items, quantities, and delivery requirements are not known in advance and may vary considerably.

(2) There is a need to provide commercial sources of supply for one or more offices or projects in a given area that do not have or need authority to purchase otherwise.

(3) Use of this procedure would avoid the writing of numerous purchase orders.

(b) After determining a BPA would be advantageous, contracting officers shall—

(1) Establish the parameters to limit purchases to individual items or commodity groups or classes, or permit the supplier to furnish unlimited supplies or services; and

(2) Consider suppliers whose past performance has shown them to be dependable, who offer good quality at consistently lower prices, and who have provided numerous purchases at or below the simplified acquisition threshold.

(c) BPAs may be established with—

(1) More than one supplier for supplies or services of the same type to provide maximum practicable competition;

(2) A single firm from which numerous individual purchases at or below the simplified acquisition threshold will likely be made in a given period; or

(3) Federal Supply Schedule contractors and Federal Information Processing Multiple Award Schedule contractors (see part 39), if not inconsistent with the terms of the applicable schedule contract.

(d) BPAs should be prepared without a purchase requisition and only after contacting suppliers to make the necessary arrangements for—

(1) Securing maximum discounts;

(2) Documenting individual purchase transactions;

(3) Periodic billings; and

(4) Incorporating other necessary details.

(e) BPAs shall be prepared on the forms specified in 13.505(a) and shall not cite accounting and appropriation data (see 13.204(e)(4)).

(1) The following terms and conditions are mandatory:

(i) *Description of agreement.* A statement that the supplier shall furnish supplies or services, described in general terms, if and when requested by the contracting officer (or the authorized representative of the contracting officer) during a specified period and within a stipulated aggregate amount, if any.

(ii) *Extent of obligation.* A statement that the Government is obligated only to the extent of authorized purchases actually made under the BPA.

(iii) *Pricing.* A statement that the prices to the Government shall be as low or lower than those charged the supplier's most favored customer for comparable quantities under similar

terms and conditions, in addition to any discounts for prompt payment.

(iv) *Purchase limitation*. A statement that specifies the dollar limitation for each individual purchase under the BPA (see 13.204(b)).

(v) *Individuals authorized to purchase under the BPA*. A statement that a list of individuals authorized to purchase under the BPA, identified either by title of position or by name of individual, organizational component, and the dollar limitation per purchase for each position title or individual shall be furnished to the supplier by the contracting officer.

(vi) *Delivery tickets*. A requirement that all shipments under the agreement, except subscriptions and other charges for newspapers, magazines, or other periodicals, shall be accompanied by delivery tickets or sales slips which shall contain the following minimum information:

(A) Name of supplier.

(B) BPA number.

(C) Date of purchase.

(D) Purchase number.

(E) Itemized list of supplies or services furnished.

(F) Quantity, unit price, and extension of each item, less applicable discounts (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show this information).

(G) Date of delivery or shipment.

(vii) *Invoices*. One of the following statements shall be included (except that the statement in paragraph (e)(1)(vii)(C) of this section should not be used if the accumulation of the individual invoices by the Government materially increases the administrative costs of this purchase method):

(A) A summary invoice shall be submitted at least monthly or upon expiration of this BPA, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipt copies of the delivery tickets.

(B) An itemized invoice shall be submitted at least monthly or upon expiration of this BPA, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received. These invoices need not be supported by copies of delivery tickets.

(C) When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated; provided, that—

(*1*) A consolidated payment will be made for each specified period; and

(*2*) The period of any discounts will commence on the final date of the billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later.

(D) An invoice for subscriptions or other charges for newspapers, magazines, or other periodicals shall show the starting and ending dates and shall state either that ordered subscriptions have been placed in effect or will be placed in effect upon receipt of payment.

(2) If the fast payment procedure is used, the requirements stated in 13.303 shall be included.

13.203 and 13.203–1 [Removed]

13.203–2 [Redesignated as 13.203]

40. Sections 13.203 and 13.203–1 are removed, and section 13.203–2 is redesignated as 13.203 and amended in paragraph (b) by revising the citation ''22.305(a)(1)'' to read ''22.305(a)''.

41. Section 13.204 is amended by revising paragraph (b) and the second sentence of paragraph (c); and in paragraphs (e) introductory text, (e)(1), and (e)(4) by removing the words ''under BPAs''. The revised text reads as follows:

13.204 Purchases under Blanket Purchase Agreements.

* * * * *

(b)Unless otherwise specified in agency regulations, individual purchases under BPAs, except those BPAs established in accordance with 13.202(c)(3), shall not exceed $100,000.

(c) * * * The requirements of 13.105, 13.106–2, and subpart 19.5 also apply to each order.

* * * * *

42. Section 13.302 is amended by revising paragraph (a); and in paragraph (b) by removing the second sentence to read as follows:

13.302 Conditions for use.

* * * * *

(a) Individual purchasing instruments do not exceed $25,000, except that executive agencies may permit higher dollar limitations for specified activities or items on a case-by-case basis.

* * * * *

13.303 [Amended]

43. Section 13.303 is amended by removing paragraphs (a) and (b)(4); by removing the designation of paragraph (b), and redesignating paragraphs (b)(1), (b)(2), and (b)(3) as paragraphs (a), (b), and (c).

44. Subpart 13.4, consisting of sections 13.401, 13.402, 13.403, and 13.404, is revised to read as follows:

Subpart 13.4—Imprest Fund

13.401 General.

This subpart prescribes policies and procedures for using imprest funds and third party drafts to acquire and pay for supplies or services. Related policies and regulations concerning the establishment of and accounting for imprest funds and third party drafts, including the responsibilities of designated cashiers and alternates, are contained in Part IV of the Treasury Financial Manual for Guidance of Departments and Agencies, Title 7 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, and the agency implementing regulations. Agencies shall also be guided by the Manual of Procedures and Instructions for Cashiers, issued by the Financial Management Service, Department of the Treasury.

13.402 Agency responsibilities.

Each agency using imprest funds and third party drafts shall—

(a) Periodically review and determine whether there is a continuing need for each fund or third party draft account established, and that amounts of those funds or accounts are not in excess of actual needs;

(b) Take prompt action to have imprest funds or third party draft accounts adjusted to a level commensurate with demonstrated needs whenever circumstances warrant such action; and

(c) Develop and issue appropriate implementing regulations. These regulations shall include (but are not limited to) procedures covering—

(1) Designation of personnel authorized to make purchases using imprest funds or third party drafts; and

(2) Documentation of purchases using imprest funds or third party drafts, including documentation of—

(i) Receipt and acceptance of supplies and services by the Government;

(ii) Receipt of cash or third party draft payments by the suppliers; and

(iii) Cash advances and reimbursements.

13.403 Conditions for use.

Imprest funds or third party drafts may be used for purchases when—

(a) The imprest fund transaction does not exceed $500 or such other limits as have been approved by the agency head;

(b) The third party draft transaction does not exceed $2,500, unless authorized at a higher level in accordance with Treasury restrictions;

(c) The use of imprest funds or third party drafts is considered to be advantageous to the Government; and

(d) The use of imprest funds or third party drafts for the transaction otherwise complies with any additional conditions established by agencies and with the policies and regulations referenced in 13.401.

13.404 Procedures.

(a) Each purchase using imprest funds or third party drafts shall be based upon an authorized purchase requisition, contracting officer verification statement, or other agency approved method of ensuring adequate funds are available for the purchase.

(b) Normally, purchases should be placed orally and without soliciting competition if prices are considered reasonable.

(c) Purchases shall be distributed equitably among qualified suppliers.

(d) Prompt payment discounts shall be solicited.

(e) Any agency-authorized purchase order form or Standard Form 1165, Receipt for Cash-Subvoucher, may be used if a written order is considered necessary (*e.g.*, if required by the supplier for discount, tax exemption, or other reasons). If a purchase order is used for this purpose, it shall be endorsed ''Payment to be made from Imprest Fund'' (or ''payment to be made from third-party draft,'' as appropriate).

(f) The individual authorized to make purchases using imprest funds or third party drafts shall—

(1) Furnish to the imprest fund or third party draft cashier a copy of the document required under 13.404(a) annotated to reflect—

(i) That an imprest fund or third party draft purchase has been made;

(ii) The unit prices and extensions;

(iii) The supplier's name and address; and

(iv) The date of anticipated delivery.

(2) Require the supplier to include with delivery of the supplies an invoice, packing slip, or other sales instrument giving—

(i) The supplier's name and address;

(ii) List and quantity of items;

(iii) Unit prices and extensions; and

(iv) Cash discount, if any.

45. Section 13.501 is amended by revising paragraphs (a), (c), (d), and (g) to read as follows:

13.501 General.

(a) Except as provided under the unpriced purchase order method (see 13.502), purchase orders generally are issued on a fixed-price basis. See part 12 for acquisition of commercial items.

* * * * *

(c) Purchase orders shall specify the quantity of supplies or scope of services ordered.

(d) Inspections under simplified acquisition procedures shall be as prescribed in part 46. Orders generally will provide that inspection and acceptance will be at destination, and source inspection should be specified only if required by part 46. If inspection and acceptance are to be performed at destination, advance copies of the purchase order, or equivalent notice, shall be furnished to consignee(s) for material receipt purposes. Receiving reports shall be accomplished immediately upon receipt and acceptance of material.

* * * * *

(g) The contracting officer's signature (see 2.101) on purchase orders shall be in accordance with 4.101. Facsimile and electronic signature may be used in the production of purchase orders by automated methods.

* * * * *

13.502 [Amended]

46. Section 13.502 is amended by removing paragraph (b)(1) and redesignating paragraphs (b)(2) and (b)(3) as (b)(1) and (b)(2), respectively; in paragraph (c) by removing the parenthetical at the end of the first sentence; and at the end of the last sentence of paragraph (c) by removing the parenthetical ''(see 13.106–2(a))'' and inserting ''(see 13.106–2(d)).''

47. Section 13.503 is amended by revising paragraph (a) to read as follows:

13.503 Obtaining contractor acceptance and modifying purchase orders.

(a) When it is desired to consummate a binding contract between the parties before the contractor undertakes performance, the contracting officer shall require written (see 2.101) acceptance of the purchase order by the contractor.

* * * * *

48. Section 13.505 is revised to read as follows:

13.505 Purchase order and related forms.

(a) The following are multipurpose forms used for negotiated purchases of supplies or services, delivery or task orders, inspection and receiving reports, and invoices:

(1) SF 1449 shall be used for commercial items.

(2) For other than commercial items, SF 1449, OF 347, or an agency form/automated format may be used. Agencies may print on the latter forms the clauses considered to be generally suitable for purchases.

(3) OF 348 or an agency form/automated format may be used when additional space is needed.

(b) SF 44 is a pocket-size purchase order form designed primarily for on-the-spot, over-the-counter purchases of supplies and nonpersonal services while away from the purchasing office or at isolated activities. It is a multipurpose form that can be used as a purchase order, receiving report, invoice, and public voucher.

(1) SF 44 may be used if all of the following conditions are satisfied:

(i) The amount of the purchase is at or below the micro-purchase threshold, except for purchases made under unusual and compelling urgency or in support of contingency operations. Agencies may establish higher dollar limitations for specific activities or items.

(ii) The supplies or services are immediately available.

(iii) One delivery and one payment will be made.

(iv) Its use is determined to be more economical and efficient than use of other simplified acquisition methods.

(2) General procedural instructions governing the use of SF 44 are printed on the form and on the inside front cover of each book of forms.

(3) Since there is, for all practical purposes, simultaneous placing of purchase orders on SF 44 and delivery of the items ordered, clauses are not required for purchases using this form.

(4) Agencies shall provide adequate safeguards regarding the control of forms and accounting for purchases.

13.505–1 through 13.505–3, and 13.506 [Removed]

49. Sections 13.505–1, 13.505–2, 13.505–3, and 13.506 are removed.

13.507 [Redesignated as 13.506]

50. Section 13.507 is redesignated as 13.506.

Subpart 13.6—[Removed]

51. Subpart 13.6, Micro-Purchase, consisting of 13.601, 13.602, and 13.603, is removed.

PART 15—CONTRACTING BY NEGOTIATION

15.401 [Amended]

52. Section 15.401 is amended in paragraph (a) by deleting the parenthetical ''(see Part 13)''.

15.602 [Amended]

53. Section 15.602 is amended in paragraph (b) by removing the parenthetical ''(see Part 13)''.

PART 16—TYPES OF CONTRACTS

54. Section 16.000 is amended by revising the first sentence to read as follows:

16.000 Scope of part.

This part describes types of contracts that may be used in acquisitions. * * *

55. Section 16.103 is amended by revising paragraph (d)(1) to read as follows:

16.103 Negotiating contract type.

* * * * *

(d) * * * (1) fixed-price acquisitions made under simplified acquisition procedures, * * *

16.105 [Amended]

56. Section 16.105 is amended in paragraph (a) by removing the parenthetical ''(see Part 13)''.

16.703 [Amended]

57. Section 16.703 is amended at the end of paragraph (c)(1)(vi) by removing ''(b)'' from the reference ''13.303(b)''.

PART 19—SMALL BUSINESS PROGRAMS

19.303 [Amended]

58. Section 19.303 is amended in paragraph (a) by removing ''in 13.101''.

19.501 [Amended]

59. Section 19.501 is amended in paragraph (d) by removing ''in 13.101''.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT AGENCIES

22.1003–4 [Amended]

60. Section 22.1003–4 is amended in paragraph (b)(4)(iii)(B) by removing ''22.1005 and'' in the first parenthetical.

22.1005 [Removed]

61. Section 22.1005 is removed and reserved.

22.1022 [Amended]

62. Section 22.1022 is amended in the first sentence by removing the words ''52.222–40, Service Contract Act of 1965, as amended—Contracts of $2,500 or Less, or the clause at''.

PART 23—ENVIRONMENT CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

63. Section 23.405 is amended to revise paragraph (b)(1), and to amend paragraphs (b)(2) and (b)(3) by adding ''exceeding the simplified acquisition threshold'' following the word ''solicitations''. The revised text reads as follows:

23.405 Solicitation provisions and contract clause.

* * * * *

(b)(1) The contracting officer shall insert the provision at 52.223–8, Estimate of Percentage of Recovered Material for Designated Items to be Used in the Performance of the Contract, in solicitations exceeding the simplified acquisition threshold that contain a requirement for an EPA designated item.

* * * * *

PART 25—FOREIGN ACQUISITION

64. Section 25.302 is amended by revising paragraph (b)(1) to read as follows:

§ 25.302 Policy.

* * * * *

(b) * * *

(1) The estimated cost of the product or service is at or below the simplified acquisition threshold.

* * * * *

PART 29–TAXES

§ 29.402–1 [Amended]

65. Section 29.402–1 is amended in paragraphs (a) and (b) by removing the phrase ''dollar amount in 13.000'' and inserting in their place ''simplified acquisition threshold''.

PART 32—CONTRACT FINANCING

§ 32.901 [Amended]

66. Section 32.901 is amended by removing from the first parenthetical ''as defined in Subpart 13.1''.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEERING CONTRACTS

§ 36.701 [Amended]

67. Section 36.701 is amended in paragraph (c) by removing the phrase ''small purchases documents (see Part 13, Small Purchases and Other Simplified Purchase Procedures)'' and inserting in its place ''simplified acquisitions (see part 13)''.

PART 47—TRANSPORTATION

§ 47.205 [Amended]

68. Section 47.205 is amended in paragraph (b) by removing the words ''at 13.101''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

§ 52.203–6 [Amended]

69. Section 52.203–6 is amended by revising the clause date to read ''[JUL 1995]''.

§ 52.213–2 [Amended]

70. Section 52.213–2 is amended in the introductory text by revising the citation ''13.507(b)'' to read ''13.506(b)''.

§ 52.213–3 [Amended]

71. Section 52.213–3 is amended in the introductory text by revising the citation ''13.507(c)'' to read ''13.506(c)''.

§ 52.215–2 [Amended]

72. Section 52.215–2 is amended in the clause heading by removing ''(OCT 1995)'' and inserting (AUG 1996); and in the introductory text of paragraph (g) by removing the words ''in FAR Part 13.''

§ 52.222–40 [Removed]

73. Section 52.222–40 is removed and reserved.

§ 52.227–2 [Amended]

74. Section 52.227–2 is amended by revising the date of the clause to read ''(AUG 1996)''; and in paragraph (c) by removing the phrase ''dollar amount set forth in 13.000 of the Federal Acquisition Regulation (FAR).'' and inserting in its place ''simplified acquisition threshold at FAR 2.101.''

§ 52.244–2 [Amended]

75. Section 52.244–2 is amended in Alternate I of the clause by removing (JUL 1995)'' and inserting ''(AUG 1996)''; and in paragraph (a)(2) of Alternate I by removing the words ''in Part 13 of the Federal Acquisition Regulation.''

§ 52.247–64 [Amended]

76. Section 52.247–64 is amended in the clause heading by removing ''(JUL 1995)'' and inserting ''(AUG 1996)''; in paragraph (d) by removing the words ''as described in FAR Part 13''; and in paragraph (e)(1) by removing the words ''as defined in FAR Part 13.''

PART 53—FORMS

77. Section 53.205—1 is revised to read as follows:

§ 53.205–1 Paid advertisements.

SF 1449, prescribed in 53.212, shall be used to place orders for paid advertisements as specified in 5.503.

78. Section 53.213 is revised to read as follows:

§ 53.213 Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, OF's 336, 347, 348).

The following forms are prescribed as stated in this section for use in simplified acquisition procedures, orders under existing contracts or agreements, and orders from required sources of supplies and services:

(a) *SF 18 (REV. 6/95), Request for Quotations,* or *SF 1449, (10/95 Ed.) Solicitation/Contract/Order for Commercial Items.* SF 18 prescribed in 53.215–1(a) or SF 1449 prescribed in 53.212 (or approved agency forms/

automated formats) shall be used in obtaining price, cost, delivery, and related information from suppliers as specified in 13.107.

(b) *SF 30 (REV. 10/83), Amendment of Solicitation/Modification of Contract.* SF 30, prescribed in 53.243, may be used for modifying purchase orders, as specified in 13.503(b).

(c) *SF 44 (REV. 10/83), Purchase Order Invoice Voucher.* SF 44 is prescribed for use in simplified acquisition procedures, as specified in 13.505(b).

(d) *SF 1165 (6/83 Ed.), Receipt for Cash-Subvoucher.* SF 1165 (GAO) may be used for imprest fund purchases, as specified in 13.404(e).

(e) *OF 336 (4/86 Ed.), Continuation Sheet.* OF 336, prescribed in 53.214(h), may be used as a continuation sheet in solicitations, as specified in 13.107(c).

(f) *SF 1449, (10/95 Ed.) Solicitation/Contract/Order for Commercial Items* prescribed in 53.212, *OF 347 (REV. 6/95), Order for Supplies or Services,* and *OF 348 (10/83 Ed.), Order for Supplies or Services-Schedule Continuation.* SF 1449, OF's 347 and 348 (or approved agency forms/automated formats) may be used as follows:

(1) To accomplish acquisitions under simplified acquisition procedures, as specified in 13.505.

(2) To establish blanket purchase agreements (BPA's), as specified in 13.202, and to make purchases under BPA's, as specified in 13.204(e).

(3) To issue orders under basic ordering agreements, as specified in 16.703(d)(2)(i).

(4) As otherwise specified in this chapter (*e.g.,* see 5.503(a)(2), 8.405–2, 36.701(c), and 51.102(e)(3)(ii)).

§ 53.216–1, 53.236–1, and 53.251 [Amended]

79. The following sections are amended by removing the reference ''53.213(e)'' and inserting ''53.213(f)'':

a. 53.216–1;

b. 53.236–1(f); and

c. 53.251.

[FR Doc. 96–18499 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3 and 52

[FAC 90–40; FAR Case 96–300; Item III]

RIN 9000–AH11

Federal Acquisition Regulation; Gratuities

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Section 801 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106), which amended 10 U.S.C. 2207, generally referred to as the Gratuities Act, to make it applicable only to contracts exceeding the simplified acquisition threshold. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* July 26, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 24, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 18th & F Streets, NW., Room 4037, Washington, DC 20405.

Please cite FAC 90–40, FAR case 96–300, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 96–300.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106), added a subsection (b) to 10 U.S.C. 2207, Expenditure of appropriations: limitation. Prior to its amendment, 10 U.S.C. 2207 prohibited the spending of DoD appropriated money (other than under a contract for personal services) unless the Government had an express right to terminate the contract if the contractor offered or gave a gratuity to a Government employee to obtain the contract or to receive favorable treatment under the contract. Subsection (b) of 10 U.S.C. 2207 exempts contracts which do not exceed the simplified acquisition threshold from this prohibition.

FAR Subpart 3.2, Contractor Gratuities to Government Personnel, implements 10 U.S.C. 2207 and applies to all executive agencies except for that portion concerning exemplary damages, which applies only to DOD. FAR Subpart 3.2 prescribed the use of FAR clause 52.203–3, Gratuities, in solicitations and contracts, except those for personal services and those between military departments or defense agencies and foreign governments that do not obligate DOD appropriated funds. This interim rule amends FAR Subpart 3.2 to exempt solicitations and contracts which do not exceed the simplified acquisition threshold from the prescribed use of the clause.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because only a small number of Federal contractors have been subject to action under the Gratuities clause. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601 *et seq.* (FAC 90–40, FAR case 96–300), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement Section 801 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106), which was effective upon enactment (February 10, 1996). However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 3 and 52

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 3 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 3 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Section 3.202 is revised to read as follows:

3.202 Contract clause.

The contracting officer shall insert the clause at 52.203–3, Gratuities, in solicitations and contracts with a value exceeding the simplified acquisition threshold, except those for personal services and those between military departments or defense agencies and foreign governments that do not obligate any funds appropriated to the Department of Defense.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.203–3 is amended by revising the introductory text to read as follows:

52.203–3 Gratuities.

As prescribed in 3.202, insert the following clause:

* * * * *

[FR Doc. 96–18500 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 6 and 26

[FAC 90–40; FAR Case 93–303; Item IV]

RIN 9000–AG77

Federal Acquisition Regulation; Disaster Relief Act

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to provide a preference for local sources in the award of contracts for major disaster or emergency assistance activities. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: Septmber 24, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 93–303.

SUPPLEMENTARY INFORMATION:

A. Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, *et seq.*) establishes a preference for local sources in the award of Federal contracts for major disaster or emergency assistance activities. This final rule amends FAR 6.302–5, and adds FAR Subpart 26.2 to implement the requirements of Section 5150.

A proposed rule was published in the Federal Register at 60 FR 63876, December 12, 1995. No comments were received in response to the proposed rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule only applies to acquisitions conducted during the term of a Presidential declaration of major disaster or emergency.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 6 and 26

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 6 and 26 are amended as set forth below:

1. The authority citation for 48 CFR Parts 6 and 26 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 6—COMPETITION REQUIREMENTS

2. Section 6.302–5 is amended by removing ''or'' from the end of paragraph (b)(3); removing the period from the end of paragraph (b)(4) and inserting ''; or''; and adding paragraph (b)(5) to read as follows:

6.302–5 Authorized or required by statute.

* * * * *

(b) * * *

(5) The Robert T. Stafford Disaster Relief and Emergency Assistance Act—42 U.S.C. 5150 (see subpart 26.2).

* * * * *

PART 26—OTHER SOCIOECONOMIC PROGRAMS

3. Subpart 26.2 is added to read as follows:

Subpart 26.2—Disaster or Emergency Assistance Activities

Sec.

26.200 Scope of subpart.
26.201 Policy.

26.200 Scope of subpart.

This subpart implements 42 U.S.C. 5150, which provides a preference for local organizations, firms, and individuals when contracting for major disaster or emergency assistance activities (see 6.302–5).

26.201 Policy.

(a) When contracting under this subpart for major disaster or emergency assistance activities, such as debris clearance, distribution of supplies, or reconstruction, preference shall be given, to the extent feasible and practicable, to those organizations, firms, or individuals residing or doing business primarily in the area affected by such major disaster or emergency.

(b) The authority to provide preference under this subpart applies only to those acquisitions, including those which do not exceed the simplified acquisition threshold, conducted during the term of a major disaster or emergency declaration made by the President of the United States under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

[FR Doc. 96–18501 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 9

[FAC 90–40; FAR Case 95–007; Item V]

RIN 9000–AG66

Federal Acquisition Regulation; Responsibility Determinations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to emphasize the use of commercial sources of information in determining the responsibility of prospective contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 95–007.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements a recommendation of the Department of Defense Procurement Process Reform Process Action Team. The rule amends FAR Subpart 9.1, Responsible Prospective Contractors, to state that contracting officers should use commercial sources of supplier information in making determinations of responsibility, and to clarify that preaward surveys should be requested only if sufficient relevant information is unavailable from other sources.

A proposed rule was published in the Federal Register at 60 FR 55960, November 3, 1995, and amended at 60 FR 62806, December 7, 1995. Three comments were received and were considered in the development of the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely emphasizes the use of commercial sources of information in determining the responsibility of prospective contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 9

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 9 is amended as set forth below:

PART 9—CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR Part 9 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 9.105–1 is amended in the introductory text of paragraph (c) by removing from the parenthetical ''48 CFR Part 42''; by redesignating paragraphs (c)(4) through (c)(6) as (c)(5) through (c)(7), and adding a new paragraph (c)(4) to read as follows:

9.105–1 Obtaining information.

* * * * *

(c) * * *

(4) Commercial sources of supplier information of a type offered to buyers in the private sector.

* * * * *

3. Section 9.106–1 is amended by revising paragraph (a) to read as follows:

9.106–1 Conditions for preaward surveys.

(a) A preaward survey is normally required only when the information on hand or readily available to the contracting officer, including information from commercial sources, is not sufficient to make a determination regarding responsibility. In addition, if the contemplated contract will have a fixed price at or below the simplified acquisition threshold or will involve the acquisition of commercial items (see part 12), the contracting officer should not request a preaward survey unless circumstances justify its cost.

* * * * *

[FR Doc. 96–18502 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 16

[FAC 90–40; FAR Case 94–711; Item VI]

RIN 9000–AG50

Federal Acquisition Regulation; Task and Delivery Orders

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final with changes.

SUMMARY: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (the Act). The Federal Acquisition Regulatory Council is amending the Federal Acquisition Regulation (FAR) regarding the scope of a multiple award preference for

indefinite-quantity contracts. This final rule provides that the multiple award preference established by the FAR does not apply to architect-engineer contracts subject to the procedures of the FAR. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, but is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McAndrew at (202) 501–1474 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 94–711.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule amending FAR Subpart 16.5 was published in the Federal Register at 60 FR 14346, March 16, 1995. The proposed rule reflected changes brought about by sections 1004 and 1054 of the Act. Sections 1004 and 1054 of the Act created a multiple award preference for indefinite-quantity contracts. The proposed rule published in the Federal Register excluded contracts subject to FAR Parts 36, 38, 39, and 41 from the multiple award preference. With respect to Parts 36 and 39, the exclusions were based upon the ''Provisions Not Affected'' subsection in sections 1004 and 1054 of the Act. The Special Contracting Team intended to give these provisions meaning by exempting acquisitions under the Brooks Architect-Engineers Act and the Brooks Automatic Data Processing Equipment Act from the multiple award preference. Contracts subject to Part 38 were exempted from the coverage because the Act specifically exempted GSA's Federal Supply Schedule program. Contracts subject to Part 41 were exempted because the Team believed that multiple awards were inconsistent with the monopolistic nature of some utility services.

A final rule implementing sections 1004 and 1054 of the Act was published in the Federal Register at 60 FR 49723, September 26, 1995. However, an interim rule was published along with the final rule which modified the scope of the multiple award preference. The interim rule added a new FAR section 16.500 to provide that the multiple award preference established by Subpart 16.5 could be used to acquire: (1) Architect-engineer services, provided the selection of contractors and placement of orders is consistent with Subpart 36.6; and (2) Federal Information Processing resource requirements that are not satisfied under the Federal Supply Schedule program, provided the selection of contractors and placement of orders is consistent with Part 39. The interim rule also extended the multiple award preference to Part 36 construction contracts and Part 41 utility services. Although the change was not considered a significant revision within the meaning of FAR 1.501 and Public Law 98–577, the FAR Council made a determination to solicit public comments before finalizing this amendment to FAR Subpart 16.5.

As a result of public comments on the interim rule, the FAR Council has revised the scope of the rule to clarify that the multiple award preference established by FAR Subpart 16.5 does not apply to architect-engineer contracts subject to the procedures of FAR Subpart 36.6. However, this revision to the rule does not prohibit agencies from making multiple awards for architect-engineer services, provided the selection of contractors and placement of orders is consistent with Subpart 36.6. This final rule also provides that the procedures contained in Subpart 16.5 may be used to acquire Federal Information Processing resource requirements that are not satisfied under the Federal Supply Schedule program, provided the selection of contractors and placement of orders is consistent with Part 39. The final rule retains the multiple award preference with respect to construction contracts subject to Part 36 and utility services subject to Part 41. However, the final rule recognizes that there may be circumstances when multiple awards would not be appropriate and, thus, provides contracting officers the discretion to determine whether multiple awards should be made.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, applies to this final rule and a Final Regulatory Flexibility Analysis (FRFA) has been performed. A copy of the FRFA may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

D. Public Comments

On September 26, 1995, an interim rule was published in the Federal Register at 60 FR 49723. In response to the interim rule, 22 comments were received. The comments of all respondents were considered in developing the final rule.

A significant number of comments recommended that certain types of fixed-price construction contracts, commonly known as ''Job Order Contracts'' and ''Simplified Acquisition of Base Engineer Requirements'' (SABER) contracts should be excluded from the scope of the multiple award preference. These types of contracts typically include Government-established unit prices for specific line items needed to complete the requirements of the delivery order. Award determinations are made by selecting the mix of line items to be used for a project and multiplying the mix of line items by the coefficient bid by the offeror. Several comments argued that the application of the multiple award preference to Job Order and SABER contracts could result in higher overall prices to the Government. These comments argued that if multiple Job Order or SABER contracts are made, offerors may be inclined to raise their bidding coefficient to take into consideration the fact that potential delivery order awards may be spread out among several firms rather than one firm receiving all the delivery orders. The comments further argue that multiple awards may cause a duplication of contract overhead costs (site managers, offices, equipment, etc.) and that any economies resulting from a single award would be lost, thus resulting in higher costs to the Government.

It is recognized that there may be circumstances when multiple awards under a Job Order or SABER contract may not be appropriate. In such cases, the rule recognizes that multiple awards should not be made. For example, the rule provides that multiple awards should not be made when the contracting officer determines, based on the contracting officer's knowledge of the market, that more favorable terms and conditions, including pricing, may be provided if a single award is made.

The rule has also been revised to clarify that agencies may make class determinations in accordance with FAR Subpart 1.7 to make single awards for any class of contracts (including Job Order or SABER contracts). However, such a class determination would not preclude the contracting officer from making a determination to solicit for

multiple awards if the contracting officer determines that multiple awards may be advantageous to the Government for a particular solicitation.

A significant number of comments were also received regarding the application of the multiple award preference to architect-engineer services subject to FAR Subpart 36.6. The Team believes that it is good public policy to use the multiple award preference to promote price competition in Government contracting. However, the Brooks Architect-Engineers Act precludes price competition by establishing qualification-based source selection procedures. Because price competition is not applicable to architect-engineer services, the rule has been revised to clarify that the multiple award preference does not apply to architect-engineer services subject to FAR Subpart 36.6.

Although the rule does not extend the multiple award preference to architect-engineer services subject to FAR Subpart 36.6, it is important to note that the rule does not prohibit an agency from making multiple awards (if an agency chooses to do so) provided the selection of contractors and placement of orders is consistent with FAR Subpart 36.6. Some Federal agencies have awarded multiple award contracts for architect-engineer services that are consistent with the Brooks Architect-Engineers Act qualification-based source selection procedures. For example, one agency utilized Brooks Architect-Engineers Act procedures to award multiple contracts for architect-engineer services to six firms from a single solicitation. As described in the solicitation, each task order is technically competed among the multiple awardees. Each firm's response to the task order is technically ranked based on the evaluation factors for that task. The most technically qualified firm is determined as a result of the responses received and a cost proposal is required from that firm. Negotiations take place and, in most cases, the task order is awarded.

List of Subjects in 48 CFR Part 16

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR Part 16 and published at 60 FR 49723, September 26, 1995, is adopted as a final rule with the following changes:

1. The authority citation for 48 CFR Part 16 continues to read as follows:

PART 16—TYPES OF CONTRACTS

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 16.500 is revised to read as follows:

16.500 Scope of subpart.

This subpart prescribes policies and procedures for making awards of indefinite-delivery contracts and establishes a preference scheme for making multiple awards of indefinite-quantity contracts. This subpart does not limit the use of other than competitive procedures authorized by part 6. Nothing in this subpart shall be construed to limit, impair, or restrict the authority of the General Services Administration (GSA) to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law. Therefore, GSA regulations and subpart 8.4, part 38, or part 39 for the Federal Supply Schedule program (including contracts for Federal Information Processing resources) take precedence over this subpart. This subpart may be used to acquire Federal Information Processing resource requirements that are not satisfied under the Federal Supply Schedule program, provided the selection of contractors and placement of orders is consistent with part 39. The multiple award preference scheme established by this subpart does not apply to architect-engineer contracts subject to the procedures in subpart 36.6. However, agencies are not precluded from making multiple awards for architect-engineer services using the procedures in this subpart, provided the selection of contractors and placement of orders is consistent with subpart 36.6.

3. Section 16.504 is amended in paragraph (c)(1) by revising the third and fourth sentences; and by revising paragraphs (c)(1)(iv) and (vi) to read as follows:

16.504 Indefinite-quantity contracts.

(c) * * *

(1) * * * No separate written determination to make a single award is necessary when the determination is contained in a written acquisition plan or when a class determination has been made in accordance with subpart 1.7. Multiple awards should not be made if the contracting officer determines that—

* * * * *

(iv) The tasks likely to be ordered are so integrally related that only a single contractor can reasonably perform the work;

* * * * *

(vi) Multiple awards would not be in the best interests of the Government.

* * * * *

4. Section 16.505 is amended by removing the second sentence of paragraph (b) and inserting the following three sentences in its place to read as follows:

16.505 Ordering.

* * * * *

(b) * * * In determining the procedures for providing awardees a fair opportunity to be considered for each order, contracting officers shall exercise broad discretion. The contracting officer, in making decisions in the award of any individual task order, should consider factors such as past performance on earlier tasks under the multiple award contract, quality of deliverables, cost control, price, cost, or other factors that the contracting officer believes are relevant to the award of a task order to an awardee under the contract. In evaluating past performance on individual orders, the procedural requirements in subpart 42.15 are not mandatory. * * *

* * * * *

[FR Doc. 96–18503 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 17, 22, and 52

[FAC 90–40; FAR Case 94–712; Item VII]

RIN 9000–AG72

Federal Acquisition Regulation; Multiyear Contracting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (the Act). The Federal Acquisition Regulatory Council has agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement sections 1022 and 1072 of the Act regarding Multiyear Contracting. This regulatory action was subject to Office of

Management and Budget (OMB) review under Executive Order 12866, dated September 30, 1993, but is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McAndrew at (202) 501–1474 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, 18th & F Streets, N.W., Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 94–712.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule covering implementation of sections 1022 and 1072 of Public Law 103–355 regarding Multiyear Contracting was published as part of FAR case 94–710, Special Contracting Methods, in the Federal Register at 60 FR 14340, March 16, 1995. The rule permitted agencies to enter into multiyear contracts under certain circumstances. After disposition of public comments, coverage on multiyear contracting was extracted from the 94–710 final rule because several issues remained unresolved at the time of publication (60 FR 49720, September 26, 1995). All remaining issues have now been resolved and this separate final rule represents completion of the Special Contracting Methods implementation.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*., applies to this final rule and a Final Regulatory Flexibility Analysis (FRFA) has been performed. A copy of the FRFA may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq*.

D. Public Comments

The proposed rule was published in the Federal Register on March 16, 1995. Eight comments were received, the most significant of which raised the issue of ''bundling'' of requirements and its effect on small businesses. All comments were considered in the formulation of this final rule.

List of Subjects in 48 CFR Parts 17, 22 and 52

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

Therefore, 48 CFR Parts 17, 22, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 17, 22, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 17—SPECIAL CONTRACTING METHODS

2. Subpart 17.1 is revised to read as follows:

Subpart 17.1—Multiyear Contracting

Sec.

17.101 Authority.
17.102 Applicability.
17.103 Definitions.
17.104 General.
17.105 Policy.
17.105–1 Uses.
17.105–2 Objectives.
17.106 Procedures.
17.106–1 General.
17.106–2 Solicitations.
17.106–3 Special procedures applicable to DoD, NASA, and the Coast Guard.
17.107 Options.
17.108 Congressional notification.
17.109 Contract clauses.

17.101 Authority.

This subpart implements Section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c) and 10 U.S.C. 2306b and provides policy and procedures for the use of multiyear contracting.

17.102 Applicability.

For DoD, NASA, and the Coast Guard, the authorities cited in 17.101 do not apply to contracts for the purchase of supplies to which 40 U.S.C. 759 applies (information resource management supply contracts).

17.103 Definitions.

As used in this subpart—

Cancellation means the cancellation (within a contractually specified time) of the total requirements of all remaining program years. Cancellation results when the contracting officer

(a) Notifies the contractor of nonavailability of funds for contract performance for any subsequent program year, or

(b) Fails to notify the contractor that funds are available for performance of the succeeding program year requirement.

Cancellation ceiling means the maximum cancellation charge that the contractor can receive in the event of cancellation.

Cancellation charge means the amount of unrecovered costs which would have been recouped through amortization over the full term of the contract, including the term canceled.

Multiyear contract means a contract for the purchase of supplies or services for more than 1, but not more than 5, program years. A multiyear contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds, and (if it does so provide) may provide for a cancellation payment to be made to the contractor if appropriations are not made. The key distinguishing difference between multiyear contracts and multiple year contracts is that multiyear contracts, defined in the statutes cited at 17.101, buy more than 1 year's requirement (of a product or service) without establishing and having to exercise an option for each program year after the first.

Nonrecurring costs means those costs which are generally incurred on a one-time basis and include such costs as plant or equipment relocation, plant rearrangement, special tooling and special test equipment, preproduction engineering, initial spoilage and rework, and specialized work force training.

Recurring costs means costs that vary with the quantity being produced, such as labor and materials.

Termination for convenience means the procedure which may apply to any Government contract, including multiyear contracts. As contrasted with cancellation, termination can be effected at any time during the life of the contract (cancellation is effected between fiscal years) and can be for the total quantity or a partial quantity (whereas cancellation must be for all subsequent fiscal years' quantities).

17.104 General.

(a) Multiyear contracting is a special contracting method to acquire known requirements in quantities and total cost not over planned requirements for up to 5 years unless otherwise authorized by statute, even though the total funds ultimately to be obligated may not be available at the time of contract award. This method may be used in sealed bidding or contracting by negotiation.

(b) Multiyear contracting is a flexible contracting method applicable to a wide range of acquisitions. The extent to which cancellation terms are used in multiyear contracts will depend on the unique circumstances of each contracting action. Accordingly, for multiyear contracts, the agency head may authorize modification of the requirements of this subpart and the

clause at 52.217–2, Cancellation Under Multiyear Contracts.

(c) Agency funding of multiyear contracts shall conform to the policies in OMB Circulars A–11 (Preparation and Submission of Budget Estimates) and A–34 (Instructions on Budget Execution) and other applicable guidance regarding the funding of multiyear contracts. As provided by that guidance, the funds obligated for multiyear contracts must be sufficient to cover any potential cancellation and/or termination costs; and multiyear contracts for the acquisition of fixed assets should be fully funded or funded in stages that are economically or programmatically viable.

17.105 Policy.

17.105–1 Uses.

(a) Except for DoD, NASA, and the Coast Guard, the contracting officer may enter into a multiyear contract if the head of the contracting activity determines that—

(1) The need for the supplies or services is reasonably firm and continuing over the period of the contract; and

(2) A multiyear contract will serve the best interests of the United States by encouraging full and open competition or promoting economy in administration, performance, and operation of the agency's programs.

(b) For DoD, NASA, and the Coast Guard, the head of the agency may enter into a multiyear contract for supplies if—

(1) The use of such a contract will result in substantial savings of the total estimated costs of carrying out the program through annual contracts;

(2) The minimum need to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

(3) There is a stable design for the supplies to be acquired, and the technical risks associated with such supplies are not excessive;

(4) There is a reasonable expectation that, throughout the contemplated contract period, the head of the agency will request funding for the contract at a level to avoid contract cancellation; and

(5) The estimates of both the cost of the contract and the cost avoidance through the use of a multiyear contract are realistic.

(c) The multiyear contracting method may be used for the acquisition of supplies or services.

(d) If funds are not appropriated to support the succeeding years' requirements, the agency must cancel the contract.

17.105–2 Objectives.

Use of multiyear contracting is encouraged to take advantage of one or more of the following:

(a) Lower costs.

(b) Enhancement of standardization.

(c) Reduction of administrative burden in the placement and administration of contracts.

(d) Substantial continuity of production or performance, thus avoiding annual startup costs, preproduction testing costs, make-ready expenses, and phaseout costs.

(e) Stabilization of contractor work forces.

(f) Avoidance of the need for establishing quality control techniques and procedures for a new contractor each year.

(g) Broadening the competitive base with opportunity for participation by firms not otherwise willing or able to compete for lesser quantities, particularly in cases involving high startup costs.

(h) Providing incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology.

17.106 Procedures.

17.106–1 General.

(a) *Method of contracting.* The nature of the requirement should govern the selection of the method of contracting, since the multiyear procedure is compatible with sealed bidding, including two-step sealed bidding, and negotiation.

(b) *Type of contract.* Given the longer performance period associated with multiyear acquisition, consideration in pricing fixed-priced contracts should be given to the use of economic price adjustment terms and profit objectives commensurate with contractor risk and financing arrangements.

(c) *Cancellation procedures.* (1) All program years except the first are subject to cancellation. For each program year subject to cancellation, the contracting officer shall establish a cancellation ceiling. Ceilings must exclude amounts for requirements included in prior program years. The contracting officer shall reduce the cancellation ceiling for each program year in direct proportion to the remaining requirements subject to cancellation. For example, consider that the total nonrecurring costs (see 15.804–6) are estimated at 10 percent of the total multiyear price, and the percentages for each of the program year requirements for 5 years are (i) 30 in the first year, (ii) 30 in the second, (iii) 20 in the third, (iv) 10 in the fourth, and (v) 10 in the fifth. The cancellation percentages, after deducting 3 percent for the first program year, would be 7, 4, 2, and 1 percent of the total price applicable to the second, third, fourth, and fifth program years, respectively.

(2) In determining cancellation ceilings, the contracting officer must estimate reasonable preproduction or startup, labor learning, and other nonrecurring costs to be incurred by an ''average'' prime contractor or subcontractor, which would be applicable to, and which normally would be amortized over, the items or services to be furnished under the multiyear requirements. Nonrecurring costs include such costs, where applicable, as plant or equipment relocation or rearrangement, special tooling and special test equipment, preproduction engineering, initial rework, initial spoilage, pilot runs, allocable portions of the costs of facilities to be acquired or established for the conduct of the work, costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force, and unrealized labor learning. They shall not include any costs of labor or materials, or other expenses (except as indicated above), which might be incurred for performance of subsequent program year requirements. The total estimate of the above costs must then be compared with the best estimate of the contract cost to arrive at a reasonable percentage or dollar figure. To perform this calculation, the contracting officer should obtain in-house engineering cost estimates identifying the detailed recurring and nonrecurring costs, and the effect of labor learning.

(3) The contracting officer shall establish cancellation dates for each program year's requirements regarding production lead time and the date by which funding for these requirements can reasonably be established. The contracting officer shall include these dates in the schedule, as appropriate.

(d) *Cancellation ceilings.* Cancellation ceilings and dates may be revised after issuing the solicitation if necessary. In sealed bidding, the contracting officer shall change the ceiling by amending the solicitation before bid opening. In two-step sealed bidding, discussions conducted during the first step may indicate the need for revised ceilings and dates which may be incorporated in step two. In a negotiated acquisition, negotiations with offerors may provide information requiring a change in

cancellation ceilings and dates before final negotiation and contract award.

(e) *Payment of cancellation charges.* If cancellation occurs, the Government's liability will be determined by the terms of the applicable contract.

(f) *Presolicitation or pre-bid conferences.* To ensure that all interested sources of supply are thoroughly aware of how multiyear contracting is accomplished, use of presolicitation or pre-bid conferences may be advisable.

(g) *Payment limit.* The contracting officer shall limit the Government's payment obligation to an amount available for contract performance. The contracting officer shall insert the amount for the first program year in the contract upon award and modify it for successive program years upon availability of funds.

(h) *Termination payment.* If the contract is terminated for the convenience of the Government in whole, including requirements subject to cancellation, the Government's obligation shall not exceed the amount specified in the Schedule as available for contract performance, plus the cancellation ceiling.

17.106–2 Solicitations.

Solicitations for multiyear contracts shall reflect all the factors to be considered for evaluation, specifically including the following:

(a) The requirements, by item of supply or service, for the—

(1) First program year; and

(2) Multiyear contract including the requirements for each program year.

(b) Criteria for comparing the lowest evaluated submission on the first program year requirements to the lowest evaluated submission on the multiyear requirements.

(c) A provision that, if the Government determines before award that only the first program year requirements are needed, the Government's evaluation of the price or estimated cost and fee shall consider only the first year.

(d) A provision specifying a separate cancellation ceiling (on a percentage or dollar basis) and dates applicable to each program year subject to a cancellation (see 17.106–1 (c) and (d)).

(e) A statement that award will not be made on less than the first program year requirements.

(f) The Government's administrative costs of annual contracting may be used as a factor in the evaluation only if they can be reasonably established and are stated in the solicitation.

(g) The cancellation ceiling shall not be an evaluation factor.

17.106–3 Special procedures applicable to DoD, NASA, and the Coast Guard.

(a) *Participation by subcontractors, suppliers, and vendors.* In order to broaden the defense industrial base, to the maximum extent practicable—

(1) Multiyear contracting shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, suppliers, and vendors; and

(2) Upon accrual of any payment or other benefit under such a multiyear contract to any subcontractor, supplier, or vendor company participating in such contract, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

(b) *Protection of existing authority.* To the extent practicable, multiyear contracting shall not be carried out in a manner to preclude or curtail the existing ability of the Department or agency to provide for termination of a prime contract, the performance of which is deficient with respect to cost, quality, or schedule.

(c) *Cancellation or termination for insufficient funding.* In the event funds are not made available for the continuation of a multiyear contract awarded using the procedures in this section, the contract shall be canceled or terminated.

(d) Contracts awarded under the multiyear procedure shall be firm-fixed-price, fixed-price with economic price adjustment, or fixed-price incentive.

(e) *Recurring costs in cancellation ceiling.* The inclusion of recurring costs in cancellation ceilings is an exception to normal contract financing arrangements and requires approval by the agency head.

(f) *Annual and multiyear proposals.* Obtaining both annual and multiyear offers provides reduced lead time for making an annual award in the event that the multiyear award is not in the Government's interest. Obtaining both also provides a basis for the computation of savings and other benefits. However, the preparation and evaluation of dual offers may increase administrative costs and workload for both offerors and the Government, especially for large or complex acquisitions. The head of a contracting activity may authorize the use of a solicitation requesting only multiyear prices, *provided* it is found that such a solicitation is in the Government's interest, and that dual proposals are not necessary to meet the objectives in 17.105–2.

(g) *Level unit prices.* Multiyear contract procedures provide for the amortization of certain costs over the entire contract quantity resulting in identical (level) unit prices (except when the economic price adjustment terms apply) for all items or services under the multiyear contract. If level unit pricing is not in the Government's interest, the head of a contracting activity may approve the use of variable unit prices, provided that for competitive proposals there is a valid method of evaluation.

17.107 Options.

Benefits may accrue by including options in a multiyear contract. In that event, contracting officers must follow the requirements of subpart 17.2. Options should not include charges for plant and equipment already amortized, or other nonrecurring charges which were included in the basic contract.

17.108 Congressional notification.

(a) Except for DoD, NASA, and the Coast Guard, a multiyear contract which includes a cancellation ceiling in excess of $10 million may not be awarded until the head of the agency gives written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the committees on appropriations of the House of Representatives and Senate and the appropriate oversight committees of the House and Senate for the agency in question. Information on such committees may not be readily available to contracting officers. Accordingly, agencies should provide such information through its internal regulations. The contract may not be awarded until the thirty-first day after the date of notification.

(b) For DoD, NASA, and the Coast guard, a multiyear contract which includes a cancellation ceiling in excess of $100 million may not be awarded until the head of the agency gives written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the committees on armed services and on appropriations of the House of Representative and Senate. The contract may not be awarded until the thirty-first day after the date of notification.

17.109 Contract clauses.

(a) The contracting officer shall insert the clause at 52.217–2, Cancellation Under Multiyear Contracts, in solicitations and contracts when a multiyear contract is contemplated.

(b) *Economic price adjustment clauses.* Economic price adjustment clauses are adaptable to multiyear contracting needs. When the period of production is likely to warrant a labor

and material costs contingency in the contract price, the contracting officer should normally use an economic price adjustment clause (see 16.203). When contracting for services, the contracting officer—

(1) Shall add the clause at 52.222–43, Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiple Year and Option Contracts), when the contract includes the clause at 52.222–41, Service Contract Act of 1965, as amended;

(2) May modify the clause at 52.222–43 in overseas contracts when laws, regulations, or international agreements require contractors to pay higher wage rates; or

(3) May use an economic price adjustment clause authorized by 16.203, when potential fluctuations require coverage and are not included in cost contingencies provided for by the clause at 52.222–43.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1001 [Amended]

3. Section 22.1001 is amended in the second sentence of the definition of ''Multiple year contracts,'' by removing the phrase ''with a term of more than 1 year (see 17.101)'' and inserting ''(see 17.103)'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.217–1 [Reserved]

4. Section 52.217–1 is removed and reserved.

5. Section 52.217–2 is revised to read as follows:

52.217–2 Cancellation Under Multiyear Contracts.

As prescribed in 17.109(a), insert the following clause:

CANCELLATION UNDER MULTIYEAR CONTRACTS (JUL 1996)

(a) *Cancellation,* as used in this clause, means that the Government is canceling its requirements for all supplies or services in program years subsequent to that in which notice of cancellation is provided. Cancellation shall occur by the date or within the time period specified in the Schedule, unless a later date is agreed to, if the Contracting Officer (1) notifies the Contractor that funds are not available for contract performance for any subsequent program year, or (2) fails to notify the Contractor that funds are available for performance of the succeeding program year requirement.

(b) Except for cancellation under this clause or termination under the Default clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the Termination for Convenience of the Government clause.

(c) If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not over the cancellation ceiling specified in the Schedule as applicable at the time of cancellation.

(d) The cancellation charge will cover only (1) costs (i) incurred by the Contractor and/or subcontractor, (ii) reasonably necessary for performance of the contract, and (iii) that would have been equitably amortized over the entire multiyear contract period but, because of the cancellation, are not so amortized, and (2) a reasonable profit or fee on the costs.

(e) The cancellation charge shall be computed and the claim made for it as if the claim were being made under the Termination for Convenience of the Government clause of this contract. The Contractor shall submit the claim promptly but no later than 1 year from the date (1) of notification of the nonavailability of funds, or (2) specified in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Contracting Officer.

(f) The Contractor's claim may include—

(1) Reasonable nonrecurring costs (see Subpart 15.8 of the Federal Acquisition Regulation) which are applicable to and normally would have been amortized in all supplies or services which are multiyear requirements;

(2) Allocable portions of the costs of facilities acquired or established for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work, and if the costs are not charged to the contract through overhead or otherwise depreciated;

(3) Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and

(4) Costs not amortized solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning.

(g) The claim shall not include—

(1) Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;

(2) Any cost already paid to the Contractor;

(3) Anticipated profit or unearned fee on the canceled work; or

(4) For service contracts, the remaining useful commercial life of facilities. ''Useful commercial life'' means the commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence.

(h) This contract may include an Option clause with the period for exercising the option limited to the date in the contract for notification that funds are available for the next succeeding program year. If so, the Contractor agrees not to include in option quantities any costs of a startup or nonrecurring nature that have been fully set forth in the contract. The Contractor further agrees that the option quantities will reflect only those recurring costs and a reasonable profit or fee necessary to furnish the additional option quantities.

(i) Quantities added to the original contract through the Option clause of this contract shall be included in the quantity canceled for the purpose of computing allowable cancellation charges.

(End of clause)

[FR Doc. 96–18504 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19 and 52

[FAC 90–40; FAR Case 94–782; Item VIII]

RIN 9000–AH08

Federal Acquisition Regulation; Small Business/Simplified Acquisition Threshold

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (the Act). The Federal Acquisition Regulatory Council has agreed to amend the Federal Acquisition Regulation (FAR) to implement section 4004 of the Act. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993,

but is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: July 26, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss at (202) 501–4764 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 94–782.

SUPPLEMENTARY INFORMATION:

A. Background

The Small Business Team drafted FAR coverage to implement sections 4004, 7101(a), 7102 and 7106 of the Act. The proposed rule was published in the Federal Register at 60 FR 2302, January 6, 1995, and was published in the Federal Register at 60 FR 48258, September 18, 1995, as a final rule in FAR case 94–780, FAC 90–32.

In order to facilitate the issuance of the Simplified Acquisition Threshold/ Federal Acquisition Computer Network (SAT/FACNET) rule (FAR Case 94–770), those portions of the Small Business Rule dealing with simplified acquisitions were included in the SAT/ FACNET rule and issued as an interim rule in the Federal Register at 60 FR 34741, July 3, 1995, and finalized under that case. Those portions primarily implemented section 4004 of the Act which reserves each contract for the purchase of goods or services that has an anticipated value greater than $2,500, but not greater than $100,000, for exclusive small business participation, unless the contracting officer determines there is no reasonable expectation of obtaining offers from two or more small businesses that are competitive with market price, quality, and delivery.

One of the most significant issues in this case was the relationship between simplified acquisitions and the Small Business Administration's (SBA's) ''nonmanufacturer rule.'' On January 31, 1996, SBA issued a final rule in the Federal Register at 61 FR 3280 revising its nonmanufacturer rule to provide that, where the procurement of a manufactured item processed under the procedures set forth in FAR Part 13 is set aside for small business, and where the anticipated cost of the procurement will not exceed $25,000, the offeror need not supply the end product of a small business concern as long as the product acquired is manufactured or produced in the United States (13 CFR 121.406(d)). This final rule reflects that change.

B. Regulatory Flexibility Act

The final rule is expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it implements changes to the SBA's regulations pertaining to the nonmanufacturer rule. The Act created a conflict between the FAR and 13 CFR 121.906(d) which authorized a small business dealer to furnish any domestically manufactured end product under a small business/small purchase set-aside. Public Law 103–355 eliminated the procedures entitled ''small business/small purchase'' and created new procedures called ''simplified acquisitions.'' However, SBA had not revised its regulations to recognize ''simplified acquisitions''. In preparing the interim rule, SBA advised the drafting team that the automatic waiver to the nonmanufacturer rule for small purchases did NOT extend to simplified acquisitions. Consequently, the interim rule required a small business submitting an offer on all small business set-asides to furnish the products of small businesses unless the SBA had issued a waiver. Since issuance of the interim rule, SBA has revisited this issue and has issued changes to their nonmanufacturer rule. This final rule reflects the changes issued by SBA. A Final Regulatory Flexibility Analysis (FRFA) was prepared by the Small Business Administration under its rule dated January 31, 1996 (61 FR 3280), and provided to the Chief Counsel for Advocacy for the Small Business Administration.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Public Comments

An interim rule was published in the Federal Register at 60 FR 34741, July 3, 1995, as FAR case 94–770. In response to the notice of proposed rulemaking, 12 responses containing 28 comments relating to the small business coverage were received. The comments of all respondents were considered in developing this final rule. As a result of public comments and changes in SBA regulations, the following significant changes have been made:

The regulation has been revised to provide that, where the procurement of a manufactured item processed under the procedures set forth in FAR Part 13 is set aside for small business, and where the anticipated cost of the procurement will not exceed $25,000, the offeror need not supply the end product of a small business concern as long as the product acquired is manufactured or produced in the United States.

Language in FAR Part 19 concerning acquisitions reserved for small businesses was expanded.

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 19 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19—SMALL BUSINESS PROGRAMS

2. Section 19.102 is amended in the first sentence of paragraph (f)(1) by removing ''(f)(2) through (f)(5)'' and inserting ''(f)(4) through (f)(7)'' in its place; revising (f)(4); and adding (f)(7) to read as follows:

19.102 Size standards.

* * * * *

(f) * * *

(4) In the case of acquisitions set aside for small business or awarded under section 8(a) of the Small Business Act, when the acquisition is for a specific product (or a product in a class of products) for which the SBA has determined that there are no small business manufacturers or processors in the Federal market, then the SBA may grant a class waiver so that a nonmanufacturer does not have to furnish the product of a small business. For the most current listing of classes for which SBA has granted a waiver, contact an SBA Office of Government Contracting. A listing is also available in the SBA's Procurement Automated Source System (PASS) and on SBA's Internet Homepage at http://www.sbaonline.sba.gov/GC/nonmanuf.html. Contracting officers may request that the SBA waive the

nonmanufacturer rule for a particular class of products.

* * * * *

(7) The SBA provides for an exception to the nonmanufacturer rule where the procurement of a manufactured item processed under the procedures set forth in part 13 is set aside for small business and where the anticipated cost of the procurement will not exceed $25,000. In those procurements, the offeror need not supply the end product of a small business concern as long as the product acquired is manufactured or produced in the United States.

* * * * *

3. Section 19.502–2 is amended by revising paragraphs (a) and (c); and in the first sentence of (b)(2) by removing the ''s'' in the word ''awards'', and in the third sentence of paragraph (b)(2) by removing ''the item'' and inserting ''an item'' in its place. The revised text reads as follows:

19.502–2 Total set-asides.

(a) Each acquisition of supplies or services that has an anticipated dollar value exceeding $2,500, but not over $100,000, is automatically reserved exclusively for small business concerns and shall be set aside unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. If the contracting officer does not proceed with the small business set-aside and purchases on an unrestricted basis, the contracting officer shall include in the contract file the reason for this unrestricted purchase. If the contracting officer receives only one acceptable offer from a responsible small business concern in response to a set-aside, the contracting officer should make an award to that firm. If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside shall be withdrawn and the requirement, if still valid, shall be resolicited on an unrestricted basis. The small business reservation does not preclude the award of a contract with a value not greater than $100,000 under subpart 19.8, Contracting with the Small Business Administration, or under 19.1006(c), Emerging small business set-aside.

* * * * *

(c) For set-asides other than for construction or services, any concern proposing to furnish a product which it did not itself manufacture must furnish the product of a small business manufacturer unless the SBA has granted either a waiver or exception to the nonmanufacturer rule (see 19.102(f)). In industries where the SBA finds that there are no small business manufacturers, it may issue a waiver to the nonmanufacturer rule (see 19.102(f) (4) and (5)). In addition, SBA has excepted procurements processed under simplified acquisition procedures (see part 13), where the anticipated cost of the procurement will not exceed $25,000, from the nonmanufacturer rule. Waivers permit small businesses to provide any firm's product. The exception permits small businesses to provide any domestic firm's product. In both of these cases, the contracting officer's determination in paragraph (b)(1) of this subsection or the decision not to set aside a procurement reserved for small business under paragraph (a) of this subsection will be based on the expectation of receiving offers from at least two responsible small businesses, including nonmanufacturers, offering the products of different concerns.

* * * * *

4. Section 19.508 is amended in paragraphs (c) and (d) by revising the second sentences to read as follows:

19.508 Solicitation provisions and contract clauses.

* * * * *

(c) * * * The clause at 52.219–6 with its Alternate I will be used when the acquisition is for a product in a class for which the Small Business Administration has waived the nonmanufacturer rule (see 19.102(f) (4) and (5)).

(d) * * * The clause at 52.219–7 with its Alternate I will be used when the acquisition is for a product in a class for which the Small Business Administration has waived the nonmanufacturer rule (see 19.102(f) (4) and (5)).

* * * * *

5. Section 19.811–3 is amended by revising paragraph (d)(3) to read as follows:

19.811–3 Contract clauses.

* * * * *

(d) * * *

(3) The clause at 52.219–18 with its Alternate III will be used when the acquisition is for a product in a class for which the Small Business Administration has waived the nonmanufacturer rule (see 19.102(f) (4) and (5)).

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.219–6 is amended by revising the introductory text, the clause date, and paragraph (c) to read as follows:

52.219–6 Notice of Total Small Business Set-Aside.

As prescribed in 19.508(c), insert the following clause:

NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JUL 1996)

* * * * *

(c) *Agreement.* A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term ''United States'' includes its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply in connection with construction or service contracts.

* * * * *

(End of clause)

5. Section 52.219–7 is amended by revising the clause date and paragraph (c) to read as follows:

52.219–7 Notice of Partial Small Business Set-Aside.

* * * * *

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE (JUL 1996)

* * * * *

(c) *Agreement.* For the set-aside portion of the acquisition, a small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term ''United States'' includes its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply in connection with construction or service contracts.

* * * * *

(End of clause)

6. Section 52.219–18 is amended in the clause by revising the date and paragraph (d)(1); and in Alternate III by revising the date to read ''(JUL 1996)'' and removing the phrase ''paragraph (d)'' and inserting ''subparagraph (d)(1)'' in its place. The revised text reads as follows:

52.219–18 Notification of Competition Limited to Eligible 8(a) Concerns.

* * * * *

NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(a) CONCERNS (JUL 1996)

* * * * *

(d)(1) *Agreement.* A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term ''United States'' includes its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This subparagraph does not apply in connection with construction or service contracts.

* * * * *

[FR Doc. 96–18505 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 26 and 52

[FAC 90–40; FAR Case 91–028; Item IX]

RIN 9000–AE52

Federal Acquisition Regulation; Indian-Owned Economic Enterprises

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published in the Federal Register at 56 FR 41736, August 22, 1991, to a final rule with additional changes. The interim rule added FAR Subpart 26.1, Indian Incentive Program, which allows contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 91–028.

SUPPLEMENTARY INFORMATION:

A. Background

Section 7 of Public Law 100–442 amended the Indian Financing Act of 1974 by adding a new Section 504 (25 U.S.C. 1544) to encourage the use of Indian organizations and Indian-owned economic enterprises in subcontracting by allowing the prime contractor ''an additional amount of compensation equal to 5 percent of the amount paid.'' The statute allows this ''[n]otwithstanding any other provision of law.''

The interim rule published on August 22, 1991, added language at FAR Subpart 26.1, Indian Incentive Program. Minor amendments to the interim rule were made at 57 FR 20376, May 12, 1992, and 60 FR 48258, September 18, 1995. All comments received on the interim rule were considered in formulation of the final rule.

The final rule makes, among other changes, one major revision to the interim rule as a result of the analysis of public comments. The principal distinction between the interim rule and the final rule is how each treats the payment language under 25 U.S.C. 1544. The interim rule allowed prime contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises based on the difference in price between the acceptable low non-Indian subcontractor and the price, if provided, of the acceptable low Indian-owned subcontractor when the Indian-owned subcontractor's price exceeds the price of acquiring the supplies or services from a non-Indian subcontractor. The final rule permits payment of a flat 5 percent bonus to the prime contractor of the amount paid to the Indian subcontractor by the prime contractor. Also, the final rule adds the definitions of ''Indian'' and ''Indian tribe'' to FAR 26.101 and the clause at 52.226–1 and adds the definition of ''Interested party'' to 52.226–1. The final rule allows civilian agencies to include the clause in all contracts (FAR 26.104(b)) where certain criteria apply, regardless of whether the contract includes a subcontracting plan pursuant to FAR 52.219–9.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, applies to this final rule and a Final Regulatory Flexibility Analysis (FRFA) has been performed. A copy of the FRFA may be obtained from the FAR Secretariat

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 26 and 52

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Change

Accordingly, the interim rule amending 48 CFR Parts 26 and 52 and published at 56 FR 41736, August 22, 1991, is adopted as a final rule with the following changes.

1. The authority citation for 48 CFR Parts 26 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 26—OTHER SOCIOECONOMIC PROGRAMS

2. Section 26.101 is amended by revising the definitions of ''Indian organization'' and ''Interested party''; and adding, in alphabetical order, the definitions for ''Indian'' and ''Indian tribe'' to read as follows:

26.101 Definitions.

* * * * *

Indian means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any ''Native'' as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

* * * * *

Indian tribe means any Indian tribe, band, group, pueblo, or community,

including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

Interested party means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

3. Section 26.102 is revised to read as follows:

26.102 Policy.

Indian organizations and Indian-owned economic enterprises shall have the maximum practicable opportunity to participate in performing contracts awarded by Federal agencies. In fulfilling this requirement, the Indian Incentive Program allows an incentive payment equal to 5 percent of the amount paid to a subcontractor in performing the contract, if the contract so authorizes and the subcontractor is an Indian organization or Indian-owned economic enterprise.

4. Section 26.103 is amended in the first sentence of paragraph (b) by revising ''1849 ''C'' Street'' to read ''1849 C Street''; and revising the ZIP Code to read ''20245''; in the second sentence of paragraph (c) by removing ''15'' and inserting ''45''; and adding paragraph (f) to read as follows:

26.103 Procedures.

* * * * *

(f) Subject to the terms and conditions of the contract and the availability of funds, contracting officers shall authorize an incentive payment of 5 percent of the amount paid to the subcontractor. Contracting officers shall seek funding in accordance with agency procedures.

4. Section 26.104 is amended by revising the introductory text of paragraph (b) to read as follows:

26.104 Contract clause.

* * * * *

(b) Contracting officers in civilian agencies may insert the clause at 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises, in solicitations and contracts if—

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.226–1 is amended by revising the clause date and revising paragraph (a); in paragraph (b) by revising the definition of ''Indian organization'' and adding, in alphabetical order, the definitions of ''Indian'', ''Indian tribe'' and ''Interested party''; and by revising paragraphs (c) and (d) to read as follows:

52.226–1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

* * * * *

UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (SEP 1996)

(a) For Department of Defense contracts, this clause applies only if the contract includes a subcontracting plan incorporated under the terms of the clause at 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan. It does not apply to contracts awarded based on a subcontracting plan submitted and approved under paragraph (g) of the clause at 52.219–9.

(b) * * *

Indian means any person who is a member of any Indian tribe, band, group, pueblo or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any ''Native'' as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

* * * * *

Indian tribe means any Indian tribe, band, group, pueblo or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1542(c).

Interested party means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(c) The Contractor agrees to use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the self-certification of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the self-certification of a subcontractor, the Contracting Officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS–334A–SIB, Washington, DC 20245. The BIA will determine the eligibility and notify the Contracting Officer. The 5 percent incentive payment will not be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of a cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee prime contract.

(iii) The target cost and ceiling price of a fixed-price incentive prime contract.

(iv) The price of a firm-fixed-price prime contract.

(3) The amount of the equitable adjustment to the prime contract shall be 5 percent of the estimated cost, target cost or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(d) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, shall authorize an incentive payment of 5 percent of the amount paid to the subcontractor. Contracting Officers shall seek funding in accordance with agency procedures. The Contracting Officer's decision is final and not subject to the Disputes clause of this contract.

(End of clause)

[FR Doc. 96–18506 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 27

[FAC 90–40; FAR Case 95–308; Item X]

RIN 9000–AH09

Federal Acquisition Regulation; General Agreement on Tariffs and Trade Patent Authorization

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to provide internal Government guidance

for situations involving use of a patent without authorization from the patent holder. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 95–308.

SUPPLEMENTARY INFORMATION:

A. Background

The Uruguay Round of the Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade (GATT) resulted in the ''Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations; Agreement Establishing the World Trade Organization; Annex 1C, Agreement on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods.'' Articles 30 and 31 thereof contain requirements related to use of a patent without authorization from the patent holder, including use by the Government. The rule advises contracting officers to consult with legal counsel in such situations.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–40, FAR case 95–308), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 27

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 27 is amended as set forth below:

PART 27—PATENTS, DATA, AND COPYRIGHTS

1. The authority citation for 48 CFR Part 27 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 27.209 is added to read as follows:

27.209 Use of patented technology under the General Agreement on Tariffs and Trade (GATT).

(a) Article 31 of Annex 1C, Agreement on Trade-Related Aspects of Intellectual Property Rights, to GATT (Uruguay Round) addresses situations where the law of a member country allows for use of a patent without authorization from the patent holder, including use by the Government.

(b) The contracting officer should consult with legal counsel regarding questions under this section.

[FR Doc. 96–18507 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 28, 52, and 53

[FAC 90–40; FAR Case 91–027; Item XI]

RIN 9000–AE47

Federal Acquisition Regulation; Performance and Payment Bonds

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) have agreed to a final rule amending the Federal Acquisition Regulation (FAR) to further standardize policies governing bonding. Two new standard clauses are added for use when performance or payment bonds are required, and a new Standard Form 1418, Performance and Payment Bonds—Other Than Construction, is added. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501–1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR Case 91–027.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 28.101–1, 28.101–2, 28.101–3, 28.102–3, 28.103–2, 28.103–3, 28.103–4, 28.106–1, 28.106–2, 28.106–3, 52.228–1, and 53.228 are revised, and two new clauses are added, 52.228–15, Performance and Payment Bonds—Construction, and 52.228–16, Performance and Payment Bonds Other Than Construction, to further standardize policies governing bonding. A proposed rule was published in the Federal Register at 56 FR 31278, July 9, 1991.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely updates, clarifies, and standardizes policy pertaining to performance and payment bonds.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Public Law 96–511) is deemed to apply because the final rule contains information collection requirements. Accordingly, a request for approval of an extension of an information collection requirement concerning Office of Management and Budget (OMB) Control Number 9000–0119, Performance and Payment Bonds, was submitted to OMB under 44 U.S.C. 3501, *et seq.*, and approved through May 31, 1999. Public comments were invited through a subsequent Federal Register notice published at 61 FR 19664, April 12, 1996.

List of Subjects in 48 CFR Parts 28, 52, and 53

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR parts 28, 52, 53 are amended as set forth below:

1. The authority citation for 48 CFR parts 28 and 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 28—BONDS AND INSURANCE

2. Section 28.101–1 is amended by revising paragraph (c) to read as follows:

28.101–1 Policy on use.

* * * * *

(c) The chief of the contracting office may waive the requirement to obtain a bid guarantee when a performance bond or a performance and payment bond is required if it is determined that a bid guarantee is not in the best interest of the Government for a specific acquisition (e.g., overseas construction, emergency acquisitions, sole-source contracts). Class waivers may be authorized by the agency head or designee.

3. Section 28.101–2 is revised to read as follows:

28.101–2 Solicitation provision or contract clause.

(a) The contracting officer shall insert a provision or clause substantially the same as the provision at 52.228–1, Bid Guarantee, in solicitations or contracts that require a bid guarantee or similar guarantee. For example, the contracting officer may modify this provision—

(1) To set a period of time that is other than 10 days for the return of executed bonds;

(2) For use in connection with construction solicitations when the agency has specified that only separate bid bonds are acceptable in accordance with 28.101–1(b);

(3) For use in solicitations for negotiated contracts; or

(4) For use in service contracts containing options for extended performance.

(b) The contracting officer shall determine the amount of the bid guarantee for insertion in the provision at 52.228–1 (see 28.102–2(c)). The amount shall be adequate to protect the Government from loss should the successful bidder fail to execute further contractual documents and bonds as required. The bid guarantee amount shall be at least 20 percent of the bid price but shall not exceed $3 million. When the penal sum is expressed as a percentage, a maximum dollar limitation may be stated.

28.101–3 [Removed and reserved]

4. Section 28.101–3 is removed and reserved.

5. Section 28.102–3 is amended by revising paragraph (a) to read as follows:

28.102–3 Solicitation requirements and contract clause.

(a) The contracting officer shall insert a clause substantially the same as the clause at 52.228–15, Performance and Payment Bonds—Construction, in solicitations and contracts for construction that contain a requirement for performance and payment bonds if the resultant contract is expected to exceed $100,000. The penal amount of the performance bonds may be decreased in accordance with 28.102–2(a). Where the provision at 52.228–1 is not included in the solicitation, the contracting officer shall set a period of time for return of executed bonds.

* * * * *

28.103–2 [Amended]

6. Section 28.103–2 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as (b) and (c), respectively.

28.103–3 [Amended]

7. Section 28.103–3 is amended by removing paragraphs (b) and (c) and redesignating paragraph (d) as (b).

8. Section 28.103–4 is added to read as follows:

28.103–4 Contract clause.

The contracting officer shall insert a clause substantially the same as the clause at 52.228–16, Performance and Payment Bonds—Other than Construction, in solicitations and contracts that contain a requirement for both payment and performance bonds. The contracting officer shall determine the amount of each bond for insertion in the clause. The amount shall be adequate to protect the interest of the Government. The contracting officer shall also set a period of time (normally 10 days) for return of executed bonds. Alternate I shall be used when only performance bonds are required.

9. Section 28.106–1 is amended by revising paragraphs (c) and (m); redesignating paragraphs (n) and (o) as (o) and (p) and adding a new paragraph (n) to read as follows:

28.106–1 Bonds and bond related forms.

* * * * *

(c) SF 25–A, Payment Bond (see 28.102–1 and 28.106–3(b)).

* * * * *

(m) SF 1416, Payment Bond for Other Than Construction Contracts (see 28.103–3 and 28.106–3(b)).

(n) SF 1418, Performance Bond for Other Than Construction Contracts (see 28.103–2 and 28.106–3(b)).

* * * * *

10. Section 28.106–2 is amended by revising paragraph (a) to read as follows:

28.106–2 Substitution of surety bonds.

(a) A new surety bond covering all or part of the obligations on a bond previously approved may be substituted for the original bond if approved by the head of the contracting activity, or as otherwise specified in agency regulation.

* * * * *

11. Section 28.106–3 is amended by revising paragraph (b) to read as follows:

28.106–3 Additional bond or security.

* * * * *

(b) When additional coverage is furnished in whole or in part by a new surety, agencies shall use Standard Form 25, Performance Bond; Standard Form 1418, Performance Bond for Other Than Construction Contracts; Standard Form 25–A, Payment Bond; or Standard Form 1416, Payment Bond for Other Than Construction Contracts.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

12. Section 52.228–1 is revised to read as follows:

52.228–1 Bid Guarantee.

As prescribed in 28.101–2, insert a provision or clause substantially as follows:

Bid Guarantee (SEP 1996)

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, *e.g.*, bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(c) The amount of the bid guarantee shall be _____ percent of the bid price or $_____, whichever is less.

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after

receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

(End of provision)

13.–15. Sections 52.228–15 and 52.228–16 are added to read as follows:

52.228–15 Performance and Payment Bonds—Construction.

As prescribed in 28.102–3(a), insert a clause substantially as follows:

Performance and Payment Bonds—Construction (SEP 1996)

(a) *Definitions.* As used in this clause—

Contract price means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or for indefinite-delivery type contracts, the price payable for the specified minimum quantity.

(b) Unless the resulting contract price is $100,000 or less, the successful offeror shall be required to furnish performance and payment bonds to the Contracting Officer as follows:

(1) *Performance Bonds (Standard Form 25):* (i) The penal amount of performance bonds shall be 100 percent of the original contract price.

(ii) The Government may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(2) Payment Bonds (Standard Form 25–A):

(i) The penal amount of payment bonds shall equal—

(A) 50 percent of the contract price if the contract price is not more than $1 million;

(B) 40 percent of the contract price if the contract price is more than $1 million but not more than $5 million; or

(C) $2.5 million if the contract price is more than $5 million.

(ii) If the original contract price is $5 million or less, the Government may require additional protection if the contract price is increased. The penal amount of the total protection shall meet the requirement of subparagraph (b)(2)(i) of this clause.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal sum of the existing bond or to obtain an additional bond.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the Federal Register, or may be obtained from the U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, NW., 2nd Floor, West Wing, Washington, DC 20227.

(End of clause)

52.228–16 Performance and Payment Bonds—Other Than Construction.

As prescribed in 28.103–4, insert a clause substantially as follows:

Performance and Payment Bonds—Other than construction (SEP 1996)

(a) *Definitions.* As used in this clause—

Contract price means the total amount of the contract for the term of the contract (excluding options, if any) or, for requirements contracts, the price payable for the estimated quantity; or for indefinite-delivery type contracts, the price payable for the specified minimum quantity.

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection of the Government in an amount equal to _____ percent of the contract price and a payment bond (Standard Form 1416) in an amount equal to _____ percent of the contract price.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within _____ days, but in any event, before starting work.

(d) The Government may require additional performance bond protection when the contract price is increased. The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(e) The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the Federal Register, or may be obtained from the U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, NW., 2nd Floor, West Wing, Washington, DC 20227.

(End of clause)

Alternate I (SEP 1996). As prescribed in 28.103–4, substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection of the Government in an amount equal to _____ percent of the contract price.

PART 53—FORMS

16. Section 53.228 is amended by revising paragraph (c); by redesignating paragraphs (n) and (o) as (o) and (p) and adding a new paragraph (n); in the newly designated paragraph (o) by removing the reference ''28.106–1(n)'' and inserting ''28.106–1(o)''; and in the newly designated paragraph (p) by removing the reference ''28.106–1(o)'' and inserting ''28.106–1(p)'' in its place. The revised text reads as follows:

53.228 Bonds and insurance.

* * * * *

(c) *SF 25–A (REV. 1/90), Payment Bond.* (See 28.106–1(c).)

* * * * *

(n) *SF 1418 (10/93 Ed.), Performance Bond for Other Than Construction Contracts.* (See 28.106–1(n).)

* * * * *

53.301–1418 [Added]

17. Standard Form 1418 is added to read as follows:

53.301–1418 Performance Bond for Other Than Construction Contracts.

BILLING CODE 6820–EP–P

PERFORMANCE BOND FOR OTHER THAN CONSTRUCTION CONTRACTS *(See instructions on reverse)*	DATE BOND EXECUTED *(Must be same or later than date of contract or option)*	OMB No.: 9000-0119 Expires: 05/31/99

Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Federal Acquisition Policy Division (MVR), GSA, Washington, D.C. 20405 .

PRINCIPAL *(Legal name and business address)*	TYPE OF ORGANIZATION *("X" one)* ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ CORPORATION STATE OF INCORPORATION
SURETY(IES) *(Name(s) and business address(es))*	PENAL SUM OF BOND MILLION(S) | THOUSAND(S) | HUNDRED(S) | CENTS CONTRACT DATE | CONTRACT NO. OPTION DATE | OPTION NO.

OBLIGATION:

We, the Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The principal has entered into the contract identified above.

THEREFORE:

The above obligation is void if the Principal: (1) Performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of the contract during either the base term or an option term of the contract and any extensions thereof that are granted by the Government, with or without notice to the Surety(ies), and during the life of any guaranty required under the contract, and (2) performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of the contract that hereafter are made. Notice of those modifications to the Surety(ies) is waived.

The guaranty for a base term covers the initial period of performance of the contract and any extensions thereof excluding any options. The guaranty for an option term covers the period of performance for the option being exercised and any extensions thereof.

The failure of a surety to renew a bond for any option term shall not result in a default of any bond previously furnished covering any base or option term.

WITNESS:

The Principal and Surety(ies) executed this performance bond and affixed their seals on the above date.

PRINCIPAL			
SIGNATURE(S)	1. *(Seal)*	2. *(Seal)*	Corporate Seal
NAME(S) & TITLES(S) *(Typed)*	1.	2.	
INDIVIDUAL SURETY(IES)			
SIGNATURE(S)	1. *(Seal)*	2. *(Seal)*	
NAME(S) *(Typed)*	1.	2.	
CORPORATE SURETY(IES)			
SURETY A — NAME & ADDRESS	1.	STATE OF INC. / LIABILITY LIMIT $	Corporate Seal
SURETY A — SIGNATURE(S)	1.	2.	
SURETY A — NAME(S) & TITLE(S) *(Typed)*	1.	2.	

AUTHORIZED FOR LOCAL REPRODUCTION

STANDARD FORM 1418 (REV. 8-96)
Prescribed by GSA-FAR (48 CFR) 53.228(n)

CORPORATE SURETY(IES) (Continued)					
SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		

BOND PREMIUM ▶	RATE PER THOUSAND $	TOTAL $

INSTRUCTIONS

1. This form is authorized for use in connection with Government contracts. Any deviation from this form will require the written approval of the Administrator of General Services.

2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.

3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of the approved sureties and must act within the limitation listed therein. Where more than one corporate surety is involved their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)". In the space designated "SURETY(IES)" on the face of the form insert only the letter identification of the sureties.

(b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.

4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

5. Type the name and title of each person signing this bond in the space provided.

6. Unless otherwise specified, the bond shall be submitted to the contracting office that awarded the contract.

[FR Doc. 96–18508 Filed 7–25–96; 8:45 am]
BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 90–40; FAR Case 93–005; Item XII]

RIN 9000–AF97

Federal Acquisition Regulation; Employee Compensation Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify the regulations concerning the allowability of personal services compensation costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 93–005.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 31.001, Definitions, and 31.205–6, Compensation for personal services. The Defense Contract Audit Agency has raised concerns that the language in FAR 31.205–6(b) may be susceptible to differing interpretations and that the FAR does not provide adequate guidance with regard to contractor compensation systems. This final rule adds definitions at FAR 31.001; clarifies the standard for reasonableness of labor-management compensation agreements at FAR 31.205–6 (b) and (c); removes the examples from FAR 31.205–6(b); revises FAR 31.205–6(b)(1)(i) to clearly allow offsets of allowable elements of employees' compensation packages among jobs of the same pay grade or level; and revises FAR 31.205–6(i) to provide a general allowability rule. This final rule also makes editorial changes and adds clarifying language. Most notable of these changes is the redesignation of FAR 31.205–6(f)(2) to a restructured and renamed 31.205–6(d) to improve the flow of the cost principle and provide a more logical placement of the language.

A proposed rule was published in the Federal Register at 59 FR 51399, October 11, 1994, with corrections published at 59 FR 60686, November 25, 1994. Eighteen comments were received in response to the proposed rule. All comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small businesses are awarded on a competitive, fixed-price basis and do not require application of the FAR cost principles.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.001 is amended by adding, in alphabetical order, the definitions of ''Job'', ''Job class of employees'', and ''Labor market'' to read as follows:

31.001 Definitions.

* * * * *

Job, as used in this part, means a homogeneous cluster of work tasks, the completion of which serves an enduring purpose for the organization. Taken as a whole, the collection of tasks, duties, and responsibilities constitutes the assignment for one or more individuals whose work is of the same nature and is performed at the same skill/responsibility level—as opposed to a position, which is a collection of tasks assigned to a specific individual. Within a job, there may be pay categories which are dependent on the degree of supervision required by the employee while performing assigned tasks which are performed by all persons with the same job.

Job class of employees, as used in this part, means employees performing in positions within the same job.

* * * * *

Labor market, as used in this part, means a place where individuals exchange their labor for compensation. Labor markets are identified and defined by a combination of the following factors:

(1) Geography,

(2) Education and/or technical background required,

(3) Experience required by the job,

(4) Licensing or certification requirements,

(5) Occupational membership, and

(6) Industry.

* * * * *

3. Section 31.205–6 is amended-

a. By revising the introductory text of paragraph (a) and (a)(1);

b. In paragraph (a)(5) by removing the parenthetical at the end of the paragraph;

c. By adding introductory text to paragraph (b) and revising paragraph (b)(1);

d. By revising the introductory text of paragraph (c);

e. By revising paragraph (d);

f. By removing paragraph (f)(2) and redesignating (f)(3) as (f)(2); and

g. By revising paragraph (i).

The revised text reads as follows:

31.205–6 Compensation for personal services.

(a) *General.* Compensation for personal services includes all remuneration paid currently or accrued, in whatever form and whether paid immediately or deferred, for services rendered by employees to the contractor during the period of contract performance (except as otherwise provided for in other paragraphs of this subsection). It includes, but is not

limited to, salaries; wages; directors' and executive committee members' fees; bonuses (including stock bonuses); incentive awards; employee stock options, and stock appreciation rights; employee stock ownership plans; employee insurance; fringe benefits; contributions to pension, other postretirement benefits, annuity, and employee incentive compensation plans; and allowances for off-site pay, incentive pay, location allowances, hardship pay, severance pay, and cost of living differential. Compensation for personal services is allowable subject to the following general criteria and additional requirements contained in other parts of this cost principle:

(1) Compensation for personal services must be for work performed by the employee in the current year and must not represent a retroactive adjustment of prior years' salaries or wages (but see 31.205–6 (g), (h), (j), (k), (m), and (o) of this subsection).

* * * * *

(b) *Reasonableness.* The compensation for personal services paid or accrued to each employee must be reasonable for the work performed. Compensation will be considered reasonable if each of the allowable elements making up the employee's compensation package is reasonable. This paragraph addresses the reasonableness of compensation, except when the compensation is set by provisions of a labor-management agreement under terms of the Federal Labor Relations Act or similar state statutes. The tests for reasonableness of labor-management agreements are set forth in paragraph (c) of this subsection. In addition to the provisions of 31.201–3, in testing the reasonableness of individual elements for particular employees or job classes of employees, consideration should be given to factors determined to be relevant by the contracting officer.

(1) Among others, factors which may be relevant include general conformity with the compensation practices of other firms of the same size, the compensation practices of other firms in the same industry, the compensation practices of firms in the same geographic area, the compensation practices of firms engaged in predominantly non-Government work, and the cost of comparable services obtainable from outside sources. The appropriate factors for evaluating the reasonableness of compensation depend on the degree to which those factors are representative of the labor market for the job being evaluated. The relative significance of factors will vary according to circumstances. In administering this principle, it is recognized that not every compensation case need be subjected in detail to the tests described in this cost principle. The tests need be applied only when a general review reveals amounts or types of compensation that appear unreasonable or unjustified. Based on an initial review of the facts, contracting officers or their representatives may challenge the reasonableness of any individual element or the sum of the individual elements of compensation paid or accrued to particular employees or job classes of employees. In such cases, there is no presumption of reasonableness and, upon challenge, the contractor must demonstrate the reasonableness of the compensation item in question. In doing so, the contractor may introduce, and the contracting officer will consider, not only any circumstances surrounding the compensation item challenged, but also the magnitude of other compensation elements which may be lower than would be considered reasonable in themselves. However, the contractor's right to introduce offsetting compensation elements into consideration is subject to the following limitations:

(i) Offsets will be considered only between the allowable elements of an employee's (or a job class of employees') compensation package or between the compensation packages of employees in jobs within the same job grade or level.

(ii) Offsets will be considered only between the allowable portion of the following compensation elements of employees or job classes of employees:

(A) Wages and salaries.

(B) Incentive bonuses.

(C) Deferred compensation.

(D) Pension and savings plan benefits.

(E) Health insurance benefits.

(F) Life insurance benefits.

(G) Compensated personal absence benefits. However, any of the above elements or portions thereof, whose amount is not measurable, shall not be introduced or considered as an offset item.

(iii) In considering offsets, the magnitude of the compensation elements in question must be taken into account. In determining the magnitude of compensation elements, the timing of receipt by the employee must be considered.

* * * * *

(c) *Labor-management agreements.* If costs of compensation established under ''arm's length'' negotiated labor-management agreements are otherwise allowable, the costs are reasonable if, as applied to work in performing Government contracts, they are not determined to be unwarranted by the character and circumstances of the work or discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (e.g, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government contract involving significantly different circumstances and conditions of employment (e.g., work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in employee compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this paragraph (c) unless—

* * * * *

(d) *Form of payment.* (1) Compensation for personal services includes compensation paid or to be paid in the future to employees in the form of cash, corporate securities, such as stocks, bonds, and other financial instruments (see paragraph (d)(2) of this subsection regarding valuation), or other assets, products, or services.

(2) When compensation is paid with securities of the contractor or of an affiliate, the following additional restrictions apply:

(i) Valuation placed on the securities shall be the fair market value on the measurement date (i.e., the first date the number of shares awarded is known) determined upon the most objective basis available.

(ii) Accruals for the cost of securities before issuing the securities to the employees shall be subject to adjustment according to the possibilities that the employees will not receive the securities and that their interest in the accruals will be forfeited.

* * * * *

(i) Compensation based on changes in the prices of corporate securities or corporate security ownership, such as stock options, stock appreciation rights, phantom stock plans, and junior stock conversions.

(1) Any compensation which is calculated, or valued, based on changes in the price of corporate securities is unallowable.

(2) Any compensation represented by dividend payments or which is calculated based on dividend payments is unallowable.

(3) If a contractor pays an employee in lieu of the employee receiving or exercising a right, option, or benefit which would have been unallowable under this paragraph (i), such payments are also unallowable.

* * * * *

[FR Doc. 96–18509 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 33

[FAC 90–40, FAR Case 95–309, Item XIII]

RIN 9000–AH10

Federal Acquisition Regulation; Agency Procurement Protests

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to provide for informal, procedurally simple, and inexpensive resolution of protests. This interim rule implements Executive Order 12979 which was signed by the President on October 25, 1995. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* July 26, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 24, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 18th & F Streets, NW., Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–40, FAR case 95–309, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 95–309.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule revises the agency procurement protest procedures at FAR 33.103 to implement Executive Order 12979 of October 25, 1995, Agency Procurement Protests (60 FR 55171, October 27, 1995).

B. Regulatory Flexibility Act

The interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it provides for a simpler, less expensive means of resolving agency protests. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–40, FAR Case 95–309), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary in order to implement Executive Order 12979, Agency Procurement Protests, which required incorporation of its policies into the Federal Acquisition Regulation by April 22, 1996. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 33

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR part 33 is amended as set forth below:

PART 33—PROTESTS, DISPUTES AND APPEALS

1. The authority citation for 48 CFR part 33 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 33.103 is revised to read as follows:

33.103 Protests to the agency.

(a) *Reference.* Executive Order 12979, Agency Procurement Protests, establishes policy on agency procurement protests.

(b) Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions.

(c) The agency should provide for inexpensive, informal, procedurally simple, and expeditious resolution of protests. Where appropriate and permitted by law, the use of alternative dispute resolution techniques, third party neutrals, and another agency's personnel are acceptable protest resolution methods.

(d) The following procedures are established to resolve agency protests effectively, to build confidence in the Government's acquisition system, and to reduce protests outside of the agency:

(1) Protests shall be concise and logically presented to facilitate review by the agency. Failure to substantially comply with any of the requirements of paragraph (d)(2) of this section may be grounds for dismissal of the protest.

(2) Protests shall include the following information:

(i) Name, address, fax number, and telephone number of the protester.

(ii) Solicitation or contract number.

(iii) Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.

(iv) Copies of relevant documents.

(v) Request for a ruling by the agency.

(vi) Statement as to the form of relief requested.

(vii) All information establishing that the protester is an interested party for the purpose of filing a protest.

(viii) All information establishing the timeliness of the protest.

(3) All protests filed directly with the agency will be addressed to the

contracting officer or other official designated to receive protests.

(4) Interested parties may request an independent review at a level above the contracting officer, of any decision by the contracting officer that is alleged to have violated a statute or regulation and thereby caused prejudice to the offeror. This independent review need not be established within the contracting officer's supervisory chain.

(e) Protests based on alleged apparent improprieties in a solicitation shall be filed before bid opening or the closing date for receipt of proposals. In all other cases, protests shall be filed no later than 14 days after the basis of protest is known or should have been known, whichever is earlier. The agency, for good cause shown, or where it determines that a protest raises issues significant to the agency's acquisition system, may consider the merits of any protest which is not timely filed.

(f) *Action upon receipt of protest.* (1) Upon receipt of a protest before award, a contract may not be awarded, pending resolution of the protest, unless contract award is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. Such justification or determination shall be approved at a level above the contracting officer, or by another official pursuant to agency procedures.

(2) If award is withheld pending resolution of the protest, the contracting officer will inform the offerors whose offers might become eligible for award of the contract. If appropriate, the offerors should be requested, before expiration of the time for acceptance of their offers, to extend the time for acceptance to avoid the need for resolicitation. In the event of failure to obtain such extension of offers, consideration should be given to proceeding with award pursuant to paragraph (f)(1) of this section.

(3) Upon receipt of a protest within 10 days after contract award or within 5 days after a debriefing date offered to the protester under a timely debriefing request in accordance with 15.1004, whichever is later, the contracting officer shall immediately suspend performance, pending resolution of the protest within the agency, including any review by an independent higher level official, unless continued performance is justified, in writing, for urgent and compelling reasons or is determined, in writing, to be in the best interest of the Government. Such justification or determination shall be approved at a level above the contracting officer, or by another official pursuant to agency procedures.

(g) Agencies shall make their best efforts to resolve agency protests within 35 days after the protest is filed.

(h) Agency protest decisions shall be well-reasoned, and shall provide sufficient factual detail explaining the agency position. A copy of the written protest decision shall be furnished to the protester. A method that provides evidence of receipt should be used.

[FR Doc. 96–18510 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 48

[FAC 90–40; FAR Case 96–315; Item XIV]

RIN 9000–AH12

Federal Acquisition Regulation; Value Engineering

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to revise the definition of value engineering and to require agencies to establish and maintain cost-effective value engineering procedures and processes. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such (202) 501–1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 96–315.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements Section 4306 of the Federal Acquisition Reform Act of 1996 (Pub. L. 104–106). Section 4306 adds Section 36 to the Office of Federal Procurement Policy Act (41 U.S.C. 401, *et seq.*) to define value engineering and to establish Federal procurement policy that each agency shall establish and maintain cost-effective value engineering procedures and processes.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–40, FAR case 96–315), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 48

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 48 is amended as set forth below:

PART 48—VALUE ENGINEERING

1. The authority citation for 48 CFR Part 48 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 48.001 is amended by revising the definition ''Value engineering'' to read as follows:

48.001 Definitions.

* * * * *

Value engineering, as used in this part, means an analysis of the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of an executive agency, performed by qualified agency or contractor personnel, directed at improving performance, reliability, quality, safety, and life-cycle costs (Section 36 of the Office of Federal Procurement Policy Act, 41 U.S.C. 401, *et seq.*).

* * * * *

3. Section 48.102 is amended in paragraph (a) by adding a new first sentence to read as follows:

48.102 Policies.

(a) As required by Section 36 of the Office of Federal Procurement Policy Act (41 U.S.C. 401, *et seq.*), agencies shall establish and maintain cost-effective value engineering procedures and processes. * * *

* * * * *

[FR Doc. 96–18511 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 49 and 52

[FAC 90–40; FAR Case 94–003; Item XV]

RIN 9000–AG13

Federal Acquisition Regulation; Termination Inventory Schedules

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) concerning termination of contracts to preclude excessive delays in processing terminations for the convenience of the Government. The amendments will require contractors to prepare and submit termination inventory schedules within 120 days from the effective date of termination, unless otherwise extended by the Termination Contracting Officer (TCO). This will enable the TCO to initiate early inventory screening and final disposition, thereby substantially reducing the time required to achieve termination settlement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–40, FAR case 94–003.

SUPPLEMENTARY INFORMATION:

A. Background

When inventory schedules required for contracts terminated for the convenience of the Government are not submitted in a timely manner by the terminated contractor(s), unnecessary delays are experienced both in effecting redistribution and disposal of the termination inventory and in reaching final settlement of those contracts.

In an attempt to preclude excessive delays in processing terminations for the convenience of the Government, a proposed rule was published in the Federal Register at 59 FR 61734, December 1, 1994, with a request for comment. As a result of the comments received under the proposed rule, the following changes to the final rule have been made:

—The reference to ''provisions'' in the first sentence of both FAR 49.206–3 and 49.303–2 has been revised to read ''terms'';

—The word ''must'' in the last sentence of FAR 49.206–3 and 49.303–2 is changed to read ''shall'';

—The events described in the clauses at 52.249–2 (c) and (d), 52.249–3 (c) and (d), 52.249–6 (d) and (e), and 52.249–11 (c) and (d) have been reversed to reflect the order in which the events occur; and

—Several references have been updated.

B. Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) has been prepared and will be provided to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the FRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C 601 *et seq.* (FAC 90–40, FAR Case 94–003), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* Submission of termination inventory schedules is an existing requirement; this rule merely changes the timing for submission of those schedules.

List of Subjects in 48 CFR Parts 49 and 52

Government procurement.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 49 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 49 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 49—TERMINATION OF CONTRACTS

49.105 [Amended]

2. Section 49.105(c)(13) is amended by adding ''(see 49.206–3 and 49.303–2)'' to the end of the sentence.

3. Section 49.206–3 is added to read as follows:

49.206–3 Submission of inventory schedules.

Subject to the terms of the termination clause and whenever termination inventory is involved, the contractor shall submit complete inventory schedules, to the TCO, reflecting inventory that is allocable to the terminated portion of the contract. The inventory schedules shall be submitted within 120 days from the effective date of termination unless otherwise extended by the TCO based on a written justification to support the extension. The inventory schedules shall be prepared on the forms prescribed in 49.602–2 and in accordance with 45.606–5.

49.303–2, 49.303–3, 49.303–4 [Redesignated as 49.303–3 through 49.303–5].

4. Sections 49.303–2, 49.303–3, and 49.303–4 are redesignated as 49.303–3, 49.303–4, and 49.303–5, respectively, and a new 49.303–2 is added to read as follows:

49.303–2 Submission of inventory schedules.

Subject to the terms of the termination clause and whenever termination inventory is involved, the contractor shall submit complete inventory schedules, to the TCO, reflecting inventory that is allocable to the terminated portion of the contract. The inventory schedules shall be submitted within 120 days from the effective date of termination unless otherwise extended by the TCO based on a written justification to support the extension. The inventory schedules shall be prepared on the forms prescribed in

49.602–2 and in accordance with 45.606–5.

49.403 [Amended]

5. Section 49.403 is amended in paragraph (b)(1) by removing ''(g)(3)'' and inserting ''(h)(3)''; and in paragraph (b)(2) by removing ''(g)(4)'' and inserting ''(h)(4)''.

49.502 [Amended]

6. Section 49.502 is amended in paragraph (e)(1) by removing ''paragraph (c)'' and inserting ''paragraph (d)''; and in paragraph (e)(2) by removing ''paragraph (g)'' and inserting ''paragraph (h)''.

49.503 [Amended]

7. Section 49.503 is amended in paragraph (c) by removing ''paragraphs (d), (i), and (m)'' and inserting ''paragraphs (e), (j), and (n)''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.249–2 is amended by revising the introductory text and clause date; by redesignating paragraphs (c) through (m) as (d) through (n), respectively, and adding a new (c); and by redesignating paragraph (f) of Alternates I and III as (g), to read as follows:

52.249–2 Termination for Convenience of the Government (Fixed-Price).

As prescribed in 49.502(b)(1)(i), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

52.249–2 [Amended]

5b. In addition to the amendments set forth above, 52.249–2 is amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9), 1st sentence	''subparagraph (6) above''	''subparagraph (b)(6) of this clause''
(f), 1st sentence	''paragraph (d)''	''paragraph (e)''
(f), 3rd sentence	''paragraph (e) or paragraph (f)''	''paragraph (f) or paragraph (g)''
	''subparagraph (f)(3)''	''subparagraph (g)(3)''
(f), last sentence	''Paragraph (f)''	''Paragraph (g)''
(g), introductory text	''paragraph (e) above''	''paragraph (f) of this clause''
(g)(1)	''subparagraph (b)(9) above''	''subparagraph (b)(9) of this clause''
(g)(2)(i)	''subparagraph (f)(1) above''	''subparagraph (g)(1) of this clause''
(g)(2) (ii) and (iii)	''subdivision (i) above''	''subdivision (g)(2)(i) of this clause''
(h)	''paragraph (f) above''	''paragraph (g) of this clause''
(j)	''paragraph (d), (f), or (k)''	''paragraph (e), (g), or (l)''
	''paragraph (d) or (k)''	''paragraph (e) or (l)''
Alternate I heading and introductory text	''(APR 1984)'' ''paragraph (f) for paragraph (f)''	''(SEP 1996)'' ''paragraph (g) for paragraph (g)''
Alternate I	Paragraph ''(f)'' designation	Paragraph ''(g)'' designation
Alternate I, (g) introductory paragraph	''paragraph (e) above''	''paragraph (f) of this clause''
Alternate I, (g)(1)(ii)	''subdivision (i) above''	''subdivision (g)(1)(i) of this clause''
Alternate I, (g)(1)(iii)	''(i) above''	''subdivision (g)(1)(i) of this clause''
Alternate II	''(APR 1984)''	''(SEP 1996)''
Alternate II	''subparagraph (l)(2)''	''subparagraph (m)(2)''
Alternate III heading	''(APR 1984)''	''(SEP 1996)''
Alternate III introductory text	''(f) for paragraph (f)''	''(g) for paragraph (g)''
	''Subparagraph (l)(2)''	''Subparagraph (m)(2)''
Alternate III	Paragraph ''(f)'' designation	Paragraph ''(g)'' designation
Paragraph (g) of Alternate III	''Paragraph (e) above''	''Paragraph (f) of this clause''
Alternate III, (g)(1)(ii)	''subdivision (i) above''	''subdivision (g)(1)(i) of this clause''
Alternate III, (g)(1)(iii)	''(i) above''	''subdivision (g)(1)(i) of this clause

6. Section 52.249–3 is amended by revising the introductory text and clause date; redesignating paragraphs (c) through (m) as (d) through (n), respectively, and adding a new paragraph (c) to read as follows:

52.249–3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).

As prescribed in 49.502(b)(2), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

52.249–3 [Amended]

6b. In addition to the amendments set forth above, 52.249–3 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9), 1st sentence	''subparagraph (6) above''	''subparagraph (b)(6) of this clause''
(f), 1st sentence	''paragraph (d) above''	''paragraph (e) of this clause''
(f), 3rd sentence	''paragraph (e) or paragraph (f) below''	''paragraph (f) or paragraph (g) of this clause''
(f), last sentence	''Paragraph (f) below''	''Paragraph (g) of this clause''
(g), introductory text	''paragraph (e) above''	''paragraph (f) of this clause''

Paragraph	Remove	Insert
(g)(1)(ii)	''subdivision (i) above''	''subdivision (g)(1)(i) of this clause''
(g)(1)(iii)	''subdivision (i) above''	''subdivision (g)(1)(i) of this clause''
(g)(2)(iii)	''subparagraph (b)(8) above''	''subparagraph (b)(8) of this clause''
(h)	''paragraph (f) above''	''paragraph (g) of this clause''
(j)	''paragraph (d), (f), or (k)'' both times it appears.	''paragraph (e), (g), or (l) of this clause''
	''paragraph (d) or (k)''	''paragraph (e) or (l)''
Alternate I	''(APR 1984)''	''(SEP 1996)''
	''subparagraph (1)(2)''	''subparagraph (m)(2)''

7. Section 52.249–5 is amended by revising the introductory text and clause date; redesignating paragraphs (c) through (g) as (d) through (h), respectively, and adding a new paragraph (c) to read as follows:

52.249–5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).

As prescribed in 49.502(d), insert the following clause:

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

52.249–5 [Amended]

7b. In addition to the amendments set forth above, 52.249–5 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9)	''subparagraph (6) above''	''subparagraph (b)(6) of this clause''
(e)	''paragraph (c) above''	''paragraph (d) of this clause''
(h)	''paragraph (c)''	''paragraph (d) of this clause''

8. Section 52.249–6 is amended in the clause by revising the clause date; redesignating paragraphs (d) through (m) as (e) through (n), respectively; by adding a new paragraph (d); by redesignating paragraph (g) of Alternates (IV) and (V) as paragraph (h) to read as follows:

52.249–6 Termination (Cost-Reimbursement).

* * * * *

TERMINATION (COST-REIMBURSEMENT) (SEP 1996)

* * * * *

(d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

52.249–6 [Amended]

8b. In addition to the amendments set forth above, 52.249–6 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(c)(9)	''subparagraph (6) above''	''subparagraph (c)(6) of this clause''
(g)	''paragraph (e) above''	''paragraph (f) of this clause''
(h)(2)	''subparagraph (1) above''	''subparagraph (h)(1) of this clause''
(h)(5)	''subparagraph (g)(4) above''	''subparagraph (h)(4) of this clause''
(j), 1st sentence	''paragraph (e) or (g) above or paragraph (k) below''.	''paragraph (f), (h), or (l) of this clause''
	''paragraph (e)''	''paragraph (f)''
(j), 2nd sentence	''paragraph (e), (g), or (k)''	''paragraph (f), (h), or (l) of this clause''
Alternate I	''(APR 1984)'' ''(g)(4) for subparagraph (g)(4)''	''(SEP 1996)'' ''(h)(4) for subparagraph (h)(4)''
Alternate II	''(APR 1984)'' ''subparagraph (1)(2)''	''(SEP 1996)''''subparagraph (m)(2)''
Alternate III, introductory heading and text	''(APR 1984)''	''(SEP 1996)''
	''(g)(4) shall be substituted for subparagraph (g)(4)''.	''(h)(4) shall be substituted for subparagraph (h)(4)''
	''Subparagraph (1)(2)''	''Subparagraph (m)(2)''
Alternate IV introductory heading and text	''(APR 1984)''	''(SEP 1996)''
	''(g) and (k) for paragraphs (g) and (k)''	''(h) and (l) for paragraphs (h) and (l)''
Alternate IV	Paragraph ''(g)'' designation	Paragraph ''(h)'' designation
Alternate IV, (h)(1)(iv)	''(g)(1)(i)''	''subdivision (h)(1)(i)''
Alternate (IV), (h)(2) introductory text	''(g)(1)''	''subparagraph (h)(1)''
Alternate IV	Paragraph ''(k)'' designation	Paragraph ''(l)'' designation
Alternate V introductory heading and text	''(APR 1984)''	''(SEP 1996)''
	''the following paragraphs (g) and (k) for paragraphs (g) and (k)''.	''the following paragraphs (h) and (l) for paragraphs (h) and (l)''
	''Subparagraph (l)(2)''	''Subparagraph (m)(2)''
Alternate V	Paragraph ''(g)'' designation	Paragraph ''(h)'' designation
(h)(1)(iv) of Alternate V	''(g)(1)(i)''	''subdivision (h)(1)(i)''
Alternate V, (h)(2) introductory text	''(1) above''	''subparagraph (h)(1) of this clause''

Paragraph	Remove	Insert
Alternate V	Paragraph ''(k)'' designation	Paragraph ''(l)'' designation

9. Section 52.249–11 is amended by revising the introductory text and clause date; redesignating paragraphs (c) through (k) as (d) through (l), respectively; and adding a new paragraph (c) to read as follows:

52.249–11 Termination of Work (Consolidated Facilities or Facilities Acquisition).

As prescribed in 49.505(a), insert the following clause:

TERMINATION OF WORK (CONSOLIDATED FACILITIES OR FACILITIES ACQUISITION) (SEP 1996)

* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

9b. In addition to the amendments set forth above, 52.249–11 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9)	''subparagraph (6) above''	''subparagraph (b)(6) of this clause''.
(f)	''paragraph (d) above''	''paragraph (e) of this clause''.
(g)(2)	''subparagraph (1) above''	''subparagraph (g)(1) of this clause''.
(i)	''paragraph (d) or (f) above'' both times it appears.	''paragraph (e) or (g) of this clause''.
	''paragraph (d) above''	''paragraph (e) of this clause''.
Alternate I	''(APR 1984)''	''(SEP 1996)''.
	''subparagraph (j)(2)''	''subparagraph (k)(2)''.

[FR Doc. 96–18512 Filed 7–25–96; 8:45 am]
BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 90–40 which amend the FAR. The rules marked with an asterisk (*) are those for which a final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Further information regarding these rules may be obtained by referring to FAC 90–40 which precedes this notice. This document may be obtained from the Internet at http://www.gsa.gov/far/compliance.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, FAR Secretariat, (202) 501–4755.

LIST OF RULES IN FAC 90–40

Item	Subject	FAR case
I	Contingent Fee Representation	93–009
II	Simplified Acquisition Threshold/Federal Acquisition Computer Network; and Micro-Purchase Procedures	*94–770 *94–771
III	Gratuities	96–300
IV	Disaster Relief Act	93–303
V	Responsibility Determinations	95–007
VI	Task and Delivery Orders	*94–711
VII	Multiyear Contracting	*94–712
VIII	Small Business/Simplified Acquisition Threshold	*94–782
IX	Indian-Owned Economic Enterprises	*91–028
X	General Agreement on Tariffs and Trade Patent Authorization	95–308
XI	Performance and Payment Bonds	91–027
XII	Employee Compensation Costs	93–005
XIII	Agency Procurement Protests	95–309
XIV	Value Engineering	96–315
XV	Termination Inventory Schedules	*94–003

Item I—Contingent Fee Representation (FAR Case 93–009)

This final rule amends FAR Subpart 3.4 to remove the requirement for prospective contractors to provide certain information regarding contingent fee arrangements. Accordingly, the provision at 52.203–4, Contingent Fee Representation and Agreement, and Standard Form 119, Statement of Contingent or Other Fees, are also removed. The underlying policy pertaining to contingent fee arrangements, as set forth in Subpart 3.4, remains the same.

Item II—Simplified Acquisition Threshold/Federal Acquisition Computer Network; and Micro-Purchase Procedures (FAR Cases 94–770 and 94–771)

The interim rules published as Item II of FAC 90–24 and Item III of FAC 90–29 are amended and adopted as final. The rules implement the micro-purchase, simplified acquisition, and Federal Acquisition Computer Network (FACNET) provisions of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355), and Section 4302(b) of the Federal Acquisition Reform Act of 1996 (Public Law 104–106). The final rules differ from the interim rules in that they (1) move definitions pertaining to micro-purchases, simplified acquisition procedures, and FACNET from Parts 4 and 13 to Part 2; (2) remove the requirement for interim FACNET certification before a contracting office may use simplified acquisition procedures for contract actions exceeding $50,000; (3) remove the clause at 52.222–40, Service Contract Act of 1965, as Amended—Contracts of $2,500 or Less, based upon a change in Department of Labor regulations; and (4) provide a telephone number for information regarding FACNET at 4.503.

Item III—Gratuities (FAR Case 96–300)

This interim rule amends FAR 3.202 and 52.203–3 to implement Section 801 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106). Section 801 amends 10 U.S.C. 2207, generally referred to as the Gratuities Act, to exempt contracts which do not exceed the simplified acquisition threshold from application of the Act. Therefore, the clause at 52.203–3, Gratuities, is now prescribed for inclusion in only those contracts which exceed the simplified acquisition threshold.

Item IV—Disaster Relief Act (FAR Case 93–303)

This final rule amends FAR 6.302–5, and adds FAR Subpart 26.2, to implement the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150). Section 5150 establishes a preference for local sources in the award of contracts for major disaster or emergency assistance activities.

Item V—Responsibility Determinations (FAR Case 95–007)

This final rule amends FAR Subpart 9.1 to emphasize the use of commercial sources of information for determining the responsibility of prospective contractors, and to clarify that preaward surveys normally should be requested only when information on hand or readily available is not sufficient.

Item VI—Task and Delivery Orders (FAR Case 94–711)

The interim rule published as Item III of FAC 90–33 is amended and adopted as final. The interim rule added FAR Section 16.500 to define the scope of the multiple award preference established by Subpart 16.5 for indefinite-quantity contracts. The final rule differs from the interim rule in that it amends Section 16.500 to clarify that the multiple award preference does not apply to architect-engineer contracts subject to the procedures in Subpart 36.6. However, agencies are not precluded from making multiple awards for architect-engineer services, provided the selection of contractors and placement of orders is consistent with Subpart 36.6. The rule also amends Section 16.504 to clarify procedures for determining if multiple awards are appropriate.

Item VII—Multiyear Contracting (FAR Case 94–712)

This final rule revises FAR Subpart 17.1, removes the clause at 52.217–1, and revises the clause at 52.217–2 to implement Sections 1022 and 1072 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355). Sections 1022 and 1072 provide for use of multiyear contracting in a manner that will encourage competition or promote economy in administration, performance, and operation of an agency's programs.

Item VIII—Small Business/Simplified Acquisition Threshold (FAR Case 94–782)

This final rule amends FAR Part 19 and the clauses at 52.219–6, 52.219–7, and 52.219–18 to implement Section 4004 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355). Section 4004 amends Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) to reserve each contract for supplies or services that has an anticipated value greater than $2,500, but not greater than $100,000, for exclusive participation by small business concerns, unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with regard to price, quality, and delivery. This rule also reflects a final rule published by the Small Business Administration at 13 CFR 121.406, which provides that, where the procurement of a manufactured item is processed under FAR Part 13 procedures, set aside for small business concerns, and not expected to exceed $25,000, an offeror need not supply the end product of a small business concern as long as the product is manufactured or produced in the United States.

Item IX—Indian-Owned Economic Enterprises (FAR Case 91–028)

The interim rule published as Item VIII of FAC 90–7 is amended and adopted as final. The rule implements 25 U.S.C. 1544, which provides for payment of incentives to prime contractors who use Indian organizations or Indian-owned economic enterprises as subcontractors. The principal difference between the interim rule and the final rule is the method of incentive payment contained in each. The interim rule permitted prime contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises based on the difference in price between the acceptable low non-Indian subcontractor and the acceptable low Indian subcontractor, when the Indian subcontractor's price exceeded the price of the non-Indian subcontractor. The final rule instead permits an incentive payment to the prime contractor in an amount which equals 5 percent of the amount of the subcontract awarded to the Indian organization or Indian-owned economic enterprise. The applicable amendments are in Subpart 26.1 and the clause at 52.226–1.

Item X—General Agreement on Tariffs and Trade Patent Authorization (FAR Case 95–308)

This final rule adds FAR Section 27.209 to provide guidance pertaining to the use of patented technology under the General Agreement on Tariffs and Trade.

Item XI—Performance and Payment Bonds (FAR Case 91–027)

This final rule amends FAR Subpart 28.1 and the clause at 52.228–1, and adds two clauses at 52.228–15 and 52.228–16, and new SF 1418 to update, clarify, and standardize policy pertaining to bid guarantees and performance and payment bonds.

Item XII—Employee Compensation Costs (FAR Case 93–005)

This final rule amends FAR Part 31 to clarify the allowability of personal services compensation costs. The rule adds definitions at 31.001; clarifies the standard for reasonableness of labor-management compensation agreements at 31.205–6(b); revises 31.205–6(b)(1)(i) to clearly allow offsets of allowable elements of employee compensation packages among jobs of the same grade or level; and revises 31.205–6(i) to provide a general allowability rule pertaining to corporate securities.

Item XIII—Agency Procurement Protests (FAR Case 95–309)

This interim rule revises FAR 33.103 to implement Executive Order 12979, Agency Procurement Protests. Executive Order 12979 provides for inexpensive, informal, procedurally simple, and expeditious resolution of agency protests, including, where appropriate and permitted by law, the use of alternative dispute resolution techniques, third party neutrals, and another agency's personnel.

Item XIV—Value Engineering (FAR Case 96–315)

This final rule amends FAR Part 48 to revise the definition of value engineering and to require agencies to establish and maintain cost-effective value engineering procedures and processes. The rule implements Section 4306 of the Federal Acquisition Reform Act of 1996 (Public Law 104–106).

Item XV—Termination Inventory Schedules (FAR Case 94–003)

This final rule amends FAR Part 49 and the clauses at 52.249–2, 52.249–3, 52.249–5, 52.249–6, and 52.249–11 to require contractors under terminated contracts to submit termination inventory schedules within 120 days from the date of termination, unless this period is extended by the contracting officer.

Dated: July 16, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96–18513 Filed 7–25–96; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Friday
July 26, 1996

Part III

Department of the Treasury

Fiscal Service

31 CFR Part 344

United States Treasury Certificates of Indebtedness, Treasury Notes, and Treasury Bonds—State and Local Government Series; Proposed Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 344

[Department of the Treasury Circular, Public Debt Series No. 3–72]

Regulations Governing United States Treasury Certificates of Indebtedness, Treasury Notes, and Treasury Bonds—State and Local Government Series

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Department of the Treasury hereby publishes a proposed rule governing United States Treasury Certificates of Indebtedness, Notes, and Bonds of the State and Local Government Series (SLGS). These securities are available for purchase by issuers of state and local government bonds described in section 103 of the Internal Revenue Code for proceeds (or amounts treated as proceeds) which are subject to yield restrictions or arbitrage rebate requirements of the Income Tax regulations under sections 103, 148, 149 and 150 of the Internal Revenue Code (tax regulations). This document proposes changes to make the SLGS securities program more flexible.

DATES: Comments must be received on or before August 26, 1996.

ADDRESSES: Copies of this proposed rule have also been made available for downloading from the Bureau of the Public Debt home page at the following address:

http://www.ustreas.gov:treasury/bureaus/pubdebt/pubdebt.html

Comments should be sent to: Division of Special Investments, Bureau of the Public Debt, Department of the Treasury, 200 3rd St., P.O. Box 396, Parkersburg, WV 26101–0396. Comments received will be available for public inspection and downloading on the Internet and for inspection and copying at the Treasury Department Library, FOIA Collection, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW, Washington, D.C. 20220. Persons wishing to visit the library should call 202–622–0990 for an appointment. Comments may also be sent through the Internet to Fred Pyatt, Director, or Howard Stevens, Supervisory Program Analyst, Division of Special Investments at fpyatt@bpd.treas.gov or hstevens@bpd.treas.gov. When sending comments by Internet, please provide your full name and mailing address.

FOR FURTHER INFORMATION CONTACT: Fred Pyatt, Director, or Howard Stevens, Supervisory Program Analyst, Division of Special Investments, at 304–480–7752 or Ed Gronseth, Deputy Chief Counsel, or Jim Kramer-Wilt, Attorney/Adviser, Office of the Chief Counsel, at 304–480–5190.

SUPPLEMENTARY INFORMATION:

I. Background.

The Department of the Treasury, Bureau of the Public Debt, is attempting to make the SLGS securities program more attractive and flexible for State and local government issuers of debt obligations that are subject to the arbitrage and rebate rules of the Internal Revenue Code. It is the Department's intent to do so in a manner consistent with tax policy objectives and in a manner that is cost effective.

In recent years, market participants have advised the Department that aspects of the existing SLGS securities regulations impose burdens that are not needed or cost effective. On April 30, 1996, the Department published an Advanced Notice of Proposed Rulemaking, noting several changes the Department was considering in order to make the SLGS securities program more flexible. The changes under consideration were to: (1) Eliminate the ''all or nothing'' certification, (2) provide for subscriptions and redemptions in increments of less than $100 above the $1,000 minimum, (3) reduce the minimum maturity for zero interest certificates of indebtedness, (4) reduce the time for advance notice between subscription and issue date for time deposit and special zero interest SLGS securities, (5) make SLGS securities pricing more consistent with open market Treasury securities, (6) permit SLGS securities to be purchased with funds subject to rebate as well as yield restriction, (7) revise the demand deposit program, (8) change the formula for determining the redemption value of SLGS securities, including eliminating the restriction against premium redemption, (9) permit zero interest time deposit SLGS securities to be redeemed without penalty; and lastly, (10) permit the purchase of SLGS securities with the proceeds of previously redeemed SLGS securities or with open market Treasury securities.

There were eight letters received commenting on the Advanced Notice of Proposed Rulemaking (ANPR). In general, the comments were in favor of the ten items contained in the ANPR. Several comments suggested specific parameters for some of the ten items while others suggested the Treasury Department consider changes not contained in the ANPR. Following is a summary of the issues addressed in the comments and an explanation of the action taken with respect to each comment.

Proposal No. 1—The Department proposed the elimination of the ''all or nothing'' certification which requires all yield restricted investments be invested either all in SLGS securities or all in open market Treasury securities. All comments were strongly in favor of the elimination of the ''all or nothing'' certification. The Department has included this proposal in the proposed rule.

Proposal No. 2—The Department proposed to allow subscriptions for time deposit SLGS securities in increments of less than $100 above the $1,000 minimum investment and to permit partial redemptions in increments of less than $100, so long as an account balance is at least $1,000 after partial redemption. Most comments were in favor of these items. One comment stated there would be an increased administrative burden on agent banks and on the Department. The Department has determined to make these changes which would result in a more flexible program. Please refer to the comment on the elimination of the special zero interest securities following Proposal No. 10.

One comment suggested the Department reduce the $1,000 minimum investment now required. The Department has determined that $1,000 is a reasonable minimum amount in light of the nature of the SLGS securities program and is not including this suggestion in the proposed rule.

Proposal No. 3—The Department proposed to reduce the minimum maturity for zero interest time deposit certificates of indebtedness. All comments were in favor of this item and the Department is proposing a reduction from thirty to fifteen days for zero interest time deposit securities. One comment urged the Department to make all SLGS securities available in any maturity. The Department has determined that pricing interest bearing SLGS securities of less than thirty days maturity is not feasible, given the volatility of the market. The Department has also decided not to reduce the minimum maturity of zero interest SLGS securities to fewer than fifteen days due to operational constraints. Please refer to the comment on the elimination of special zero interest securities following Proposal No. 10.

Proposal No. 4—The Department proposed to reduce the time between the date of subscription and the date of issue for time deposit SLGS securities. All comments were in favor of this item.

One comment suggested that the time be reduced to no longer than five business days. Accordingly, the Department is proposing a minimum notification of five days for subscriptions of $10 million or less and a minimum notification of seven days for subscriptions of over $10 million.

Proposal No. 5—The Department proposed a reduction of the twelve and one-half basis points differential between SLGS securities rates and rates of similar Treasury securities in the open market. All comments were in favor of this item except one that recommended it remain unchanged. There were specific suggestions on the basis point differential ranging from zero to five. The Department is proposing the basis point differential be reduced to five basis points.

Proposal No. 6—The Department proposed investors be able to purchase SLGS securities with funds subject to rebate as well as yield restrictions. All comments were in favor of this item. The Department will include this item in the proposed rule. Other comments suggested:

(a) Replace all eliminated certifications with a gross proceeds certification under Section 1.148–1(b) of the Income Tax regulations.

(b) Allow all gross proceeds to be invested in SLGS securities.

(c) Offer an instrument similar to a Guaranteed Investment Contract and provide for automatic reinvestment of SLGS securities.

With respect to (a) and (b) above, the Department is proposing to remove all certifications from these regulations, including a gross proceeds certification. The Department believes that the nature and general scope of the program as described in Section 344.0(a) limits investment in SLGS securities to gross proceeds of tax-exempt bonds.

With respect to (c), the Department believes that other changes being proposed to improve the SLGS program will address issuers' concerns about reinvestment risks. In addition, under this proposed rule, for example, an issuer would be able to make reinvestments and to invest interest payments at the current rate, provided it follows the revised notice requirements. Please refer to Proposal No. 10. The Department has determined not to offer products similar to Guaranteed Investment Contracts under the proposed rule.

Proposal No. 7—The Department proposed revising the SLGS Demand Deposit program by adjusting the rate formula and by eliminating certifications that are duplicative of current tax regulations or could be better administered through the tax regulations. One comment suggested the program be eliminated altogether. This program is congressionally mandated, however, and the Department is therefore proposing to make it more attractive and easier to use. Specifically, the Department is proposing to eliminate the certifications and to reduce the Treasury administrative cost in the rate formula. Also, the Department is proposing to remove the $35 million dollar cap on investments in the Demand Deposit program.

In order to facilitate the administration of the Demand Deposit program under the flexible rules proposed, for subscriptions of more than $10 million, Public Debt must receive the required notice between the date of subscription and date of issue in no less than seven days, rather than the present required notice period of three days. Receipt of notice by Public Debt between date of subscription and date of issue for subscriptions of less than $10 million would be increased to five days.

Proposal No. 8—The Department proposed to change the formula for determining the redemption value of SLGS securities in a manner which could result in a premium for the subscriber in cases where the Treasury borrowing rate is lower than the stated interest rate of the SLGS security. All comments were in favor of this change. The Department is proposing to change the formula in a manner that could result in a premium upon redemption. There were five specific suggestions on this item:

(a) The new redemption formula should be made available for SLGS securities issued prior to September 1, 1989. The Department has considered the suggestion and has decided not to change formulas that apply to previously purchased SLGS securities.

(b) Change the current irrevocability of an early redemption notice to one where a six-month early redemption penalty results. The Department has determined that a six-month penalty would not be an adequate deterrent to the revocation of an early redemption notice. An issuer should not be harmed by the retention of this penalty as it would be able to roll over its investments.

(c) Reduce the minimum holding period for time deposit notes and bonds, before allowing an early redemption, from one year to thirty days or less. The Department is adopting this suggestion and proposes to permit thirty days as a minimum period for holding time deposit notes and bonds.

(d) In redemption calculations, take into consideration the maximum interest rate that an issuer could have subscribed for, instead of the actual rate on the outstanding security. The purpose of the redemption formula is to make the Department whole. This suggestion would be inconsistent with this purpose. In addition, issuers would have the flexibility to mix zero interest SLGS securities with either open market securities or with SLGS securities bearing the maximum rate. This should eliminate the problems commenters have cited. For these reasons, the Department is not incorporating this suggestion into the new formula.

(e) Address the issue of whether a premium constitutes proceeds and how the premium should be treated for yield purposes. The issue identified in this suggestion is more appropriately determined under Section 148 of the tax regulations.

Proposal No. 9—The Department proposed to allow zero interest time deposit SLGS securities to be redeemed early at par. All comments were in favor of this item. The Department has included this item in the proposed rule for zero interest time deposit SLGS securities.

Proposal No. 10—The Department proposed to permit the purchase of SLGS securities with the proceeds of previously redeemed SLGS securities or open market Treasury securities. All comments were in favor of this item. The Department is proposing to permit the purchase of SLGS securities with proceeds of previously redeemed SLGS securities or open market Treasury securities.

Discontinuing the Issuance of Special Zero Interest Securities

The Department is proposing to discontinue the issuance of special zero interest securities. Special zero interest securities were instituted to allow issuers to blend special zero interest securities with above-yield open market investments in instances where proceeds became subject to yield restrictions at some date after the issuance of the bonds. The current regulations provide that special zero interest securities may be redeemed without penalty as a further accommodation to the types of situations where this program could be used.

Under the proposed rule, zero interest bearing time deposit securities would now be made available for purposes of rebate compliance, could be in the same escrow as open market investments, and could be redeemed early without penalty.

In addition, the tax regulations provide issuers with the ability to make

''yield reduction payments'' for certain yield-restricted investments that are invested over the yield on the bonds. Yield reduction payment provisions cover virtually all instances when an issuer would use special zero interest securities, greatly reducing the need for this program.

Therefore, there seems to be no reason to continue the issuance of special zero interest securities. The provisions for redemption of these securities would remain to govern the issues of special zero interest securities still outstanding.

Additional Comments

Other comments received, not pertaining to the ten items in the ANPR, suggested the Department make further changes to the SLGS securities program as follows:

(a) Issue zero coupon deep discount bills, notes and bonds for which the issuer could specify the maturity date. Interest on these securities would accrue and be paid at maturity. The Department is revising its SLGS computer system which currently is not capable of handling such securities. The Department is not including this suggestion in the proposed rule at this time, but will reconsider this suggestion in the future when its revised computer system is implemented. Until then, there should be little inconvenience because purchasers can satisfy their requirements by purchasing deep discount zero coupon securities in the open market.

(b) Replace the penalty for revocation of the issuance of a SLGS security under Section 344.1(f)(3) (a six-month prohibition against subscribing for SLGS securities) with a monetary penalty. The Department has determined the six-month penalty is an adequate deterrent for non-settlement of a SLGS subscription and is not including this suggestion in the proposed rule.

(c) Offer to bid and supply a portfolio of open market Treasury securities in circumstances where SLGS securities are not a viable investment alternative. The Department has determined that with all the changes proposed, SLGS securities are a viable investment. The Department is not including this suggestion in the proposed rule.

(d) Amend Section 344.3(b)(3) to permit the acceleration, as well as the postponement of, the delivery dates of SLGS securities within administratively acceptable time limits. The Department has determined this suggestion has been sufficiently addressed in Proposal No. 4.

(e) Revise the procedures to be followed when the sale of SLGS securities is suspended due to a debt ceiling limit and include an automatic waiver under Section 344.4 of all penalties for cancellation of a subscription. Due to varying circumstances in the event of a debt ceiling limit, the Department needs flexibility to deal with the various issues that arise during periods when sales are suspended due to debt ceiling limitations and has decided not to incorporate this suggestion in the proposed rule. Treasury, however, has never failed to deliver SLGS securities for subscriptions already accepted due to debt ceiling limitations.

(f) Make current SLGS securities interest rates, SLGS securities regulations and historical SLGS securities rates available on the Internet, or some other ''free'' resource, rather than on the Commerce Department's Economic Bulletin Board. The Department is currently exploring the dissemination of such information by electronic means and will address this issue in the future. In the meantime these rates are now provided free by phone or fax by the Division of Special Investments, Bureau of the Public Debt, by calling its automated fax at (304) 480–7548 or by calling (304) 480–7752.

(g) Permit the filing of electronic subscriptions. The Department is considering the electronic filing of subscriptions as a part of its computer system redesign now in progress. This suggestion will be addressed in a subsequent regulation.

(h) Clarify who is to be listed as the ''beneficial owner'' for purposes of 31 CFR Part 306. The proposed rule clarifies that for purposes of this Section, the ''beneficial owner'' in Sections 344.0(b) and 344.3(b)(1), whose Tax Identification Number is used, is the state or local government entity, not the trustee or conduit borrower. The six-month penalty for cancellation would therefore be applied to the state or local government entity.

(i) Modify the initial subscription requirements to require certain identifying characteristics of the source of proceeds to be invested so that in the event of a failure to settle, only those subscriptions for the same proceeds are precluded, rather than the Department ''blacklisting'' any subscription submitted under that Taxpayer Identification Number. The Department has determined that monitoring such proceeds would not be administratively feasible and that a six-month penalty is an adequate deterrent appropriately applied at the issuer level. The Department is therefore not including this suggestion in the proposed rule.

(j) Make SLGS securities transferrable. The Department has considered the general issue of transferability and does not intend to change the prohibition against transfer now found in Section 344.1(b). To the extent this suggestion of transferability refers to the transfer of an account, such as a reserve fund investment, by an issuer from one bond issue to another bond issue of that subscriber under the same Taxpayer Identification Number, or between accounts of different security types, i.e., demand deposit to time deposit (as now prohibited by Section 344.1(c)), or from one trustee to another, the clarification of the beneficial owner should address the concern of the commenter. The Department however invites further comments on this suggestion.

(k) Permit an issuer to notify the Bureau of the Public Debt that it is pricing a transaction for which it intends to invest in SLGS securities and thereby lock in the day's SLGS securities rate for a period of up to three days. The Department has determined Proposal No. 4 sufficiently addresses this suggestion. Subscribers for $10 million or less must give at least five days notice and subscribers for more than $10 million must give seven days notice.

(l) Eliminate the 10-year maximum maturity on special zero interest SLGS securities and eliminate any restrictions on their use, thereby making it the only zero yielding SLGS security. The Department has proposed to discontinue the issuance of special zero interest SLGS securities. Please refer to the expanded comment on this issue following Proposal No. 10.

(m) Permit an issuer to restructure its SLGS portfolio by exchanging purchased SLGS securities for ones with similar cash flows. The Department has determined the proposal to allow easing of the early redemption rules for SLGS securities and the rollovers of investments in SLGS securities with previously redeemed SLGS securities would increase an issuer's flexibility in restructuring its portfolio. The Department is not including this suggestion in the proposed rule.

(n) Allow the forward purchase of SLGS securities more than the currently permitted sixty days in Section 344.4. The Department has determined the flexibility provided in this proposed rule is sufficient. The Department has determined the benefit to the market is insufficient to overcome the administrative burden on the Department of maintaining subscription requests for a lengthy period and is not including this suggestion in the proposed rule.

(o) Pay issuers the redemption value of matured SLGS securities by 1:00 p.m. on the date of maturity. The Department

makes ACH payments available to the Federal Reserve Banks in time for posting at the commercial banks at the opening of the business day on the date of maturity. As the suggestion of a 1:00 p.m. payment on maturity date is now being met by the Department, it will not be included in the proposed rule.

(p) The final comment raised several issues related to the yield restriction and rebate rules as they apply to pooled loan programs. The Department believes the changes to the SLGS program in the proposed regulations would assist issuers of pooled loan bonds. Other suggestions would be more appropriately dealt with in the tax regulations.

As a result of these comments and decisions within the Treasury Department, this is being published in proposed form to give market participants an additional comment period.

II. Section By Section Summary

Subpart A—General Information

Provisions included in the general information section apply to time deposit and demand deposit State and Local Government Series securities. Proposed changes from the 1995 regulations are as follows:

Subpart A—General Information

(1) Section 344.0(b)—This section would be changed to redefine the term ''government body'' to make it clear SLGS securities are issued only to state and local governments and not to conduit borrowers.

(2) Section 344.0(d)—A new section would be added to indicate that time deposit SLGS securities would be issued in a minimum amount of $1,000, or in any increments of not less than $1.00. Demand Deposit securities could be issued in any increment over the $1,000 minimum.

(3) Section 344.1(a)—This section would be changed to note that copies of the circular may be obtained from the Division of Special Investments.

(4) Section 344.1(h)—A new section would be added on noncompliance which applies to all subparts and the present noncompliance section in each subpart would be deleted. This section also clarified that late payment fees and administrative fees are due on demand.

(5) Section 344.1(i)—Another general section would be added, titled General Redemption Provisions, stating a security may not be called for redemption by the Secretary of the Treasury prior to maturity. If a security is scheduled for redemption on a non-business day, it would be redeemed on the next business day. This section would apply to all subparts and duplications of this section that exist in the present regulations would be deleted.

(6) Section 344.1(j)—A new section would be added to clarify that any reference to days refers to calendar days, unless otherwise noted.

Subpart B—Time Deposit Securities

(1) Section 344.2(a)(1)—The reference to the $1,000 minimum would be deleted as it would be covered in 344.0(d). Section 344.0(d) would also state that increments above the minimum amount could be purchased for not less than $1.00 for time deposit securities. The minimum maturity period for zero percent certificates of indebtedness would be reduced from thirty days to fifteen days.

(2) Section 344.2(a)(2)—The reference to the $1,000 minimum amount and the $100 increment above this amount would be deleted as it would be covered in the new general section, 344.0(d).

(3) Section 344.2(a)(3)—The reference to the $1,000 minimum amount and the increment above this amount would be deleted as it would be covered in a new general section, 344.0(d).

(4) Section 344.2(b)—The last sentence of this section would state the rates specified in the tables are five basis points below the then current estimated Treasury borrowing rate for a security of comparable maturity. Section 344.2(c)(2) would clarify that the Department may employ alternative methods of payment other than by ACH.

(5) Section 344.2(c)(2)—This section would be amended to provide for payment of redemptions prior to maturity by Fedwire.

(6) Section 344.3(b)(1)—This section would be amended to indicate that subscriptions must be received by Public Debt at least five days prior to issue date for subscriptions of $10 million or less and seven days for subscriptions of more than $10 million. Subscriptions of $10 million or less could be canceled without penalty up to five days before the date of issuance. Subscriptions of more than $10 million could be canceled without penalty up to seven days before the date of issuance.

This section would also note that a subscription sent in letter form would not be accepted unless it provided the Tax Identification Number of the government body.

In the example of an initial subscription in letter form, the words ''or other entity'' have been deleted to emphasize that the proper Tax Identification Number to insert is that of the state or local government owner, not that of a trustee bank or a conduit borrower.

(7) Section 344.3(b)(4)—This section would be revised to read that no initial subscription would be required where a final subscription is received at least five days before the issue date for subscriptions of $10 million or less and at least seven days before the issue date for subscriptions of over $10 million.

(8) Section 344.3(c)—This section would be amended to eliminate all certifications other than (3), which is being revised. The ''all or nothing'' rule of the certification in (1) Is being eliminated to facilitate the use of the time deposit securities for investment of proceeds that are subject to arbitrage rebate. This change in the proposed regulations should alleviate some of the need to calculate rebate if funds can be invested at the bond yield for a longer term. In general, to the extent that the certifications were a result of concerns about abuse of the tax regulations and the SLGS program, the Department has determined that the yield restriction and rebate rules are more appropriately enforced under the tax regulations. (In cases of abuse of the tax regulations which also involve SLGS securities, these enforcement efforts may be supplemented by the Secretary's authority under section 344.1(f) to revoke subscriptions.) The certification in (3) would be revised to apply only to SLGS securities purchased prior to December 27, 1976. Certifications in (4) would be eliminated because of certain prior changes to the SLGS securities regulations (such as the change to daily SLGS securities rates), and because of proposed changes to the early redemption penalties under section 344.5, contained in these proposed regulations. Additionally, the word ''beneficial owner'' is being changed to ''government body'' to make it clear that the proper Tax Identification Number to be used is that of the government entity.

(9) Section 344.4 General.—This section would be amended to state that the issue date of a subscription may not exceed by more than sixty days the date the subscription was received by Public Debt.

(10) Section 344.4(b)—This section would be eliminated as it is now covered in the general provisions applicable to all SLGS securities, 344.0(h).

(11) Section 344.5(a)—This section would be eliminated as it would be covered in the general provisions applicable to all SLGS securities, 344.0(i).

(12) Section 344.5(a)(2)—The word ''subscriber'' is being changed to ''government body'' to make it clear that

the proper Tax Identification Number to be used is that of the government entity.

(13) Section 344.5(b)(1)—This section would be amended to provide that zero interest certificates may be redeemed before maturity at the owner's option no earlier than fifteen days before maturity for certificates of fifteen to twenty-nine days duration and no earlier than thirty days after the issue date in the case of a note or bond.

(14) Section 344.5(b)(2)—This section would be amended to change the word ''subscriber'' to ''state or local government body owner'' in the 3rd sentence of this section. This section would further be amended to read that notice of redemption must be received by Public Debt no less than ten days before the requested redemption date, rather than the current fifteen-day requirement.

(15) Section 344.5(b)(3)—This would be a new section which provides for the calculation of redemption proceeds for SLGS securities purchased on or after the effective date of the final rule. This section would change the formula for determining the early redemption value of SLGS securities to one where the remaining interest and principal payments are discounted by the current Treasury borrowing rate for the remaining term to maturity of the security being redeemed.

This would result in a premium in cases where the Treasury borrowing rate is lower than the stated interest rate of the SLGS securities. This section would further refer to Appendix B at the end of Part 344 for the calculation of the formula.

This section would also read that there would be no market charge for zero interest time deposit securities. The redemption proceeds for a zero interest security would therefore be a return of the principal invested.

Subpart C—Demand Deposit Securities

(1) Section 344.5(a)—This section would be revised to delete the reference to a $1,000 minimum investment as this would be covered in the new general section, 344.0(d).

(2) Section 344.6(b)(2)(i)—The Department intends to publish a Federal Register notice when the SLGS securities regulations are finalized providing the marginal tax rate and the Treasury Administrative Cost (TAC) to be used in the demand deposit program. A reduction in the TAC similar to the reduction to five basis points is contemplated in the differential between time deposit SLGS security rates and rates on similar Treasury securities in the open market.

(3) Section 344.7(a)—This section would be amended by stating that subscriptions for $10 million or less must be received by Public Debt at least five days prior to the date of issue and would require that subscriptions over $10 million be received by Public Debt at least seven days prior to the date of issue.

(4) Section 344.7(c)(1)—This section would be removed since under the proposed rule, the $35 million cap on issues of demand deposit securities would be eliminated.

(5) Section 344.7 (c)(2) through (c)(5)—These certifications would be eliminated because they can be administered more effectively under the tax regulations of Section 148 of the Internal Revenue Code. The tax regulations would be amended to reflect the transfer of these certifications (to the extent not already covered by the tax regulations).

(6) Section 344.8(b)—This section would be eliminated as it would be covered in the general section applicable to all SLGS securities, 344.1(h).

(7) Section 344.9(a)—This section will be amended to provide for redemption payments by Fedwire.

(8) Section 344.9(b)—This section would be amended to state that notice of redemptions for subscriptions of more than $10 million must be received at least three business days prior to the scheduled date of redemption. Redemption notice for subscriptions of $10 million or less would remain unchanged at one business day.

(9) Section 344.9(c)—This section will be eliminated as the rules regarding expenditure of proceeds are covered by the tax regulations.

Subpart D—Special Zero Interest Securities

(1) Section 344.10—This section would be amended to add that the Department has discontinued the issuance of this type of security as of the effective date of the final rule. The proposed amendment to the time deposit security subpart, which would permit investment for rebate and yield restriction purposes, would eliminate the need for a separate Special Zero Interest Program. Under the proposed revisions, the following sections of this Subpart would apply only to special zero interest securities issued before the effective date of the final rule. Subpart B, governing time deposit securities, would be changed in a manner that permits time deposit zero interest securities to be redeemed without penalty. Investors that hold special zero interest securities issued prior to the effective date of the final rule would be able to redeem these securities without penalty.

(2) Section 344.11—This section would be eliminated.

(3) Section 344.12—This section would be eliminated.

(4) Section 344.13—This section would now become Section 344.11 and remain in effect for the special zero interest accounts now outstanding. The minimum holding period for redeeming a note after issue date would be changed from one year to thirty days. The word ''subscriber'' will be changed to ''government body'' to clarify that the proper Tax Identification Number to be used is that of the government entity. Redemption notices must be received by Public Debt within the proscribed limits.

Appendix A to Part 344—There would be a clarifying statement that these formulas apply to SLGS securities issued before the effective date of the final rule.

Appendix B to Part 344—There would be a new formula in this section for determining the redemption value for all early redeemed time deposit SLGS securities. This formula would reflect the change that the remaining interest and principal payments are discounted by the Treasury borrowing rate for the remaining term to maturity of the security being redeemed. This would result in a premium in cases where the Treasury borrowing rate is lower than the stated interest rate of the SLGS security.

Procedural Requirements

It has been determined this proposed rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, an assessment of anticipated benefits, costs and regulatory alternatives is not required.

Although this rule is being issued to secure the benefit of public comment, the rule relates to matters of public contract, as well as the borrowing power and fiscal authority of the United States. The notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

The proposed rule does not alter the collection of information previously reviewed and approved by the Office of Management and Budget, in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1535–0091. The principal purpose of the proposed rule

is to make the SLGS securities program more attractive and flexible for investors. The revision would not impose a new collection of information requirement.

List of Subjects in 31 CFR Part 344

Bonds, Government securities, Securities.

Dated: July 22, 1996.

Gerald Murphy,

Fiscal Assistant Secretary.

For the reasons set forth in the preamble, part 344 of title 31 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 344—REGULATIONS GOVERNING UNITED STATES TREASURY CERTIFICATES OF INDEBTEDNESS, TREASURY NOTES, AND TREASURY BONDS—STATE AND LOCAL GOVERNMENT SERIES

Subpart A—General Information

Sec.

344.0 Offering of securities.
344.1 General provisions.

Subpart B—Time Deposit Securities

344.2 Description of securities.
344.3 Subscription for purchase.
344.4 Issue date and payment.
344.5 Redemption.

Subpart C—Demand Deposit Securities

344.6 Description of securities.
344.7 Subscription for purchase.
344.8 Issue date and payment.
344.9 Redemption.

Subpart D—Special Zero Interest Securities

344.10 General.
344.11 Redemption.

Appendix A to Part 344—Early Redemption Market Charge Formulas and Examples for Subscription from September 1, 1989, through [date of publication of final rule]

Appendix B to Part 344—Formula for Determining Redemption Value for Securities Purchased and Early-Redeemed After [date of publication of final rule]

Authority: 26 U.S.C. 141 note; 31 U.S.C. 3102 *et seq.,*

Subpart A—General Information

§ 344.0 Offering of securities.

(a) In order to provide issuers of tax exempt securities with investments which allow them to comply with yield restriction and arbitrage rebate provisions of the Internal Revenue Code, the Secretary of the Treasury offers for sale the following State and Local Government Series securities:

(1) Time deposit securities:

(i) United States Treasury Certificates of Indebtedness;

(ii) United States Treasury Notes; and

(iii) United States Treasury Bonds.

(2) Demand deposit securities—United States Treasury Certificates of Indebtedness.

(b) As appropriate, the definitions of terms used in part 344 are those found in the relevant portions of the Internal Revenue Code and the tax regulations. The term ''government body'' refers to issuers of state or local government bonds described in section 103 of the Internal Revenue Code.

(c) The securities in paragraph (a) of this section will be issued in a minimum amount of $1,000, or in any larger amount in increments of not less than $1.00 for time deposit securities and in any increments over the $1,000 minimum for demand deposit securities above the stated minimum.

(d) This offering will continue until terminated by the Secretary of the Treasury.

§ 344.1 General provisions.

(a) *Regulations.* United States Treasury securities—State and Local Government Series shall be subject to the general regulations with respect to United States securities, which are set forth in the Department of the Treasury Circular No. 300 (31 CFR part 306), to the extent applicable. Copies of the circular may be obtained from the Bureau of the Public Debt, Division of Special Investments—Room 309, 200 Third Street, P.O. Box 396, Parkersburg, WV 26102–0396, or a Federal Reserve Bank or Branch.

(b) *Issuance.* The securities will be issued in book-entry form on the books of the Department of the Treasury, Bureau of the Public Debt, Parkersburg, WV. Transfer of securities by sale, exchange, assignment, pledge, or otherwise is not permitted.

(c) *Transfers.* Securities held in an account of any one type, i.e., time deposit, demand deposit, or special zero interest, may not be transferred within that account or to an account of any other type.

(d) *Fiscal agents.* Selected Federal Reserve Banks and Branches, as fiscal agents of the United States, may be designated to perform such services as may be requested of them by the Secretary of the Treasury in connection with the purchase of, transactions involving, and redemption of, the securities.

(e) *Authority of subscriber.* Where a commercial bank submits an initial or final subscription on behalf of a government body, it must certify it is acting under the latter's specific authorization. Ordinarily, evidence of such authority will not be required. Subscriptions submitted by an agent other than a commercial bank must be accompanied by evidence of the agent's authority to act. Such evidence must describe the nature and scope of the agent's authorization, must specify the legal authority under which the agent was designated, and must relate by its terms to the investment action being undertaken. Subscriptions unsupported by such evidence will not be accepted.

(f) *Reservations.* Transaction requests, including requests for subscription and redemption, will not be accepted if unsigned, inappropriately completed, or not timely submitted. Any of these actions shall be final. The authority of the Secretary to waive regulations under 31 CFR 306.126 applies to part 344. The Secretary of the Treasury reserves the right:

(1) To reject any application for the purchase of securities under this offering;

(2) To refuse to issue any such securities in any case or any class(es) of cases; and

(3) To revoke the issuance of any security, and to declare the subscriber ineligible thereafter to subscribe for securities under this offering, if:

(i) Any security is issued on the basis of an improper certification or other misrepresentation by the subscriber (other than as the result of an inadvertent error),

(ii) The issuance of any security is in conjunction with a violation of the tax regulations, as determined by the Internal Revenue Service or

(iii) The Secretary deems such action to be in the public interest.

(g) *Debt limit contingency.* The Department of the Treasury reserves the right to change or suspend the terms and conditions of this offering, including provisions relating to subscriptions for, and issuance of, securities, interest payments, redemptions, and rollovers, as well as notices relating hereto, at any time the Secretary determines that issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit. Announcement of such changes shall be provided by such means as the Secretary deems appropriate.

(h) *Noncompliance.* The penalty imposed on any government body which fails to make settlement on a subscription once submitted and not canceled timely shall be to render the government body ineligible thereafter to subscribe for securities under any offering in part 344 for a period of six

months, beginning on the date the subscription is withdrawn or the proposed issue date, whichever occurs first. The Division of Special Investments may determine to waive the six-month penalty, pursuant to the provisions governing the waiver of regulations set forth under 31 CFR 306.126. Where settlement occurs after the proposed issue date and the Division of Special Investments determines, pursuant to 31 CFR 306.126, that settlement is acceptable on an exception basis, the six-month penalty will be waived and the government body shall be subject to a late payment assessment. The late payment assessment will equal the amount of interest that would have accrued on the securities from the proposed issue date to the date of settlement, as well as an administrative fee of $100 per subscription. Assessments of late payment fees and administrative fees under part 344 are due on demand.

(i) *General redemption provisions.* A security may not be called for redemption by the Secretary of the Treasury prior to maturity. Upon the maturity of a security, the Department will make payment of the principal amount and interest due to the owner thereof. A security scheduled for redemption on a non-business day will be redeemed on the next business day.

(j) Unless otherwise noted, any reference herein to days refers to calendar days.

Subpart B—Time Deposit Securities

§ 344.2 Description of securities.

(a) *Terms.* (1) Certificates will be issued with maturity periods fixed by the government body, from thirty days up to and including one year, or for any intervening period; provided, for certificates that bear no interest, the maturity period may be fixed by the government body from fifteen days up to and including one year or for any intervening period.

(2) *Notes.* The notes will be issued with maturity periods fixed by the government body, from one year and one day up to and including ten years, or for any intervening period.

(3) *Bonds.* The bonds will be issued with maturity periods fixed by the government body, from ten years and one day up to and including thirty years, or for any intervening period.

(b) *Interest rate.* Each security shall bear such rate of interest as the government body shall designate, but the rate shall not exceed the maximum interest rate. The applicable maximum interest rates for each day shall equal rates shown in a SLGS securities rate table, which will be released by the Department to the public by 10:00 a.m., Eastern time, each business day. If the Department finds that due to circumstances beyond its control the rates will not be available to the public by 10:00 a.m., Eastern time, on any given business day, the applicable interest for the last preceding business day shall apply. The applicable rate table for any subscription is the one in effect on the date the initial subscription is received at Public Debt. Subscriptions received on a non-business day will be subject to those interest rates which are in effect for the next business day. The rates specified in the tables are five basis points below the then current estimated Treasury borrowing rate for a Treasury security of comparable maturity and may be found by investors in the Commerce Department's Economic Bulletin Board or may be obtained from the Division of Special Investment's automated fax at (304)480–7548 or by calling (304) 480–7752.

(c) *Payment.* (1) *Interest computation and payment dates.* Interest on a certificate will be computed on an annual basis and will be paid at maturity with the principal. Interest on a note or bond will be paid semi-annually. The government body will specify the first interest payment date, which must occur any time between thirty days and one year of the date of issue, and the final interest payment date must coincide with the maturity date of the security. Interest for other than a full semi-annual interest period is computed on the basis of a 365-day or 366-day year (for certificates) and on the basis of the exact number of days in the half-year (for notes and bonds). See appendix to subpart E of Part 306 of this chapter for rules regarding computation of interest.

(2) *Method of payment.* Payment may be made by the Automated Clearing House method (ACH) for the owner's account at a financial institution designated by the owner. Redemptions prior to maturity will be paid by Fedwire. To the extent applicable, provisions of § 357.26 on ''Payments,'' as set forth in 31 CFR part 357 and provisions of 31 CFR part 370, shall govern ACH payments made under this offering. The Department of the Treasury may employ alternate payment procedures, instead of ACH, in any case, or class of cases where operational considerations necessitate such action.

§ 344.3 Subscription for purchase.

(a) *Subscription requirements.* Subscriptions for purchase of securities under this offering must be submitted to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, P.O. Box 396, Parkersburg, WV 26102–0396. Initial and final subscriptions may be submitted by fax at (304) 480–6818, by mail, or by other carrier. All subscriptions submitted by mail, whether initial or final, should be sent by certified or registered mail.

(b) *Initial subscriptions.* (1) An initial subscription, either on a designated Treasury form or in letter form, stating the principal amount to be invested and the issue date, must be received by Public Debt at least five days before the issue date for subscriptions of $10 million or less, and at least seven days before the issue date for subscriptions of over $10 million, but in no event will subscriptions be received more than 60 days prior to issue date. Subscriptions may be sent by facsimile transfer (fax) on (304) 480–6818, carrier service, U.S. Postal Service or other means. If the subscription is faxed, the original document must be received by Public Debt no later than the issue date. Initial subscriptions of $10 million or less may be canceled without penalty by the subscriber prior to the close of business on the fifth day before issue date. If the fifth day before issue date falls on a non-business day, the cancellation must occur on the preceding business day. Subscriptions of more than $10 million may be canceled without penalty by the subscriber prior to the close of business of the seventh day before issue date. For example, if securities totaling $10 million or less are to be issued on March 16, the initial subscription must be received by Public Debt no later than March 11. If securities totaling more than $10 million are to be issued on March 16, the initial subscription must be received by Public Debt no later than March 9. If the initial subscription is in letter form, it must contain the Tax Identification Number of the government body or it will not be accepted. It should read substantially as follows:

To: Bureau of the Public Debt

Pursuant to the provisions of Department of the Treasury Circular, Public Debt Series No. 3–72, current revision, the undersigned hereby subscribes for United States Treasury Time Deposit Securities—State and Local Government Series, to be issued as entries on the books of the Bureau of the Public Debt, Department of the Treasury, in the total amount and with the issue date shown below, which date is at least five/seven days after the date of this subscription:

Principal Amount $ _____

Issue Date _____

The undersigned agrees the final subscription and payment will be submitted on or before the issue date.

_____

(Tax I.D. Number of state or local government body eligible to purchase State and Local Government Series securities)

_____

(Name of state or local government body eligible to purchase State and Local Government Series securities)

_____

(Date)

by _____

(Signature and Title)

(2) The provisions set out in paragraph (e) of § 344.1, dealing with the authority of the subscriber to act on behalf of a government body, and in § 344.1(h), relating to the failure to complete a subscription, apply to initial, as well as final, subscriptions.

(3) An initial subscription may be amended on or before the issue date, but no later than 3:00 p.m., Eastern time, on the issue date. Notification may be faxed to the Bureau of the Public Debt at (304) 480–6818 provided the request is clearly identified as an amendment and is immediately followed by the submission, by mail or other carrier, of written notification. Amendments to initial subscriptions are acceptable with the following exceptions:

(i) The issue date may not be changed to require issuance earlier than the issue date originally specified or to require issuance more than seven days later than originally specified. If such change is made, notification should be provided to the Bureau of the Public Debt as soon as possible, but no later than 3:00 p.m., Eastern time, one business day before the originally specified issue date;

(ii) The aggregate amount may not be changed by more than the ten percent limitation set out in paragraph (c) of this section;

(iii) An interest rate may not be changed to a rate that exceeds the maximum interest rate in the table that was in effect for a security of comparable maturity on the date the initial subscription was submitted; and

(iv) Where an amendment is not submitted timely, the Division of Special Investments may determine, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126, that such an amendment is acceptable on an exception basis. Where an amendment is determined to be acceptable on an exception basis, the amended information shall be used as the basis for issuing the securities, and an administrative fee of $100 per subscription will be assessed. This administrative fee is due on demand as provided for in § 344.1(h). The Secretary reserves the right to reject amendments which are not submitted timely.

(4) No initial subscription will be required where a final subscription is received at least five days before the issue date for subscriptions of $10 million or less and at least seven days before the issue date for subscriptions over $10 million. Such final subscription will be treated as the initial subscription for purposes of determining the applicable interest rate table (see § 344.2(b)), and may be amended on or before the issue date, subject to the exceptions in paragraph (b)(3) of this section.

(c) *Final subscriptions.* A final subscription must be received by the Bureau of the Public Debt on or before the issue date, but no later than 3:00 p.m., Eastern time, on the issue date. The final subscription may be faxed to the Bureau of the Public Debt at (304) 480–6818, provided the fax is properly identified as a final subscription and is immediately followed by the submission of the original subscription form by mail or other carrier. The final subscription must be for a total principal amount that is no more than ten percent above or below the aggregate principal amount specified in the initial subscription. The final subscription, dated and signed by an official authorized to make the purchase and showing the taxpayer identification number of the government body, must be accompanied by a copy of the initial subscription, where applicable. The various maturities, interest rates, and interest payment dates (in the case of notes and bonds), must be specified in the final subscription, as well as the title(s) of the designated official(s) authorized to request early redemption. Final subscriptions submitted for certificates, notes and bonds must separately itemize securities of each maturity and each interest rate. The final subscription must contain a statement by the subscriber that none of the proceeds submitted in payment is derived (directly or indirectly) from the redemption before maturity of other securities of the State and Local Government Series purchased on or before December 27, 1976.

§ 344.4 Issue date and payment.

The subscriber shall fix the issue date of each security in the initial subscription. The issue date must be a business day and may not exceed by more than sixty days the date the initial subscription was received by Public Debt. Full payment for each subscription must be submitted by the Fedwire funds transfer system with credit directed to the Treasury's General Account. Full payment should be submitted by 3:00 p.m., Eastern time, to ensure that settlement on the securities occurs on the date of issue.

§ 344.5 Redemption.

(a) *Redemption before maturity*—(1) *In general.* A security may be redeemed at the owner's option no earlier than twenty-five days after the issue date in the case of a certificate of thirty days or more, no earlier than fifteen days before the scheduled maturity for zero interest certificates of fifteen to twenty-nine days duration, and no earlier than thirty days after the issue date in the case of a note or bond. Partial redemptions may be requested in any amount; however, an account balance of less than $1,000 will be redeemed in total.

(2) *Notice.* Notice of redemption prior to maturity must be submitted, either on a designated Treasury form or by letter, by the official(s) authorized to redeem the securities, as shown on the final subscription form, to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, P.O. Box 396, Parkersburg, WV 26102–0396. The notice may be submitted by fax to the Bureau of the Public Debt at (304) 480–6818, by mail or by other carrier. The notice must be received by Public Debt no less than ten days before the requested redemption date, but no more than sixty days before the requested redemption date. The notice must show the account number, the maturities of the securities to be redeemed, and the Tax Identification Number of the government body. A notice of redemption prior to maturity may not be canceled.

(3) *Redemption proceeds—Subscriptions on or after [date of publication of final rule].* For securities subscribed for on or after [date of publication of final rule], the amount of the redemption proceeds is calculated as follows:

(i) *Interest.* If a security is redeemed before maturity on a date other than a scheduled interest payment date, interest will be paid for the fractional interest period since the last interest payment date.

(ii) *Redemption value.* The remaining interest and principal payments are discounted by the current Treasury borrowing rate for the remaining term to maturity of the security being redeemed. This does not apply to SLGS securities purchased before [date of publication of final rule]. The term ''current Treasury borrowing rate'' is determined in accordance with § 344.2(b). The formulas for calculating the redemption value under this section are set forth in

Appendix B of this part. Redemption proceeds in the case of a zero-interest security are a return of the principal invested.

(4) *Redemption proceeds—Subscriptions from September 1, 1989, through* [date one day prior to publication date of final rule]. For securities subscribed for from September 1, 1989, through [date one day prior to publication date of final rule], the amount of the redemption proceeds is calculated as follows:

(i) *Interest.* If a security is redeemed before maturity on a date other than a scheduled interest payment date, interest will be paid for the fractional interest period since the last interest payment date.

(ii) *Market charge.* An amount shall be deducted from the redemption proceeds in all cases where the current borrowing rate of the Department of the Treasury for the remaining period to original maturity of the security prematurely redeemed exceeds the rate of interest originally fixed for such security. The amount shall be the present value of the future increased borrowing cost to the Treasury. The annual increased borrowing cost for each interest period is determined by multiplying the principal by the difference between the two rates. For notes and bonds, the increased borrowing cost for each remaining interest period to original maturity is determined by dividing the annual cost by two. For certificates, the increased borrowing cost for the remaining period to original maturity is determined by multiplying the annual cost by the number of days remaining until original maturity divided by the number of days in the calendar year. Present value shall be determined by using the current Treasury borrowing rate as the discount factor. The term ''current Treasury borrowing rate'' means the applicable rate shown in the table of maximum interest rates payable on United States Treasury securities—State and Local Government Series—for the day the request for early redemption is received by Public Debt, plus ⅛ of 1 percentage point. Where redemption is requested as of a date less than thirty days before the original maturity date, such applicable rate is the rate shown for a security with a maturity of thirty days. The market charge for bonds, notes, and certificates of indebtedness can be computed by use of the formulas in Appendix A to this part.

(5) *Redemption proceeds—Subscriptions from December 28, 1976, through August 31, 1989.* For securities subscribed for from December 28, 1976, through August 31, 1989, the amount of the redemption proceeds is calculated as follows:

(i) *Interest.* Interest for the entire period the security was outstanding shall be recalculated on the basis of the lesser of the original interest rate at which the security was issued, or the interest rate that would have been set at the time of the initial subscription had the term for the security been for the shorter period. If a note or bond is redeemed before maturity on a date other than a scheduled interest payment date, no interest will be paid for the fractional interest period since the last interest payment date.

(ii) *Overpayment of interest.* If there have been overpayments of interest, as determined under paragraph (b)(5)(i) of this section, there shall be deducted from the redemption proceeds the aggregate amount of such overpayments, plus interest, compounded semi-annually, thereon from the date of each overpayment to the date of redemption. The interest rate to be used in calculating the interest on the overpayment shall be one-eighth of one percent above the maximum rate that would have applied to the initial subscription had the term of the security been for the shorter period.

(iii) *Market charge.* An amount shall be deducted from the redemption proceeds in all cases where the current borrowing rate of the Department of the Treasury for the remaining period to original maturity of the security prematurely redeemed exceeds the rate of interest originally fixed for such security. The amount shall be calculated using the formula in paragraph (b)(4)(ii) of this section.

(6) *Redemption proceeds—Subscriptions on or before December 27, 1976.* (i) For securities subscribed for on or before December 27, 1976, the amount of the redemption proceeds is calculated as follows.

(ii) The interest for the entire period the security was outstanding shall be recalculated on the basis of the lesser of the original interest rate at which the security was issued, or an adjusted interest rate reflecting both the shorter period during which the security was actually outstanding and a penalty. The adjusted interest rate is the Treasury rate which would have been in effect on the date of issuance for a marketable Treasury certificate, note, or bond maturing on the quarterly maturity date prior to redemption (in the case of certificates), or on the semi-annual maturity period prior to redemption (in the case of notes and bonds), reduced in either case by a penalty which shall be the lesser of:

(A) One-eighth of one percent times the number of months from the date of issuance to original maturity, divided by the number of full months elapsed from the date of issue to redemption; or

(B) One-fourth of one percent.

(iii) There shall be deducted from the redemption proceeds, if necessary, any overpayment of interest resulting from previous payments made at a higher rate based on the original longer period to maturity.

(b) [Reserved]

Subpart C—Demand Deposit Securities

§ 344.6 Description of securities.

(a) *Terms.* The securities are defined as one-day certificates of indebtedness. Each subscription will be established as a unique account. Securities will be automatically rolled over each day unless redemption is requested.

(b) *Interest rate.* (1) Each security shall bear a variable rate of interest based on an adjustment of the average yield for three-month Treasury bills at the most recent auction. A new rate will be effective on the first business day following the regular auction of three-month Treasury bills and will be shown in a SLGS securities rate table, available to the public on such business day. Interest will be accrued and added to principal daily. Interest will be computed on the balance of the principal, plus interest accrued through the immediately preceding day.

(2)(i) The annualized effective demand deposit rate in decimals, designated ''I'' in Equation 1 is calculated as:

$$I = \left[\left(\frac{100}{P}\right)^{Y/DTM} - 1\right] \times (1 - MTR) - TAC$$

(Equation 1)

where:

P=Average auction price for the most recently auctioned 13-week Treasury bill, per hundred, to three decimals.

Y=365 if the year following issue date does not contain a leap year day and 366 if it does contain a leap year day.

DTM=The number of days from date of issue to maturity for the most recently auctioned 13-week Treasury bill.

MTR=Estimated marginal tax rate, in decimals, of purchasers of short-term tax-exempt bonds.

TAC=Treasury administrative costs, in decimals.

(ii) The daily factor for the demand deposit rate is then calculated as follows:

$$DDR = (1+I)^{1/Y} - 1$$

(Equation 2)

(3) Information as to the estimated average marginal tax rate and costs for administering the demand deposit State and Local Government Series securities program, both to be determined by Treasury from time to time, will be published in the Federal Register.

(c) *Payment.* Interest earned on the securities will be added to the principal and will be reinvested daily until redemption. At any time the Secretary determines that issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit, the Department will invest any unredeemed demand deposit securities in special ninety-day certificates of indebtedness. These ninety-day certificates will be payable at maturity, but redeemable before maturity, provided funds are available for redemption, or reinvested in demand deposit securities when regular Treasury borrowing operations resume, both at the owner's option. Funds invested in the ninety-day certificates of indebtedness will earn simple interest equal to the daily factor in effect at the time demand deposit security issuance is suspended, multiplied by the number of days outstanding.

§ 344.7 Subscription for purchase.

(a) *Subscription requirements.* Subscriptions for purchase of securities under this offering must be submitted to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, P.O. Box 396, Parkersburg, WV 26102–0396. Subscriptions must be submitted on a designated Treasury form, must specify the principal amount to be invested and the issue date, and must be signed by an official authorized to make the purchase. The Bureau of the Public Debt must receive the subscription at least five business days before the issue date for subscriptions of $10 million or less and at least seven business days before the issue date for subscriptions of more than $10 million. Subscriptions for more than $10 million can be canceled without penalty up to seven days prior to the issue date. Subscriptions for $10 million or less may be canceled without penalty up to five days prior to the issue date. The subscription may be submitted by fax at (304) 480–6818, by certified or registered mail, or by other carrier. If faxed, the original subscription form must be received by the Division of Special Investments by 3:00 p.m., Eastern time, on the issue date. Public Debt will not accept subscriptions for demand deposit securities more than 60 days prior to the issue date.

(b) *Amending subscriptions.* The principal amount to be invested may be changed without penalty on or before the issue date, but no later than 1:00 p.m. Eastern time, on the issue date. The request must be clearly identified as an amendment and must be followed immediately by the submission, by mail or other carrier, of written notification. Where an amendment is not submitted timely, the Division of Special Investments may determine, pursuant to the provisions governing waiver of regulations set forth under 31 CFR 306.126, that such an amendment is acceptable on an exception basis. Where an amendment is determined to be acceptable on an exception basis, the amended information shall be used as the basis for issuing the securities, and an administrative fee of $100 per subscription will be assessed. This administrative fee is due on demand as provided for in § 344.1(h). The Secretary reserves the right to reject amendments which are not submitted timely.

§ 344.8 Issue date and payment.

The subscriber shall fix the issue date on the subscription, the issue date to be a business day at least five business days after receipt of the subscription by the Division of Special Investments for subscriptions of $10 million or less and seven business days after receipt of the subscription by the Division of Special Investments for subscriptions more than $10 million. Full payment for each subscription must be submitted by the Fedwire funds transfer system with credit directed to the Treasury's General Account. Full payment should be received by the Division of Special Investments by 3:00 p.m., Eastern time, to ensure that settlement on the securities occurs on the issue date.

§ 344.9 Redemption.

(a) *General.* A security may be redeemed at the owner's option, provided a request for redemption is received not less than one business day prior to the requested redemption date for redemptions of $10 million or less and received not less than three business days for redemptions of more than $10 million. Partial redemptions may be requested in any amount; however, an account balance of less than $1,000 will be redeemed in total. Payment will be made by Fedwire.

(b) *Notice.* Notice of redemption must be submitted, either on a designated Treasury form or by letter, by the official(s) authorized to redeem the securities, as shown on the subscription form, to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, P.O. Box 396, Parkersburg, WV 26102–0396. The notice may be submitted by fax to the Bureau of the Public Debt at (304) 480–6818, by mail, or by other carrier. The notice must show the account number and the Tax Identification Number of the government body. The notice of redemption must be received at the Bureau of the Public Debt by 1:00 p.m., Eastern time on the required day.

Subpart D—Special Zero Interest Securities

§ 344.10 General.

Provisions of subpart B of this part (Time Deposit Securities) apply except as specified in subpart D of this part. Special zero interest securities will no longer be issued after [date of publication of final rule]. All zero interest securities issued after [date of publication of final rule] are zero interest time deposit securities, subject to the rules of subpart B of this part.

§ 344.11 Redemption.

(a) *General.* Provisions of § 344.5(a) apply.

(b) *Before maturity.* (1) *In general.* A security may be redeemed at the owner's option no earlier than twenty-five days after the issue date in the case of a certificate and thirty days after the issue date in the case of a note. No market charge or penalty shall apply in the case of the redemption of a special zero interest security before maturity.

(2) *Notice.* Notice of redemption prior to maturity must be submitted, either on a designated Treasury form or by letter, by the official(s) authorized to redeem the securities, as shown on the final subscription form, to the Division of Special Investments, Bureau of the Public Debt, 200 Third Street, P.O. Box 396, Parkersburg, WV 26102–0396. The notice may be submitted by fax to the Bureau of the Public Debt at (304) 480–6818, by mail, or by other carrier. The notice must show the account number, the maturities of the securities to be redeemed, and the Tax Identification Number of the government body. The notice must be received by Public Debt no less than fifteen days before the requested redemption date, but no more than sixty days before the requested redemption date. A notice of redemption prior to maturity cannot be canceled.

Appendix A to Part 344—Early Redemption Market Change Formulas and Examples for subscriptions from September 1, 1989, through [date of publication of final rule]

A. The amount of the market charge for bonds and notes issued before (date of publication of final rule) can be determined by the following formula:

$$M = \frac{\left(\frac{b}{2}\right)\times\left(\frac{r}{s}\right)+\left(\frac{b}{2}\right)a_{n\rceil}}{1+\left(\frac{r}{s}\right)\times\left(\frac{i}{2}\right)}$$

(Equation1)

where:

M=Market charge

b=increased annual borrowing cost (i.e., principal multiplied by the excess current borrowing rate for the period from redemption to original maturity of note or bond over the rate for the security)

r=number of days from redemption date to next interest payment date

s=number of days in current semi-annual period

i=Treasury borrowing rate over the remaining term to maturity, based on semi-annual interest payments and expressed in decimals.

n=number of remaining full semi-annual periods from the redemption date to the original maturity date, except that if the redemption date is on an interest payment date, n will be one less than the number of full semi-annual periods remaining to maturity.

$$v^n = 1/(1+i/2)^n = \text{present value of 1 due at the end of n periods}$$

(Equation 2)

$$a_{n\rceil} = \left(1-v^n\right)/(i/2) = v+v^2+v^3+\ldots+v^n = \text{present value of 1 per period for n periods}$$

(Equation 3)

B. The application of this formula may be illustrated by the following example:

(1) Assume that a $600,000 note is issued on July 1, 1985, to mature on July 1, 1995. Interest is payable at a rate of 8% on January 1 and July 1.

(2) Assume that the note is redeemed on February 1, 1989, and that the current borrowing rate for Treasury at that time for the remaining period of 6 years and 150 days is 11%.

(3) The increased annual borrowing cost is $18,000. ($600,000)×(11% − 8%)

(4) The market charge is computed as follows:

$$M = \frac{(\$18{,}000/2)\times(150/181)+(\$18{,}000/2)a_{n\rceil}}{1+(150/181)(.11/2)}$$

(Equation 4)

$$M = \frac{(\$7{,}458.56) + (\$9{,}000)a_{n\rceil}}{1.045580111}$$

(Equation 5)

$$M = \frac{(\$7{,}458.56) + (\$9{,}000) \times \left[\frac{1 - \frac{1}{(1+.11/2)^{12}}}{(.11/2)} \right]}{1.045580111}$$

(Equation 6)

$$M = \frac{(\$7{,}458.56) + (\$9{,}000)(8.618517849)}{1.045580111}$$

(Equation 7)

$$M = \frac{(\$7{,}458.56) + (\$77{,}566.66)}{1.045580111}$$

(Equation 8)

M = $81,318.71

(Equation 9)

C. The amount of the market charge for certificates issued before [date of publication of final rule] can be determined through use of the following formula:

$$M = \frac{(b)\left(\frac{r}{s}\right)}{1 + \frac{r}{s}(i)}$$

(Equation 10)

where:

M=market charge

b=increased borrowing cost for full period

r=number of days from redemption date to original maturity date

s=number of days in current annual period (365 or 366)

i=current borrowing rate expressed in decimals (discount factor)

D. The application of this formula may be illustrated by the following example:

(1) Assume that a $50,000 certificate is issued on March 1, 1987, to mature on November 1, 1987. Interest is payable at a rate of 10%.

(2) Assume that the certificate is redeemed on July 1, 1987, and that the current borrowing cost to Treasury for the 123-day period from July 1, 1987, to November 1, 1987, is 11.8%.

(3) The increased annual borrowing cost is $900. ($50,000)×(11.8% − 10%)

(4) The market charge is computed as follows:

$$M = \frac{\$900\left(\frac{123}{365}\right)}{1+\left(\frac{123}{365}\right)(.118)} =$$

(Equation 11)

$$\frac{\$303.29}{1.039764384} =$$

(Equation 12)

$$\$291.69$$

(Equation 13)

Appendix B to Part 344—Formula for Determining Redemption Value for Securities Purchased and Early-Redeemed After [date of publication of final rule]

The total redemption value for bonds and notes can be determined by the following two steps:

$$AI = \left[\frac{(s-r)}{s}\right] \times \left(\frac{C}{2}\right)$$

(Equation 14)

and secondly, the redemption value per § 344.5(a)(3)(ii) is calculated using the following equation:

$$RV = \frac{\left(\frac{C}{2}\right)+\left(\frac{C}{2}\right)a_{n\rceil} + 100v^{n}}{1+\left(\frac{r}{s}\right)\times\left(\frac{i}{2}\right)} - AI$$

(Equation 15)

where:

RV=Redemption value per $100 principal

AI=Accrued interest=[(s-r)/s]×(C/2)

r=Number of days from redemption date to next interest payment date

s=number of days in current semi-annual period

i=Treasury borrowing rate over the remaining term to maturity, based on semi-annual interest payments and expressed in decimals

C=the regular annual interest per $100 principal

n=number of remaining full semi-annual periods from the redemption date to the original maturity date, except that, if the redemption date is an interest payment date, n will be one less than the number of full semi-annual periods remaining to maturity.

$v^n = 1/(1+i/2)^n$=present value of 1 due at the end of n periods

$a_n = (1 - v^n)/(i/2) = v + v^2 + v^3 + ... + v^n$=present value of 1 per period for n periods

First, accrued interest payable in accordance with Section 344.5(a)(3)(i) is calculated using the following formula:

[FR Doc. 96–19040 Filed 7–23–96; 3:03 pm]

BILLING CODE 4810–39–P

Federal Register

Friday
July 26, 1996

Part IV

Department of Commerce

Economic Development Administration

National Technical Assistance, Research and Evaluation—Additional Request for Proposals; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 950302065–6203–05]

RIN 0610-ZA03

National Technical Assistance, Research and Evaluation—Additional Request For Proposals

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Notice of availability of funds.

SUMMARY: A total of $328,500,000 is available to EDA for all of its programs for FY 1996 (See Notice of Funding Availability for FY 1996 at 61 FR 29526), of which approximately $2,125,000 (including funds to be transferred to EDA from the Department of Defense's Office of Economic Adjustment, DOD/OEA) is or will be available for National Technical Assistance and for Research and Evaluation for specific projects which will aid in better understanding the causes of and solutions to economic distress/ underemployment and unemployment throughout the Nation in the specific priority areas described herein. EDA published a Request for Proposals in 61 FR 31782, June 20, 1996, hereinafter referred to as NOFA–RFP #1 requesting proposals for projects to be funded under these programs. EDA is soliciting proposals for the specific project described in this Notice (hereinafter referred to as NOFA–RFP #2) to be funded if acceptable proposals are received. If a proposal submitted under NOFA–RFP #2 is funded during this fiscal year, it will be funded from funds remaining after consideration of applications submitted under NOFA–RFP #1, if any. This NOFA–RFP #2 describes the conditions under which eligible applications for this program under either National Technical Assistance (13 CFR Part 307, Subpart C) or Research and Evaluation (13 CFR Part 307, Subpart A) will be accepted and selected for funding. It is not known at this time whether National Technical Assistance or Research and Evaluation funds will be used for the project described herein, because such funding is contingent upon the availability, if any, of funds under each program, as well as the primary focus of the project to be funded.

DATES: Full proposals must be received in the Office of Technical Assistance and Research (see Addresses section below) by close of business, August 15, 1996, followed by submission of completed applications, OMB Control Number 0610–0094, from proponents selected by EDA, at a date to be determined by EDA. EDA will make the award by September 30, 1996.

ADDRESSES: Send proposals, and later full applications, if invited to do so, (see Section IV) to either: Lewis R. Podolske, Technical Assistance Program, Economic Development Administration, Room 7315, U.S. Department of Commerce, Washington, D.C. 20230 (National Technical Assistance); or John J. McNamee, Research and Evaluation Program, Economic Development Administration, Room 7315, U.S. Department of Commerce, Washington, D.C. 20230 (Research and Evaluation).

FOR FURTHER INFORMATION CONTACT: John J. McNamee, (202) 482–4085 (Research and Evaluation); Lewis R. Podolske, (202) 482–2127 (National Technical Assistance); or David McIlwain, (202) 482–5265, (Public Works, Flood Coordinator).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Authority

The Public Works and Economic Development Act of 1965, (Pub. L. 89–136, 42 U.S.C. 3121–3246h), as amended (PWEDA) at § 3151 authorizes EDA to: provide technical assistance which would be useful in reducing or preventing excessive unemployment or underemployment by conducting, among other things, studies evaluating the needs of, and the development of potential for economic growth in distressed areas (42 U.S.C. 3151(a)); and to conduct a program of research to assist in the formulation and implementation of national, state and local programs to raise income levels and other solutions to the problems of unemployment, underemployment, underdevelopment and chronic depression in distressed areas and regions (42 U.S.C. 3151(c)(B)). The Omnibus Appropriations Act of 1996, Public Law 104–134, makes funds available for these programs.

B. Catalog of Federal Domestic Assistance

11.303 Economic Development-Technical Assistance; 11.312 Economic Development—Research and Evaluation Program.

C. Program Descriptions

For descriptions of these programs see EDA's final rule at 13 CFR chapter III, 61 FR 7979, March 1, 1996, as corrected at 61 FR 15371, April 8, 1996, and its interim-final rule at 60 FR 49670, September 26, 1995.

D. Additional Information and Requirements

No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either: (1) The delinquent account is paid in full; (2) A negotiated repayment schedule is established and at least one payment is received; or (3) Other arrangements satisfactory to DoC are made.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Applicants seeking an early start, i.e., to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. Such approval may be given with the understanding that an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of EDA to cover pre-award costs.

The total dollar amount of the indirect costs proposed in an application under any EDA program must not exceed either the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award, or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

Unless otherwise noted below, eligibility, program objectives and descriptions, application procedures, selection procedures, evaluation criteria and other requirements for all programs are set forth in EDA's final rule at 13 CFR Chapter III, 61 FR 7979, March 1, 1996, as corrected at 61 FR 15371, April 8, 1996, and its interim-final rule at 60 FR 49670, September 26, 1995.

II. Areas of Special Emphasis

EDA seeks proposals for the specific project described as follows:

- Evaluate and Develop a Model Based on the Midwest Flood of 1993.

EDA invites proposals to study the management and implementation of disaster assistance, and to develop a model for use by governmental agencies and others interested in implementing

future programs for supporting economic recovery of affected disaster areas. The test subject for this project is EDA's implementation of its grant program to aid communities that were impacted by the Midwest Flood of 1993.

Background: Though there are other programs that provide financial assistance to aid communities affected by disasters, only EDA projects for the Midwest Floods of 1993 are being analyzed in this project. The Midwest Flood of 1993 affected nine states: Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. Congress appropriated $200 million to EDA for emergency expenses resulting from the flood, which EDA used to assist in the development of post disaster economic recovery strategies and to meet local infrastructure needs not covered by other Federal programs. This EDA effort encompassed a broad geographic area impacted by the flood, and depended upon coordination with nine state governments, with different capacities of the affected states to deal with the disaster, and a wide variety of issues to be dealt with. It also involved program coordination with two EDA regional offices, resulted in the development of streamlined project processing, and an ''ad hoc'' system of interagency coordination to avoid funding duplication. In addition, EDA transferred funds to the U.S. Army Corps of Engineers for their participation in the levee repair component of the flood relief efforts.

Scope of Work: The successful applicant will (1) assess whether the EDA post-disaster assistance was appropriate and gave communities a better chance to enhance their economic recovery beyond their immediate emergency needs; (2) evaluate whether such assistance has ramifications beyond the immediate disaster impact area; (3) assess to what extent changes in project implementation timeframes were due to changes in grantee priorities or other external conditions, and investigate whether a time line for grant implementation should take into account the nature of the EDA assisted projects and the normal disaster recovery process; (4) examine the effectiveness of EDA's efforts and recommend key performance measures which EDA and others can use to assess implementation of future EDA and other disaster assistance; (5) compare the EDA/Corps of Engineers levee repair program to those of other government agencies (e.g., the Department of Agriculture's Soil Conservation Services) to determine best practices; and (6) highlight possible areas for improving the post-disaster assistance process.

EDA is interested in measuring overall program performance, by assistance categories, that is, by the types of grants made. In undertaking this analysis, the applicant will need to examine selected grant files, interview EDA staff, interview state and local officials and others involved in implementing the recovery process in the affected communities. The resulting data must be appropriately analyzed and the results, with recommendations as appropriate, presented in a final report to be available for use by all Federal and state agencies and other interested parties. All project records are located in or are accessible through the Denver and Chicago regional offices.

The applicant will also be required to conduct briefings and training workshops for entities interested in the results of this project. These briefings and training workshops will be conducted in Washington, DC, and the six EDA regions, and will total no more than one such briefing/workshop for each of the seven locations.

Cost: If this project is funded under the National Technical Assistance program: if properly justified, the Assistant Secretary may consider a waiver of the required 25 percent local share of the project cost; if this project is funded under the Research and Evaluation program: no local match is required.

Timing: This project should be completed and the final report submitted by September 30, 1997.

- Other Models of Performance Measurement and Program Impact Analyses of Economic Development Programs or Projects.

EDA funds a variety of economic development projects to help economically distressed communities generate long-term, private sector jobs and diversify their economies. These include planning, technical assistance, research, infrastructure, and revolving loan fund projects. Other Federal and state agencies fund similar economic development projects. EDA is currently seeking to develop expertise in measuring the effectiveness of these kinds of economic development efforts. In addition to the specific proposals requested in NOFA–RFP #s 1 and 2, should there be funds left in either the Research and Evaluation or National Technical Assistance Programs after the first round of projects in NOFA–RFP #s 1 and 2, we would consider additional economic development program performance measurement and economic impact analysis proposals that qualified applicants may wish to submit. Should resources be available, we would select projects on the basis of the requirements listed in EDA's Regulations at 13 CFR Chapter III, 61 FR 7979, March 1, 1996, as corrected at 61 FR 15371, April 8, 1996, and its interim-final rule at 60 FR 49670, September 26, 1995, and on their ability to increase the level of knowledge of the economic development profession concerning performance measurement and/or impact analysis. It must be made clear to all potential proposers, however, that funding for any additional projects is dependent upon there being uncommitted resources in either the Research and Evaluation or National Technical Assistance Programs, and that projects may be funded under either program depending upon where resources are available. Therefore, eligibility requirements for an award will be based on the program under which the potential award will be made.

III. How To Apply

A. Eligible Applicants

- National Technical Assistance—See 13 CFR 307.12 in EDA's final rule at 13 CFR chapter III, 61 FR 7979, March 1, 1996, as corrected in 61 FR 15371, April 8, 1996, and its interim-final rule at 60 FR 49670, September 26, 1995. Eligible applicants are as follows: public or private nonprofit organizations including nonprofit national, state, area, district, or local organizations; accredited educational institutions or nonprofit entities representing them; public sector organizations; and Native American organizations, including American Indian tribes; local governments and state agencies. Technical Assistance grant funds may not be awarded to private individuals or for- profit organizations.

- Research and Evaluation—See 13 CFR 307.17 in EDA's final rule at 13 CFR chapter III, 61 FR 7979, March 1, 1996, as corrected in 61 FR 15371, April 8, 1996, and its interim- final rule at 60 FR 49670, September 26, 1995. Eligible applicants are as follows: private individuals, partnerships, corporations, associations, colleges and universities, and other suitable organizations with expertise relevant to economic development research.

B. Proposal Submission Procedures

The proposals submitted by potential applicants may not exceed ten pages in length and should be accompanied by a proposed budget, resumes/qualifications of the key staff, and proposed time line.

IV. Selection Process and Evaluation Criteria

Proposals will receive initial reviews by EDA to assure that they meet all requirements of this announcement, including eligibility and relevance to the specified projects as described herein. EDA will carry out its selection process and evaluation criteria as described at 13 CFR part 304 and §§ 307.13, 307.14, 307.18, and 307.19 in EDA's final rule at 13 CFR chapter III, 61 FR 7979, March 1, 1996, as corrected in 61 FR 15371, April 8, 1996, and its interim-final rule at 60 FR 49670, September 26, 1995.

EDA will select the applicants it deems most qualified and cost effective and will invite those applicants to submit full applications.

Paperwork Reduction Act

OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995 under OMB Control Number 0610–AA47.

Dated: July 23, 1996.

Wilbur F. Hawkins,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 96–19074 Filed 7–25–96; 8:45 am]

BILLING CODE 3510–24–U

Federal Register

Friday
July 26, 1996

Part V

Department of Education

34 CFR Part 263

Indian Fellowship and Professional Development Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 263

RIN 1810–AA79

Indian Fellowship and Professional Development Programs

AGENCY: Department of Education.

ACTION: Notice of Proposed Regulations.

SUMMARY: The Secretary proposes to amend the regulations that govern grants for the Indian Fellowship Program. This program is authorized under Title IX of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994, enacted October 20, 1994. These regulations would identify eligible applicants for the program and the specific application and other program requirements that applicants must meet in order to be considered for funding. These regulations would also provide certain general provisions and requirements for the new payback provisions that apply to both the Indian Fellowship Program and the Professional Development Program.

DATES: Comments must be received on or before August 26, 1996.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Cathie Martin, Office of Indian Education, Department of Education, 600 Independence Avenue, S.W., Portals Building—Room 4300, Washington, D.C. 20202–6335. Comments may also be sent through the Internet to ''Indian__Fellowships@ed.gov''.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in the preceding paragraph.

FOR FURTHER INFORMATION CONTACT: Cathie Martin. Telephone: (202) 260–1683. 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: On October 20, 1994 the Professional Development Program and the Indian Fellowship Program were substantially revised and recodified, respectively, as sections 9122 and 9123 of Subpart 2 of Part A of Title IX of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 103–382. These proposed regulations would identify eligible applicants for the Indian Fellowship Program and address the specific program requirements, including application requirements and requirements concerning the new payback provisions that applicants must meet in order to be considered for funding for both new and continuation awards. The criteria for selecting participants for the Professional Development Program are not included in these proposed regulations. The selection criteria in the Education Department General Administrative Regulations (EDGAR), 34 CFR Part 75, will be used for competitions under the Professional Development Program.

In addition, certain of these proposed regulations would govern the Professional Development Program (§ 263.3, (definitions), § 263.1 (b) and (c), and §§ 263.35 through 263.37 (the new payback provisions that also apply to this program)).

With regard to the payback provisions, the Indian Fellowship Program and Professional Development Program now require that an individual receiving financial assistance either (1) perform work related to the training for which assistance was received and that benefits Indian people; or (2) repay all or a prorated portion of the assistance.

On June 27, 1995 the Secretary published final regulations (60 FR 33300) to govern the fiscal year (FY) 1995 grant competitions for the Indian Fellowship and Professional Development Programs. This notice of proposed rulemaking (NPRM) proposes to amend the regulations that will apply to all FY 1996 awards, both new and continuation, and subsequent fiscal years' awards.

Except for minor editorial and technical revisions, there are no differences between the regulations published June 27, 1995 and this NPRM. The submission of the certification required in § 263.21(e) is not a new requirement but is a technical revision added for the convenience of the reader.

Executive Order 12866

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§'' and a numbered heading; for example, § 263.2 Who is eligible to apply under the Indian Fellowship Program?) (4) Is the description of the proposed regulations in the ''Supplementary Information'' section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 5100, FB–10B), Washington, D.C. 20202–2241.

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.

These proposed regulations would affect individuals, institutions of higher education (IHEs), and local educational agencies (LEAs). Individuals, however, are not defined as ''small entities'' in the Regulatory Flexibility Act. These proposed regulations would not have a significant economic impact on the small IHEs or LEAs affected because the individuals, rather than the IHEs or LEAs, are subject to the payback provisions of these proposed regulations.

Paperwork Reduction Act of 1995

Sections 263.21, 263.22, 263.30, 263.31, 263.32, 263.33, 263.35, 263.36, and 263.37 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for review.

Collection of Information: Indian Fellowship and Professional Development Programs

Individuals are eligible to apply for grants under the Indian Fellowship Program. The information to be collected includes—assurances to meet certain statutory requirements; documents to show proof that the individual meets the definition of

''Indian;'' documents that provide verification that the individual has been admitted to an institution of higher education for an allowable field and level of study; documents that show the individual's past academic performance; a narrative essay on the individual's commitment to the selected field of study and service to the Indian community; and financial information to determine the amount of the fellowship. All new applications are submitted in response to a notice published in the Federal Register printed once each year. For continuing participants, the information submitted annually consists of information to document continued academic and financial eligibility. The information from both new and continuing respondents is used to determine applicant eligibility and award amounts of participants selected. All participants are required to provide a copy of their transcript after each academic term.

The annual reporting burden for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated to be a total of four hours per response for 550 new respondents, .5 hours per response for 60 continuing respondents, and .25 hours per response for reporting (transcripts) for 100 respondents.

Eligible applicants for the Professional Development Program include institutions of higher education, including Indian institutions of higher education, State or local educational agencies in consortium with an institution of higher education, and Indian tribes or organizations in consortium with an institution of higher education. The Indian Fellowship Program and the Professional Development Program require participants to perform a service payback or provide a cash payback if the service cannot be performed or completed. For those performing a service payback upon completion of their training program, participants will be required to provide a certification of employment every six months until the payback is completed. The information collected is used to track the progress of participants in completing their payback requirements. The annual reporting burden for this requirement is estimated to be .50 hours per response for 20 respondents twice a year.

The total annual reporting and recordkeeping burden for this collection is estimated to be 2,275 hours.

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.

Intergovernmental Review

The Indian Fellowship Program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79.

The Professional Development Program, with the exception of assistance to federally recognized tribes, is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

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 4302, Portals Building, 1250 Maryland Avenue, S.W., Washington, D.C., 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 263

Grant programs-education, Indians-education, Reporting and recordkeeping requirements, Scholarships and fellowships.

Dated: July 22, 1996.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

(Catalog of Federal Domestic Assistance Numbers: 84.087 Indian Education—Fellowships for Indian Students; and 84.299 Indian Education—Special Programs.)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by revising Part 263 to read as follows:

PART 263—INDIAN FELLOWSHIP AND PROFESSIONAL DEVELOPMENT PROGRAMS

Subpart A—General

Sec.

263.1 What are the Indian Fellowship and the Professional Development Programs?
263.2 Who is eligible to apply under the Indian Fellowship Program?
263.3 What definitions apply to the Indian Fellowship and Professional Development Programs?
263.4 What are the allowable fields of study in the Indian Fellowship Program?
263.5 What does a fellowship award include?
263.6 What is the time period for a fellowship award?

Subpart B—How Does the Secretary Select Fellows?

263.20 What priority is given to certain applicants?
263.21 What should the fellowship application contain?
263.22 How does the Secretary evaluate applications?

Subpart C—What Conditions Must be Met by Fellows?

263.30 What are the basic requirements of a fellow?
263.31 What information must be submitted after a fellowship is awarded?
263.32 What are the requirements for a leave of absence?
263.33 What is required for continued funding under a fellowship?
263.34 When is a fellowship discontinued?
263.35 What are the payback requirements?
263.36 When does payback begin?
263.37 What are the payback reporting requirements?

Subpart D—How Are Fellowship Payments Made?

263.40 How are payments made?

Authority: 20 U.S.C. 7832 and 7833, unless otherwise noted.

Subpart A—General

§ 263.1 What are the Indian Fellowship and the Professional Development Programs?

(a) The Indian Fellowship Program provides fellowships to enable Indian students to pursue a course of study leading to—

(1) A postbaccalaureate degree in medicine, law, education, psychology, clinical psychology, or a related field; or

(2) An undergraduate or postbaccalaureate degree in business administration, engineering, natural resources, or a related field.

(b) The Professional Development Program provides grants to eligible entities to—

(1) Increase the number of qualified Indian individuals in professions that serve Indian people;

(2) Provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(3) Improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (b)(2) of this section.

(c) The Indian Fellowship and the Professional Development Programs require individuals who receive training under either program to—

(1) Perform work that is related to the training received under either program and that benefits Indian people or to repay all or a prorated part of the assistance received under the program; and

(2) Report to the Secretary on the individual's compliance with the work requirement.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.2 Who is eligible to apply under the Indian Fellowship Program?

In order to be eligible for a fellowship, an applicant must be—

(a) An Indian as defined in § 263.3;

(b) A United States citizen;

(c) Currently in attendance or have been accepted for admission as a full-time undergraduate or graduate student at an accredited institution of higher education in one of the fields listed in § 263.4 or a related field;

(d) Recognized by the institution as a degree candidate; and

(e) Eligible under 34 CFR 75.60.

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e–3(a)(1) and 3474)

§ 263.3 What definitions apply to the Indian Fellowship and Professional Development Programs?

(a) Definitions in EDGAR. The following terms used in this part are defined in 34 CFR 77.1:

Department
Secretary

(b) *Other definitions.* The following definitions also apply to this part:

Dependent allowance means costs for the care of minor children who reside with the fellow and for whom the fellow has responsibility.

Expenses means tuition and required fees; required university health insurance; room, personal living expenses, and board at or near the institution; dependent allowance; instructional supplies; and reasonable travel and research costs associated with doctoral dissertation completion.

Fellow means the recipient of a fellowship under the Indian Fellowship Program. The term ''fellow'' also includes individual project participants under the Professional Development Program with regard to the payback provisions contained in §§ 263.35 through 263.37.

Fellowship means an award under the Indian Fellowship Program.

Full course load means the number of credit hours that the institution requires of a full-time student.

Full-time student means a student who—

(1) Is a degree candidate;

(2) Carries a full course load; and

(3) Is not employed for more than 20 hours a week.

Good standing means a cumulative grade point average of at least 2.0 on a 4.0 grade point scale in which failing grades are computed as part of the average, or another appropriate standard established by the institution.

Graduate degree means a postbaccalaureate degree awarded by an institution of higher education beyond the undergraduate level.

Indian means an individual who is—

(1) A member of an Indian tribe or band, as membership is defined by the Indian tribe or band, including any tribe or band terminated since 1940, and any tribe or band recognized by the State in which the tribe or band resides; or

(2) A descendant, in the first or second degree, of an individual described in paragraph (1) of this definition; or

(3) Considered by the Secretary of the Interior to be an Indian for any purpose; or

(4) An Eskimo, Aleut, or other Alaska Native; or

(5) A member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect on October 19, 1994.

Institution of higher education means an accredited college or university within the United States that offers a baccalaureate or postbaccalaureate degree.

Payback means work-related service or cash reimbursement to the Department of Education for the training received under the Indian Fellowship or the Professional Development Program.

Stipend means that portion of an award that is used for room and board and personal living expenses.

Undergraduate degree means a baccalaureate (bachelor's) degree awarded by an institution of higher education.

(Authority: 20 U.S.C. 7832, 7833, and 7881)

§ 263.4 What are the allowable fields of study in the Indian Fellowship Program?

(a) The following are allowable fields for an undergraduate degree under this program:

(1) Business administration.

(2) Engineering.

(3) Natural resources.

(b) The following are allowable fields for a graduate degree under this program:

(1) Medicine.

(2) Clinical psychology.

(3) Law.

(4) Education.

(5) Psychology.

(6) Engineering.

(7) Natural resources.

(8) Business administration.

(c) The Secretary considers under paragraphs (a) and (b) of this section, on a case-by-case basis, the eligibility of applications for fellowships in related fields of study.

(Authority: 20 U.S.C. 7833)

§ 263.5 What does a fellowship award include?

(a) The Secretary awards a fellowship in an amount up to, but not more than, the expenses as defined in this part. The assistance provided by the program either—

(1) Fully finances a student's educational expenses; or

(2) Supplements other sources of financial aid, including other Federal financial aid other than loans, for meeting educational expenses.

(b) The Secretary announces the expected maximum amounts for subsistence and other fellowship costs in the annual application notice published in the Federal Register.

(Authority: 20 U.S.C. 7833)

§ 263.6 What is the time period for a fellowship award?

(a) The Secretary awards a fellowship for a period of time not exceeding—

(1) Four academic years for an undergraduate or doctorate degree; and

(2) Two academic years for a master's degree.

(b) With prior approval from the Secretary, summer school may be allowed for eligible continuation students after completion of the first academic year.

(Authority: 20 U.S.C. 7833)

Subpart B—How Does the Secretary Select Fellows?

§ 263.20 What priority is given to certain applicants?

The Secretary awards not more than 10 percent of the fellowships, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(Authority: 20 U.S.C. 7833)

§ 263.21 What should the fellowship application contain?

In addition to the requirements specified in § 263.22, an applicant shall provide—

(a) Evidence that the applicant is an Indian as defined in § 263.3. Evidence may be in the form of—

(1)(i) A copy of the applicant's documentation of tribal enrollment or membership; or

(ii) A copy of the parent's or grandparent's documentation of tribal enrollment or membership, with supporting birth certificates or similar documents showing the applicant's descendance from the enrolled member;

(2) A letter of certification on official letterhead with the appropriate signature from a federally or State recognized tribe or band; or

(3) A certificate of degree of Indian blood (CDIB) issued by an authorized representative of the Bureau of Indian Affairs or an official of a federally recognized tribe;

(b)(1) Evidence that the applicant is currently in attendance or has been accepted for admission as a full-time student at an accredited institution of higher education in one of the eligible fields of study listed in § 263.4; or

(2) For an applicant who has not yet been accepted for admission, documentation of having been accepted by an accredited institution of higher education by a date to be specified by the Secretary;

(c)(1) The most current official high school and, if appropriate, undergraduate transcripts for undergraduate applicants; or

(2) The most current official undergraduate and, if appropriate, graduate transcripts for graduate applicants;

(d) The certification required under 34 CFR 75.61; and

(e) The certification contained within the application regarding agreement to fulfill the requirements of the payback provision that is signed and dated by the applicant.

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e–3(a)(1) and 3474).

§ 263.22 How does the Secretary evaluate applications?

(a) The Secretary reviews and ranks an application with other applications for the same field and related fields of study.

(b) The following criteria, with the total number of points available in parenthesis, are used to evaluate an application for a new fellowship award:

(1) *Official academic record* (60 points). The Secretary considers the quality of the applicant's academic record by reviewing—

(i) The applicant's grade point average and, if applicable, scores from such standardized tests as the Scholastic Aptitude Test (SAT), American College Testing Assessment Program (ACT), Graduate Record Examination (GRE), Law School Admissions Test (LSAT), Medical College Admission Test (MCAT), and achievement tests; and

(ii) The applicant's official transcripts and any grade reports.

(2) *Letters of recommendation* (15 points). The Secretary considers the applicant's potential for success in completing the academic requirements for his or her field of study by reviewing one letter of recommendation from each of the following categories:

(i) A school principal, teacher, academic or non-academic instructor or counselor, a college professor, or academic advisor.

(ii) A member of the community or civic leader who has observed the applicant in educational, social, or civic activities.

(iii) A tribal representative or an Indian community member.

(3) *Commitment essay* (25 points). The Secretary considers the applicant's commitment by reviewing an essay, written by the applicant that addresses—

(i) The applicant's career goals and why the chosen field of study will benefit Indian people;

(ii) The applicant's life experiences and personal and family expectations that will enhance the applicant's anticipated career accomplishments; and

(iii) The applicant's anticipated commitment to providing service to Indian people.

(Authority: 20 U.S.C. 7833)

Subpart C—What Conditions Must be Met by Fellows?

§ 263.30 What are the basic requirements of a fellow?

A fellow shall—

(a) Start school during the first semester of the award at the institution named on the grant award document and complete at least one full academic term;

(b) Submit to the Secretary two copies of his or her official grade report at the close of each academic term and upon completion of the training program at that institution;

(c) Submit an annual continuation application, in the form and timeframes specified by the Secretary, to request funding for each remaining academic year approved under the initial application;

(d) Request from the Secretary a written leave of absence at least 30 days prior to withdrawal, unless an emergency situation has occurred, for any interruption in his or her program of academic studies; and

(e) Sign an agreement with the Department to meet the provisions of the payback requirement.

(Authority: 20 U.S.C. 7833)

§ 263.31 What information must be submitted after a fellowship is awarded?

To verify further the accuracy of the information provided in the application, the applicant shall provide all information and documents as requested by the Secretary, including information on other financial aid sources for educational purposes. The applicant's failure to provide the requested information and documents invalidates the application, and the Secretary will not consider it for funding.

(Authority: 20 U.S.C. 7833)

§ 263.32 What are the requirements for a leave of absence?

(a) The Secretary may approve a leave of absence for a period not longer than one academic year if a fellow has successfully completed at least one academic year.

(b) A written request for a leave of absence must be submitted to the Secretary not less than 30 days prior to withdrawal or completion of a grading period, unless an emergency situation has occurred and the Secretary waives the prior notification requirement.

(c) The Secretary permits a leave of absence only if the institution certifies that the fellow is eligible to resume his or her course of study at the end of the leave of absence.

(d) The Secretary withdraws any remaining funds of the fellow's award if a leave of absence occurs prior to the end of an academic term.

(Authority: 20 U.S.C. 7833)

§ 263.33 What is required for continued funding under a fellowship?

(a) The Secretary reviews the status of each fellow at the end of each year and continues support only if the fellow—

(1) Has complied with requirements under this part;

(2) Has remained a full-time student in good standing in the field in which the fellowship was awarded; and

(3) Has submitted a noncompeting continuation application requesting additional support.

(b) A fellowship terminates when the fellow receives the degree being sought or after the fellow has received the fellowship for the maximum number of years allowed as defined in § 263.6, whichever comes first.

(Authority: 20 U.S.C. 7833)

§ 263.34 When is a fellowship discontinued?

(a) The Secretary may discontinue the fellowship if the fellow—

(1) Fails to comply with the provisions under this part, including failure to obtain an approved leave of absence under § 263.32, or with the terms and conditions of the fellowship award; or

(2) Fails to report any change in his or her academic status.

(b) The Secretary discontinues a fellowship only after providing reasonable notice and an opportunity for the fellow to rebut, in writing or in an informal meeting with the responsible official in the Department of Education, the basis for the decision.

(Authority: 20 U.S.C. 7833)

§ 263.35 What are the payback requirements?

(a) Individuals receiving assistance under the Indian Fellowship Program or the Professional Development Program are required to—

(1) Perform work related to the training received and that benefits Indian people; or

(2) Repay all or a prorated part of the assistance received.

(b) The period of time required for a work-related payback is equivalent to the total period of time for which training was actually received under the Indian Fellowship Program or the Professional Development Program.

(c) The cash payback required must be equivalent to the total amount of funds received and expended for training received under either of these programs and may be prorated based on any approved work-related service the participant performs.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.36 When does payback begin?

(a) For all fellows who complete their training under the Indian Fellowship Program or the Professional Development Program, except for medical degree and doctoral degree candidates, payback must begin within six months from the date of completion of the training.

(b) For fellows in a doctoral degree program requiring a dissertation, payback must begin not later than two years after the program's academic course work has been completed or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(1) After academic course work has been completed, fellows in a doctoral degree program shall submit an annual written report to the Secretary on the status of the dissertation.

(2) Within 30 days of completion of the dissertation, fellows in a doctoral degree program shall provide written notification to the Secretary of completion of the dissertation and of the participant's plans for completing a work-related or cash payback.

(c) For fellows in a doctoral degree program with clinical or internship requirements, payback must begin within six months after the clinical or internship requirements have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(1) After academic course work has been completed, fellows in a doctoral degree program with clinical or internship requirements shall submit an annual written report to the Secretary on the status of completion of the clinical or internship requirements.

(2) Within 30 days of completion of the clinical or internship requirements, fellows shall provide written notification to the Secretary of completion of those requirements and the participant's plans for completing a work-related or cash payback.

(d) For fellows in a medical degree program, payback must begin six months from the date that all residency requirements of the program have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(1) After academic course work has been completed, fellows in a medical degree program shall submit an annual written report to the Secretary on the status of completion of the residency requirements of the program.

(2) Within 30 days of completion of the residency requirements, fellows in a medical degree program shall provide written notification to the Secretary of completion of the residency requirements and of the participant's plans for completing a work-related or cash payback.

(e) For fellows who do not complete their training under the Indian Fellowship Program or the Professional Development Program, payback must begin within six months from the date the fellow leaves the Indian Fellowship Program or the Professional Development Program, unless he or she continues as a full-time student, without interruption, in a program leading to a degree in an accredited institution of higher education.

(1) If the fellow leaves the Indian Fellowship Program or the Professional Development Program, but plans to continue his or her education as a full-time student, the Secretary may defer the payback requirement until the participant has completed his or her educational program. Written requests for deferment must be submitted to the Secretary within 30 days of leaving the Indian Fellowship Program or the Professional Development Program and must provide the following information:

(i) The name of the accredited institution the student will be attending.

(ii) A copy of the letter of admission from the institution.

(iii) The degree being sought.

(iv) The projected date of completion.

(2) After approval by the Secretary of the deferment of the payback provision on the basis of continuing as a full-time student, former fellows are required to submit to the Secretary, after every grading period, a status report from an

academic advisor or other authorized representative of the institution of higher education showing verification of enrollment and status.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.37 What are the payback reporting requirements?

(a) *Written notice.* Participants shall submit to the Secretary, within 30 days of completion of their training program, a written notice of intent to complete a work-related or cash payback or to continue in a degree program as a full-time student.

(b) *Work-related payback.* If the participant proposes a work-related payback, the written notice of intent must include information explaining how the work-related service is related to the training received and benefits Indian people.

(1) For work-related service, the Secretary reviews each participant's payback plan to determine if the work-related service is related to the training received and benefits Indian people. The Secretary approves the payback plan if a determination is made that the work-related service to be performed is related to the training received and benefits Indian people, meets all applicable statutory and regulatory requirements, and is otherwise appropriate.

(2) The payback plan for work-related service must identify where, when, the type of service, and for whom the work will be performed.

(3) A participant shall notify the Secretary in writing of any change in the work-related service being performed within 30 days of such a change.

(4) For work-related payback, individuals shall submit a status report every six months beginning from the date the work-related service is to begin. The reports must include a certification from the participant's employer that the service or services have been performed without interruption.

(5) Upon written request, and if appropriate, the Secretary may extend the period for completing a work-related payback by a total of 18 months.

(6) For participants who initiate, but cannot complete, a work-related payback, the payback reverts to a cash payback.

(c) *Cash payback.* If a cash payback is to be made, the Department will contact the participant to establish an appropriate schedule for payments.

(Authority: 20 U.S.C. 7832 and 7833)

Subpart D—How Are Fellowship Payments Made?

§ 263.40 How are payments made?

(a) Fellowship payments are made directly to the institution of higher education where a fellow is enrolled, with stipends provided to the fellow in installments by the institution. No fewer than two installments per academic year may be made.

(b) If a fellow transfers to another institution, the fellowship may also be transferred provided the fellow maintains basic eligibility for the award.

(c) A fellow who officially or unofficially withdraws or is expelled from an institution before completion of a term shall refund a prorated portion of the stipends received, as determined by the Secretary. The Secretary requires the institution to return any unexpended funds.

(Authority: 20 U.S.C. 7833)

[FR Doc. 96–18917 Filed 7–25–96; 8:45 am]
BILLING CODE 4000–01–P

Federal Register

Friday
July 26, 1996

Part VI

Department of the Treasury

Fiscal Service

31 CFR Part 208

Management of Federal Agency Disbursements; Interim Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 208

RIN 1510–AA56

Management of Federal Agency Disbursements

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: Chapter 10 of the Omnibus Consolidated Rescission and Appropriations Act of 1996, Pub. L. 104–134, is the Debt Collection Improvement Act of 1996 (the ''Act''). Section 31001(x) of the Act amends 31 U.S.C. 3332 to require Federal agencies to convert from checks to electronic funds transfer in two phases. Phase one affects newly-eligible recipients of Federal payments. During phase one, which begins on July 26, 1996, all recipients of Federal payments (other than payments under the Internal Revenue Code of 1986) who become eligible to receive those payments on or after July 26, 1996, must receive them electronically unless the recipient certifies that the recipient does not have an account at a financial institution or authorized payment agent.

Phase two covers the conversion from checks to electronic funds transfer for all Federal payments, except payments under the Internal Revenue Code. The Act provides that, subject to the Secretary of the Treasury's authority to grant waivers, all Federal payments made after January 1, 1999, must be made by electronic funds transfer.

The Financial Management Service (the ''Service'') is adopting an interim rule to implement Section 3332(e), as amended. The Service invites public comments on the interim rule and on issues related to implementation of the requirements that take effect on January 1, 1999.

This interim rule is designated as 31 CFR Part 208. The Service anticipates that Part 208 will contain all provisions relating to the management of Federal agency disbursements. Currently, 31 CFR Part 206 contains several provisions governing the timely collection and disbursement of funds by Federal agencies. When regulations are issued, sometime in 1997, to implement phase two, the Service will move those portions of Part 206 that deal with Federal agency disbursements into the new Part 208. In addition, all provisions relating to collections by Federal agencies will be revised and consolidated into Part 206.

DATES: This rule is effective upon publication. Comments will be received until November 25, 1996.

ADDRESSES: All comments should be addressed to Cynthia L. Johnson, Cash Management Policy and Planning Division, Financial Management Service, U.S. Department of the Treasury, Room 420, 401 14th Street S.W., Washington, D.C. 20227.

A copy of the interim rule is being made available for downloading from the Financial Management Service home page at the following address: http://www.ustreas.gov/treasury/bureaus/finman/.

FOR FURTHER INFORMATION CONTACT: Aurora Kassalow, Financial Program Specialist, at (202) 874–5742; Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, at (202) 874–6657; Anne Wallace, Attorney-Advisor, at (202) 874–6681.

SUPPLEMENTARY INFORMATION:

(1) Background

Section 31001 (x) of the Act amends 31 U.S.C. 3332 to require Federal agencies to convert from paper-based payment methods to electronic funds transfer in two phases under regulations prescribed by the Secretary of the Treasury (the ''Secretary'').

Enactment of the electronic funds transfer legislation is an important step in achieving Treasury's goal of an All-Electronic Treasury. Treasury began using electronic funds transfer more than 20 years ago and, over the years, has expanded its use of electronic payment methods for several reasons. First, the administrative cost of making payments by electronic funds transfer is far less than making payments by checks. Second, an electronic funds transfer is much safer than a check; an electronic payment is rarely lost, stolen or damaged and cannot be forged. However, on those few occasions when an electronic funds transfer is mis-routed, it can be traced and quickly rerouted to the recipient, usually within 24 hours. Third, the use of electronic funds transfer will enable the Federal Government to provide better service to recipients who claim their checks have been lost, stolen, damaged, or delayed during delivery by improving response time in tracing payments.

Current Federal law requires some recipients of Federal payments to receive those payments electronically. Specifically, 31 U.S.C. 3332 (a) through (d) require that Federal wage, salary, and retirement payments to individuals who began to receive such payments after January 1, 1995, be paid by electronic funds transfer. In addition, 31 U.S.C. 3335 requires executive agencies to provide for the timely disbursement of funds in accordance with regulations prescribed by the Secretary.

As amended by the Act, section 3332 is broader than existing law in several respects. First, the definition of Federal payments in the new § 3332 (j)(3) covers all payments other than payments under the Internal Revenue Code. Second, the definition of Federal agency in the new section 3332 (j)(2) includes all departments, agencies, and instrumentalities of the United States Government, and corporations owned or controlled by the Government of the United States.

As amended, section 3332 contains several provisions to facilitate the transition from cash and checks to electronic funds transfer. In phase one, the head of each agency is directed to waive the electronic funds transfer requirement if the recipient certifies in writing that the recipient does not have an account with a financial institution or authorized payment agent. In phase two, which begins on January 1, 1999, the Secretary is authorized to waive the electronic funds transfer requirement for individuals or classes of individuals for whom compliance imposes a hardship; for certain categories of checks; and in other circumstances deemed necessary.

The Service intends to move quickly to implement the amendments to 31 U.S.C. 3332. In addition to adopting this interim rule, the Service plans to launch an extensive educational campaign to inform agencies, individuals, businesses, and the financial services industry about the provisions of the Act. The Service also will promote electronic funds transfer through increased marketing of Direct Deposit and other electronic payment options. Direct Deposit involves the transfer of funds from an agency to a recipient's account at a financial institution by means of the Automated Clearing House system. Direct Deposit is a safe, convenient, and economical method of making payments. A major challenge is reaching the millions of individuals, and some small businesses, that do not have an account at a financial institution. The Service looks forward to working with consumers and small businesses, as well as Federal agencies and the financial services industry, to meet this challenge.

The Service recently began working with the financial services industry on a marketing initiative called Direct Deposit Too. Direct Deposit Too involves the establishment of a simple, low-cost account at a financial

institution, such as an account that is accessible only through a plastic card used at automated teller machines and point-of-sale terminals.

In addition, the Service will work with agencies to implement other provisions of the Act. Specifically, section 31001 (y) of the Act amends 31 U.S.C. 3325 by adding a new subsection (d) which requires the head of each executive agency to include the Tax Identification Number (TIN) of each person receiving a payment in the certified voucher submitted to the disbursing official. This provision of the Act became effective April 26, 1996, the date the Act was signed into law. Treasury Financial Management Bulletin 95–10, which was issued on August 18, 1995, currently directs Federal agencies to provide the TIN when requesting the Service to make disbursement to vendors and Federal employees. The Service will amend Bulletin 95–10 in the near future in accordance with the provisions of section 3325 (d).

The Service is planning to meet with agencies to explain the requirements of the Act and the interim rule and to identify issues that need to be resolved. The Service also will form a task force of Federal agencies to obtain information that will be used in formulating a final rule and provide guidance to agencies on how to reach those individuals and small businesses who face barriers in converting to electronic funds transfer.

(2) Discussion

A. Section by Section Analysis of Interim Rule Implementing the July 26, 1996, Requirements

Section 208.1 Scope and Applicability

This section provides that Part 208 applies to all payments made by agencies and requires such payments to be made by electronic funds transfer, unless a waiver is granted. This section also provides that Part 208 does not apply to payments under the Internal Revenue Code of 1986.

Section 208.2 Definitions

31 U.S.C. 3332(j)(2), as added by section 31001(x) of the Act, defines Federal agency as ''(A) an agency (as defined in section 101 of this Title); and (B) a Government corporation (as defined in section 103 of Title 5).'' Section 101 of Title 31 provides that ''agency'' means a department, agency, or instrumentality of the United States Government. Section 103 of Title 5 defines Government corporation as a corporation owned or controlled by the Government of the United States. The definition of agency in § 208.2(a) restates the statutory definition without change.

Section 3332(j)(2), as added by the Act, does not distinguish between agencies whose disbursements are made by the Department of the Treasury and those agencies with delegated or statutory disbursing authority, known as Non-Treasury Disbursing Offices (NTDOs). The Service believes that both types of agencies are subject to section 3332(e), as amended, and to Part 208. Further, in the opinion of the Service, the source of an entity's funds is not relevant in determining coverage under the Act: entities whose funds are derived from assessments or fees are covered by Part 208 to the same extent as entities using appropriated funds.

Section 3332(j)(3) provides that ''Federal payments'' includes ''benefit payments,'' but does not define the latter term. The Service has added a definition of benefit payment in § 208.2(b). This definition is substantially similar to the definition of benefit payment in 31 CFR 210.2.

The definition of ''electronic funds transfer'' in § 208.2(c) is based on the definition of this term in § 3332(j)(1), as added by the Act. The Act's definition of electronic funds transfer is similar to the definition of ''electronic fund transfer'' in the Electronic Fund Transfer Act (the ''EFTA;'' 15 U.S.C. 1693). However, the Service has added the phrase ''includes, but is not limited to'' in the definition of electronic funds transfer in the interim rule to signal its intention to interpret ''electronic funds transfer'' broadly so as to accommodate the use by the Federal Government of a wide range of payment methods—existing and emerging—that offer convenience, safety, and efficiency over paper-based methods. For example, under this definition a credit card transaction is an electronic payment.

The term ''Federal payment'' is defined in § 208.2(d) of the interim rule. The Service believes that all payments made by an entity covered by section 3332(e), as amended, are subject to the requirement to use electronic funds transfer. This requirement applies whether the payment is recurring or non-recurring.

The specific payments enumerated in the definition of Federal payment in section 3332(j)(3) are merely illustrative of the payments covered by section 3332(e), as amended. The definition of Federal payment in § 208.2(d) restates the statutory definition and, in order to clarify the broad scope of this term, provides examples of payments typically made by agencies. The category of Federal salary, wage, and retirement payments includes, but is not limited to, thrift savings distributions, military wage and salary payments, Central Intelligence Agency annuities, military annuities, and Coast Guard retirement payments. The category of vendor payments includes any payment for goods or services. The category of expense reimbursement includes, but is not limited to, travel and expense disbursements and cash advances. Benefit payments, as defined in § 208.2(b), includes, but is not limited to, payments for Social Security, Supplemental Security Income, Black Lung, Railroad Retirement Board Retirement and Annuity, Department of Veterans Affairs Compensation and Pension, and Worker's Compensation. The category of miscellaneous payments includes, but is not limited to, interagency payments, grants, loans, fees, principal, interest, and discounts related to U.S. transferable and non-transferable securities, refunds, and payments related to Federal insurance or guarantee programs for loans. The term ''Federal payment'' does not include payments under the Internal Revenue Code of 1986.

The term ''financial institution'' is not defined in section 31001(x) of the Act. The Service has added a definition of financial institution in § 208.2(e). The definition in the interim rule, which is identical to the definition of financial institution found in 31 CFR Part 210, is intended to cover all depository institutions regardless of the form of their organization or the nature of their charter.

The Service also has added a definition of the term ''payment'' in § 208.2(f) which is based on the definition of the same term found in 31 CFR Part 210.

Section 208.3 Agency Responsibilities

Section 208.3(a) implements section 3332(e), as amended, which supersedes 31 U.S.C. 3332 (a) through (d) (Federal wage, salary, and retirement payments) and 38 U.S.C. 5120 (a) and (d) (Veterans benefits); and thus requires all Federal payments to a recipient who becomes eligible for that type of payment starting on July 26, 1996, to be made by electronic funds transfer.

The Service is sensitive to the administrative burden that compliance with the Act may impose on agencies. Therefore, in several instances which are discussed below, the Service has interpreted the Act's requirements in a manner designed to facilitate compliance.

Section 3332(e), as amended, provides that all Federal payments to a recipient who becomes eligible for ''that type of

payment'' on or after July 26 must be made by electronic funds transfer. Section 208.3(a) of the interim rule provides that payments made to a recipient who becomes eligible for ''the payment'' on or after July 26 must be made electronically. The Service made this change to make clear that the payments that must be made electronically are only those for which the recipient becomes eligible on or after the trigger date of July 26, and not payments of the same type made by the paying agency for which the recipient became eligible prior to July 26. For example, if a recipient currently receives an interest payment, by check, on a Government security purchased before July 26 and, after July 26, the recipient purchases another Government security from the same agency, the interim rule requires the agency to pay interest on the security purchased after July 26 by electronic funds transfer. The agency would not be required to convert from check to electronic funds transfer the interest payment on the security purchased prior to July 26.

Since the phrase ''becomes eligible for'' is not defined in section 3332(j), and this phrase may have different meanings in the context of different types of payments, the Service has divided Federal payments into six categories and defined eligibility in the context of each class of payment. The interim rule is designed to minimize the burden of compliance by defining the triggering date for determining eligibility for receiving an electronic payment, as the time at which the agency and the recipient have direct contact, either to obtain the routing transit number, account number, and any other information the agency needs to make payments electronically or, alternatively, to give the recipient the opportunity to certify that the recipient does not have an account and thus qualifies for a waiver.

Under § 208.3(a)(1), all individuals who apply for benefit payments starting on July 26, 1996, are subject to the mandatory electronic funds transfer requirement. The Service chose the date of application rather than, for example, the date on which an individual attains a specified age, because the application process affords the agency an opportunity to have contact with the recipient. The agency can obtain account information during the application process and those recipients who do not have accounts can certify to that fact.

Section 208.3(a)(2) addresses eligibility in the context of Federal wage and salary payments. The interim rule provides that a recipient who has a date of entry on duty with an agency on or after July 26, 1996, must receive wage and salary payments by electronic funds transfer, unless the recipient certifies that he or she does not have an account at a financial institution. Thus, an individual who begins working for an agency, transfers from one agency to another, or resumes Federal service after a break in employment on or after July 26, must receive such payments by electronic funds transfer, unless the recipient certifies that he or she does not have an account with a financial institution or authorized payment agent.

Currently, 31 U.S.C. 3332 (a) through (d) provide that Federal wage, salary, and retirement payments paid to individuals who began to receive such payments after January 1, 1995, must be paid by electronic funds transfer unless the recipient made a written request for another form of payment. In addition, section 3332(c)(1) authorized the Secretary to grant waivers for a group of recipients upon a request by the head of an agency. These provisions remain effective until July 26, 1996, when they are superseded by section 3332(e), as amended, and the interim rule. Consequently, Federal employees and retirees who become eligible to receive payments on or after July 26, 1996, must certify that they do not have an account at a financial institution or authorized payment agent in order to qualify for a waiver.

Section 208.3(a)(3) of the interim rule provides that, in the case of Federal retirement payments, ''becomes eligible for'' means a recipient applies for retirement from an agency on or after July 26, 1996. There may be special circumstances in which a recipient applies for retirement from an agency on or after July 26, while at the same time the recipient is already receiving retirement payments from a previous agency. In this circumstance, the recipient would be required to receive retirement payments from the second agency electronically.

Section 208.3(a)(4) addresses vendor payments. Under the interim rule, payments made under a contract or purchase order resulting from a solicitation issued on or after July 26, 1996, must be made electronically. This requirement applies to all contracts and purchase orders for goods and service whether or not they are covered by the Federal Acquisition Regulation. The interim rule does not require an agency to convert payments for contracts or purchase orders executed prior to July 26 to electronic funds transfer.

Section 208.3(a)(5) of the interim rule provides that, in the case of grants, eligibility is determined by reference to the date on which a grant application is filed or renewed.

Section 208.3(a)(6) is a catch-all provision that applies to all other Federal payments, such as expense reimbursements and interest, not addressed in subsections (1) through (5). The Service expects agencies to fashion eligibility rules that are consistent with the spirit of the Act.

Section 208.3(b) provides that, for a recipient who becomes eligible to receive a Federal payment on or after July 26, the head of each agency must waive the requirement to be paid by electronic funds transfer if the recipient certifies in writing that the recipient does not have an account with a financial institution or authorized payment agent. The Appendix contains a model that may be used to make such a certification. The use of this model is optional; an agency may customize the model as needed.

The Service recognizes, however, that agencies may encounter obstacles in converting to electronic funds transfer. Section 208.3(c) provides that, if the head of an agency determines that the agency cannot make a Federal payment or class of Federal payment in accordance with § 208.3(a) due to the inability of the agency's system to make the payment(s) by electronic funds transfer, then the agency shall notify the Service immediately in writing and shall submit an implementation plan to the Service no later than January 1, 1997. The plan shall:

(1) Identify the specific type of payment(s) that cannot be made by electronic funds transfer;

(2) Describe the system problem that prevents the agency from making the payment(s) by electronic funds transfer; and

(3) Outline a proposed solution and provide a time table for solving the problem.

Nothing in Part 208 should be construed to prevent an agency from continuing to make payments while the agency's plan is being developed, reviewed, and implemented. The Service will work with agencies to develop and implement the plan and provide any assistance the agency may need.

Section 208.4 Recipient Responsibilities

Section 208.4 implements sections 3332(e) (2) and (g) as amended by the Act and provides that (1) a recipient of a Federal payment must designate a financial institution or authorized payment agent through which a Federal payment may be made or certify in

writing that the recipient does not have an account with a financial institution or authorized payment agent; and (2) provide the agency with the information requested by the agency in order to effect the payment.

B. Regulations to Implement the January 1, 1999, Requirements

During the next two years, Treasury will work with agencies, the financial services industry, and representatives of individuals and the vendor community, to meet the challenge of delivering all Federal payments by electronic funds transfer. Efforts will include intensive marketing of Treasury's existing Direct Deposit program for individuals and businesses; new products such as Direct Deposit Too; and services such as Electronic Benefit Transfer (EBT). The Service will continue to develop, test, and implement innovative forms of electronic payment mechanisms. The Service also plans to hold forums at which the public, the financial service industry, Federal agencies, and other interested parties will be invited to share their views regarding implementation of the requirements that take effect on January 1, 1999.

In order to assess the current capabilities of agencies and to assess their future needs, the Service requests agencies to submit an implementation plan that addresses the points listed below. Agencies subject to the Chief Financial Officers Act of 1990 (31 U.S.C. 901) must submit the plan by January 1, 1997. All other agencies must submit the plan by July 1, 1997. The plan must:

(1) List the types of Federal payments the agency currently makes by check, especially those payments that the agency believes would be difficult to convert to electronic funds transfer;

(2) Describe the obstacles the agency has encountered, or expects to encounter, in converting payments made by check to electronic funds transfer. The Service invites comment on the cost-effectiveness of converting small dollar cash and check payments and non-recurring payments to electronic funds transfer;

(3) Provide suggestions for removing the obstacles for each type of payment and the electronic payment methods that could be used;

(4) Provide a timetable for the orderly and systematic conversion of check payments to electronic funds transfer; and

(5) Identify the assistance each agency anticipates it will need in order to convert payments currently made by check to electronic funds transfer.

The Service will use this information to assess the requirements for converting from cash and checks to electronic funds transfer payments for each payment type and determine what assistance agencies need in order to meet the January 1999 implementation date.

As noted above, where the head of the agency determines that the agency cannot make a Federal payment or class of Federal payment in accordance with § 208.3(a) due to the inability of the agency's system to make the payment(s) by electronic funds transfer, then the agency must notify the Service immediately in writing and must submit a plan in accordance with § 208.3(c).

The Service would like to work with the financial services industry to expand and enhance existing electronic payment methods and, where necessary, develop new ones so as to facilitate the transition from checks to electronic funds transfer. The industry is invited to:

(1) Discuss the capability to process electronic payments and to provide the payment information customers need, especially for vendor payments; and

(2) Provide suggestions regarding improvements to the electronic payment methods currently available and ideas for new electronic payment methods to meet the needs of recipients who receive checks.

Members of the public are specifically invited to comment on the following:

(1) Obstacles to receiving payments electronically, such as geographical barriers and physical, mental, educational, or language barriers;

(2) The availability of banking services, especially for the segment of the public that is currently unbanked;

(3) Suggestions for improving the electronic payment methods currently available and ideas for new types of electronic payment methods;

(4) Suggestions for implementing the provisions relating to the use of an authorized payment agent for receipt of a Federal payment by means of electronic funds transfer, including qualifications for serving as an authorized payment agent and any limitations on the terms of the contractual relationship between the recipient and the authorized payment agent; and

(5) The needs of unbanked recipients when selecting an electronic payment method or a financial institution.

Section 3332(i)(2), as added by section 31001 (x) of the Act, provides that regulations issued by the Secretary shall ensure that individuals who are required to have an account at a financial institution because of the application of section 3332(f)(1) will have access to such an account at a reasonable cost. Further, the Secretary is directed to ensure that such individuals are given the same consumer protections with respect to the account as other account holders at the same financial institution. All interested parties are invited to comment on these provisions.

Section 3332(f)(2) authorizes the Secretary to waive the electronic funds transfer requirement for individuals or classes of individuals for whom compliance poses a hardship, for classifications or types of checks or in other circumstances as may be necessary. The Service invites comment regarding these requirements.

In response to a Congressional request, the Service will study: (1) the socioeconomic and demographic characteristics of those recipients who currently receive checks to determine how best to increase electronic payment usage; and (2) the adequacy of consumer protections available to those individuals who will be required to obtain an account with a financial institution.

Special Analyses

The Service is promulgating the interim rule without opportunity for prior public comment pursuant to the Administrative Procedure Act (the ''APA''), 5 U.S.C. 553, because the Service has determined, for the following reasons, that a comment period would be impracticable and contrary to the public interest. As noted above, until passage of the Act, only recipients of Federal wage, salary, and retirement payments were required to receive those payments by electronic funds transfer. However, 31 U.S.C. 3332 (e), as amended, requires recipients who become eligible for Federal payments on or after July 26, 1996, to receive such payments electronically. Therefore, recipients such as vendors doing business with agencies and benefit recipients may not be aware of the impact of the law. In addition, the law requiring agencies to disburse Federal funds expeditiously, 31 U.S.C. 3335, applies only to agencies in the executive branch, whereas the amended section 3332 (e) applies to departments, agencies, and instrumentalities of the United States Government and to corporations owned or controlled by the Government of the United States.

In addition, since the Act was passed, the Service has received numerous requests for guidance from affected agencies. Many of the questions relate to the meaning of the phrase ''becomes eligible for,'' which determines the applicability of section 3332. As noted above, this phrase has different

meanings in the context of different types of payments. The Service believes that, absent an implementing regulation, there will be substantial confusion and noncompliance. Since the interim rule provides critical guidance which will facilitate compliance, the Service believes that it is in the public interest to issue the interim rule without opportunity for prior public comment.

The public is invited to submit comments on the interim rule. As noted above, within the next twelve months, the Service expects to publish a Notice of Proposed Rulemaking to implement the provisions of section 3332 that take effect in January 1999. Therefore, there will be an opportunity to take into account any comments received on the interim rule.

The Service has determined that good cause exists to make the interim rule effective upon publication without providing the 30 day period between publication and the effective date contemplated by the APA, 5 U.S.C. 553 (d). The purpose of a delayed effective date is to afford persons affected by a rule a reasonable time to prepare for compliance. However, in this case, both agencies and recipients of Federal payments must comply with the Act when it takes effect on July 26, 1996, and, as noted above, there may be considerable confusion concerning its application. Inasmuch as the interim rule provides important clarification that is expected to facilitate compliance with the new law, the Service believes that good cause exists to make the rule effective upon publication.

Since the interim rule is being issued without prior notice and public procedure pursuant to the APA, the collection of information contained in the interim rule has been reviewed under the requirements of the Paperwork Reduction Act (44 U.S.C. 3507 (j)) and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1510–0066. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Comments concerning the collection of information should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Financial Management Service, Office of Information and Regulatory Affairs, Washington, D.C. 20503, with copies to Jacqueline Perry, Public Reports Clearance Officer, Financial Management Service, 3361 75th Avenue, Landover, Maryland 20785. Any such comments should be submitted not later than September 24, 1996. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced; and

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques and other forms of information technology.

The collection of information in this regulation is in § 208.4. The information (name of financial institution, account number and routing transit number or certification that the recipient does not have an account with a financial institution) is required to enable an agency to pay the recipient of a Federal payment by electronic funds transfer. The collection of information is mandatory. 31 U.S.C. 3332 (g), as amended, requires recipients of Federal payments to ''provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments.'' The likely respondents are individuals who are employed by the Service on or after July 26, 1996; existing employees of the Service who become eligible to receive, for example, travel reimbursement payments on or after July 26, 1996; individuals who apply for retirement from the Service on or after July 26, 1996; and individuals and businesses that become eligible to receive a vendor payment from the Service on or after July 26, 1996.

The estimated total annual reporting burden is 325 hours. The estimated burden hours per respondent is 0.25 hours. The estimated number of respondents is 1,300. These figures represent the burden imposed by the Service. The reporting burden imposed by other agencies will be addressed by those agencies.

Although it has been determined that the interim rule is a significant regulatory action as defined in E.O. 12866, the Office of Management and Budget (OMB) has waived the preparation of a Regulatory Assessment. One substantive change was made to the regulation subsequent to its submission to OMB. At the suggestion of OMB, the Service added § 208.3 (c), which requires that an agency notify the Service immediately in writing if it determines that it is unable to make a payment or class of payments by electronic funds transfer due to the inability of the agency's system to make the payment(s) electronically.

List of Subjects in 31 CFR Part 208

Accounting, Banks, Banking, Electronic Funds Transfer.

Authority and Issuance

For the reasons set out in the preamble, Part 208 of Title 31 is added to read as follows:

PART 208—FEDERAL AGENCY DISBURSEMENTS

Sec.

208.1 Scope and application.
208.2 Definitions.
208.3 Agency responsibilities.
208.4 Recipient responsibilities.

Appendix A to Part 31—Model certification

Authority: 5 U.S.C. 301; 31 U.S.C. 321, 3301, 3302, 3321, 3325, 3327, 3328, 3332, 3335, and 6503.

§ 208.1 Scope and application.

This part applies to all Federal payments made by an agency and requires such payments to be made by electronic funds transfer, unless a waiver is granted. This part does not apply to payments under the Internal Revenue Code of 1986.

§ 208.2 Definitions.

(a) *Agency* means any department, agency, or instrumentality of the United States Government, or a corporation owned or controlled by the Government of the United States.

(b) *Benefit payment* means a payment for a Federal Government entitlement program or for an annuity (other than a Federal retirement payment), including, but not limited to, payments for Social Security, Supplemental Security Income, Black Lung, Railroad Retirement Board Retirement and Annuity, Department of Veterans Affairs Compensation and Pension, and Worker's Compensation.

(c) *Electronic funds transfer* means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, Automated Clearing House transfers, Fedwire transfers, and transfers made at

automated teller machines and point-of-sale terminals.

(d) *Federal payment* means any payment made by an agency.

(1) The term includes, but not is limited to:

(i) Federal wage, salary, and retirement payments;

(ii) Vendor and expense reimbursement payments;

(iii) Benefit payments; and

(iv) Miscellaneous payments, including but is not limited to, interagency payments, grants, loans, fees, principal, interest, and discounts related to U.S. transferable and non-transferable securities, overpayment reimbursements, and payments under Federal insurance or guarantee programs for loans.

(2) The term ''Federal payment'' does not apply to payments under the Internal Revenue Code of 1986.

(e) *Financial institution* means any bank, savings bank, savings and loan association, credit union, or similar institution.

(f) *Payment* means a sum of money transferred to a recipient in satisfaction of an obligation.

§ 208.3 Agency responsibilities.

(a) *Paying by electronic funds transfer.* Subject to § 208.3 (b), and notwithstanding any other provision of law, all Federal payments made by an agency to a recipient who becomes eligible for the payment on or after July 26, 1996, shall be made by electronic funds transfer. For purposes of this subsection, ''becomes eligible for'' means:

(1) In the case of benefit payments, the recipient applies for that type of benefit on or after July 26, 1996;

(2) In the case of Federal wage or salary payments, the recipient has a date of entry on duty with the agency on or after July 26, 1996;

(3) In the case of Federal retirement payments, a recipient applies for retirement from an agency on or after July 26, 1996;

(4) In the case of vendor payments, the payment is made under a contract or purchase order resulting from a solicitation issued on or after July 26, 1996;

(5) In the case of grants, an application is filed or renewed on or after July 26, 1996; and

(6) For all other Federal payments, as determined by the agency.

(b) *Waiver.* The head of an agency shall waive the application of subsection 208.3 (a) only upon receipt of written certification that the recipient does not have an account with a financial institution or an authorized payment agent.

(c) *Agency implementation plan.* If the head of an agency determines that the agency cannot make a Federal payment or class of Federal payment in accordance with § 208.3 (a) due to the inability of the agency's system to make the payment(s) by electronic funds transfer, then the agency shall notify the Service immediately in writing and shall submit an implementation plan to the Service no later than January 1, 1997. The plan shall:

(1) Identify the specific type of payment(s) that cannot be made by electronic funds transfer;

(2) Describe the system problem that prevents the agency from making the payment(s) by electronic funds transfer; and

(3) Outline a proposed solution and provide a time table for solving the problem.

§ 208.4 Recipient responsibilities.

Each recipient of a Federal payment shall designate a financial institution or authorized payment agent through which a Federal payment may be made or certify in writing that such recipient does not have an account with a financial institution or an authorized payment agent; and provide the agency with the information requested by the agency in order to effect the payment.

Appendix A to Part 208—Model Certification

This appendix contains model language which may be used to qualify for a waiver under § 208.3(b). Use of the model language is optional. An agency may customize the model language by making appropriate changes.

Any payment that we make to you will be made by electronic funds transfer unless you certify in writing that you do not have an account with a financial institution or an authorized payment agent.

I certify that I do not have an account with a financial institution or an authorized payment agent.

Signature

Dated: July 23, 1996.

Russell D. Morris,

Commissioner.

[FR Doc. 96–19073 Filed 7–25–96; 8:45 am]

BILLING CODE 4810–35–P

Federal Register

Friday
July 26, 1996

Part VII

Department of Housing and Urban Development

Notice of Funding Availability for Family Self-Sufficiency Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4061–N–01]

Office of the Assistant Secretary for Public and Indian Housing; Notice of Funding Availability (NOFA) for Family Self-Sufficiency (FSS) Program Coordinators for the Section 8 Rental Certificate and Rental Voucher Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability for fiscal year (FY) 1996 for Section 8 Family Self-Sufficiency Program Coordinators.

SUMMARY: This NOFA announces the availability of up to $9.2 million for administrative fees for Section 8 Family Self-Sufficiency (FSS) program coordinators. Eligible applicants are only those public housing agencies (PHAs) and Indian housing authorities (IHAs), herein referred to as housing agencies (HAs), with obligations to enroll at least 25 families in the FSS program. Due to limited funding, HUD has decided to limit the competition to the HAs with Section 8 programs of fewer than 1,000 rental vouchers and certificates and limit the funds available to each HA to $42,500.

In recent years, HUD has provided funding for FSS program coordinators to HAs with Section 8 programs of fewer than 600 units. The funds for FY 94 and FY 95 were allocated to these HAs based on a request for funding and all complete applications were funded. HUD is allocating FY 1996 funds for FSS program coordinators through a competitive NOFA as required by Congress.

DATES: The application deadline for the FSS Program Coordinators is September 9, 1996, 3:00 p.m., local HUD Office time.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing HAs, HUD will treat as ineligible for consideration any application that is not received before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

ADDRESSES: The local HUD State or Area Office, Attention: Director, Office of Public Housing, is the official place of receipt for all applications, except applications from Indian Housing Authorities (IHAs). The local HUD Office of Native American Programs Office, Attention: Administrator, Office of Native American Programs, is the place of official receipt for IHA applications. For ease of reference, the term ''HUD Office'' will be used throughout this NOFA to mean the HUD State Office, HUD Area Office, and the HUD Office of Native American Programs Office. If a particular type of HUD Office needs to be identified, e.g., the HUD Office of Native American Programs Office, the appropriate office will be used.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Office of Public and Indian Housing, Department of Housing and Urban Development, room 4220, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone number (202) 708–0477. Hearing or speech impaired individuals may call HUD's TTY number (202) 708–4594. (These numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced in the Federal Register.

I. Purpose and Substantive Description

The Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat. 1321, approved April 26, 1996) allows HUD to set-aside Community Development Block Grant funds for program coordinators under the Section 8 FSS program. As a result, HUD determined to make a sufficient amount available under this NOFA, to enable the smaller HAs (i.e., those with programs of fewer than 1,000 total rental vouchers and certificates) with required FSS programs of at least 25 slots, to hire up to one FSS program coordinator for one year at a reasonable cost, as determined by the HA and HUD, based on salaries for similar positions in the locality. Each HA is limited to an award of $42,500 under this NOFA.

(1) Eligible Activity

Funds are available under this NOFA to employ or otherwise retain the services of up to one FSS program coordinator for one year. A part-time FSS program coordinator may be retained where appropriate. Under the FSS program, HAs are required to use Section 8 rental assistance together with public and private resources to provide supportive services to enable participating families to achieve economic independence and self-sufficiency. Effective delivery of supportive services is a critical element in a successful program.

(a) Program Coordinator Role

HAs administering the FSS program use program coordinating committees (PCCs) to assist them to secure resources for and implement the FSS program. The program coordinating committee is made up of representatives of local government, job training and employment agencies, local welfare agencies, educational institutions, child care providers, nonprofit service providers, and businesses.

An FSS program coordinator works with the PCC, and with local service providers to assure that program participants are linked to the supportive services they need to achieve self-sufficiency. The FSS program coordinator may ensure, through case management, that the services included in participants' contracts of participation are provided on a regular, ongoing and satisfactory basis, and that participants are fulfilling their responsibilities under the contracts.

(b) Staffing Guidelines

Under normal circumstances, a full-time FSS program coordinator should be able to serve approximately 50 FSS participants, depending on the coordinator's case management functions.

(c) Eligibility of HAs

All HAs that currently administer a rental voucher and certificate program of fewer than 1,000 total rental vouchers and certificates and that received FY 1992 FSS incentive award funding, or FY 1993 and later rental voucher or certificate funding (other than renewal funding), and as a result are required to administer an FSS program of at least 25 FSS slots are eligible to apply. HAs with fewer than 1,000 total rental vouchers and certificates and with FSS programs of fewer than 25 slots may also apply, if they apply jointly with one or more

other eligible HAs so that between or among the HAs they administer at least 25 FSS slots. If eligible applicants apply jointly, their combined total program size may exceed 1,000 total rental vouchers and certificates, but the $42,500 maximum amount that may be requested still applies. Joint applicants must specify a lead coapplicant which will receive and administer the FSS program coordinator funding. A State or regional (i.e., multi-county jurisdiction) HA that administers a program of more than 1,000 rental vouchers and certificates may apply if it is required to administer an FSS program of fewer than 1,000 FSS slots.

Since the $9.2 million available for FSS program coordinators is insufficient to fund all HAs administering FSS programs, HUD is limiting eligibility under this NOFA to HAs with fewer than 1,000 total Section 8 rental vouchers and certificates and to state and multi-county regional HAs that are required to administer FSS programs of at least 25 but fewer than 1,000 FSS slots. HUD determined that HAs administering large Section 8 programs are more likely than smaller HAs to have access to other resources for FSS program administration. State HAs indicated an interest in FY 1994 in submitting applications for funding under the FSS Program Coordinators NOFA regardless of the 600 total program size limitation in FY 1994. In response, HUD has decided in this FY 1996 NOFA to allow a state or multi-county regional HA that administers an FSS program in more than one location to submit an application if the state or multi-county regional HA is required to administer an FSS program of at least 25 but fewer than 1,000 Section 8 units.

HUD is requiring that applicants under this NOFA administer FSS programs of at least 25 FSS slots (based on FY 1992 FSS incentive award funding or FY 1993 and later rental voucher and certificate funding (other than renewal funding)) to ensure that the limited program coordinator funds are used in a cost-effective manner. The Department expects that FSS programs of fewer than 25 FSS slots can be managed within HA resources.

(2) Eligible Applicants With HUD Approved Exceptions to Mandatory Minimum Size

If HUD has approved either a full or partial exception to implementing an FSS program of the mandatory minimum size for an eligible applicant with fewer than 1,000 rental vouchers and certificates, solely because of a lack of funds for reasonable administrative costs, the approval of the exception is hereby automatically rescinded, since funding for an FSS program coordinator is now available under this NOFA.

II. FSS Program Coordinators Allocation Amounts

For FY 1996, $9.2 million is available for HA administrative fees for Section 8 FSS Program Coordinators. This is the third fiscal year of funding for FSS Program Coordinators. All HAs that received funding for FSS Program Coordinators under the FY 1994 and FY 1995 NOFA must re-apply under this NOFA and compete for funding under the terms of this NOFA. There will be no automatic funding for previously funded HAs.

An eligible HA may apply for a maximum of $42,500 to support up to one FSS program coordinator for one year. An eligible state HA or multi-county regional HA may apply for a maximum of $42,500. The HUD Office may fund applications at fewer than the requested amount, based on the HUD Office application review, if the HA requests more funds than permitted under the NOFA for a full or part-time program coordinator.

III. FSS Program Coordinators Application Submission Requirements

Each application for funding under this NOFA must contain the following items to be considered for an award:

(1) Application for FSS Program Coordinator Funds

All applications must contain the following information stated in a letter from the Executive Director of the HA to the Director of the Office of Public Housing in the local HUD Office or to the Administrator of the Office of Native American Programs (see sample letter format, Attachment 1):

(a) The total number of units in the latest HUD approved HA budget for the Section 8 rental voucher and certificate programs.

(b) The total number of required FSS slots (based on FY 1992 incentive award funding and FY 1993 and later rental voucher and certificate funding).

(c) The total number of currently enrolled FSS families.

(d) The number of FSS families that are currently working at full or part-time jobs.

(e) The annual salary proposed for the FSS program coordinator, plus any fringe benefits. Do not include costs of training, transportation, clerical support, equipment, supplies, or other administrative costs or overhead. The Program coordinator salary should be set as follows:

(i) Determine the salary level, taking into consideration salaries for comparable jobs, modified by the hours worked.

(ii) Set the annual salary, including any fringe benefits that pertain to the job.

(f) Evidence that demonstrates salary comparability with similar positions in the local jurisdiction.

(g) Joint applicants must indicate which HA will be the lead applicant and will receive and administer the FSS program coordinator funding.

(2) Type and Quality of Proposed Services

Each HA must provide a brief description of the services provided in its FSS program, including any innovative approaches to services that increase the likelihood of success for FSS families and internal goals established by the HA to determine the success of its FSS program. A successful FSS program must offer a wide variety of services to address the needs of FSS participants that can be integrated into meaningful assistance for families. A key consideration is that the services must be coordinated in their delivery and appropriate to the needs of the families. For example, quality child-care, capable of attending to a variety of age groups and operating a sufficient number of hours per week to accommodate work, training, and/or counseling schedules may be important. Another important service may be transportation, which links the other services together. The HA shall describe current FSS services or past services provided by others to its Section 8 families.

(3) List of Firm Commitments for Services From Other Sources

Each HA must provide a summary cover letter of commitments for services along with copies of commitment letter from service providers with reasonable assurances that services will be provided. The HA may include services currently being provided to FSS participants as long as the services will continue to be provided.

(4) Funding Application

All HAs must complete Form HUD–52515, Section 8 Tenant-Based Assistance, Rental Certificate Program and Rental Voucher Program (dated January 1996). This form was recently revised to include all necessary certifications for Fair Housing, Drug Free Workplace and Lobbying activities; therefore, HAs can complete and sign the new form HUD–52515 to meet the requirements of these certifications. All

parts of the application form must be completed, except parts B and C which relate to funding of units. HAs should note that, unlike other applications for funding, the provisions of Section 213 of the Housing and Community Development Act of 1974 do *not* apply for the FSS program coordinator funding and *no* solicitation of comments from the chief executive officer of the unit of general local government need be made.

IV. Application Rating Process

(1) *General.* The HUD Office is responsible for rating the applications for the criteria established in this NOFA, and HUD Headquarters is responsible for selection of applications (including applications rated by the Office of Native American Programs) that will receive funding for FSS program coordinators. Each application, to be eligible for funding, must receive a total score of 35 points after all criteria are rated. The HUD Office will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

(2) *Rating Criteria.*

(a) *Rating Criterion 1: Percentage of FSS Families Currently Enrolled Compared to the HA'S Obligation to Enroll Families.*

(i) *Description:* This criterion assesses the success to date that the HA has achieved in enrolling families in FSS in comparison with its obligation to enroll families based on the new funding the HA has been awarded in FY 1992 and subsequently.

(ii) *Rating and Assessment:* The HUD Office will assign point values based on the number of families currently enrolled for FSS divided by the total number of families that the HA is obligated to enroll. The HUD Office must use the HAs' statement as to the number of enrolled families and the number of families obligated to be enrolled unless the HUD Office is aware of other more up-to-date data. The HUD Office will assign point values based on the following:

- *20 Points*—Assign 20 points if the HA has enrolled more than 75 percent of the number of families it is obligated to enroll.
- *10 Points*—Assign 10 points if the HA has enrolled between 50 and 75 percent of the number of families it is obligated to enroll.
- *Zero Points*—Assign zero points if the HA has enrolled fewer than 50 percent of the number of families it is obligated to enroll.

(b) *Rating Criterion 2: Number of Enrolled FSS Families That Are Working.*

(i) *Description:* This criterion assesses the success of the FSS families in the HA's program to achieve results in job training and job search activities.

(ii) *Rating and Assessment:* The HUD Office will assign point values based on the following percentages for the number of FSS families who are currently attending school or working in full or part-time jobs:

- *10 Points*—Assign 10 points if the HA has more than 50 percent of its FSS families attending school full-time and/or working either in full-time or part-time jobs.
- *5 Points*—Assign 5 points if the HA has between 25 and 50 percent of its FSS families attending school full-time and/or working either in full-time or part-time jobs.
- *Zero Points*—Assign zero points if neither threshold applies.

(c) *Rating Criterion 3: Supportive Services for FSS Families.*

(i) *Description:* This criterion assesses the variety of the services provided to FSS families. The services proposed should match the needs of the FSS families as described in the HA's application. Services can include the following: child care, transportation, job training and placement, counseling, education, money management, parenting and rehabilitation services.

(ii) *Rating and Assessment:* The HUD Office will assign point values for the following assessments based on the number of services provided by the HA:

- *10 Points*—Assign 10 points if FSS families have access to at least five of the listed services:
- *5 Points*—Assign 5 points if FSS families have access to at least three of the listed services.
- *Zero Points*—Assign zero points if FSS families have access to fewer than three of the listed services.

(d) *Rating Criterion 4: Type and Quality Funding of Supportive Services for FSS Families.*

(i) *Description:* This criterion assesses the quality of the services provided to FSS families by determining whether child care and transportation are provided in addition to other services such as training, education and counseling.

(ii) *Rating and Assessment:* The HUD Office will assign point values for the following assessments based on the availability of certain services provided by the HA:

- *20 Points*—Assign 20 points if FSS families have access to child care and transportation in addition to other services such as training, education, counseling, money management, parenting and rehabilitation services;
- *10 Points—Assign 10 points if FSS families have access to child care or transportation in addition to other services such as training, education, counseling, money management, parenting and rehabilitation services;*
- *Zero Points—Assign zero points if FSS families are without access to child care or transportation.*

(e) *Rating Criterion 5: Firm Commitments for Supportive Services for FSS Families.*

(i) *Description:* This criterion assesses the number of services provided to FSS families with firm commitments for the next fiscal year from third party providers.

(ii) *Rating and Assessment:* The HUD Office will assign point values for the following assessments based on the number of services with firm commitments for the next HA fiscal year:

- *10 Points*—Assign 10 points if an HA has firm commitments for four or more services;
- *5 Points*—Assign 5 points if an HA has firm commitments for two or three services;
- *Zero Points*—Assign zero points if an HA has only one firm commitment for services.

V. Corrections to Deficient Applications

(1) Acceptable Applications

To be eligible for processing, an application must be received by the appropriate HUD Office no later than the date and time specified in this NOFA. The HUD Office will initially screen all applications and notify HAs of technical deficiencies by letter.

If an application has technical deficiencies, the HA will have 14 calendar days from the date of the issuance of the HUD notification letter to submit the missing or corrected information to the HUD Office. Curable technical deficiencies relate only to items that do not improve the substantive quality of the application relative to the rating factors.

All HAs must submit corrections within 14 calendar days from the date of the HUD letter notifying the applicant of any such deficiency. Information received after 3:00 p.m. local time (i.e., the time in the appropriate HUD Office), of the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(2) Unacceptable Applications

(a) After the 14-calendar day technical deficiency correction period, the HUD Office will disapprove HA applications that it determines are not acceptable for

processing. The HUD Office disapproval letter must state the basis for the decision.

(b) Applications that fall into any of the following categories will not be processed:

(i) There is a pending civil rights suit against the HA instituted by the Department of Justice or there is a pending administrative action for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act).

(ii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the areas of noncompliance.

(iii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has denied application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(v) The HA has serious unaddressed, outstanding Inspector General audit findings, Fair Housing and Equal Opportunity monitoring review findings, or HUD management review findings for its rental voucher or rental certificate program.

(vi) A HA application that does not comply with the requirements of 24 CFR 982.102 and this NOFA, after the expiration of the 14-calendar day technical deficiency correction period will be rejected from processing.

(vii) A HA application submitted after the deadline date.

VI. FSS Program Coordinators Selection Process

After the HUD Office has screened HA applications and disapproved any applications unacceptable for further processing (See Section IV(2) of this NOFA), the HUD Office will review and rate all approvable applications, utilizing the threshold criteria listed in this NOFA. Each HUD Office will send to HUD Headquarters the information on each application that receives a rating of at least 35 points, including the name of the HA, the type of program to be funded, i.e., rental voucher or certificate, the application score as determined by the HUD Office under the rating process, the amount requested, and the size of the HA's total Section 8 program.

HUD Headquarters will rank and select the HA applications based on the scores provided by the HUD Offices with the highest scores being funded first. In the case of tie scores, HUD will fund the smallest HAs first. This process will continue until all available funds have been awarded. HUD may not be able to fund all applications depending on the amount of funds recommended by the HUD Office and the size of an applicant's total Section 8 program.

VII. Other Matters

(a) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW, Washington, DC 20410.

(b) Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have ''federalism implications'' within the meaning of the Order. The NOFA makes funds available for HAs to employ or otherwise retain the services of up to one FSS program coordinator for one year. As such, there are no direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

(c) Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the policies announced in this Notice would not have a significant impact on the formation, maintenance, and general well-being of families except indirectly to the extent of the social and other benefits expected from this program of assistance.

(d) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule published on April 1, 1996 (61 FR 1448) (to be codified at 24 CFR part 4, subpart A), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its Federal Register notice of all recipients of HUD assistance awarded on a competitive basis.

(d) Documentation and Public Access Requirements: HUD Reform Act

HUD will include recipients that receive assistance pursuant to this NOFA in its Federal Register notice of recipients of all HUD assistance awarded on a competitive basis. (See 24 CFR 12.16(b), and the notice published on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(e) Section 103 of the HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to this funding competition. The requirements in part 4 continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person

(other than persons authorized to receive such information) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethic (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel or Headquarters counsel for the program to which the questions pertains.

(e) Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Dated: July 22, 1996.

Kevin E. Marchman,

Acting Assistant Secretary, for Public and Indian Housing.

Attachment 1.—Request for FSS Program Coordinator Funds Sample Letter Format

Dear Director, Office of Public Housing (or Administrator, Native American Programs Office):

This is to request approval to hire a Family Self-Sufficiency (FSS) program coordinator for one year, for the X housing agency (HA) FSS program.

1. Total Number of Units in the HA's Section 8 rental voucher and certificate programs as listed in the latest HUD approved budget.

2. Total Number of Currently Enrolled FSS Families: _____.

3. Total Number of Required FSS Program Slots (based on units approved under FY 1992 incentive award funding and under FY 1993 and later rental voucher and certificate program funding): _____.

4. Total Number of families participating in the HA's Section 8 FSS program that are attending school or working: _____.

5. Program Coordinator Salary:

a. *Salary level,* based on salaries for comparable jobs (modified by number of hours worked) _____.

b. *Annual Salary* plus Fringe Benefits:

_____ Hours/Week;

_____ $/Hour;

_____ Fringe Rate (%);

Annual Salary _____.

6. The HA will contract out for a Program coordinator:

_____ Yes

_____ No

_____ Unknown

7. Attachment: Evidence demonstrating salary comparability with similar positions in the local jurisdiction.

8. Is this application submitted jointly with another HA?

_____

Yes

_____

No

_____

Name of Lead Agency

If there are any questions, please contact _____at _____.

Sincerely,

Executive Director

Attachment(s)

[FR Doc. 96–19134 Filed 7–24–96; 9:23 am]

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Vol. 61, No. 145

Friday, July 26, 1996

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FEDERAL REGISTER PAGES AND DATES, JULY

33825–34366 1
34367–34712 2
34713–35082 3
35083–35588 5
35589–35914 8
35915–36276 9
36277–36492 10
36493–36608 11
36609–36808 12
36809–36988 15
36989–37198 16
37199–37350 17
37351–37656 18
37657–37806 19
37807–38048 22
38049–38352 23
38353–38562 24
38563–39038 25
39039–39266 26

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6907 35083
6908 35587
6909 38049

Executive Orders:
13010 37347
13011 37657
13012 38051

Administrative Orders:
Memorandum:
July 8, 1996 38563
Notices:
July 22, 1996 38561
Presidential Determinations:
No. 96–34 of June 26, 1996 36493
No. 96–35 of June 26, 1996 36495
No. 96–36 of June 28, 1996 35075
No. 96–37 of June 29, 1996 36989
No. 96–38 of June 29, 1996 36991
No. 96–39 of June 6, 1996 38053
No. 96–40 of June 8, 1996 38055

4 CFR

21 39039
28 36809
29 36809

5 CFR

530 34713
531 34713
532 36609
534 34713
550 34713
575 34713
581 34713
582 34713
630 34713
734 35088
890 37807
1001 36993
1660 36610
2634 35589
3201 35915
Ch. XXIII 35085
Ch. XXXV 36993
Ch. LXV 36246

Proposed Rules:
890 35973

7 CFR

2 37544
16 37199
29 ..... 37316, 37351
52 37663
58 35589
210 37670
225 37670
295 39047
301 ..... 35102, 35107, 36811, 36812, 38353
400 ..... 34367, 38057
401 39048
718 37544
719 37544
720 37544
723 37672
729 36997
790 37544
791 37544
793 37544
796 37544
868 34714
905 38354
906 37810
916 37812
917 37812
946 35109
948 36813
956 39050
958 35592
989 36814
997 35594
998 35594
1106 35596
1230 35597
1240 38355
1400 37544
1401 37544
1402 37544
1405 37544
1412 37544
1413 37544
1421 37544
1425 37544
1427 37544
1430 37544
1434 37544
1435 37544
1446 37544
1464 37672
1468 37544
1470 37544
1477 37544
1478 37544
1479 37544
1479 37544
1497 37544
1498 37544
1493 33825
1703 37813
1910 35916
1924 35916
1941 35916
1943 35916
1945 35916
1951 35916
1955 35916

1962.....35916
1965.....35916
1980.....35916

Proposed Rules:

1.....38567
20.....38107
210.....35152
220.....35152
225.....35152
226.....35152
300.....34379
301.....38017
318.....38108
319.....34379
868.....35687
956.....36827
1005.....37628
1007.....37628
1011.....37628
1046.....37628
1240.....34385, 38407
1280.....35982
1962.....37405

8 CFR

103.....35597
212.....36610
214.....35934
217.....35598
264.....37673
301.....35111

Proposed Rules:

207.....35984
208.....35984

9 CFR

92.....36816
112.....33840
113.....33840
201.....36277, 36279
318.....37675
381.....37675

Proposed Rules:

1.....34386
3.....34386, 34389
11.....34747
92.....36520
93.....36520
94.....35987, 36520
95.....36520
96.....36520
98.....36520
301.....35990
304.....35990
308.....35990
318.....35992
319.....35157
320.....35990
381.....35157, 35990
391.....34747

10 CFR

51.....37351
53.....35935
110.....35600
205.....3511
420.....35890
430.....36974
450.....35890
463.....35114
784.....36611
1003.....35112
1010.....35085
1021.....36222

Proposed Rules:

34.....37019
1021.....35990

12 CFR

211.....39052
311.....38356
324.....33842
367.....35115
1750.....35607

Proposed Rules:

32.....37227
205.....37229
207.....33874
218.....34749
220.....33874
221.....33874
250.....34749
327.....34751
502.....38114
516.....38114
562.....38114
563.....38114
565.....38114
574.....38114
614.....37230
704.....38117
745.....36663

14 CFR

1.....34508
Ch. III.....37814
25.....34716
29.....33963, 36965
39 .....33874, 34368, 34718, 35122, 35126, 35127, 35936, 35938, 35940, 35942, 35944, 35946, 36620, 36622, 36817, 37199, 37202, 37675, 37814
61.....34508
71 .....33843 33844, 33845, 34720, 34721, 34722, 34723, 35307, 36283, 36284, 36285, 36286, 36820, 37001, 37113, 37204, 37205, 37352, 37677
73.....35623
91.....34508, 36286
95.....37206
97 .....35623, 35624, 35626, 37352, 37354, 37356, 37677
119.....35628
121 .....34508, 34927, 35628, 37222
125.....34508
135 .....34508, 34927, 35628
141.....34508
142.....34508
211.....34724
213.....34724
1260.....38058

Proposed Rules:

25 .....35056, 37844, 38374, 38552
39 .....34767, 35691, 35693, 35695, 36307, 36308, 36310, 36664, 36667, 36669, 37019, 38407
71 .....34391, 34393, 34394, 34395, 34396, 34397, 34398, 34769, 35991, 36311, 36312, 36313, 36314, 36315, 36316, 36317, 36520, 37113, 37230, 37231, 37407, 37408
91.....38119
121 .....37144, 38119, 38552
125.....37144
127.....38119
129.....37144
135.....37144, 38119

15 CFR

902 .....34570, 34930, 34966, 35145, 35548, 38358
923.....36965

Proposed Rules:

30.....36318
303.....37845
922.....33876

16 CFR

Proposed Rules:

303.....35992
406.....39101

17 CFR

249.....37357

Proposed Rules:

15.....37409
16.....37409
17.....37409
18.....37409
19.....37409
240.....36521, 37701
249.....37701

18 CFR

154.....38565
161.....39053
250.....39053
284.....39053
346.....38567

Proposed Rules:

35.....38663

19 CFR

10.....33845
12.....33845
102.....33845, 37817
118.....39070
134.....33845, 37678
201.....37818
207.....37818

Proposed Rules:

134.....38119

20 CFR

404.....38361, 38363

21 CFR

14.....36624
175.....37208
176.....37209
177.....34370, 37210
178.....33846
184.....36287
201.....38046
210.....37679
211.....37679
331.....38046
452.....34726
500.....37680
505.....37680
507.....37680
508.....37680
510.....35949, 37680
520.....34727
522 .....34727, 35129, 36290, 37682
529.....34727
558 .....34727, 35949, 36291
570.....37680
801.....37682
803.....38346
804.....38346
807.....38346

Proposed Rules:

106.....36154
107.....36154
201.....38047
331.....38047
803.....38348
804.....38348

22 CFR

41.....35628
126.....36625
514.....37002
608.....36820

23 CFR

630.....35629

24 CFR

0.....36246
60.....36462
200.....36260
201.....36260
202.....36260, 36452
203 .....35024, 36260, 36452, 37798
206.....35014, 36260
221 .....36260, 36452, 37798
233.....36260
234.....36260, 36452
280.....36260
291.....36260
570.....36456
901.....35633
941.....35958, 38014

25 CFR

10.....34371
211.....35634
212.....35634
700.....35666

Proposed Rules:

5.....36671
11.....35158
12.....35163
21.....33876
45.....34399
152.....34400
169.....37417
171.....35167
256.....36829
290.....37022

26 CFR

1.....39071, 39072
301.....37683

Proposed Rules:

1 .....35696, 36320, 39104
31.....36320

27 CFR

18.....37002
30.....37002
53.....37005
55.....38084
275.....37005

Proposed Rules:

53.....37022

28 CFR

2.....38569
42.....34729
82.....38085
552.....38042

571.....38042
Proposed Rules:
16.....37425
17.....36679
31.....34770
38.....37964, 37976
58.....37426

29 CFR

102.....38368
1952.....36824
2509.....33847
2520.....33847
2550.....33847
Ch. XXVI.....34002, 36626, 37316, 37795
Ch. XL 34002, 36626, 37316, 37795
4044.....36968
Proposed Rules:
101.....35172
102.....35172
1910.....37849
1926.....37849
4001.....38409
4043.....38409
4065.....38409
Ch. XIV 34405

30 CFR

56.....36790
57.....36790
256.....34730
901.....37382
913.....37383
925.....38374
931.....38376
936.....38381
948.....38382
Proposed Rules:
206.....37865
943.....38420
946.....38420
948.....37023

31 CFR

208.....39254
321.....37196
356.....37007
515.....37385
575.....36627
Proposed Rules:
344.....39228
356.....38127

32 CFR

66.....38386
630.....39072
706 .....35958, 36291, 36497
Proposed Rules:
651.....37865

33 CFR

100.....36292
110.....36786
116.....36786
117.....36786, 37211
120.....37648
127.....36629
128.....37648
157.....36786
158.....36629
164.....35064
165 .....35130, 35132, 37211, 37684
179.....36629
181.....36786
183.....36629
334.....34732
Proposed Rules:
117.....35702
154.....34775
155.....34775
165.....37714
167.....35703

34 CFR

646.....38534
Proposed Rules:
75.....37184
206.....37184
231.....37184
235.....27184
263.....39246
369.....27184
371.....27184
373.....27184
375.....27184
376.....27184
378.....27184
380.....27184
381.....27184
385.....27184
386.....27184
387.....27184
388.....27184
389.....27184
390.....27184
396.....27184
610.....27184
612.....27184
630.....27184
637.....27184
658.....27184
660.....27184
661.....27184
669.....27184

35 CFR

61.....36497
123.....36497

36 CFR

1.....35133
13.....35133
222.....35959
223.....35960
Proposed Rules:
1190.....36688
1191.....36688, 37964

37 CFR

2.....36825
251.....37213

38 CFR

1.....33850, 38570
21.....36629
Proposed Rules:
1.....33878
17.....37024

39 CFR

5.....36498
7.....36498
10.....36498
20.....36500
3001.....37316

40 CFR

9.....33851, 34202
51.....39032
52 .....36292, 36501, 36502, 37216, 37387, 37390, 37393, 37833, 38086, 38388, 38391, 38571, 38574, 38577, 38582, 38590, 38591, 38594, 38597
55.....34202
63.....34140, 36295
70.....34733
71.....34202
79.....36506
80 .....35310, 35673, 35960
81.....37833
180 .....34739, 34741, 36298, 36299, 37218, 37,395
257.....34253
261.....34252, 37397
271.....34252, 38392
300 .....35137, 35962, 39080, 39081
372.....38600
425.....35680
799.....37685
Proposed Rules:
50.....37427
51 .....35994, 36112, 38250
52 .....35998, 36004, 36320, 36534, 37030, 37232, 37428, 37429, 37875, 38129, 38250, 38423, 38664, 38682, 38683
55.....36012
61.....36326
63.....36326, 36835
79.....36535
80.....34775
81 .....33879, 36004, 37875
82.....37430
86.....37715
90.....34778
93.....35994, 36112
136.....36328
148.....38684
180 .....36329, 36331, 36689, 37233, 37433, 38423, 38426, 38428
185.....37233
186.....37233
260.....33881
261.....33881, 38684
262.....33881
264.....33881
268.....33881, 38684
269.....33881
271.....33881, 38684
300 .....36858, 37435, 37875, 37877, 39104
425.....35705
430.....36835

41 CFR

201.....35685
201–23.....39081
201–24.....38081

42 CFR

405.....35307
413.....37011
417.....35307, 38395
431.....35307, 38395
433.....38395
440.....38395
441.....38395
447.....38395
456.....38395
473.....35307
498.....35307
Proposed Rules:
410.....34614
415.....34614

43 CFR

2.....39083
1820.....37686
3710.....37116
Proposed Rules:
11.....37031
4700.....36333

44 CFR

62.....36513, 37687
64.....36514
65 .....33852, 33854, 38091, 38092
67.....33856, 38094
Proposed Rules:
67.....33882, 38129

45 CFR

Proposed Rules:
232.....37236
235.....37236

46 CFR

42.....35963
76.....35138
108.....36786
110.....36786
111 .....35927, 36608, 36786
112.....36786
113.....36786
161.....36786
167.....35138
514.....35685
Proposed Rules:
10.....36543, 36608
15.....36543, 36608

47 CFR

Ch. I 35964
1.....36629
20 .....33859, 38399, 38605
22.....34375, 38399
24.....33850
36.....34375
52.....38605
61.....36515, 36653
64 .....36629, 36653, 39084
66.....36654
73 .....34368, 34743, 34744, 35139, 36302, 37840
90.....34375, 38403
Proposed Rules:
Ch. I 34405
1.....37241
20.....38687
24.....38693
52.....38687
64.....39107
73 .....34406, 34407, 34784, 34785, 35705, 37241, 37715, 37716, 37717
76.....34408, 34409

48 CFR

Ch. 1 .....39186, 39224
1.....39188, 39189
2.....39189
3 .....39188, 39189, 39199
4.....39188, 39189
5.....39189

6.....39200
8.....39189
9.....39201
11.....39189
12.....39189
13.....39188, 38189
15.....39189
16.....39189, 39201
17.....39203
19.....39189, 39207
22.....39189, 39203
23.....39189
25.....39189
26.....39200, 39210
27.....39211
28.....39189, 39212
29.....39189
31.....39188, 39217
32.....39189
33.....39219
36.....39189
41.....39189
42.....39189
43.....39189
44.....39189
45.....39189
46.....39189
47.....39189
48.....39220
49.....39221
52 .....39188, 39189, 39199, 39203, 39207, 39210, 39212, 39221
53 .....39188, 39189, 39212
225.....37841
231.....36305
252.....37841
506.....39088
547.....39088
552.....39088
701.....39089
702.....39089
706.....39089
709.....39089
710.....39089
711.....39089
713.....39089
715.....39089
716.....39089
717.....39089
719.....39089
722.....39089
724.....39089
725.....39089
726.....39089
732.....39089
733.....39089
736.....39089
737.....39089
752.....39089
Appendix A 39089
6103.....39096
6104.....39098

Proposed Rules:

219.....37878
252.....37878
401.....37032
453.....37032
917.....38701
950.....38701
952.....38701
970.....38701

49 CFR

1.....34745
40 .....37015, 37222, 37693
172.....38642
190.....38403
192 .....35139, 36825, 38403
193.....36825
195.....36825
198.....38403
199.....37222
209.....38644
219.....37222
225.....37842
233.....33871
235.....33871
236.....33871
382.....37222
571 .....33891, 36516, 36655
575.....36655
653.....37222
654.....37222
1150.....36965
1300.....35139
1305.....35141

Proposed Rules:

1.....33886
8.....33886
171.....38702
173.....38702
180.....38702
192.....34410, 34413
195.....34410, 34413
383.....38133
391.....38133
393.....36691
397.....36016
571 .....36334, 36698, 38135,
1011.....39110
1104.....39110
1111.....39110
1112.....39110
1113.....39110
1114.....39110
1115.....39110
1121.....39110

50 CFR

Ch. III.....35548
246.....35548
280.....35548
281.....35548
282.....35548
285.....38656
298.....35548
299.....35548
600.....37225
622.....34930
625.....34966
630 .....34746, 35971, 37842
638.....34930
641.....34930
642.....34785
645.....34930
646.....34930
647.....34930
648 .....34966, 35142, 38403, 38404
650.....34966
651.....34966
652.....34966
653.....34930
655.....34966
657.....34966
658.....34930
659.....34930
660 .....34570, 35143, 35144, 36662, 37843
661.....34570
663.....34570
669.....34930
670.....34930
678.....39099
679 .....34377, 36306, 37225, 37226, 37403, 37404, 37700, 37843, 38099, 38358, 38656, 39100
680.....34570
681.....34570, 35145
683.....34570
685.....34570
695.....35548
697.....34746

Proposed Rules:

17 .....36020, 36021, 36346, 37034, 38702
20.....37994
229.....37035
300.....38703
642.....34785
648 .....37241, 37436, 38430
679 .....35174, 36702, 37041

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Bering Sea and Aleutian Islands and Gulf of Alaska groundfish; published 6-27-96

DEFENSE DEPARTMENT

Army Department

Absentee deserter apprehension program and military personnel surrender to civilian law enforcement agencies; published 7-26-96

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Agency procurement protests; published 7-26-96

Contractor gratuities to government personnel; published 7-26-96

Multiyear contracting; published 7-26-96

Small business set-asides; simplified acquisition threshold; published 7-26-96

Task and delivery order contracts; published 7-26-96

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:

National oil and hazardous substances contingency plan--

National priorities list update; published 7-26-96

GENERAL SERVICES ADMINISTRATION

Acquisition regulations:

Contract Appeals Board--

Transportation rate cases; procedure rules; published 7-26-96

Travel and relocation expenses cases; procedure rules; published 7-26-96

Federal Acquisition Regulation (FAR):

Agency procurement protests; published 7-26-96

Contractor gratuities to government personnel; published 7-26-96

Multiyear contracting; published 7-26-96

Small business set-asides; simplified acquisition threshold; published 7-26-96

Task and delivery order contracts; published 7-26-96

INTERIOR DEPARTMENT

Assistance programs; administrative and audit requirements and cost principles

Buy American requirements; published 7-26-96

JUSTICE DEPARTMENT

Drug Enforcement Administration

Domestic Chemical Diversion Control Act of 1993; implementation:

List I chemicals; manufacturers, distributors, importers, and exporters; registration--

Distribution requirement waiver; published 6-26-96

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Agency procurement protests; published 7-26-96

Contractor gratuities to government personnel; published 7-26-96

Multiyear contracting; published 7-26-96

Small business set-asides; simplified acquisition threshold; published 7-26-96

Task and delivery order contracts; published 7-26-96

PERSONNEL MANAGEMENT OFFICE

Organizations representing Federal employees and other organizations; agency relationships; published 6-26-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aviat Aircraft Inc.; published 7-9-96

Fokker; published 6-21-96

TREASURY DEPARTMENT

Federal agency disbursements management; published 7-26-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Onions (sweet) grown in Washington and Oregon; comments due by 7-30-96; published 7-15-96

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

African swine fever; disease status change--

Spain; comments due by 7-29-96; published 5-29-96

Plant-related quarantine, foreign:

Fruits and vegetables; importation; comments due by 8-1-96; published 7-2-96

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Sugar beets; comments due by 7-30-96; published 5-31-96

AGRICULTURE DEPARTMENT

Farm Service Agency

Program regulations:

Personal property--

Post bankruptcy loan servicing notices; comments due by 8-2-96; published 7-18-96

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Fee increases; comments due by 8-2-96; published 7-3-96

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Program regulations:

Personal property--

Post bankruptcy loan servicing notices; comments due by 8-2-96; published 7-18-96

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:

Personal property--

Post bankruptcy loan servicing notices; comments due by 8-2-96; published 7-18-96

AGRICULTURE DEPARTMENT

Rural Utilities Service

Program regulations:

Personal property--

Post bankruptcy loan servicing notices; comments due by 8-2-96; published 7-18-96

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean, Gulf of Mexico, and South Atlantic fisheries; comments due by 8-2-96; published 7-3-96

DEFENSE DEPARTMENT

Army Department

Military traffic management:

Motor common carriers of perishable subsistence and bulk fuel; cargo insurance requirements; comments due by 7-29-96; published 6-27-96

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Final indirect cost rates; comments due by 7-29-96; published 5-28-96

EDUCATION DEPARTMENT

Educational research and improvement:

Exemplary and promising programs designation; conduct standards and activities evaluation; comments due by 8-2-96; published 6-3-96

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Capacity reservation open access transmission tariffs; comments due by 8-1-96; published 5-10-96

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Nonhandheld new nonroad phase I small spark-ignition engines, class I and II; carbon monoxide standard; comments due by 8-2-96; published 7-3-96

Air programs; fuels and fuel additives:

Reformulated gasoline program; alternative analytical test methods use; comments due by 8-2-96; published 7-3-96

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

Alaska; comments due by 7-29-96; published 6-28-96

Georgia; comments due by 7-29-96; published 6-27-96

Kentucky; comments due by 7-29-96; published 6-28-96

Pennsylvania; comments due by 8-2-96; published 7-16-96

Air quality planning purposes; designation of areas:

Washington; comments due by 7-31-96; published 7-1-96

Hazardous waste:

Hazardous waste management system--

Contaminated media; management requirements; comments due by 7-29-96; published 4-29-96

Management facilities; solid waste management units (SWMUs), corrective action; comments due by 7-30-96; published 5-1-96

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

Dicofol, etc.; comments due by 7-30-96; published 5-29-96

Pesticide chemicals; various tolerance actions; comments due by 7-29-96; published 5-29-96

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

California; comments due by 7-29-96; published 6-17-96

Hawaii; comments due by 7-29-96; published 6-19-96

New York; comments due by 7-29-96; published 6-19-96

South Carolina; comments due by 7-29-96; published 6-20-96

South Dakota; comments due by 7-29-96; published 6-20-96

Wisconsin; comments due by 7-29-96; published 6-17-96

FEDERAL RESERVE SYSTEM

Availability of funds and collection of checks (Regulation CC):

Miscellaneous amendments; comments due by 8-2-96; published 6-3-96

Electronic fund transfers (Regulation E):

Home banking services disclosure, new accounts error resolution and stored-value cards, etc.; comments due by 8-1-96; published 5-2-96

Loan guarantees for defense production (Regulation V); comments due by 7-29-96; published 5-28-96

Securities credit transactions (Regulations G, T, and U); comments due by 8-2-96; published 5-6-96

Securities:

Relations with dealers in securities under section 32, 1933 Banking Act (Regulation R); and miscellaneous interpretations; comments due by 8-2-96; published 7-3-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Extralabel drug use in animals; comments due by 7-31-96; published 5-17-96

Chlorofluorocarbons and other ozone-depleting substances, products containing or manufactured with; warning statements; comments due by 8-1-96; published 5-3-96

Human drugs:

Antibiotic drugs--

Clarithromycin granules for oral suspension; comments due by 8-2-96; published 7-3-96

Current good manufacturing practice--

Finished pharmaceuticals; manufacturing, quality control, and documentation requirements; comments due by 8-1-96; published 5-3-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:

Hospital inpatient prospective payment systems and FY 1997 rates; comments due by 7-30-96; published 5-31-96

INTERIOR DEPARTMENT

Indian Affairs Bureau

BIA rules applicability; comments due by 8-2-96; published 6-3-96

Energy and minerals:

Ute Indian Tribe's undivided tribal assets on Uintah and Ouray Reservation, UT; management by Tribe and Ute Distribution Corporation; comments due by 8-2-96; published 6-3-96

Indian Self-Determination and Education Assistance Act program:

Contracts, grants, school construction contracts, etc.; comments due by 8-2-96; published 6-3-96

Land and water:

Land records and title documents; comments due by 8-2-96; published 6-3-96

INTERIOR DEPARTMENT

Fish and Wildlife Service

Migratory bird hunting:

Early-season regulations (1996-1997); proposed frameworks; comments due by 8-1-96; published 7-22-96

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:

Royalty relief for producing leases and existing leases in deep water; comments due by 7-30-96; published 5-31-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Federal regulatory review:

Permanent program and abandoned mine land reclamation plan submissions; comments due by 7-29-96; published 5-28-96

Permanent program and abandoned mine land reclamation plan submissions:

West Virginia; comments due by 7-31-96; published 7-16-96

NATIONAL LABOR RELATIONS BOARD

Procedural rules:

Attorneys or party representatives; misconduct before agency; comments due by 8-2-96; published 6-17-96

SECURITIES AND EXCHANGE COMMISSION

Securities:

Executive and director compensation disclosure; streamlining and consolidation; comments due by 7-29-96; published 6-14-96

TRANSPORTATION DEPARTMENT

Coast Guard

Federal regulatory review:

Lifesaving equipment; comments due by 7-31-96; published 5-20-96

TRANSPORTATION DEPARTMENT

Omnibus Transportation Employee Testing Act of 1991:

Workplace drug and alcohol testing programs--

Drug and alcohol procedural rules; update; comments due by 7-29-96; published 4-29-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

de Havilland; comments due by 7-29-96; published 7-3-96

Boeing; comments due by 7-29-96; published 6-19-96

Don Luscombe Aviation History Foundation; comments due by 7-31-96; published 5-29-96

Gulfstream; comments due by 8-2-96; published 6-24-96

Israel Aircraft Industries, Ltd.; comments due by 7-29-96; published 5-29-96

McDonnell Douglas; comments due by 7-29-96; published 6-19-96

SAAB; comments due by 7-30-96; published 5-31-96

Twin Commander Aircraft Corp.; comments due by 7-29-96; published 6-6-96

Airworthiness standards:

Special conditions--

Cessna 500, 550, and S550 airplanes; comments due by 8-2-96; published 7-3-96

Class E airspace; comments due by 7-29-96; published 6-27-96

VOR Federal airways; comments due by 7-29-96; published 6-17-96

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Motor carrier safety standards:

Practice rules for proceedings, investigations, and disqualifications and penalties; comments due by 7-29-96; published 4-29-96

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Performance-oriented packaging standards; final transitional provisions; comments due by 8-2-96; published 6-26-96

TREASURY DEPARTMENT

Bank Secrecy Act:

Currency and foreign transactions; financial reporting and recordkeeping requirements--

Exemptions from currency transaction reporting; comments due by 8-1-96; published 4-24-96

LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 701/P.L. 104–165

To authorize the Secretary of Agriculture to convey lands to the city of Rolla, Missouri. (July 24, 1996; 110 Stat. 1443)

Last List July 24, 1996