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Monday
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 96–ASW–2; Special Condition 29–ASW–16]

Special Condition: Sikorsky Model S76C, High Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition.

SUMMARY: This special condition is issued for the Sikorsky Model S76C helicopter. This helicopter will have a novel or unusual design feature associated with the installation of electronic systems that perform critical functions. This special condition contains additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0110; telephone (817) 222–5121.

SUPPLEMENTARY INFORMATION:

Background

Sikorsky Aircraft Corporation, Stratford, Connecticut, applied for an amendment to the Type Certificate for the Model S76C helicopter on August 15, 1990. The amendment will allow installation of turbomeca Arriel Model 2S1 engines with FADEC control and 30 second/2 minute ratings as alternate engines for the Sikorsky Model S76C helicopter. This is a 12 (14 including crew) passenger, twin engine, 11,700 pound transport category helicopter.

Type Certification Basis

The type certification basis is 14 Code of Federal Regulations part 29, February 1, 1965, and Amendments 29–1 through 29–11; in addition, portions of Amendment 29–12, specifically, §§ 29.67, 29.71, 29.75, 29.141, 29.173, 29.175, 29.931, 29.1189(a)(2), 29.1555(c)(2), 29.1557(c); Amendment 29–13, specifically § 29.965; Amendment 29–24, specifically § 1325; Amendment 29–30, specifically § 29.811; Amendment 29–34, specifically §§ 29.67(a)(1)(i), 29.923(a), (b)(1) & (3), 29.1143(f), 29.1305(a) (24) & (25), 29.1521(i) & (j) and 29.1549(e); and Amendment 36–14 of 14 CFR part 36, Appendix H.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these helicopters because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Feature

The Sikorsky Model S76C helicopter, at the time of the application for amendment to U.S. Type Certificate H1NE, was identified as incorporating one and possibly more electrical, electronic, or combination of electrical and electronic (electrical/electronic) systems that will perform functions critical to the continued safe flight and landing of the helicopter. A Full Authority Digital Engine Control (FADEC) is an example of an electronic device that performs the critical functions of engine control. The control of the engines is critical to the continued safe flight and landing of the helicopter during visual flight rules (VFR) and instrument flight rules (IFR) operations.

If it is determined that this helicopter currently or at a future date incorporates other electrical/electronic systems performing critical functions, those systems also will be required to comply with the requirements of this special condition.

Discussion of Comments

Notice of proposed special Condition No. SC–96–2–SW was published in the Federal Register on May 8, 1996, 61 FR 20760. No comments were received. Therefore, the special condition is adopted as proposed.

Conclusion

This action affects only certain unusual or novel design features on one model of helicopter. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the affected helicopter.

List of Subjects in 14 CFR Part 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows.

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701, 44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Sikorsky Model S76C helicopter.

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopters are exposed to high intensity radiated fields external to the helicopters.

Issued in Fort Worth, Texas, on August 13, 1996.

Michele M. Owsley,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–21714 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 29

[Docket No. 96–ASW–4; Special Condition 29–ASW–18]

Special Condition: Eurocopter Deutschland Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters, Electronic Flight Instrument System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition; request for comments.

SUMMARY: This special condition is issued for the Eurocopter Deutschland Models MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters. These helicopters will have a novel or unusual design feature associated with the Electronic Flight Instrument System. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these critical function systems from the effects of external high intensity radiated fields (HIRF). This special condition contains additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the applicable airworthiness standards.

DATES: Effective August 26, 1996. Comments must be received on or before October 25, 1996.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attn: Rules Docket No. 96–ASW–4, Fort Worth, Texas 76193–0007, or delivered in duplicate to the Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments must be marked Docket No. 96–ASW–4. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 9 a.m. and 3 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110; telephone (817) 222–5121.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delay delivery of the affected helicopter. These notice and comment procedures are also considered unnecessary since the public has been previously provided with a substantial number of opportunities to comment on substantially identical special conditions, and their comments have been fully considered. Therefore, good cause exists for making this special condition effective upon issuance.

Comments Invited

Although this final special condition was not subject to notice and opportunity for prior public comment, comments are invited on this final special condition. Interested persons are invited to comment on this final special condition by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered. This special condition may be changed in light of comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this special condition must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–ASW–4.'' The postcard will be date and time stamped and returned to the commenter.

Background

On May 9, 1996, American Eurocopter Corporation, Grand Prairie, Texas, notified the FAA that they intended to issue a Supplemental Type Certificate under their Designated Alteration Station Authorization for installation of an Electronic Flight Instrument System in Eurocopter Deutschland Models MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters. These are 7 (10 with approved kit) passenger, twin engine, 7,385 pound transport category helicopters.

Type Certification Basis

The certification basis established for the Eurocopter Deutschland Models MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters includes: 14 CFR 21.29 and 14 CFR part 29 (part 29) effective February 1, 1965, Amendments 29–1 through 29–16. In addition, the certification basis includes the Airworthiness Criteria for helicopter instrument flight rules (IFR) certification dated December 15, 1978. Also, the certification basis includes Equivalent Safety Findings for Models A–1 and A–3, §§ 29.811(h)(1), 29.921, 29.1151, 29.1121(c), and 29.1203(a); for Models A–3 and A–4, §§ 29.401(a), 29.865(b)(2), 29.923(a)(3)(ii) and (c)(2); for Models B–2 and C–1, §§ 29.175(b), 29.811(h)(i), and 29.1151(b).

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for this helicopter because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with 14 CFR 11.49 and become part of the type certification basis in accordance with 14 CFR 21.101(b)(2). Provision is made for the public comment period in 14 CFR 11.28. Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Discussion

The Eurocopter Deutschland Models MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, at the time of application, were identified as having modifications that incorporate one and possibly more electrical, electronic, or combination of electrical and electronic (electrical/electronic) systems that will perform functions critical to the continued safe flight and landing of the helicopters. The electronic flight instrument system performs the attitude display function. The display of attitude, altitude, and airspeed is critical to the continued safe flight and landing of the helicopters for IFR operations in instrument meteorological conditions. Eurocopter Deutschland will provide the FAA with a hazard analysis that will identify any other critical functions performed by the electrical/electronic systems that are critical to the continued safe flight and landing of the helicopters.

Recent advances in technology have prompted the design of aircraft that include advanced electrical and electronic systems that perform functions required for continued safe flight and landing. However, these advanced systems respond to the transient effects of induced electrical current and voltage caused by the high intensity radiated fields (HIRF) incident on the external surface of the helicopters. These induced transient currents and voltages can degrade the performance of the electrical/electronic systems by damaging the components or by upsetting the systems' functions.

Furthermore, the electromagnetic environment has undergone a transformation not envisioned by the current application of § 29.1309(a). Higher than anticipated energy levels radiate from operational transmitters currently used for radar, radio, and television; and the number of transmitters has increased significantly.

Existing aircraft certification requirements are inappropriate in view of these technological advances. In addition, the FAA has received reports of some significant safety incidents and accidents involving military aircraft equipped with advanced electrical/electronic systems when they were exposed to electromagnetic radiation.

The combined effects of technological advances in helicopter design and the changing environment have resulted in an increased level of vulnerability of the electrical and electronic systems required for the continued safe flight and landing of the helicopters. Effective measures to protect these helicopters against the adverse effects of exposure to HIRF will be provded by the design and installation of these systems. The following primary factors contributed to the current conditions: (1) increased use of sensitive electronics that perform critical functions, (2) reduced electromagnetic shielding afforded helicopter systems by advanced technology airframe materials, (3) adverse service experience of military aircraft using these technologies, and (4) an increase in the number and power of radio frequency emitters and the expected increase in the future.

The FAA recognizes the need for aircraft certification standards to keep pace with technological developments and a changing environment and in 1986 initiated a high priority program to (1) determine and define electromagnetic energy levels; (2) develop guidance material for design, test, and analysis; and (3) prescribe and promulgate regulatory standards.

The FAA participated with industry and airworthiness authorities of other countries to develop internationally recognized standards for certification.

The FAA and airworthiness authorities of other countries have identified a level of HIRF environment that a helicopter could be exposed to during IFR operations. While the HIRF requirements are being finalized, the FAA is adopting a special condition for the certification of aircraft that employ electrical/electronic systems that perform critical functions. The accepted maximum energy levels that civilian helicopter system installations must withstand for safe operation are based on surveys and analysis of existing radio frequency emitters. This special condition will require the helicopters' electrical/electronic systems and associated wiring to be protected from these energy levels. These external threat levels are believed to represent the worst-case exposure for a helicopter operating under IFR.

The HIRF environment specified in this special condition is based on many critical assumptions. With the exception of takeoff and landing at an airport, one of these assumptions is that the aircraft would be not less than 500 feet above ground level (AGL). Helicopters operating under visual flight rules (VFR) routinely operate at less than 500 feet AGL and perform takeoffs and landings at locations other than controlled airports. Therefore, it would be expected that the HIRF environment experienced by a helicopter operating VFR may exceed the defined environment by 100 percent or more.

This special condition will require the systems that perform critical functions, as installed in the aircraft to meet certain standards based on either a defined HIRF environment or a fixed value using laboratory tests.

The applicant may demonstrate that the operation capabilities of the installed electrical/electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the defined HIRF environment. The FAA has determined that the environment defined in Table 1 is acceptable for critical functions in helicopters operating at or above 500 feet AGL. For critical functions of helicopters operating at less than 500 feet AGL, additional factors must be considered.

The applicant may also demonstrate by a laboratory test that the electrical/electronic systems that perform critical functions can withstand a peak electromagnetic field strength in a frequency range of 10 KHz to 18 GHz. If a laboratory test is used to show compliance with the defined HIRF environment, no credit will be given for signal attenuation due to installation. A level of 100 volts per meter (v/m) and other considerations, such as an alternate technology backup that is immune to HIRF, are appropriate for critical functions during IFR operations. A level of 200 v/m and further considerations, such as an alternate technology backup that is immune to HIRF, are more appropriate for critical functions during VFR operations. Applicants must perform a preliminary hazard analysis to identify electrical/electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the helicopter. The systems identified by the hazard analysis as performing critical functions are required to have HIRF protection.

A system may perform both critical and noncritical functions. Primary electronic flight display systems and their associate components perform critical functions such as attitude, altitude, and airspeed indications. HIRF requirements would apply only to the systems that perform critical functions.

Compliance with HIRF requirements will be demonstrated by tests, analysis, models, similarity with existing systems, or a combination of these methods. The two basic options of either testing the rotorcraft to the defined environment or laboratory testing may not be combined. The laboratory test allows some frequency areas to be under tested and requires other areas to have some safety margin when compared to the defined environment. The areas required to have some safety margin are those shown, by past testing, to exhibit greater susceptibility to adverse effects from HIRF; and laboratory tests, in general, do not accurately represent the aircraft installation. Service experience alone will not be acceptable since such experience in normal flight operations may not include an exposure to HIRF. Reliance on a system with similar design features for redundancy, as a means of protection against the effects of external HIRF, is generally insufficient because all elements of a redundant system are likely to be concurrently exposed to the radiated fields.

The modulation that represents the signal most likely to disrupt the operation of the system under test, based on its design characteristics, should be selected. For example, flight control systems may be susceptible to 3 Hz square wave modulation while the video signals for electronic display

systems may be susceptible to 400 Hz sinusoidal modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KHz sine wave with 80 percent depth of modulation in the frequency range from 10 KHz to 400 MHz and 1 KHz square wave with greater than 90 percent depth of modulation from 400 MHz to 18 GHz. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Acceptable system performance would be attained by demonstrating that the critical function components of the system under consideration continue to perform their intended function during and after exposure to required electromagnetic fields. Deviations from system specifications may be acceptable but must be independently assessed by the FAA on a case-by-case basis.

TABLE 1.—FIELD STRENGTH VOLTS/METER

Frequency	Peak (V/M)	Average (V/M)
10–100 KHz	50	50
100–500	60	60
500–2000	70	70
2–30 MHz	200	200
30–100	30	30
100–200	150	33
200–400	70	70
400–700	4020	935
700–1000	1700	170
1–2 GHz	5000	990
2–4	6680	840
4–6	6850	310
6–8	3600	670
8–12	3500	1270
12–18	3500	360
18–40	2100	750

As discussed above, these special conditions are applicable to the Eurocopter Deutschland Model MBB–BK 117A–1, A–3, A–4, B–1, B–2, and C–1 helicopters. Should Eurocopter Deutschland apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate H13EU to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain unusual or novel design features on six models of helicopters. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the affected helicopters.

The substance of this special condition for similar installations in a variety of helicopters has been subjected to the notice and comment procedure and has been finalized without substantive change. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the helicopter, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impractical, and good cause exists for adopting this special condition immediately. Therefore, this special condition is being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to prior opportunities for comment.

List of Subjects in 14 CFR Part 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition are as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g).

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Eurocopter Deutschland Models MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters:

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these systems to perform critical functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Fort Worth, Texas, on August 13, 1996.

Michele M. Owsley,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–21715 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 95–NM–263–AD; Amendment 39–9724; AD 96–17–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes, Excluding Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Model A300 B2 and B4 series airplanes, that currently requires repetitive visual inspections to detect cracks in the forward intermediate section skin at frame 30A where it joins stringer 30, and repair, if necessary. This amendment adds a requirement for eddy current inspection(s) to detect cracks of the outer skin of the fuselage; accomplishment of this inspection terminates the repetitive visual inspections. This amendment also requires repair of any cracked area and modification of the structure at certain frames. This amendment is prompted by in-service experience which has identified fatigue cracks in this area. The actions specified by this AD are intended to prevent fatigue cracking, which could result in rapid decompression of the airplane.

DATES: Effective September 30, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 30, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 90–11–09,

amendment 39–6611 (55 FR 21185, May 23, 1990), which is applicable to certain Airbus Model A300 B2 and B4 series airplanes, was published in the Federal Register on April 30, 1996 (61 FR 18995). That action proposed to continue to require repetitive detailed visual inspections to detect cracks of the forward intermediate section skin of the fuselage at the junction of frame 30A and stringer 30. However, that action also proposed to add a requirement to accomplish eddy current inspections to detect cracks of the outer skin of the fuselage at frames 28A and 30A above stringer 30. Accomplishment of this inspection action would constitute terminating action for the currently-required repetitive detailed visual inspections. The action also proposed to require the repair of any cracked area, and modification of the structure at frames 28A and 30A between stringer 27 and 30 (left- and right-hand).

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

Both commenters support the proposed rule.

Conclusion

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

Cost Impact

There are approximately 24 Airbus Model A300 B2 and B4 series airplanes, excluding Model A300–600 series airplanes, of U.S. registry that will be affected by this proposed AD.

The detailed visual inspections that are currently required by AD 90–11–09 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the currently required detailed visual inspections is estimated to be $1,440, or $60 per airplane, per inspection cycle.

The eddy current inspection that is required by this new AD action will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the eddy current inspection requirements of this AD is estimated to be $1,440, or $60 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6611 (55 FR 21185, May 23, 1990), and by adding a new airworthiness directive (AD), amendment 39–9724, to read as follows:

96–17–14 Airbus Industrie: Amendment 39–9724. Docket 95–NM–263–AD. Supersedes AD 90–11–09, Amendment 39–6611.

Applicability: Model A300 B2 and B4 series airplanes, certificated in any category.

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

Note 2: Airbus Model A300–600 series airplanes are not subject to this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking, which could result in rapid decompression of the airplane, accomplish the following:

(a) For airplanes on which Airbus All Operators Telex (AOT) 53/90/01, dated April 12, 1990 has been accomplished: Prior to the accumulation of 18,000 total landings or 24,000 total hours time-in-service, whichever occurs first, or within 100 landings after June 11, 1990 (the effective date of AD 90–11–09, amendment 39–6611), whichever occurs later, perform a detailed visual inspection to detect cracks of the forward intermediate section skin of the fuselage at the junction of frame 30A and stringer 30, in accordance with Airbus All Operators Telex 53/90/01, dated April 12, 1990.

(1) If no cracks are detected, repeat the detailed visual inspection thereafter at intervals not to exceed 2,000 landings until the requirements of paragraph (b) of this AD are accomplished.

(2) If any crack is detected, prior to further flight, repair it in accordance with the AOT. Prior to the accumulation of 15,000 landings or 20,000 total hours time-in-service, whichever occurs first, after the crack is repaired repeat the detailed visual inspection at an interval not to exceed 2,000 landings until the requirements of paragraph (b) of this AD are accomplished.

(b) For all airplanes: Perform an eddy current inspection to detect cracks of the outer skin of the fuselage at frames 28A and 30A above stringer 30, in accordance with Airbus Service Bulletin A300–53–283, Revision 2, dated March 17, 1994, at the time specified in either paragraph (b)(1) or (b)(2) of this AD, as applicable. Accomplishment of the eddy current inspection terminates the repetitive visual inspection requirements of paragraph (a) of this AD.

(1) For airplanes on which the requirements of paragraph (a) of this AD have been initiated: Perform the eddy current inspection prior to the accumulation of 2,000 landings since the last inspection performed in accordance with paragraph (a) of this AD, or within 100 landings after the effective date of this AD, whichever occurs later.

(2) For airplanes other than those identified in paragraph (b)(1) of this AD: Perform the eddy current inspection at the later of the times specified in paragraph (b)(2)(i) or (b)(2)(ii):

(i) Prior to the accumulation of 14,100 total landings or 22,000 total flight hours after the

effective date of this AD, whichever occurs first; or

(ii) Within 100 landings after the effective date of this AD.

(c) If no crack is detected during the eddy current inspection required by paragraph (b) of this AD, repeat the eddy current inspection thereafter at intervals not to exceed 3,000 landings.

(d) If any crack is detected during any eddy current inspection required by this AD, prior to further flight, repair it in accordance with Airbus All Operators Telex 53/90/01, dated April 12, 1990, or Airbus Service Bulletin A300–53–283, Revision 2, dated March 17, 1994. After accomplishing the repair, within 15,000 landings or 20,000 flight hours after repair, whichever occurs first, modify the structure at frames 28A and 30A between stringers 27 and 30 (left- and right-hand), in accordance with Airbus Service Bulletin A300–53–285, Revision 1, dated November 22, 1993. Accomplishment of this reinforcement constitutes terminating action for this AD.

(e) Except for airplanes on which the repair required by paragraph (d) of this AD has been accomplished: Modify the structure at frames 28A and 30A between stringers 27 and 30 (left- and right-hand), in accordance with Airbus Service Bulletin A300–53–285, Revision 1, dated November 22, 1993, at the later of the times specified in paragraphs (e)(1) or (e)(2) of this AD. Accomplishment of this modification constitutes terminating action for the eddy current inspection requirements of paragraph (c) of this AD.

(1) Prior to the accumulation of 25,000 total landings or 40,000 total flight hours, whichever occurs first.

(2) Within 1,000 landings after the effective date of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(h) The actions shall be done in accordance with one of the following Airbus service documents, which contain the specified list of effective pages:

Service document referenced and date	Page No.	Revision level shown on page	Date shown on page
All Operators Telex (AOT) 53/90/01 April 12, 1990	1, 2	Original	April 12, 1990.
Service Bulletin A300–53–283, Revision 2, March 17, 1994.	1–17	2	March 17, 1994.
Service Bulletin A300–53–285, Revision 1, November 22, 1993.	1–3, 6, 13, 14, 18, 20, 29–31, 35, 36, 51, 52, 57, 58, 61, 62, 71, 72, 75, 76, 107, 108, 111, 112, 115–120.	1	November 22, 1993.
	4, 5, 7–12, 15–17, 19, 21–28, 32–34, 37–50, 53–56, 59, 60, 63–70, 73, 74, 77–106, 109, 110, 113, 114, 121.	Original	August 19, 1992.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on September 30, 1996.

Issued in Renton, Washington, on August 16, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21458 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–166–AD; Amendment 39–9723; AD 96–17–13]

RIN 2120–AA64

Airworthiness Directives; Beech (Raytheon) Model BAe 125 Series 1000A and Model Hawker 1000 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech (Raytheon) Model BAe 125 series 1000A and Model Hawker 1000 airplanes, that requires a one-time inspection for correct sleeve lengths, an inspection to detect discrepancies of the elevator pulley assembly, and correction of any discrepancy. This amendment is prompted by reports indicating that some aircraft have been fitted with an elevator pulley that was assembled incorrectly during manufacture. The actions specified by this AD are intended to prevent reduced structural integrity of the elevator control circuit due to failure of one or more outer lugs or malfunction of the elevator pulley assembly as a result of incorrect assembly of the pulley.

DATES: Effective September 30, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 30, 1996.

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

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD)

that is applicable to certain Beech (Raytheon) Model BAe 125 series 1000A and Model Hawker 1000 airplanes was published in the Federal Register on May 30, 1996 (61 FR 27028). That action proposed to require a one-time inspection for correct sleeve lengths, a one-time visual inspection to detect discrepancies of the elevator pulley assembly, and correction of any discrepancy.

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

Cost Impact

The FAA estimates that 40 Model BAe 125 Series 1000A and Model Hawker 1000 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,400, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–17–13 Beech Aircraft Company (Formerly DeHavilland; Hawker Siddeley; British Aerospace, PLC; Raytheon Corporate Jets, Inc.): Amendment 39–9723. Docket 95–NM–166–AD.

Applicability: Model BAe 125 series 1000A and Model Hawker 1000 airplanes; as listed in Hawker Service Bulletin SB 27–161, Revision 1, dated July 29, 1994; certificated in any category.

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

Note 2: Beech (Raytheon) Model BAe 125 series 1000B airplanes are similar in design to the airplanes that are subject to the requirements of this AD and, therefore, also may be subject to the unsafe condition addressed by this AD. However, as of the effective date of this AD, those models are not type certificated for operation in the United States. Airworthiness authorities of countries in which Model BAe 125 series 1000B series airplanes are approved for operation should consider adopting corrective action, applicable to those models, that is similar to the corrective action required by this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the elevator control circuit, accomplish the following:

(a) Within 6 months after the effective date of this AD: Perform a one-time inspection for correct sleeve lengths, and a one-time visual inspection to detect discrepancies of the elevator pulley assembly, in accordance with Hawker Service Bulletin SB 27–161, Revision 1, dated July 29, 1994.

(1) If no discrepancy is found, no further action is required by this AD.

(2) If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) The inspections shall be done in accordance with Hawker Service Bulletin SB 27–161, Revision 1, dated July 29, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on September 30, 1996.

Issued in Renton, Washington, on August 16, 1996.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21457 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Milbemycin Oxime

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Ciba-Geigy Animal Health, Ciba-Geigy Corp. The supplemental NADA provides for expanding the indications for use of milbemycin oxime tablets in dogs and puppies to include removal and control of adult roundworm infections caused by *Toxascaris leonina*.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0614.

SUPPLEMENTARY INFORMATION: Ciba-Geigy Animal Health, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419–8300, is the sponsor of NADA 140–915, which covers Interceptor® (milbemycin oxime) tablets. The product is currently approved for the prevention of heartworm disease caused by *Dirofilaria immitis*, control of hookworm infections caused by *Ancylostoma caninum*, and removal and control of adult roundworm infections caused by *Toxocara canis* and whipworm infections caused by *Trichuris vulpis* in dogs and in puppies 4 weeks of age or greater and 2 pounds of body weight or greater. The supplemental NADA provides for expanding the indications for use in both dogs and puppies by adding removal and control of the adult roundworm *T. leonina*. The drug is available by veterinary prescription.

The supplemental NADA 140–915 is approved as of July 9, 1996, and the regulations are amended in 21 CFR 520.1445(c)(2) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity for the new indications beginning on July 9,1996, because the application includes reports of new clinical or field investigations (other than bioequivalence or residue studies) essential to the approval and conducted by the sponsor.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1445 [Amended]

2. Section 520.1445 *Milbemycin oxime tablets* is amended in paragraph (c)(2) by adding the phrase ''and *Toxascaris leonina*'' after ''*Toxocara canis*''.

Dated: August 14, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–21728 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co. The supplemental NADA provides for using bambermycins Type A medicated articles to make a bambermycins free-choice Type C medicated loose mineral feed for pasture cattle (slaughter, stocker, and feeder) for increased rate of weight gain.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., Rt. 202–206, P.O. Box 2500, Somerville, NJ 08876–1258, filed supplemental NADA 141–034, which provides for using 10-grams per pound (g/lb) Flavomycin® (bambermycins) Type A medicated articles to make free-choice Type C medicated loose mineral feeds containing 120 g/ton bambermycins for pasture cattle (slaughter, stocker, and feeder). The Type C feeds are fed at 10- to 20-milligrams (mg) bambermycins per head per day for increased rate of weight gain. The supplemental NADA is approved as of August 26, 1996, and the regulations are amended in 21 CFR 558.95(b)(4)(iii) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

As required by 21 CFR 510.455, use of a Type A medicated article to make a free-choice Type C medicated feed/medicated loose mineral feed requires an approved Form FDA 1900.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning August 26, 1996, because it contains reports of new clinical or field investigations (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant. Marketing exclusivity applies only to the new use.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.95 is amended by adding new paragraph (b)(4)(iii) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(b) * * *

(4) * * *

(iii) Used as a free-choice Type C medicated loose mineral feed for pasture cattle (slaughter, stocker, and feeder) as follows:

(*a*) *Specifications*.

Ingredient	International Feed No.	Percent
Deflorinated phosphate (20.5% calcium, 18.5% phosphorus)	6–01–080	42.50
Sodium chloride (salt)	6–04–152	20.10
Calcium carbonate (38% calcium)	6–01–069	15.24
Corn distillers dried grains w/solubles	5–28–236	9.57
Magnesium oxide	6–02–756	5.15
Vitamin and trace mineral premix *	.....	3.72
Mineral oil	.....	1.00
Yeast (primary dehydrated yeast)	7–05–533	0.75
Bambermycins Type A article (10 g/lb)	.....	0.60
Iron oxide	6–02–431	0.50
Magnesium sulfate (67%)	6–02–758	0.32
Selenium premix (270 mg/lb) *	.....	0.21
Copper sulfate	6–01–720	0.18
Potassium sulfate (0.33%)	6–06–098	0.16

*Content of vitamin/trace mineral premix may be varied. However, they should be comparable to those used for other free-choice feeds. Formulation modifications require FDA approval prior to marketing. Selenium must comply with 21 CFR 573.920. Ethylenediamine dihydroiodide (EDDI) should comply with FDA Compliance Policy Guides Sec. 651.100 (CPG 7125.18).

(*b*) *Amount per ton*. 120 grams.

(*c*) *Indications for use*. For increased rate of weight gain.

(*d*) *Limitations*. For free-choice feeding to pasture cattle (slaughter, stocker, and feeder). Feed a nonmedicated commercial mineral product for 6 weeks to stabilize consumption between 2.66 and 5.33 ounces per head per day. Feed continuously to provide 10- to 20-milligrams bambermycins per head per day. Not for use in animals intended for breeding. Each use of this free-choice Type C medicated feed must be the subject of an approved Form FDA 1900 as required by 21 CFR 510.455.

* * * * *

Dated: August 16, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–21654 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[TD 8644]

RIN 1545–AJ11; 1545–AL75; 1545–AO89

Generation-Skipping Transfer Tax; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 8644) which were published in the Federal Register for Wednesday, December 27, 1995 (60 FR 66898), as corrected on June 12, 1996 (61 FR 29653). The final regulations relate to generation-skipping transfer tax.

EFFECTIVE DATE: December 27, 1995.

FOR FURTHER INFORMATION CONTACT: Jim Hogan (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under chapter 13 of the Internal Revenue Code.

Need for Correction

As published, TD 8644, as corrected, contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 26

Estate taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 26 is corrected by making the following correcting amendments:

PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

Paragraph 1. The authority citation for part 26 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 26.2601–1 [Corrected]

Par. 2. In § 26.2601–1, paragraph (b)(3)(iii)(B) is amended by revising ''(b)(3)(iii)(A), (B), and (C)'' to read ''(b)(3)(iii)(A)(*1*), (*2*), and (*3*)''.

§ 26.2642–5 [Corrected]

Par. 3. Section 26.2642–5 is amended by removing the punctuation '';'' following the word ''ratio'' in the first sentence of paragraph (b)(1).

§ 26.2654–1 [Corrected]

Par. 4. Section 26.2654–1 is amended by revising paragraph (a)(1)(ii)(B) to read as follows:

§ 26.2654–1 Certain trusts treated as separate trusts.

(a) * * * (1) * * *

(ii) * * *

(B) If the pecuniary amount is payable in kind on the basis of value other than the date of distribution value of the assets, the trustee is required to allocate assets to the pecuniary payment in a manner that fairly reflects net appreciation or depreciation in the value of the assets in the fund available to pay the pecuniary amount measured from the valuation date to the date of payment.

* * * * *

Michael L. Slaughter,

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

[FR Doc. 96–21598 Filed 8–23–96; 8:45 am]

BILLING CODE 4830–01–U

Fiscal Service

31 CFR Part 214

RIN 1510–AA54

Depositaries for Federal Taxes

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This action removes Part 214 from Title 31 of the Code of Federal Regulations. Part 214 governed the designation of financial institutions as depositaries for Federal taxes and the handling of deposits of Federal taxes by such depositaries and by Federal Reserve Banks. A Notice of Proposed Rule Making published October 27, 1992, proposed to combine portions of this part with 31 CFR Part 203 ''Treasury Tax and Loan Depositaries'' and to eliminate Part 214. Regulations published on July 1, 1993, incorporated the relevant provisions of Part 214 into Part 203. Part 214 should have been removed at that time. This action corrects that oversight.

EFFECTIVE DATE: September 25, 1996.

ADDRESS: Cash Management Policy and Planning Division, Financial Management Service, U.S. Department of the Treasury, Room 420, Liberty Center, 401 14th Street, S.W., Washington, DC 20227.

FOR FURTHER INFORMATION CONTACT: Donald E. Clark (202) 874–7106 (Financial Program Specialist).

SUPPLEMENTARY INFORMATION:

Background

On October 27, 1992, the Fiscal Service published a Notice of Proposed Rule Making to remove Part 214 and to revise sections of Part 203 of Title 31 of the Code of Federal Regulations. No comments on the proposed rule were received. Accordingly, on July 1, 1993, portions of this regulation were incorporated into Part 203 ''Treasury Tax and Loan Depositaries.'' (58 FR 35395). Part 214 should have been removed at that time. This action rectifies that oversight.

Rulemaking Analysis

Treasury has determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required. It is hereby certified that this revision will not have a significant economic impact on a substantial number of small entities. Because the provisions of Part 214, here being eliminated, are duplicative of those contained in Part 203, there will not be a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 31 CFR Part 214

Banks, Banking, Taxes.

For the reasons set out in the preamble and under the authority of 31 U.S.C. 321, 31 CFR Part 214 is removed.

Dated: August 15, 1996.

Russell D. Morris,

Commissioner.

[FR Doc. 96–21546 Filed 8–23–96; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

Privacy Program

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is revising its Privacy Act exemption regulations to correct minor administrative errors. No additions to exemption rules are being made at this time.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (520) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: Executive Order 12866. The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, 32 CFR part 505 is amended as follows:

1. The authority citation for 32 CFR part 505 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 505.5 is revised to read as follows:

§ 505.5 Exemptions.

(a) *Exempting systems of records.* The Secretary of the Army may exempt Army systems of records from certain requirements of the Privacy Act. There are two kinds of exemptions: General and specific. The general exemption relieves systems of records from most requirements of the Act; the specific exemptions from only a few. See appendix C to this part.

(b) *General exemptions.* Only Army activities actually engaged in the enforcement of criminal laws as their primary function may claim the general exemption. To qualify for this exemption, a system must consist of:

(1) Information compiled to identify individual criminals and alleged criminals, which consists only of identifying data and arrest records; type and disposition of charges; sentencing, confinement, and release records; and parole and probation status;

(2) Information compiled for the purpose of criminal investigation including efforts to prevent, reduce, or control crime and reports of informants and investigators associated with an identifiable individual; or

(3) Reports identifiable to an individual, compile at any stage of the process of enforcement of the criminal laws, from arrest or indictment through release from supervision.

(c) *Specific exemptions.* The Secretary of the Army has exempted all properly classified information and a few systems of records that have the following kinds of information, from certain parts of the Privacy Act. The Privacy Act exemption cite appears in parentheses after each category.

(1) Classified information in every Army system of records. This exemption is not limited to the systems listed in Sec. 505.5(d). Before denying as individual access to classified information, the Access and Amendment Refusal Authority must make sure that it was properly classified under the standards of Executive Orders 11652, 12065, or 12958 and that it must remain so in the interest of national defense of foreign policy. *(5 U.S.C. 552a(k)(1)).*

(2) Investigatory data for law enforcement purposes (other than that claimed under the general exemption). However, if this information has been used to deny someone a right, privilege or benefit to which the individual is entitled by Federal law, it must be released, unless doing so would reveal the identity of a confidential source. *(5 U.S.C. 552a(k)(2)).*

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to Title 18 U.S.C., section 3056. *(5 U.S.C. 552a(k)(3)).*

(4) Statistical data required by statute and used only for statistical purposes and not to make decisions on the rights, benefits, or entitlements of individuals, except for census records which may be disclosed under Title 13 U.S.C., section 8. *(5 U.S.C. 552a(k)(4)).*

(5) Data compiled to determine suitability, eligibility, or qualifications for Federal service, Federal contracts, or access to classified information. This information may be withheld only to the extent that disclosure would reveal the identify of a confidential source. *(5 U.S.C. 552a(k)(5)).*

(6) Testing material used to determine if a person is qualified for appointment or promotion in the Federal service. This information may be withheld only if disclosure would compromise the objectivity or fairness of the examination process. *(5 U.S.C. 552a(k)(6)).*

(7) Information to determine promotion potential in the Armed Forces. Information may be withheld, but only to the extent that disclosure would reveal the identity of a confidential source. *(5 U.S.C. 552a(k)(7)).*

(d) *Procedures.* When a system manager seeks an exemption for a system of records, the following information will be furnished to the Director of Information Systems for Command, Control, Communications and Computers, Washington, DC 20310–0107; applicable system notice, exemptions sought, and justification. After appropriate staffing and approval by the Secretary of the Army, a proposed rule will be published in the Federal Register, followed, by a final rule 60 days later. No exemption may be invoked until these steps have been completed.

(e) *Exempt Army records.* The following records may be exempt from certain parts of the Privacy Act:

(1) *A0020–1aSAIG.*

(i) *System name:* Inspector General Investigative Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reasons:* Selected portions and/or records in this system are compiled for the purposes of enforcing civil, criminal, or military law, including executive orders or regulations validly adopted pursuant to law. Granting individuals access to information collected and maintained in these files could interfere with enforcement proceedings; deprive a person of a right to fair trial or an impartial adjudication or be prejudicial to the conduct of administrative action affecting rights, benefits, or privileges of individuals, constitute an unwarranted invasion of personal privacy; disclose the identity of a confidential source; disclose nonroutine investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; violate statutes which authorize or require certain information to be withheld from the public such as: Trade or financial information, technical data, National Security Agency information, or information relating to inventions. Exemption from access necessarily includes exemption from the other requirements.

(2) *A0020–1bSAIG.*

(i) *System name:* Inspector General Action Request/Assistance Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reasons:* Selected portions and/or records in this system are compiled for the purposes of enforcing civil, criminal, or military law, including Executive Orders or regulations validly adopted pursuant to law. Granting individuals access to information collected and maintained in these files could interfere with enforcement proceedings; deprive a person of a right to fair trail or an impartial ajudication or be prejudicial to the conduct of administrative action affecting rights, benefits, or privileges of individuals; constitute an unwarranted invasion of personnel privacy; disclose the identity of a confidential source; disclose nonroutine investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; violate statutes which authorize or require certain information, to be withheld from the public such as: Trade or financial information, technical data, National Security Agency information, or information relating to inventions. Exemption from access necessarily includes exemption from the other requirements.

(3)*A0025–55SAIS.*

(i) *System name:* Request for Information Files.

(ii) *Exemption:* (A) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f) and (g).

(B) All portions of the system maintained by offices of Initial Denying Authorities which do not have a law enforcement mission and which fall within the scope of 5 U.S.C. 552a(k)(1) through (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(j)(2), and (k)(1) through (k)(7).

(iv) *Reasons:* This system of records is maintained solely for the purpose of administering the Freedom of Information Act and processing routine requests for information. To insure an accurate and complete file on each case, it is sometimes necessary to include copies of records which have been the subject of a Freedom of Information Act request. This situation applies principally to cases in which an individual has been denied access and/or amendment of personal records under an exemption authorized by 5 U.S.C. 552. The same justification for the original denial would apply to denial of access to copies maintained in the Freedom of Information Act file. It should be emphasized that the majority of records in this system are available on request to the individual and that all records are used solely to process requests. This file is not used to make any other determinations on the rights, benefits or privileges of individuals.

(4)*A0027–1DAJA.*

(i) *System name:* General Legal Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), (k)(6), and (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), (k)(6), and (k)(7).

(iv) *Reasons:* Various records from other exempted systems of records are sometimes submitted for legal review or other action. A copy of such records may be permanently incorporated into the General Legal Files system of records as evidence of the facts upon which a legal opinion or review was based. Exemption of the General Legal Files system of records is necessary in order to ensure that such records continue to receive the same protection afforded them by exemptions granted to the systems of records in which they were originally filed.

(5) *A0027–10aDAJA.*

(i) *System name:* Prosecutorial Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious

impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(6) *A0027–10bDAJA*.

(i) *System name:* Courts-Martial Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(d)(2), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* Courts-martial files are exempt because a large body of existing criminal law governs trials by courts-martial to the exclusion of the Privacy Act. The Congress recognized the judicial nature of courts-martial proceedings and exempt them from the Administrative Procedures Act by specifically excluding them from the definition of the term 'agency' (Title 5 U.S.C. 551(1)(f)). Substantive and procedural law applicable in trials by court-martial is set forth in the Constitution, the Uniform Code of Military Justice (UCMJ) Manual for Courts-Martial, United States, 1969 (Revised edition), and the decisions of the U.S. Court of Military Appeals and Courts of Military Review. The right of the accused not to be compelled to be a witness against himself and the need to obtain accurate and reliable information with regard to criminal misconduct necessitate the collection of information from sources other than the individual accused. Advising the accused or any other witness of the authority for collection of the information, the purpose for which it is to be used, whether disclosure is voluntary or mandatory, and the effects on the individual of not providing the information would unnecesarily disrupt and confuse court-martial preceedings. It is the responsibility of the investigating officer or military judge to determine what information will be considered as evidence. In making the determination, the individual's rights are weighed against the accused's right to fair trial. The determination is final for the moment and the witness' failure to comply with the decision would delay the proceeding and may result in prosecution of the witness for wrongful refusal to testify. In a trial by court-martial, the accused has a unique opportunity to assure that the record is accurate, relevant, timely, and complete as it is made. He has the right to be present and the trial, to be represented by counsel at general and special courts-martial, and to consult with counsel in summary courts-martial, to review and challenge all information before it is introduced into evidence, to cross-examine all witnesses against him, to present evidence in his behalf and in general and special courts-martial, to review and comment upon the record for trial before it is authenticated. Procedures for correction of the record and controlled by paragraphs 82, 86, and 95, Manual for Courts-Martial, 1969 (Revised edition). After completion of appellate review, the record may not be amended. Article 76 of the Uniform Code of Military Justice (10 U.S.C. 876) provides that the proceedings, findings and sentences of courts-martial as approved, reviewed or affirmed are final and conclusive and binding upon all departments, courts, agencies, and of the United States subject only to action upon a petition for new trial (Article 73, UCMJ), action by the Secretary concerned (Article 74, UCMJ), and the authority of the President.

(7) *A0190–5DAMO*.

(i) *System name:* Vehicle Registration System (VRS).

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(8) *A0190–9DAMO*.

(i) *System name:* Absentee Case Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure

would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(9) *A0190–14DAMO.*

(i) *System name:* Registration and Permit Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3).

(iii) *Authority:* 5 U.S.C. 552a(k)(2).

(iv) *Reasons:* From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he or she is under investigation and provide him or her with significant information concerning the nature of the investigation thus resulting in a serious impediment to criminal law enforcement investigations, activities or the compromise of properly classified material.

(10) *A0190–30DAMO.*

(i) *System name:* Military Police Investigator Certification Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(5), and (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(5) and (k)(7).

(iv) *Reasons:* From subsections (d), (e)(4)(G), (e)(4)(H), and (f) because disclosure of portions of the information in this system of records would seriously impair selection and management of these uniquely functioning individuals; hamper the inclusion of comments, reports and evaluations concerning the performance, qualifications, character, actions, and propensities of the agency; and prematurely compromise investigations which either concern the conduct of the agent himself or herself, or investigations wherein he or she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemptions from the amendment and the agency procedures that would otherwise be required to process these types of requests.

(11) *A0190–40DAMO.*

(i) *System name:* Serious Incident Reporting Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because of the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, they require that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and be revealing investigative techniques, procedures or evidence.

(12) *A0190–45DAMO*

(i) *System name:* Offense Reporting System (ORS).

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because of the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, they require that information be collected to the greatest extent practicable from the subject

individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and be revealing investigative techniques, procedures or evidence.

(13)*A0190–47DAMO.*

(i) *System name:* Correctional Reporting System (CRS).

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with the orderly administration of justice. Disclosure of this information could jeopardize the safety and well- being of information sources, correctional supervisors and other confinement facility administrators. Disclosure of the information could also result in the invasion of privacy of persons who provide information used in developing individual treatment programs. Further, disclosure could result in a deterioration of a prisoner's self-image and adversely affect meaningful relationships between a prisoner and his counselor or supervisor. These factors are, or course, essential to the rehabilitative process. Exemption from the remaining provisions is predicated upon the exemption from disclosure or upon the need for proper functioning of correctional programs.

(14) *A0195–2aUSACIDC.*

(i) *System name:* Source Register.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(5), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsection (c)(3) because release of accounting of disclosures would provide the informant with significant information concerning the nature of a particular investigation, the internal methods and techniques involved in criminal investigation, and the investigative agencies (state, local or foreign) involved in a particular case resulting in a serious compromise of the criminal law enforcement processes.

(B) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because disclosure of portions of the information in this system of records would seriously impair the prudent and efficient handling of these uniquely functioning individuals; hamper the inclusion of comments and evaluations concerning the performance qualification, character, identity, and propensities of the informant; and prematurely compromise criminal investigations which either concern the conduct of the informant himself or investigations wherein he/she is intergrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records and civil liability predicated upon agency compliance with specific provisions of the Privacy Act.

(C) From subsection (d), (e)(4)(G), (e)(4)(H), and (f) are also necessary to protect the security of information properly classified in the interest of national defense and foreign policy.

(D) From subsection (e)(1) because the nature of the criminal investigative function creates unique problems in prescribing what information concerning informants is relevant or necessary. Due to close liaison and existing relationships with other Federal, state, local and foreign law enforcement agencies, information about informants may be received which may relate to a case then under the investigative jurisdiction of another Government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies. Additionally, the failure to maintain all known information about informants could affect the effective utilization of the individual and substantially increase the operational hazards incumbent in the employment of an informant in very compromising and sensitive situations.

(E) From subsection (e)(2) because collecting information from the information would potentially thwart both the crminal investigtive process and the required management control over these individuals by appraising the informant of investigations or management actions concerning his involvement in criminal activity or with USACIDC personnel.

(F) From subsection (e)(3) because supplying an informant with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the informant, and render ineffectual investigative techniques and methods utilized by USACIDC in the performance of its criminal law enforcement duties.

(G) From subsection (e)(5) because this requirement would unduly hamper the criminal investigative process due to type of records maintained an necessity for rapid information retrieval and dissemination. Also, in the collection of information about informants, it is impossible to determine what information is then accurate, relevant, timely and complete. With the passage of time, seemingly irrevelant or untimely information may acquire new significance as further investigation or contact brings new details to light. In the criminal investigative process, accuracy and relevance of information concerning informants can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting information relating to informant's actions and would impede the development of criminal intelligence necessary for effective law enforcement.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

(15)*A0195–2bUSACIDC.*

(i) *System name:* Criminal Investigation and Crime Laboratory Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552(j)(2).

(iv) *Reasons:* (A) From subsection (c)(3) because the release of accounting of disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning coordinated investigative effort and techniques and the nature of the investigation, resulting in a serious

impediment to criminal law enforcement activities or the compromise of properly classified material.

(B) From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f), and (g) because access might compromise on-going investigations, reveal classified information, investigatory techniques or the identity of confidential informants, or invade the privacy of persons who provide information in connection with a particular investigation. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act. The exemption from access necessarily includes exemption from other requirements.

(C)From subsection (e)(1) because the nature of the investigative function creates unique problems in prescribed specific perimeters in a particular case as to what information is relevant or necessary. Also, due to close liaisons and working relationships with other Federal, state, local, and foreign law enforcement agencies, information may be received which may relate to a case then under the investigative jurisdiction of another Government agency but it is necessary to maintain this information in order to provide leads for appropriate law enforcement purposes and to establish patterns of activity which may relate to the jurisdiction of both the USACIDC and other agencies.

(D) From subsection (e)(2) because collecting information from the subject of criminal investigations would thwart the investigative process by placing the subject of the investigation on notice thereof.

(E) From subsection (e)(3) because supplying an individual with a form containing the information specified could result in the compromise of an investigation, tend to inhibit the cooperation of the individual queried, and render ineffectual investigation techniques and methods utilized by USACIDC in the performance of their criminal law enforcement duties.

(F) From subsection (e)(5) because this requirment would unduly hamper the criminal investigative process due to the great volume of records maintained and the necessity for rapid information retrieval and dissemination. Also, in the collection of information for law enforcement purposes, it is impossible to determine what information is then accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. In the criminal investigation process, accuracy and relevance of information can only be determine in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(G) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

(16) *A0195–6USACIDC.*

(i) *System name:* Criminal Investigation Accreditation and Polygraph Examiner Evaluation Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2), (k)(5), or (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2), (k)(5), and (k)(7).

(iv) *Reasons:* (A) From subsections (d), (e)(4)(G), (e)(4)(H), and (f) because disclosure of portions of the information in this system of records would seriously impair the selection and management of these uniquely functioning individuals; hamper the inclusion of comments, reports and evaluations concerning the performance, qualifications, character, action and propensities of the agent; and prematurely compromise investigations with either concern the conduct of the agent himself or investigations wherein he or she is integrally or only peripherally involved. Additionally, the exemption from access necessarily includes exemptions from the amendment and the agency procedures which would otherwise be required to process these types of requests.

(B) From subsection (e)(1) because the failure to maintain all known information about agents could affect the effective utilization of the individual and substantially increase the operational hazards incumbent in the employment of agents in very compromising and sensitive situations.

(17) *A0210–7DAMO.*

(i) *System name:* Expelled or Barred Person Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsection (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges, and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because of the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because in a criminal or other law enforcement investigation, they require that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and be revealing investigative techniques, procedures or evidence.

(18) *A0340JDMSS.*

(i) *System name:* HDQA Correspondence and Control/Central File System.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k) may be exempt from the provisions of 5 U.S.C.

552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(1) through (k)(7).

(iv) *Reasons:* Documents are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this system and since the introduction of documents is largely unregulatable, specific portions or documents that may require an exemption cannot be predetermined. Therefore, and to the extent that such material is received and maintained, selected individual documents may be exempted from disclosure under any of the provisions of sections (k)(1) through (k)(7) of 5 U.S.C. 552a.

(19) *A0340–21SAIS.*

(i) *System name:* Privacy Case Files.

(ii) *Exemption:* (A) All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f), and (g).

(B) All portions of this system maintained by the DA Privacy Review Board and those Access and Amendment Refusal Authorities which do not have a law enforcement mission and which fall within the scope of 5 U.S.C. 552a(k)(1) through (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(c)(3)(d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(7).

(iv) *Reasons:* This system of records is maintained solely for the purpose of administering the Privacy Act of 1974. To insure accurate and complete file on each case, it is sometimes necessary to include copies of records which have been the subject of a Privacy Act request. This situation applies principally to cases in which an individual has been denied access and/or amendment of personal records under an exemption authorized by 5 U.S.C. 552a. The same justification for the original denial would apply to a denial of access and/or amendment of copies maintained in the Privacy Act Case File. It should be emphasized that the majority of records in this system are available on request to the individual and that all records are used solely to administer Privacy Act requests. This file is not used to make any other determination on the rights, benefits or privileges of individuals.

(20) *A0350–37TRADOC.*

(i) *System name:* Skill Qualification Test (SQT).

(ii) *Exemption:* All portions of this system which fall within the scope of 5 U.S.C. 552a(k)(6) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(6).

(iv) *Reasons:* Exemption is needed for the portion of records which pertains to individual item response on tests, to preclude compromise of scoring keys.

(21) *A0351–12DAPE.*

(i) *System name:* Applicants/Students, U.S. Military Academy Prep School.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) and (k)(7) may be exempt from the following provision of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(5) and (k)(7).

(iv) *Reasons:* It is imperative that the confidential nature of evaluation material on individuals, furnished to the US Military Academy Preparatory School under an express promise of confidentiality, be maintained to ensure the candid presentation of information necessary in determinations involving admission to or retention at the United States Military Academy and suitability for commissioned military service.

(22) *A0351–17aUSMA.*

(i) *System name:* U.S. Military Academy Candidate Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5), (k)(6), or (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(5), (k)(6) and (k)(7).

(iv) *Reasons:* (A) From subsection (d) because access might reveal investigatory and testing techniques. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act.

(B) Exemption is necessary to protect the identity of individuals who furnished information to the United States Military Academy which is used in determining suitability, eligibility, or qualifications for military service and which was provided under an express promise of confidentiality.

(C) Exemption is needed for the portion of records compiled within the Academy which pertain to testing or examination material used to rate individual qualifications, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(D) Exemption is required for evaluation material used by the Academy in determining potential for promotion in the Armed Services, to protect the identity of a source who furnished information to the Academy under an express promise of confidentiality.

(23) *A0351–17bUSMA.*

(i) *System name:* U.S. Military Academy Personnel Cadet Records.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) or (k)(7) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(5) and (k)(7).

(iv) *Reasons:* It is imperative that the confidential nature of evaluation and investigatory material on candidates, cadets, and graduates, furnished to the United States Military Academy under promise of confidentiality be maintained to insure the candid presentation of information necessary in determinations involving admissions to the Military Academy and suitability for commissioned service and future promotion.

(24) *A0380–13DAMO.*

(i) *System name:* Local Criminal Intelligence Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(j)(2) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reasons:* (A) From subsections (e)(4)(G), (e)(4)(H), (f), and (g) because granting individuals access to information collected and maintained by this component relating to the enforcement of laws could interfere with proper investigations and the orderly administration of justice. Disclosure of this information could result in the concealment, alteration or destruction of evidence, the identification of offenders or alleged offenders, nature and disposition of charges; and jeopardize the safety and well-being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. Exemption from access necessarily includes exemption from the other requirements.

(B) From subsection (c)(3) because the release of accounting of disclosure would place the subject of an investigation on notice that he is under investigation and provide him with

significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement investigations.

(C) From subsection (e)(2) because, in a criminal or other law enforcement investigation, the requirement that information be collected to the greatest extent practicable from the subject individual would alert the subject as to the nature or existence of the investigation and thereby present a serious impediment to effective law enforcement.

(D) From subsection (e)(3) because compliance would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(E) From subsection (e)(8) because compliance with this provision would provide an impediment to law enforcement by interfering with the ability to issue warrants or subpoenas and by revealing investigative techniques, procedures or evidence.

(25) *A0380–67DAMI.*

(i) *System name:* Personnel Security Clearance Information Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(iii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5).

(iv) *Reasons:* The material contained in this record system contains data concerning sensitive sources and operational methods whose dissemination must be strictly controlled because of national security intelligence considerations. Disclosure of documents or the disclosure accounting record may compromise the effectiveness of the operation, and negate specialized techniques used to support intelligence or criminal investigative programs, or otherwise interfere with the orderly conduct of intelligence operations or criminal investigations.

(26) *A0381–20bDAMI.*

(i) *System name:* Counterintelligence/Security Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iv) *Reasons:* (A) From subsection (c)(3) because disclosing the agencies to which information from this system has been released could inform the subject of an investigation of an actual or potential criminal violation, or intelligence operation or investigation; or the existence of that investigation or operation; of the nature and scope of the information and evidence obtained as to his/her activities or of the identify of confidential sources, witnesses, and intelligence personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel, and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified and sensitive sources, information, and operational methods and could constitute an unwarranted invasion of the personal privacy of others.

(B) From subsection (d)(1) through (d)(5) because granting access to records in this system of records could inform the subject of a counterintelligence operation or investigation of an actual or potential criminal violation or the existence of that operation or investigation; of the nature and scope of the information and evidence obtained as to his/her activities; or of the identity of confidential sources, witnesses and intelligence personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an operation or investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgement and timing, an it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violations of laws other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, military intelligence agents should retain information, since it an aid in establishing patterns of criminal or intelligence activity and provide valuable leads for other law enforcement or intelligence agencies.

(D) From subsection (e)(4)(G), (e)(4)(H), and (f) because this system or records is being exempt from subsections (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence has published information concerning its notification, access, and contest procedures because under certain circumstances, the Deputy Chief of Staff for Intelligence could decide it is appropriate for an individual to have access to all or a portion os his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses and to avoid the disclosure of investigative techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence has published such a notice in broad, generic terms.

(27) *A0381–100aDAMI.*

(i) *System name:* Intelligence/Counterintelligence Source Files.

(ii) *Exemption:* All portions of this system of records that fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iv) *Reasons:* (A) From subsection (c)(3)because disclosing the agencies to which information from this system has been released could reveal the subject's involvement in a sensitive intelligence or counterintelligence operation or investigation of an actual or potential criminal violation, or intelligence operation or investigation; or the existence of that investigation or operation. Granting access to such information could seriously impede or compromise an investigation or operation; endanger the physical safety of participants and their families, confidential sources, witnesses, intelligence personnel, and their families; and lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures.

(B) From subsection (d)(1) through (d)(5) because granting access to records could inform the subject of an intelligence or counterintelligence operation or investigation of an actual or potential criminal violation or the existence of that operation or investigation; or the nature and scope of the information and evidence obtained, or of the identity of confidential sources, witnesses and intelligence personnel. Granting access to such information could seriously impede or compromise an operation or investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony; disclose investigative techniques and procedures; invade the privacy of those individuals involved in intelligence programs and their families; compromise and thus negate specialized techniques used to support intelligence programs; and interfere with and negate the orderly conduct of intelligence and counterintelligence operations and investigations. In addition, the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator or operative may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violations of law other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, military intelligence agents should retain information, since it is an aid in establishing patterns of criminal or intelligence activity and provides valuable leads for other law enforcement or intelligence agencies.

(D) From subsection (e)(4)(G), (e)(4)(H), and (f) because this system of records is being exempt from subsection (d) of the Act concerning access to records. These requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence has published information concerning its notification, access, and contest procedures because under certain circumstances, the Deputy Chief of staff for Intelligence could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of sources of information, to protect the privacy and physical safety of participants and their families, confidential sources, and witnesses and to avoid the disclosure of specialized techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence has published such a notice in broad generic terms.

(28) *A0381–100bDAMI*

(i) *System name:* Technical Surveillance Index.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(iii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2) or (k)(5).

(iv) *Reasons:* (A) From subsection (c)(3) because disclosing the identities of agencies to which information from this system has been released could inform the subject of an investigation of an actual or potential criminal violation or intelligence operation; of the existence of that investigation or operation; of the nature and scope of the information and evidence obtained as to his/her activities or of the identify of confidential sources, witnesses, and intelligence or law enforcement personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, intelligence or law enforcement personnel, and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified and sensitive sources and operational methods and could constitute an unwarranted invasion of the personal privacy of others.

(B) From subsection (d)(1) through (d)(5) because granting access to records in this system of records could inform the subject of an investigation of an actual or potential criminal violation; of the existence of that investigation; of the nature and scope of the information and evidence obtained as to his/her activities; or of the identity of confidential sources, witnesses and intelligence or law enforcement personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, intelligence or law enforcement personnel and their families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified, sensitive sources and operational methods and could constitute an unwarranted invasion of the personal privacy of others.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgment and timing, and it is only after

the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violation of laws other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, criminal law enforcement investigators and military intelligence agents should retain this information, since it can aid in establishing patterns of criminal or intelligence activity and can provide valuable leads for other law enforcement or intelligence agencies.

(D) From subsections (e)(4)(G) and (e)(4)(H) because this system of records is being exempt from subsections (d) of the Act, concerning access to records, these requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence and the U.S. Army Criminal Investigations Command have published information concerning its notification, access, and contest procedures for their respective areas because, under certain circumstances, the Deputy Chief of Staff for Intelligence or the U.S. Army Criminal Investigations Command could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses and to avoid the disclosure of investigative techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence and the U.S. Army Criminal Investigations Command have published such a notice in broad, generic terms.

(29) *A0601–141DASG.*

(i) *System name:* Army Medical Procurement Applicant Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(5).

(iv) *Reasons:* It is imperative that the confidential nature of evaluations and investigatory material on applicants applying for enlistment furnished to the US Army Recruiting Command under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations of enlistment and suitability for enlistment into the United States Army.

(30) *A0601–210aUSAREC.*

(i) *System name:* Enlisted Eligibility Files.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(5) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(5).

(iv) *Reasons:* It is imperative that the confidential nature of evaluations and investigatory material on applicants applying for enlistment furnished to the US Army Recruiting Command under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations of enlistment and suitability for enlistment into the United States Army.

(31) *A0601–222USMEPCOM.*

(i) *System name:* ASVAB Student Test Scoring and Reporting System.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(6) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(6).

(iv) *Reasons:* An exemption is required for those portions of the Skill Qualification Test system pertaining to individual item responses and scoring keys to prelude compromise of the test and to insure fairness and objectivity of the evaluation system.

(32) *A0608–18DASG.*

(i) *System name:* Family Advocacy Case Management.

(ii) *Exemption:* All portions of this system of records which fall within the scope of 5 U.S.C. 552a(k)(2) and (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(d).

(iii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reasons:* Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information and to protect such sources from embarrassment or recriminations as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. In the case of spouse abuse, it is important to protect the privacy of spouses seeking treatment. Additionally, granting individuals access to information relating to criminal and civil law enforcement could interfere with on-going investigations and the orderly administration of justice in that it could result in the concealment, alteration, destruction, or fabrication of information, could hamper the identification of offenders or alleged offenders, and the disposition of charges, and could jeopardize the safety and well-being of parents, children, and abused spouses.

(33) *A0614–115DAMI.*

(i) *System name:* Department of the Army Operational Support Activities.

(ii) *Exemption:* All portions of this system of records that fall within the scope of 5 U.S.C. 552a(k)(1), (k)(2), or (k)(5) may be exempt from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (d)(5), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5).

(iv) *Reasons:* (A) From subsection (c)(3)because disclosing the agencies to which information from this system has been released could reveal the subject's involvement in a sensitive intelligence or counterintelligence operation or investigation of an actual or potential criminal violation, or intelligence operation or investigation; or the existence of that investigation or operation. Granting access to such information could seriously impede or compromise an investigation or operation; endanger the physical safety of participants and their families, confidential sources, witnesses, intelligence personnel, and their families; and lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony and disclose investigative techniques and procedures.

(B) From subsection (d)(1) through (d)(5) because granting access to records could inform the subject of an intelligence or counterintelligence operation or investigation of an actual or potential criminal violation or the existence of that operation or investigation; of the nature and scope of the information and evidence obtained, or of the identity of confidential sources, witnesses and intelligence personnel. Granting access to such information could seriously impede or compromise an operation or investigation; endanger the physical safety of confidential sources, witnesses, intelligence personnel and their

families; lead to the improper influencing of witnesses; the destruction of evidence or the fabrication of testimony; disclose investigative techniques and procedures; invade the privacy of those individuals involved in intelligence programs and their families; compromise and thus negate specialized techniques used to support intelligence programs; and interfere with and negate the orderly conduct of intelligence and counterintelligence operations and investigations. In addition, the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it.

(C) From subsection (e)(1) because it is not always possible to detect the relevance of specific information in the early stages of an investigation or operation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation or operation, the investigator or operative may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation or operation, the investigator may obtain information concerning violations of law other than those which are within the scope of his/her jurisdiction. In the interest of effective intelligence operations and law enforcement, military intelligence agents should retain information, since it is an aid in establishing patterns of criminal or intelligence activity and provides valuable leads for other law enforcement or intelligence agencies.

(D) From subsection (e)(4)(G), (e)(4)(H), and (f) because this system or records is being exempt from subsections (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that this system of records will be exempt from subsections (d)(1) through (d)(5) of the Act. Although the system would be exempt from these requirements, the Deputy Chief of Staff for Intelligence has published information concerning its notification, access, and contest procedures because under certain circumstances, the Deputy Chief of Staff for Intelligence could decide it is appropriate for an individual to have access to all or a portion os his/her records in this system of records.

(E) From subsection (e)(4)(I) because it is necessary to protect the confidentiality of sources of information, to protectthe privacy and physical safety of participants and their families, confidential sources, and witnesses and to avoid the disclosure of specialized techniques and procedures. Although the system will be exempt from this requirement, the Deputy Chief of Staff for Intelligence has published such a notice in broad, generic terms.

(f) Exempt OPM records. Three Office of Personnel Management systems of records apply to Army employees, except for nonappropriated fund employees. These systems, the specific exemptions determined to be necessary and proper, the records exempted, provisions of the Privacy Act from which exempt, and justification are set forth below:

(1) *Personnel Investigations Records (OPM/CENTRAL–9).* All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), (k)(5), and (k)(6) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. The specific applicability of the exemptions to this system and the reasons for the exemptions are as follows:

(i) Personnel investigations may obtain from another Federal agency properly classified information which pertains to national defense and foreign policy. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d).

(ii) Personnel investigations may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), e.g., investigations into the administration of the merit system. Application of exemption (k)(2) may be necessary to preclude the data subject's access to or amendment of such records, under 552a(c)(3) and (d).

(iii) Personnel investigations may obtain from another Federal agency information that relates to providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. Application of exemption (k)(3) may be necessary to preclude the data subject's access to and amendment of such records under 5 U.S.C. 552a(d).

(iv) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (4). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject, and access to and amendment of records. These exemptions are claimed because this system contains investigatory material compiled solely for the purpose of determining suitability, eligibility, and qualifications for Federal civilian employment. To the extent that the disclosure of material would reveal the identity of source who furnished information to the Government under an express promise that the identity of the source would held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should the data subject request access to or amendment of the record, or access to the accounting of disclosures of the record.

(v) All material and information in the records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the data subject. This exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or exemption process.

(2) Recruiting, Examining, and Placement Records (OPM/GOVT–5).

(i) All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a(c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosures available to the data subject and access to and amendment of records. These exemptions are claimed because this system contains investigative material compiled solely for the purpose of determining the appropriateness of a request for approval of an objection to an eligible's qualification for employment in the Federal service. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, the application of

exemption (k)(5) will be required to honor such a promise should the data subject request access to the accounting of disclosures of the record.

(ii) All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) are exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of records by the subject. The exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualification for appointment or promotion in the Federal service and access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

(3) Personnel Research Test Validation Records (OPM/GOVT–6). All material and information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to and amendment of the records by the data subject. This exemption is claimed because portions of this system relate to testing or examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examination process.

* * * * *

Dated: August 19, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–21682 Filed 8–23–96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WI70–02–7299 and WI71–02–7300; FRL–5553–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 5, 1996, and June 11, 1996, the Environmental Protection Agency (EPA) published a proposal to approve the redesignations to attainment and associated maintenance plans for the ozone National Ambient Air Quality Standard (NAAQS) for the Wisconsin counties of Walworth, and Kewaunee, Manitowoc, and Sheboygan, respectively. The 30-day comment periods concluded on July 5, 1996, for Walworth County and on July 11, 1996 for the remaining three counties. Two comment letters were received in response to the proposed rulemakings, both from the Citizens Commission for Clean Air in the Lake Michigan Basin. This final rule summarizes all comments and EPA's responses, and finalizes the approval of the redesignations to attainment for ozone and associated maintenance plans for Walworth, Sheboygan, and Kewaunee Counties. Manitowoc County is not being finalized at this time due to a possible monitored exceedance of the ozone standard in that county. The monitored exceedance, as yet, has not been subject to the standard quality assurance procedures. If the exceedance is validated, it would be the fourth exceedance over the past three years and would therefore constitute a violation at the Manitowoc County Woodland Dunes monitor.

EFFECTIVE DATE: This action will be effective August 26, 1996.

ADDRESSES: Copies of the SIP revisions, public comments and EPA's responses are available for inspection at the following address: (It is recommended that you telephone Randy Robinson at (312) 353–6713 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–6713.

SUPPLEMENTARY INFORMATION:

I. Background Information

The redesignation requests and maintenance plans for the Walworth County marginal nonattainment area and the Kewaunee, Manitowoc, and Sheboygan Counties moderate ozone nonattainment areas discussed in this final rule were submitted to EPA by the WDNR on December 15, 1995, and May 15, 1996, respectively. On June 5, 1996, the EPA published in the Federal Register a proposal to approve the redesignation request and associated section 175A maintenance plan for Walworth County as a revision to the Wisconsin ozone SIP (61 FR 28541). The proposed approval of the Kewaunee, Sheboygan, and Manitowoc Counties redesignation requests and maintenance plans was published on June 11, 1996 (61 FR 29508). Comments were received regarding the proposed rulemakings. Additionally, preliminary exceedances of the ozone National Ambient Air Quality Standard (NAAQS) were monitored in Manitowoc County during the 30 day comment period. If these exceedances are validated, it would mean that Manitowoc County is in violation. Consequently, EPA is not taking final action on the request for redesignation to attainment and maintenance plan for Manitowoc County at this time. The EPA will continue to work with the State to address the Manitowoc situation. This notice does not, therefore, further discuss the Manitowoc redesignation action.

The final rule contained in this document addresses the comments which were received during the public comment period and announces EPA's final action regarding the redesignations and section 175A maintenance plans for Walworth, Kewaunee, and Sheboygan Counties.

II. Public Comments and EPA Responses and Final Rulemaking Actions

The following discussion summarizes and responds to the comments received regarding the proposed redesignations to attainment for Walworth, Kewaunee, and Sheboygan Counties. Walworth County was proposed in a separate rulemaking from Kewaunee and Sheboygan Counties. A set of comments was received for Walworth County on July 5, 1996. A set of comments was received for Kewaunee and Sheboygan Counties on July 11, 1996. However, the bulk of the comments dealt with matters common to both rulemakings. The first part of this section addresses these common comments. The second part will address comments pertaining to a specific area.

Comment: The commentor states that redesignating the counties of Walworth, Kewaunee, and Sheboygan to attainment for ozone is ''inappropriate without additional safeguards''. The commentor primarily singles out the contingency plan as inadequate to address future ozone violations caused by emissions from upwind areas.

Response: Section 107(3)(d)(E) of the Clean Air Act (Act) sets out the criteria which must be met before an area can be redesignated to attainment. These

criteria are: (i) The Administrator determines that the area has attained the NAAQS; (ii) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (v) the State containing such area has met all requirements applicable to the area under section 110 and part D. It is appropriate to redesignate the counties of Walworth, Sheboygan, and Kewaunee to attainment for ozone because EPA has determined that they meet the specific criteria and are therefore eligible for redesignation to attainment.

As mentioned above, the first criterion requires that the area has attained the NAAQS. If a violation of the NAAQS does occur after the redesignation of an area to attainment, section 175A(d) of the Act requires that the State Implementation Plan for the area contain contingency provisions which would promptly correct the violation. The mechanism that would trigger the implementation of contingency measures in each of the three Wisconsin counties is a monitored violation of the NAAQS determined to be caused by local sources. The EPA believes that this triggering mechanism is appropriate given the overwhelming evidence demonstrating that Walworth, Sheboygan and Kewaunee Counties are the recipients of transported ozone and ozone precursors from upwind areas, such as the Milwaukee-Racine and Chicago-Gary areas. The EPA believes that this triggering mechanism satisfies the requirement of section 175A(d), because if a violation is due to transport, then control measures implemented in the violating area will not correct the violation, which is the stated purpose of the section 175(A)(d) contingency provisions.

If violations of the ozone NAAQS are monitored in the redesignated counties, current evidence indicates that emission reductions will likely be needed from upwind areas in order for the violation to be corrected. The upwind areas of immediate concern are the Milwaukee-Racine and Chicago-Gary severe-17 nonattainment areas. It is reasonable to consider the current and future emission reductions that will occur in these upwind areas, as measures that will reduce future ozone concentrations in the immediate nonattainment areas as well as in areas downwind. The severe-17 nonattainment areas have attainment dates of 2007. As a result of this classification, the areas will have to achieve significant reductions in ozone precursor emissions prior to the area's attainment date, as part of the States' obligations to comply with the rate-of-progress requirements of section 182(c)(2). Many of the reductions have already occurred or will occur well before the year 2007. The EPA considers these requisite reduction measures to effectively address any future elevated concentrations of ozone in the downwind counties of Kewaunee, Sheboygan and Walworth, attributable to transport from the Milwaukee and Chicago areas. These Act measures are mandatory and have been or will be implemented in accordance with a schedule that ensures that the severe-17 nonattainment areas achieve continuous progress toward attainment. Also, the 15 percent plan, which has been approved for the Wisconsin ozone nonattainment areas (61 FR 11735), contains contingency measures that would provide reductions in the event that the State is unable to show a 15 percent reduction in VOC's, from the year 1990 to 1996, in the nonattainment areas. The EPA believes it appropriate to consider these measures (those needed to comply with the rate-of-progress provisions and the section 172(c)(9) contingency measures) to be contingency measures under section 175A(d) for the Wisconsin counties being redesignated since they should serve to correct any violations attributable to transport and either are or are required to be included in the Wisconsin SIP. In essence, locally caused violations will be dealt with through locally implemented contingency measures while transport caused violations would be dealt with through control measures being implemented in upwind areas. Additionally, reductions of emissions from upwind sources will likely be implemented as a result of the work currently being done by the Ozone Transport Assessment Group. This group, made up of State and Federal environmental agencies, environmental groups, and industry, is charged with evaluating and recommending regional control strategies that will help reduce the amount of transported ozone and precursors. The EPA intends to use its regulatory authority to ensure implementation of these control strategies. The reductions resulting from these strategies will assist urban areas in their efforts to demonstrate attainment as well as to lower the concentration of ozone found in more rural areas, such as the three Wisconsin counties.

Comment: The commentor states that EPA is not enforcing existing prohibitions against interstate pollution. The commentor elaborates by citing section 110(a)(2)(D) and section 126 as Act provisions giving EPA the authority to demand emission reductions from States contributing to nonattainment in downwind areas. Section 110(a)(2)(D)(I)(I) requires that the SIP ''contain adequate provisions prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, * * *''

Response: Nothing in section 110(a)(2)(D) prohibits EPA from approving the redesignation requests for Walworth County or for Kewaunee and Sheboygan Counties. Section 110(a)(2)(D) applies to the Milwaukee-Chicago-Gary nonattainment areas. The SIP revisions that will achieve the necessary reductions for these areas are still under development. They are due to be submitted in mid-1997 (*See* March 2, 1995 Mary Nichols Memorandum) and will include local emission reduction strategies as well as the regional control strategies implemented as a result of the Ozone Transport Assessment Group process. The EPA will evaluate these revisions for compliance with section 110(a)(2)(D) when they are submitted.

Section 126 of the Act states that: ''Any State or political subdivision may petition the Administrator for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the prohibition of section 7410(a)(2)(D)(ii) of this title or this section. Within 60 days after receipt of any petition under this subsection and after public hearing, the Administrator shall make such a finding or deny the petition.'' Neither the State of Wisconsin, nor any other State, has petitioned the EPA to make a finding under section 126 as defined above. As mentioned earlier, the issue of transported ozone and ozone precursors is being addressed through the regulatory aspects of the Ozone Transport Assessment Group. The complex science of ozone formation and transport has necessitated the initiation of a study of what types of strategies would be effective in reducing the

amount of transported ozone. Unlike other criteria pollutants, the most effective control strategy and the most culpable source(s) are not always obvious. The work being done by the Ozone Transport Assessment Group will provide information on what types of control strategies need to be implemented, and over what geographic areas. Once the results are available, EPA intends to use its authority under section 110(k)(5) to ensure implementation of these control strategies. These regional strategies, combined with past and future rate-of-progress reductions, will significantly reduce the occurrence of health threatening concentrations of ozone over all areas.

Comment: The commentor states that the ''integrity of redesignation requirements is further eroded by USEPA's inadequate ozone transport policy.'' The commentor further states that the Walworth County and the Kewaunee and Sheboygan County SIPs are incomplete due the waiving of the following requirements: section 172 (c)(2) reasonable further progress (RFP) requirement; section 176 transportation and general conformity requirements; section 182 (a)(4) new source review requirement; and section 182(f) NO_x requirements.

Response: The EPA rejects the contention that the SIPs are incomplete. The EPA also rejects the contention that the redesignation requirements of section 107(d)(3)(E) are not being fully enforced.

Section 172 (c)(2) RFP

With respect to the RFP requirement, since Walworth, Kewaunee, and Sheboygan Counties are being designated from a nonattainment areas to attainment based on a showing that they have already attained the NAAQS, the requirement to detail their future progress toward attainment is unnecessary. The General Preamble (57 FR 13498) states that the requirements for RFP will not apply in evaluating a request for redesignation since, at a minimum, the air quality data for the area must show that the area has already attained the NAAQS for the pollutant in question.

Section 182 (a)(4) New Source Review

The EPA has not waived the Part D New Source Review (NSR) requirement for the three Wisconsin Counties. The State has submitted NSR rules to EPA and these rules were fully approved on January 18, 1995 (60 FR 3538). The NSR rules apply only to nonattainment areas. Once an area is redesignated to attainment, the part C—Prevention of Significant Deterioration of Air Quality (PSD) rules apply accordingly. Wisconsin has demonstrated that Kewaunee and Sheboygan Counties will maintain the NAAQS for ozone with PSD rules in effect.

Section 176 General and Transportation Conformity

The EPA has not ''waived'' the requirement for adoption and implementation of conformity regulations. Rather, EPA has determined that those requirements will continue to apply after the area is redesignated, and therefore need not be fulfilled as a condition of redesignation. This national policy was exercised in the Tampa, Florida redesignation finalized on December 7, 1995, (60 FR 62748). The State of Wisconsin, in fact, submitted transportation and general conformity SIP revisions on November 23, 1994 and November 30, 1994, respectively. An EPA action proposing approval of the transportation conformity revision was published on May 10, 1996 (61 FR 21412). The issue is whether full approval of these rules is needed prior to redesignation. As presented in the June 5, 1996 and June 11, 1996 proposed rulemakings, the EPA believes that it is reasonable to interpret the conformity requirement as not being applicable for purposes of redesignation under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continue to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Therefore, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. While a redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting State rules does not relieve an area from the obligation to implement conformity requirements.

Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment, and are required to implement conformity under Federal rules if State rules are not yet adopted, the EPA believes it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request.

For the reasons just discussed, the EPA believes that the ozone redesignation requests for Walworth County and for Kewaunee and Sheboygan Counties may be approved notwithstanding the lack of fully-approved State transportation and general conformity rules. This redesignation policy was also exercised in the Tampa, Florida, Cleveland-Akron-Lorain, Ohio, and Grand Rapids, Michigan ozone redesignations finalized on December 7, 1995 (60 FR 52748), May 7, 1996 (61 FR 20458), and June 21, 1996 (61 FR 31831), respectively.

According to the Federal transportation and general conformity rules, conformity applies to maintenance areas as well as nonattainment areas. Once redesignated, the redesignated areas will be maintenance areas and will be required to conduct emission analyses to determine that the VOC and NO_x emissions remain below the motor vehicle emission budget established in the maintenance plan. The General Preamble to the conformity regulations further clarifies this issue, particularly as it pertains to areas requesting and obtaining a section 182(f) NO_x exemption.

Section 182(f) NO_x Requirement

Section 182(f) establishes NO_x requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_x reductions would not contribute to attainment. On July 13, 1994, Wisconsin submitted, along with Illinois and Indiana, a section 182(f) NO_x petition to be relieved of the section 182(f) NO_x requirements based on urban airshed modeling. The modeling demonstrates that local NO_x emission reductions would not contribute to attainment of the NAAQS for ozone in the nonattainment areas, which includes Kewaunee and Sheboygan Counties. The EPA approved the section 182(f) petition on January 26, 1996 (61 FR 2428). Therefore, the section 182(f) NO_x requirements are no longer applicable requirements for these areas. However, approval of the waiver does not exempt these counties from requirements that may be imposed as a result of the Ozone Transport Assessment Group process, as explained in the January 26, 1996, final rulemaking.

Comment: The commentor stated that exempting ozone nonattainment areas from compliance with part D NSR

regulations presents special problems since prevention of significant deterioration (PSD) and preconstruction rules ''do not fully address how emissions of ozone precursors should be treated to assure that major new or modified sources do not cause or contribute to a NAAQS violation.''

Response: The EPA emphasizes that, contrary to the commentor's contention, ozone nonattainment areas are not exempt from compliance with part D NSR regulations. An October 14, 1994, memorandum was issued by Mary Nichols, Assistant Administrator for Air and Radiation, titled, Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment (Nichols Memorandum). That memorandum suggests that areas that are otherwise eligible for redesignation need not have a fully approved part D NSR program as a prerequisite to redesignation since the PSD program would apply once the area has been redesignated to attainment. As mentioned previously, the State of Wisconsin submitted NSR rules on November 15, 1992. These rules were approved by EPA on January 18, 1995 (60 FR 3538). The NSR rules have been in effect in Kewaunee and Sheboygan Counties because of their nonattainment designation. Upon redesignation to attainment, the requirements of the PSD program will replace the NSR requirements. (See discussion of NSR issue in the Grand Rapids Federal Register, 60 FR 37366).

The Nichols' memorandum's statement that EPA regulations (40 CFR 51.165(b)(3) and Appendix S) ''do not fully address how ozone precursor emissions should be treated to ensure that major new or modified sources do not cause or contribute to an ozone NAAQS violation'' is based on the difficulty in modeling the impact of emissions from specific sources on ozone formation. The policy, however, also states that for areas with preconstruction monitoring or other information that indicate that the area is not meeting the ozone standard after redesignation to attainment, Appendix S or 40 CFR 51.165(b) apply. These areas should then require major new or modified sources to obtain VOC emission offsets of at least a 1:1 ratio. In addition, the PSD program allows Best Available Control Technology (BACT) in place of Lowest Achievable Emission Rate (LAER) if the less stringent control technology can be justified based on an economic, energy and environmental impacts analysis. Consequently, if a justification for a RACT control cannot be made on the basis of an environmental impact analysis, the State may impose a more stringent level of control other than what may be selected as BACT in an area redesignated to attainment but not meeting the NAAQS. With these elements, the preconstruction review programs can assure that major new or modified sources achieve the statutory goals of Part D NSR.

Comment: The commentor states that the EPA should process the November 23, 1994, and November 30, 1994 transportation and general conformity rules submittals before finalizing action on the Wisconsin redesignations. The commentor supports this by stating that changes in mobile source emissions and in demographic patterns around the area are directly related to ozone precursor emissions.

Response: The EPA agrees that surface transportation projects and evolving demographic distributions can have an influence on an area's ozone precursor emissions and its overall ability to demonstrate maintenance with the ozone NAAQS. However, approval of the redesignation requests for Walworth County and for Kewaunee and Sheboygan Counties does not relieve the State from the requirement that it comply with the conformity provisions of the Act, including performing conformity analyses. The State has submitted transportation and general conformity rules. As mentioned earlier, the transportation SIP revision was proposed for approval on May 10, 1996, and should be finalized soon. The State is simply adopting the Federal rules for general conformity, and final approval of that submittal is expected soon. Our national policy, as first exercised in the December 7, 1995, Tampa rulemaking (60 FR 62748), does not require conformity as a prerequisite for redesignation. The status of the State rules is not a factor. Therefore, the EPA believes that the ozone redesignation requests for Walworth County and for Kewaunee and Sheboygan Counties may be approved notwithstanding the lack of fully-approved State transportation and general conformity rules.

The following comments are specific to the proposed approval of the redesignation request for Kewaunee, Manitowoc, and Sheboygan Counties.

Comment: The commentor protests the ''clandestine'' determination of attainment which was applied to Kewaunee and Sheboygan Counties. The commentor further states that this application exempted the area from the section 182(b)(1) 15 percent requirement.

Response: The EPA's application of the determination of attainment policy to Kewaunee and Sheboygan Counties was not ''clandestine'' but rather was clearly explained in the portion of the proposed rulemaking to which it was relevant (i.e., Attainment Demonstration Requirement). The EPA made a determination in the proposed approval of the redesignation to attainment that since these areas are demonstrating monitored attainment of the ozone NAAQS, a factual determination based on 3 years of complete, quality assured monitoring data, certain provisions of the Act do not require SIP revisions to be made by the State for so long as the area continues to attain the standard. As explained in a May 10, 1995, memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled, ''RFP, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' EPA believes it is appropriate to interpret the more specific RFP, attainment demonstration and related provisions of subpart 2 in the same manner as EPA had previously interpreted the general provisions of subpart 1 of part D of Title I (sections 171 and 172).

EPA has explained at length in other notices, including the July 20, 1995 determination of attainment regarding the Grand Rapids area (60 FR 37366), its rationale for that interpretation of the Act and incorporates those explanations by reference here. *See* Approval and Promulgation of Implementation Plans and Designation of Areas of Air Quality Planning Purposes; Ohio, 61 FR 20458 (May 7, 1996); Determination of Attainment of Ozone Standard for Salt Lake and Davis Counties, Utah, 60 FR 36723 (July 18, 1995). EPA emphasizes that it has not suspended or granted the Wisconsin moderate counties an exemption from any applicable requirements. Rather, EPA has interpreted the requirements of sections 182(b)(A)(I) and 172 (c)(9) as not being applicable once an area has attained the standard, as long as it continues to do so. This is not a waiver of requirements that by their terms clearly apply; it is a determination that certain requirements are written so as to be operative only if the area is not attaining the standard.

The 1995 Seitz memorandum was clear about the consequences of the policy for redesignations. First, it made plain that a determination of attainment is not tantamount to a redesignation of an area to attainment. Attainment is only one of the criteria set forth in section 107(d)(3)(E). To be redesignated, the State must satisfy all of the criteria of section 107(d)(3)(E), including the requirement of a demonstration that the improvement in the area's air quality is

due to permanent and enforceable reductions, and the requirements that the area have a fully-approved SIP which meets all of the applicable section 110 and part D requirements, and a fully approved maintenance plan.

Upon the determination of attainment for Kewaunee and Sheboygan Counties, however, the attainment demonstration requirement of section 182(b)(1)(A)(I) is no longer considered an applicable requirement under section 107(d)(3)(E). It is no longer included among those measures required for SIP approval.

The commentor also stated that EPA's determination of attainment, as applied to the moderate counties, waived the 15 percent plan requirement. In fact, a 15 percent plan for the moderate and severe nonattainment areas in Wisconsin was submitted to EPA on November 15, 1993 and was approved on March 22, 1996. The 15 percent plan is being implemented in the moderate counties and is not affected by EPA's determination that the area has attained the standard.

Comment: The commentor states concern about the integrity of the monitoring network in Kewaunee and Sheboygan Counties. The commentor specifically states that 1994, 1995, and 1996 data show ''worrisome gaps'' and a ''continuing problem with reliability.'' Additionally, the commentor identifies preliminary ozone data indicating exceedances of the ozone standard in 1996 in Manitowoc and Kewaunee Counties.

Response: The Code of Federal Regulations, Part 58, requires 75 percent data collection in order for the monitoring to be considered complete. There are four ozone monitors in the three moderate area counties which were proposed for redesignation to attainment. The monitoring season in Wisconsin extends for 184 days, from April 15th to October 15th. All of the monitors recorded valid readings on at least 96 percent of the total number of possible days. In 1995, the two monitors in Manitowoc recorded valid readings for all 184 days of the ozone season. The commentor did not identify specific days or monitors in which the ''gaps'' appeared. The Sheboygan monitor was out of service for approximately 98 hours in early July 1995. Most of the hours were from July 7th into July 10th, which was a period of relatively low ozone readings across the area. The monitor experienced a pump failure during this time period. Some of the missing hours were during July 13th and 14th which was a period of elevated ozone concentrations. During this period, condensation in the lines, due to extremely high humidity, caused invalid readings. However, at other monitors in the region, the maximum ozone concentration during this episode was recorded during the afternoon of July 12th, which is a period when the Sheboygan monitor was collecting data. Data submitted thus far in 1996 does not show excessive gaps in data collection and appears to be fulfilling the data collection requirements.

The commentor also stated that preliminary exceedances (subject to quality assurance procedures) were recorded at the Manitowoc-Woodland Dunes monitor on June 28, 1996 and on July 6, 1996. As we have noted above, if either of these exceedances is determined to be valid, the Manitowoc-Woodland Dunes monitor would be in violation of the ozone standard and, consequently, Manitowoc County would be ineligible for redesignation to attainment. The monitor in Kewaunee County showed an ozone value of 163 parts per billion in June of this year. Preliminary indications from the State are that this value represents ozone from a standard calibration procedure where the monitor was not deactivated during the calibration test. Therefore, the hourly concentration appears in the database but is not representative of ambient ozone concentration levels. Even if it is a valid reading, the Kewaunee County monitor would still not be in violation of the ozone standard because it would only have three exceedances over the past three years, whereas four exceedances are needed for a monitor to be in violation.

The EPA is not finalizing the request for redesignation to attainment for Manitowoc County in this action. The counties of Kewaunee and Sheboygan continue to demonstrate monitored attainment with the ozone NAAQS.

Comment: The commentor expresses concern that the EPA will make the final action approving the redesignation to attainment effective upon the date of publication in the Federal Register. The commentor states that it is inappropriate for the EPA to depart from the ''typical thirty day period'' used in the past and EPA should not ''race against the clock'' in order to avoid future monitored exceedances.

Response: The notice of final rulemaking approving the redesignation to attainment for the counties of Sheboygan and Kewaunee will become effective the date it is published in the Federal Register. The thirty-day delay in the effective date is necessary when a final rule will be imposing new requirements upon an area and the area needs time to prepare for the imposition of those new requirements. The redesignation to attainment for Sheboygan and Kewaunee Counties does not impose any new requirements in those two counties but rather relieves a restriction. Therefore, the effective date of action does not need to be delayed. The immediate effective date for this redesignation is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule ''grants or recognizes an exemption or relieves a restriction'' and section 553(d)(3), which allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.''

Comment: The commentor states that the redesignation ignores findings from the Lake Michigan Ozone Study which show these areas will be unable to attain and maintain the ozone NAAQS. The commentor also states that EPA is ignoring emissions from Wisconsin areas which may contribute to any future violation of the standard in Kewaunee or Sheboygan County. Additionally, the commentor states that existing Title V requirements should be enforced.

Response: Kewaunee and Sheboygan Counties have demonstrated through monitoring data that they have attained the NAAQS for ozone. The State has also demonstrated that emissions in Kewaunee and Sheboygan Counties will decrease when projected to the year 2007. These decreases, combined with reductions occurring upwind, will assist the areas in their effort to maintain the ozone standard.

The Lake Michigan Ozone Study (LMOS), coordinated by the Lake Michigan Air Directors Consortium (LADCO), has submitted modeling for use in supporting an overwhelming transport petition for Kewaunee, Sheboygan, and Manitowoc Counties. The overwhelming transport guidance was provided in a September 1, 1994, memorandum from Mary D. Nichols, titled '' Ozone Attainment Dates for Areas Affected by Overwhelming Transport.'' This analysis predicted ozone concentrations over the four-state region surrounding Lake Michigan. The modeling, which uses 1991 meteorological conditions and 1990 emission information grown to the year 1996, shows predicted ozone concentrations above the standard in and around Kewaunee and Sheboygan Counties. The modeling was submitted by the State of Wisconsin to support a petition that the moderate nonattainment counties of Kewaunee, Sheboygan, and Manitowoc not be bumped up to a higher classification in response to either a monitored ambient

air quality violation or the lack of a demonstration showing attainment by the year 1996. The overwhelming transport modeling was submitted to demonstrate that high levels of predicted ozone from upwind areas (i.e., Chicago, Milwaukee, and areas further upwind) are impacting the three counties and that the areas would be able to attain the NAAQS but for the overwhelming amount of transported ozone.

Kewaunee and Sheboygan Counties continue to demonstrate monitored attainment of the ozone NAAQS. However, they are part of the LADCO group, which is in the process of developing a final attainment demonstration using photochemical modeling for the four-state LADCO region. Because of LADCO's involvement in the Ozone Transport Assessment Group effort (established pursuant to the March 2, 1995, Mary Nichols Memorandum) and uncertainty about current and future boundary conditions and control strategies, a final attainment demonstration for the area has not been submitted.

Initial modeling for the area was also recently submitted to EPA in response to the Phase I requirements of the Mary Nichols memorandum. This modeling includes predicted ozone concentrations for 1996 and 2007 using various control strategy scenarios combined with several assumptions of boundary ozone conditions. Some of the 2007 scenarios show predicted maximum ozone values below 124 parts per billion, the remainder show areas with predicted ozone values above 124 parts per billion. The modeling documentation only indicates whether attainment will be reached in the four-State LADCO region and does not identify the levels of predicted ozone for Kewaunee and Sheboygan Counties. Overall, the modeling is playing an important role in the determination of emission controls needed to provide for attainment in and downwind of the nonattainment areas in the Lake Michigan Ozone Study region.

The EPA believes that the ultimate test of whether an area has, in fact, achieved attainment is demonstrated through monitoring and that the redesignation to attainment of Kewaunee County and Sheboygan County is appropriate given their ability to show monitored attainment of the standard and because they have met the other redesignation criteria. An explanation of how the monitored attainment of the ozone standard is determined is contained in 40 Code of Federal Regulations, Part 50, Appendix H. The clean air quality data cover the years 1993, 1994, and 1995, which rank as some of the worst years in terms of ozone forming potential based on a 42-year record of meteorological data. The lack of a monitored violation in these counties during this time period supports the State's claim that the air quality has improved due to permanent and enforceable reductions, and is in attainment with the NAAQS. However, EPA also feels that the LADCO modeling that has been submitted is legitimate and that it provides information that primarily speaks to the transport of ozone and the effect of various control strategies on future ozone formation. The elevated levels of predicted ozone in the Kewaunee, Manitowoc, and Sheboygan County area (i.e., approximately 120 to 140 parts per billion) are indicative of the transport phenomenon, which is most pronounced generally along the western and eastern shoreline of Lake Michigan. While the modeling is useful to evaluate control strategy effectiveness and transport, less confidence should be placed upon the specific ozone concentrations predicted by the model to occur in 1996 at specific locations across the region.

There has long been an understanding that uncertainty is a part of any ozone modeling analysis. Ozone modeling demonstrations are primarily designed to evaluate control strategies for future attainment. Ozone modeling is not used for, nor intended to be used for, determining an area's current attainment status. In addition to the uncertainties, the test for determining modeled attainment differs substantially from the current form of the ozone NAAQS, which permits occasional exceedances at any location. When evaluating modeling demonstrations, it is appropriate to consider additional information, such as air quality monitoring data, in order to characterize the robustness of the analysis. Because of the uncertainties inherent in the modeling process, air quality monitoring data is weighted more heavily the closer one gets to the attainment date. For the reasons discussed above, EPA believes that the redesignation to attainment for these counties is appropriate given their ability to demonstrate attainment with the ozone standard using monitored data.

As mentioned earlier, the maintenance plan for Sheboygan and Kewaunee Counties includes a triggering mechanism which, in the event of a monitored violation, would activate the contingency plan in the violating county. The contingency plan includes provision for an analysis to be performed by the State and approved by EPA to identify if the violation was caused by local sources or if it was the result of ozone transported from upwind areas. The contingency plan submitted by the State does not exclude the Milwaukee area from the analysis. However, the contingency plan only speaks to the control measures to be implemented in the violating county if it is determined that implementation of those measures will promptly correct the violation. It does not call for the implementation of control measures in the upwind areas.

The reductions required in the Milwaukee-Racine and Chicago-Gary nonattainment areas were discussed earlier in this document. These reductions will be combined with possible future reductions of ozone precursor emissions from upwind sources, which will likely be implemented as a result of the work currently being done by the Ozone Transport Assessment Group. The EPA intends to use its regulatory authority to ensure implementation of the recommended control strategies coming from the Ozone Transport analysis. The reductions resulting from these strategies will assist urban areas in their efforts to demonstrate attainment as well as to lower the concentration of ozone found in more rural areas, such as the three Wisconsin counties.

The results from the Ozone Transport Assessment Group effort are to be submitted as formal revisions to the SIPs during 1997. The State of Wisconsin is very active in the Ozone Transport Assessment effort. However, the State has not committed to all of the specific reductions in volatile organic compounds as required by EPA, pending the results of the ozone transport analysis showing which emission reduction strategies will be effective. The EPA has issued a finding of failure to submit to the State of Wisconsin for the required reductions.

Finally, the EPA agrees with the commentor that it is important that all existing Title V permit requirements be enforced to ensure that the maximum benefits are received from reductions in ozone precursors already being relied upon.

III. Final Rulemaking Action

The EPA approves the redesignation to attainment for ozone for the Wisconsin counties of Walworth, Kewaunee, and Sheboygan. The EPA also approves the section 175A maintenance plans for these three counties as revisions to the Wisconsin SIP. The State of Wisconsin has satisfied

all of the necessary requirements of the Act.

EPA finds that there is good cause for this redesignation to attainment and SIP revision to become effective immediately upon publication. A delayed effective date is unnecessary, due to the nature of a redesignation to attainment, which relieves the area from certain Act requirements that would otherwise apply to it. The immediate effective date for this redesignation is authorized under both 5 U.S.C. § 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule ''grants or recognizes an exemption or relieves a restriction'' and section 553(d)(3), which allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.''

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

Ozone SIPs are designed to satisfy the requirements of part D of the Act and to provide for attainment and maintenance of the ozone NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the VOC or NO_X emission limitations and restrictions contained in the approved ozone SIP. Changes to ozone SIP VOC regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation [section 173(b) of the Act] and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the Act.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

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

Redesignation of an area to attainment under section 107(d)(3)(E) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 2 U.S.C. § 1532, signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rulemaking that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, 2 U.S.C. § 1535, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203, 2 U.S.C. § 1533, requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report constraining this rule and other required information to the U.S. Senate, the U.S. House of Representative and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this final action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subject

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Motor vehicle pollution, Nitrogen oxides, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, National parks, Nitrogen oxides, Ozone, Volatile organic compounds, Wilderness areas.

Dated: August 7, 1996.

Valdas V. Adamkus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart YY—Wisconsin

2. Section 52.2585 is amended by adding paragraph (k) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(k) Approval—On December 15, 1995, and May 15, 1996, the Wisconsin Department of Natural Resources submitted requests to redesignate Walworth County and Sheboygan and Kewaunee Counties, respectively, from nonattainment to attainment for ozone. The State also submitted maintenance plans as required by section 175A of the Clean Air Act, 42 U.S.C. § 7505a. Elements of the section 175A maintenance plans include attainment emission inventories for NO_x and VOC, demonstrations of maintenance of the ozone NAAQS with projected emission inventories to the year 2007 for NO_x and VOC, plans to verify continued attainment, and contingency plans. If a violation of the ozone NAAQS, determined to be caused by local sources is monitored, Wisconsin will implement one or more appropriate contingency measure(s) contained in the contingency plan. Once a violation of the ozone NAAQS is recorded, the State will notify EPA and review the data for quality assurance. A plan to analyze the violation, including an analysis of meteorological conditions, will be submitted within 60 days to EPA-Region 5 for approval. Within 14 months of the violation, Wisconsin will complete and public notice the analysis and submit it to EPA-Region 5 for review. If the analysis shows that local sources caused the violation, Wisconsin will implement the contingency measures within 24 months after the violation. The contingency measures to be implemented in Walworth County are Stage II vapor recovery and non-Control Technology Guideline (non-CTG) Reasonably available control technology (RACT) limits. Contingency measures to be implemented in either Kewaunee or Sheboygan County are lower major source applicability thresholds for industrial sources and new gasoline standards which will lower VOC emissions. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) and 175A of the Act, respectively.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7871q.

2. In section 81.350, the ozone table is amended by revising the entries for Kewaunee County, Sheboygan County, and Walworth County to read as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—OZONE

Designated areas	Designation		Classification	
	Date [1]	Type	Date	Type
	* * * * * * *			
Kewaunee County Area Kewaunee County	[Insert Date of Publication]	Attainment.		
	* * * * * * *			
Sheboygan County Area Sheboygan County	[Insert Date of Publication]	Attainment.		
Walworth County Area Walworth County	[Insert Date of Publication]	Attainment.		
	* * * * * * *			

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 96–21697 Filed 8–23–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 63

[FRL–5551–9]

Interim Approval of Section 112(l) Delegated Authority; Washington

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final Interim Approval and Delegation.

SUMMARY: EPA is promulgating final interim approval of the state of Washington Department of Ecology (Ecology) request for delegation of authority to implement and enforce state-adopted hazardous air pollutant regulations which adopt by reference the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) contained within 40 CFR Parts 61 and 63, as these regulations apply to sources that are required to obtain a federal operating permit under 40 CFR Part 70 (i.e., Part 70 sources). EPA is also promulgating interim approval of certain local air agency potential-to-emit limiting regulations which will now be recognized as federally enforceable. At Ecology's request, EPA is delaying approval of certain other state and local potential-to-emit limiting regulations.

These adopted regulations approved as part of this action will be implemented and enforced by both Ecology and/or the following local air authorities within the state of Washington: The Benton County Clean Air Authority (BCCAA); the Northwest Air Pollution Authority (NWAPA); the Olympic Air Pollution Control Authority (OAPCA); the Puget Sound Air Pollution Control Agency (PSAPCA); the Southwest Air Pollution Control Authority (SWAPCA); the Spokane County Air Pollution Control Authority (SCAPCA); and the Yakima County Clean Air Authority (YCCAA); collectively referred to as ''the Washington permitting authorities.''

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Chris Hall, US EPA, OAQ–107, 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553–1949.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Section 112(l) of the federal Clean Air Act (CAA) enables the EPA to approve state air toxic programs or rules to operate in place of the Federal air toxic program or rules. The Federal air toxic program implements the requirements found in section 112 of the CAA pertaining to the regulation of hazardous air pollutants. Approval of an air toxic program is granted by the EPA if the Agency finds that: (1) the State

program is ''no less stringent'' than the corresponding federal program or rule, (2) the State has adequate authority and resources to implement the program, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with federal guidance. Once approval is granted, the air toxic program can be implemented and enforced by State or local agencies, as well as EPA.

Implementation by local agencies is dependent upon appropriate subdelegation.

On January 5, 1995 (as supplemented on May 8, 1995, October 18, 1995, and January 9, 1996), the Washington permitting authorities submitted to EPA an application requesting delegation of authority to implement and enforce specific 40 CFR Part 61 and Part 63 NESHAP regulations adopted into Washington state and local law. On February 16, 1996, EPA proposed interim approval of this request for delegation and requested public comment on this action. See 61 FR 6184. As of the close of the 30 day public comment period (March 17, 1996), EPA had received comments from two parties, both of which were supportive of the proposed delegation. On June 13, 1996, Ecology requested that EPA withhold action on its request for approval of: WAC 173–400–110, –112, –113, and –114; NWAPA Regulation sections 300 through 303; OAPCA Regulation 1, Article 7; SCAPCA Regulation I, Article II and V; and, YCCAA Restated Regulation I, Sections 4.02 and 12.01, until further notice.

II. Response to Comments

Comments were received from both the Washington state Department of Ecology (C1) and the Southwest Air Pollution Control Authority (C2).

EPA's responds to the substantive comments contained in C1 and C2 as follows:

1. In C1 and C2, Ecology and SWAPCA clarified that the Washington permitting authorities were not only requesting delegation for existing NESHAP regulations which have already been adopted into state and local law, but were also requesting approval of their mechanism for receiving delegation of future NESHAP regulations which the state and locals adopt into state and local law unchanged.

2. In C1 and C2, Ecology and SWAPCA clarified that sources in Washington state are either subject to an operating permit fee or a source registration fee, but not both. EPA acknowledges this correction and no further response is necessary.

3. In C2, SWAPCA gave notice that it had changed its regulatory numbering of one specific local regulation to coincide with the numbering in the state regulation. SWAPCA 400–090 ''Voluntary Limits on Emissions'' has been changed to SWAPCA 400–091 as of September 21, 1995.

4. In C1, Ecology expressed the concern that in the proposed rulemaking EPA raised invalid concerns regarding the adequacy of the Washington permitting authorities' resources for implementing and enforcing the delegated NESHAP regulations.

In response to comment No. 1, EPA agrees that approval of the mechanism for future delegations proposed by the Washington permitting authorities will greatly streamline future delegation of those federal NESHAP regulations that are adopted into state and local law unchanged. Therefore, EPA grants interim approval of this adoption-by-reference mechanism for the Washington permitting authorities. In this respect, the Washington permitting authorities will only need to send a letter of request to EPA for those future NESHAP regulations which the state or local agencies have adopted by reference. EPA will respond to this request by sending a letter back to the state or local air agency delegating the NESHAP standards requested. No further formal response from the state or local agency will be necessary, and if no negative response is received within 10 days, the delegation becomes final. A notice of the delegation will be published in the Federal Register to inform the public that the delegation has taken place and to indicate where a source notification and other reports should be sent.

In response to comment No. 3, EPA agrees to grant interim approval of SWAPCA Regulation 400–091, as it was in effect September 21, 1995, in place of SWAPCA Regulation 400–090.

Finally, in response to comment No. 4, it was not EPA's intention to raise any doubts regarding the Washington permitting authorities' ability to provide for adequate resources for implementing, assuring compliance, and enforcing the adopted NESHAP regulations within the state of Washington. EPA believes that the Washington permitting authorities have adequately documented that they will be able to provide resources which are adequate to run their respective air toxics programs.

III. Programs for Interim Approval

In this action, under the authority of section 112(l)(5) and 40 CFR 63.91, EPA is promulgating interim approval of the Washington permitting authorities' request for delegated authority to implement and enforce 40 CFR Part 61, subparts A, C through F, J, L through P, V, Y, BB, and FF, as adopted into WAC 173–400 (as in effect February 16, 1993), NWAPA Section 104.2 (as in effect December 8, 1993), PSAPCA Regulation III Section 2.02 (as in effect October 19, 1995), SWAPCA Regulation 400 Section 075 (as in effect February 1, 1995), and YCCAA Regulation I Section 12.02 (as in effect September 14, 1994), as these rules apply to Part 70 sources. EPA is also promulgating interim approval of the NWAPA, PSAPCA, and SWAPCA request for delegated authority to implement and enforce the following locally-adopted 40 CFR Part 63 NESHAP regulations as they apply to Part 70 sources: NWAPA regulation 104.2 which adopts by reference 40 CFR Part 63 subparts A through D, F through I, L, M, and Q, as amended on October 19, 1994; PSAPCA Regulation III, Section 2.02 as in effect on October 19, 1995, which adopts by reference 40 CFR Part 63 subparts A, B, D, F through I, L through O, Q, R, T, W, X, and EE, as in effect as of July 1, 1995; and, SWAPCA Regulation 400–075 as in effect on February 1, 1995, which adopts by reference 40 CFR Part 63 subparts A, B, D, F–I, L–O, R, Q, T, and EE.

Additionally, EPA is promulgating interim approval under the authority of section 112(l)(5) and 40 CFR 63.91 of Washington's mechanism for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated.

EPA is also promulgating interim approval of PSAPCA Regulation I, Article 6, and Regulation III, Appendix A; and, SWAPCA Regulation 400–091, –110, –112, –113, and –114 under the authority of § 112(l) of the Act in order to recognize these regulations as federally enforceable for purposes of establishing potential-to-emit limitations. Upon Ecology's request, EPA is withholding action on WAC 173–400–110, –112, –113, and –114; NWAPA Regulation, Sections 300 through 303; OAPCA Regulation 1, Article 7; SCAPCA Regulation I, Article II and V; and, YCCAA Restated Regulation I, Sections 4.02 and 12.01, until further notice.

Since EPA has determined that Washington's criminal authorities under RCW 70.94.430 do not meet the stringency requirement of 40 CFR 70.11, EPA is only promulgating interim approval of the Washington permitting authorities request for delegation. In this respect, EPA will retain implementation and enforcement authority for these rules as they apply to non-Part 70 sources during the interim period or until such time as the Washington permitting authorities demonstrate that their criminal authorities meet EPA

stringency requirements. As outlined in the proposed rulemaking to this final action (61 FR 6184), the Washington permitting authorities were requested to demonstrate to EPA that Washington's criminal enforcement authorities are consistent with the requirements of 40 CFR 70.11(a), and therefore 40 CFR 63.91(b)(1) and (b)(6), if they wish to receive ''full'' approval. Specifically, the Washington permitting authorities were requested to:

(1) Revise RCW 70.94.430 to provide for maximum criminal penalties of not less than $10,000 per day per violation, as required by 40 CFR 70.11(a)(3)(ii),

(2) Revise RCW 70.94.430 to allow the imposition of criminal penalties against any person who knowingly makes any false material statement, representation or certification in any form, in any notice or report required by a permit, as required by 40 CFR 70.11(a)(3)(iii). This provision must include maximum penalties of not less than $10,000 per day per violation, and

(3) Revise RCW 70.94.430 to allow the imposition of criminal penalties against any person who knowingly renders inaccurate any required monitoring device or method, as required by 40 CFR 70.11(a)(3)(iii). This provision must include maximum penalties of not less than $10,000 per day per violation, or

(4) Demonstrate to the satisfaction of EPA that these authorities are consistent with 40 CFR 70.11, and therefore 40 CFR 61.91.

To date, Ecology has only submitted supporting documentation to demonstrate that existing state laws are adequate to meet the requirements of (1) above. It is EPA's understanding that final action at the state level resolving issues (2) and (3) above will be completed by August 15, and will become effective on September 15. Since EPA has not had the opportunity to fully review the supporting documentation received to date in regard to (1) above, a final determination as to whether the requirements of 40 CFR 70.11 and 61.91 have been met will not be made at this time. EPA anticipates being able to take final action on these interim delegation issues in the near future, but not before Ecology's proposed regulatory changes in regard to (2) and (3) above become effective on September 15. Unless EPA takes prior action, this delegation of authority to implement and enforce the federal NESHAP regulations will extend only until December 9, 1996, the day on which interim authority for Washington's Title V federal operating permit program expires. EPA will not extend this interim delegation past December 9, 1996, unless deemed appropriate under Part 70 rulemaking.

IV. Summary of Action

Pursuant to the authority of § 112(l) of the Act and 40 CFR Part 63 subpart E, EPA is promulgating interim approval of the Washington permitting authorities' request for delegation of authority to implement and enforce specific 40 CFR Part 61 and Part 63 federal NESHAP regulations which have been adopted into Washington state and local law for part 70 sources. Additionally, EPA is promulgating interim approval of the mechanism by which the Washington permitting authorities will receive delegation of future NESHAP regulations. Finally, EPA is promulgating interim approval of specific SWAPCA and PSAPCA air regulations for the purpose of conferring federal enforceability to synthetic minor permits or orders issued pursuant to these regulations.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

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

NESHAP rule or program delegations approved under the authority of section 112(l) of the Act do not create any new requirements, but simply confer federal authority for those requirements that the state of Washington is already imposing. Therefore, because section 112 delegation approvals do not impose any new requirements, the Agency has determined that it would not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning State programs on such grounds. Union Electric Co. v. U.S. E.P.A., 427 U.S. 246, 256–66 (S.Ct 1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates Reform Act

EPA has determined that the proposed approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in the Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 24, 1996.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96–21579 Filed 8–23–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street S.W., Washington, D.C. 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: Sonoma (FEMA Docket No. 7176).	City of Cotati	February 7, 1996, February 14, 1996, Press Democrat.	The Honorable John Dell'Osso, Mayor, City of Cotati, 201 West Sierra Avenue, Cotati, California 94931.	January 11, 1996.	060377
California: San Luis Obispo (FEMA Docket No. 7176).	City of El Paso de Robles.	February 8, 1996, February 15, 1996, County News-Press.	The Honorable Walter Macklin, Mayor, City of El Paso de Robles, 1000 Spring Street, El Paso de Robles, California 93446.	January 11, 1996.	060308
Colorado: Arapahoe (FEMA Docket No. 7176).	Unincorporated areas	February 15, 1996, February 22, 1996, The Villager.	The Honorable Thomas R. Eggert, Chairperson, Arapahoe County, Board of Commissioners, 5334 South Prince Street, Littleton, Colorado 80166.	January 16, 1996.	080011
Colorado: Archuleta (FEMA Docket No. 7176).	Unincorporated areas	February 22, 1996, February 29, 1996, Pagosa Springs Sun.	The Honorable Bill Tallon, Chairman, Archuleta Board of County Commissioners, P.O. Box 1507, Pagosa Springs, Colorado 81147.	January 23, 1996.	080273
Colorado: Boulder (FEMA Docket No. 7176).	City of Boulder	February 22, 1996, February 29, 1996, Daily Camera.	The Honorable Leslie Durgin, Mayor, City of Boulder, P.O. Box 791, Boulder, Colorado 80306.	January 16, 1996.	080024

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Colorado: El Paso (FEMA Docket No. 7176).	City of Colorado Springs.	February 21, 1996, February 28, 1996, Gazette Telegraph.	The Honorable Robert Isaac, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901.	January 22, 1996.	080060
Colorado: Jefferson (FEMA Docket No. 7176).	City of Golden	February 9, 1996, February 16, 1996, Golden Transcript.	The Honorable Marvin Kaye, Mayor, City of Golden, City Hall, 911 Tenth Street, Golden, Colorado 80401.	January 11, 1996.	080090
Colorado: Archuleta (FEMA Docket No. 7176).	Town of Pagosa Springs.	February 22, 1996, February 29, 1996, Pagosa Springs Sun.	The Honorable Ross Aragon, Mayor, Town of Pagosa Springs, P.O. Box 1859, Pagosa Springs, Colorado 81147.	January 23, 1996.	080019
Oklahoma: Garfield (FEMA Docket No. 7176).	City of Enid	February 22, 1996, February 29, 1996, Enid News and Eagle.	The Honorable Michael G. Cooper, Mayor, City of Enid, P.O. Box 1768, Enid, Oklahoma 73702–1768.	January 23, 1996.	400062
Oklahoma: Canadian (FEMA Docket No. 7176).	City of Oklahoma City	February 15, 1996, February 22, 1996, Journal Record.	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker Avenue, Oklahoma City, Oklahoma 73102.	January 22, 1996.	405378
Texas: Travis (FEMA Docket No. 7176).	City of Austin	February 22, 1996, February 29, 1996, Austin American Statesman.	The Honorable Bruce Todd, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	January 19, 1996.	480624
Texas: Dallas (FEMA Docket No. 7167).	City of Dallas	November 23, 1995, November 30, 1995, Dallas Morning News.	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Room 5E North, Dallas, Texas 75201.	November 6, 1995.	480171
Texas: Dallas (FEMA Docket No. 7167).	Unincorporated areas	November 23, 1995, November 30, 1995, Daily Commercial Record.	The Honorable Lee F. Jackson, Dallas County Judge, 411 Elm Street, Dallas, Texas 75202.	November 6, 1995.	480165
Texas: Denton (FEMA Docket No. 7176).	Unincorporated areas	February 21, 1996, February 28, 1996, Lewisville Leader.	The Honorable Jeff Moseley Denton County Judge, Denton County Commissioner's Court, Courthouse on the Square, 110 West Hickory, Denton, Texas 76201.	February 2, 1996.	480774
Texas: Dallas, Ellis, and Tarrant (FEMA Docket No. 7167).	City of Grand Prairie ...	November 23, 1995, November 30, 1995, The Mid-Cities News.	The Honorable Charles England, Mayor, City of Grand Prairie, 317 College Street, Grand Prairie, Texas 75053.	November 6, 1995.	485472
Texas: Denton (FEMA Docket No. 7176).	City of Lewisville	February 21, 1996, February 28, 1996, Lewisville Leader.	The Honorable Bobbie J. Mitchell, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, Texas 75029.	February 2, 1996.	480195
Texas: Collin (FEMA Docket No. 7176).	City of Plano	February 21, 1996, February 28, 1996, Plano Star Courier.	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	January 29, 1996.	480140

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: August 15, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–21689 Filed 8–23–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 65

[Docket No. FEMA–7193]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Associate Director, Mitigation

Directorate, reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street S.W., Washington, D.C. 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California:.					
San Diego	City of Poway	June 6, 1996, June 13, 1996, *Poway News-Chieftain*.	The Honorable Don Higginson, Mayor, City of Poway, P.O. Box 789, Poway, California 92074–0789.	May 15, 1996	060702
San Diego	Unincorporated Areas	July 12, 1996, July 19, 1996, *San Diego Daily Transcript*.	The Honorable Ron Roberts, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	June 26, 1996	060284
Colorado:					
Adams, Jefferson, and Boulder.	City of Broomfield	June 20, 1996, June 27, 1996, *Broomfield Enterprise*.	The Honorable Bill Berens, Mayor, City of Broomfield, P.O. Box 1415, Broomfield, Colorado 80038–1415.	May 16, 1996	085073

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Douglas	Town of Castle Rock	July 10, 1996, July 17, 1996, *Douglas County News Press*.	The Honorable Mark Williams, Mayor, Town of Castle Rock, 144 Hillside Drive, Castle Rock, Colorado 80104.	June 18, 1996	080050
Garfield	Unincorporated Areas	July 3, 1996, July 10, 1996, *Citizen Telegram*.	The Honorable Marian Smith, Chairperson, Board of County Commissioners, Garfield County, 109 Eighth Street, Suite 300, Glenwood Springs, Colorado 81601.	May 31, 1996	080205
Garfield	City of Rifle	July 3, 1996, July 10, 1996, *Citizen Telegram*.	The Honorable David Ling, Mayor, City of Rifle, P.O. Box 1908, Rifle, Colorado 81650.	May 31, 1996	085078
Hawaii: Maui	Unincorporated Areas	July 10, 1996, July 17, 1996, *Maui News*.	The Honorable Linda Crockett-Lingle, Mayor, County of Maui, 200 South High Street, Wailuku, Hawaii 96793.	June 6, 1996	150003
Missouri:					
Jackson	City of Lee's Summit	July 10, 1996, July 17, 1996, *Lee's Summit Journal*.	The Honorable Karen R. Messerli, Mayor, City of Lee's Summit, City Hall, 207 Southwest Market, Lee's Summit, Missouri 64063.	June 20, 1996	290174
Jackson and Cass	City of Lee's Summit	June 12, 1996, June 19, 1996, *Lee's Summit Journal*.	The Honorable Karen R. Messerli, Mayor, City of Lee's Summit, P.O. Box 1600, Lee's Summit, Missouri 64063–2332.	May 15, 1996	290174
South Dakota: Pennington.	Unincorporated Areas	July 12, 1996, July 19, 1996, *The Rapid City Journal*.	The Honorable Delores Coffing, Chairperson, Pennington County, Commissioners, 315 St. Joseph Street, Rapid City, South Dakota 57701–2879.	June 18, 1996	460064
Texas:					
Travis	City of Austin	July 3, 1996, July 10, 1996, *American Statesman*.	The Honorable Bruce Todd, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	June 6, 1996	480624
Bexar	Unincorporated Areas	July 2, 1996, July 9, 1996, *San Antonio Express-News*.	The Honorable Cyndi Taylor Krier, Bexar County Judge, Bexar County Courthouse, First Floor, 100 Dolorosa, San Antonio, Texas 78205–3036.	May 29, 1996	480035
Cameron	Unincorporated Areas	July 11, 1996, July 18, 1996, *Brownsville Herald*.	The Honorable Gilberto Hinojosa, Cameron County Judge, 964 East Harrison, Brownsville, Texas 78520.	May 31, 1996	480101

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Dallas, Denton, and Collin.	City of Carrollton	July 11, 1996, July 18, 1996, *Metro Crest News*.	The Honorable Milburn Gravley, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011–0535.	June 28, 1996	480167
Tarrant	City of Fort Worth	July 2, 1996, July 9, 1996, *Fort Worth Star Telegram*.	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	June 18, 1996	480596
Harris	Unincorporated Areas	July 9, 1996, July 16, 1996, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	June 12, 1996	480287
Kerr	City of Ingram	June 12, 1996, June 19, 1996, *The Kerrville Daily Times*.	The Honorable Nina Jane Bird Raymer, Mayor, City of Ingram, 409 Highway 27 West, Ingram, Texas 78025.	May 31, 1996	481592
Kerr	Unincorporated Areas	June 12, 1996, June 19, 1996, *The Kerrville Daily Times*.	The Honorable Robert A. Denson, Kerr County Judge, 700 Main, Kerrville, Texas 78028.	May 31, 1996	480419
Kerr	City of Kerrville	June 12, 1996, June 19, 1996, *The Kerrville Daily Times*.	The Honorable Charles P. Johnson, Mayor, City of Kerrville, 800 Junction Highway, Kerrville, Texas 78028–5069.	May 31, 1996	480420
Cameron	City of Port Isabel	July 11, 1996, July 18, 1996, *Port Isabel South Padre Island Press*.	The Honorable Quirino Martinez, Mayor, City of Port Isabel, 305 East Maxan, Port Isabel, Texas 78578.	May 31, 1996	480109
Washington:					
Chelan	Unincorporated Areas	July 12, 1996, July 19, 1996, *The Wenatchee World*.	The Honorable John Wall, Chairman, Chelan County Commissioners, Chelan County Courthouse, 350 Orondo Avenue, Wenatchee, Washington 98801.	June 18, 1996	530015
Chelan	City of Wenatchee	July 12, 1996, July 19, 1996, *The Wenatchee World*.	The Honorable Earl Tilly, Mayor, City of Wenatchee, P.O. Box 519, Wenatchee, Washington 98807–0519.	June 18, 1996	530020

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: August 15, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–21690 Filed 8–23–96; 8:45 am]

BILLING CODE 6718–04–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each

community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street S.W., Washington, D.C. 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
CALIFORNIA	
Murrieta (City), Riverside County (FEMA Docket No. 7126)	
Murrieta Creek:	
At Cherry Street	*1,026
Approximately 5,000 feet upstream of Cherry Street	*1,041
Approximately 4,400 feet downstream of Washington Avenue	*1,042
Approximately 1,300 feet downstream of Washington Avenue	*1,053
At Washington Avenue	*1,061
Approximately 1,300 feet upstream of Washington Avenue	*1,065
Approximately 50 feet downstream of Tenaja Road	*1,107
Approximately 1,050 feet downstream of Magnolia Street	*1,114
Approximately 450 feet downstream of Magnolia Street	*1,118
Approximately 900 feet upstream of Magnolia Street	*1,125
Approximately 4,800 feet upstream of Magnolia Street	*1,150
Approximately 7,500 feet upstream of Magnolia Street	*1,170
Maps are available for inspection at the Public Works Department, City of Murrieta, 26442 Beckman Court, Murrieta, California.	
— — —	
Riverside County (Unincorporated Areas) (FEMA Docket No. 7126)	
Murrieta Creek:	
Approximately 4,600 feet downstream of Clinton Keith Road	*1,165
Approximately 100 feet downstream of Clinton Keith Road	*1,190
Approximately 1,900 feet downstream of McVicar Street	*1,204
Approximately 500 feet upstream of McVicar Street	*1,217
Salt Creek:	
Approximately 1,500 feet downstream of Murrieta Road	*1,406
Approximately 1,400 feet upstream of Murrieta Road	*1,409
Approximately 900 feet downstream of Bradley Road	*1,412
Approximately 2,700 feet upstream of Bradley Road	*1,417
Approximately 3,050 feet upstream of Bradley Road	*1,417
Sun City Channel A–A:	
Approximately 1,950 feet downstream of Ridgemoor Road	*1,409
Approximately 1,000 feet downstream of Sun City Boulevard	*1,410
Approximately 600 feet downstream of Cherry Hills Boulevard	*1,413
San Jacinto River:	
Approximately 100 feet downstream of Ramona Expressway	*1,428
Approximately 100 feet downstream of Davis Street	*1,429
Approximately 8,000 feet upstream of Davis Street	*1,430
Approximately 500 feet downstream of Bridge Street	*1,431
At Bridge Street	*1,432
San Jacinto River—Secondary Channel:	
Approximately 4,800 feet downstream of Davis Street	*1,429

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 5,100 feet upstream of Davis Street	*1,430
Temescal Wash:	
Approximately 700 feet downstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*684
Just upstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*692
Approximately 2,400 feet upstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*698
Approximately 6,300 feet upstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*733
Approximately 4,600 feet downstream of Cajalco Road	*762
Just upstream of Cajalco Road	*802
Approximately 2,200 feet downstream of abandoned railroad	*830
Approximately 3,100 feet upstream of abandoned railroad	*870
Approximately 3,250 feet downstream of road to El Sobrante Landfill	*900
Approximately 300 feet upstream of road to El Sobrante Landfill	*930
Approximately 100 feet downstream of Park Canyon Drive	*944
Approximately 3,650 feet upstream of Park Canyon Drive	*969
Approximately 5,300 feet upstream of Park Canyon Drive	*982
Approximately 3,400 feet downstream of Lee Lake Spillway	*1,066
Approximately 100 feet downstream of Lee Lake Spillway	*1,121
Just upstream of Lee Lake Spillway	*1,154
Approximately 4,900 feet upstream of Lee Lake Spillway	*1,155
Approximately 2,000 feet downstream of Temescal Canyon Road	*1,170
Approximately 50 feet upstream of Corona Freeway	*1,181
Approximately 1,100 feet upstream of Pacific Clay Larson Lane	*1,214

Maps are available for inspection at the Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California.

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Temecula (City), Riverside County (FEMA Docket No. 7126)

Murrieta Creek:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 1,800 feet downstream of Winchester Road	*1,016
Approximately 1,100 feet downstream of Winchester Road	*1,018
Approximately 400 feet upstream of Winchester Road	*1,021
Approximately 1,700 feet upstream of Winchester Road	*1,023
Approximately 3,700 feet upstream of Winchester Road	*1,026

Maps are available for inspection at the Office of the City Engineer, 43174 Business Park Drive, Temecula, California.

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Williams (City), Colusa County (FEMA Docket No. 7177)

Salt Creek:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At Freshwater Road	*72
At Interstate 5	*73
At Business Route 5	*77
Approximately 350 feet upstream of Business Route 5	*77
Salt Creek—Overflow Area 1:	
At Freshwater Road	*69
Approximately 3,250 feet upstream of Freshwater Road	*72
Salt Creek—Overflow Area 2:	
Southwest of intersection of Interstate 5 and State Route 20	*77
At Business Route 5	*78
Approximately 950 feet upstream of Worth Street	*83
West of intersection of State Route 20 and E Street	*86
South of intersection of State Route 20 and E Street	*90
Salt Creek—Overflow Area 3:	
At Husted Road	*68
Approximately 5,100 feet upstream of Husted Road	*73

Maps are available for inspection at the City Building Department, City Hall, 810 E Street, Williams, California.

MISSOURI

Lawson (City), Clay and Ray Counties (FEMA Docket No. 7177)

Brushy Creek:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 3,950 feet downstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*996
Approximately 2,600 feet downstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*1,000
Approximately 1,000 feet downstream of Atchison, Topeka, and Santa Fe Railroad Bridge	*1,005
Approximately 900 feet upstream of the confluence with Brushy Creek Tributary II	*1,010
Brushy Creek Tributary II:	
At confluence with Brushy Creek	*1,008
At County Highway D	*1,013
Approximately 2,500 feet upstream of County Highway D	*1,020
Approximately 1,500 feet downstream of Salem Road	*1,030
Just downstream of Salem Road	*1,043

Maps are available for inspection at the City of Lawson, City Hall, City Administrator's Office, Third and Pennsylvania, Lawson, Missouri.

TEXAS

Baytown (City), Chambers and Harris Counties (FEMA Docket No. 7145)

Cedar Bayou:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At the power plant across Cedar Bayou from Cedar Bayou Jr. High School	*12
At Milam Bend	*15
At Southern Pacific Railroad Bridge south of Eldon	*20
Just south of Interstate Highway 10	*22
Horsepen Bayou:	
At confluence with Cedar Bayou	*17
Approximately 500 feet east of State Highway 146	*17

Maps are available for inspection at City Hall, City of Baytown, 2401 Market Street, Baytown, Texas.

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Montgomery County (Unincorporated Areas) (FEMA Docket No. 7177)

Sam Bell Gully:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 300 feet downstream of Maplewood Drive	*121
Just upstream of Maplewood Drive	*123
Approximately 1,100 feet upstream of Maplewood Drive	*124

Maps are available for inspection at the County Administration Building, 301 North Thompson, Suite 208, Conroe, Texas.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: August 15, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–21687 Filed 8–23–96; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 70, 71, 75, 77, 78, and 199

[CGD 84–069]

RIN 2115–AB72

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting, request for comments; reopening of comment period.

SUMMARY: The Coast Guard is holding a public meeting on its interim rule for lifesaving equipment to receive views on the requirements for passenger vessels. The Coast Guard is also reopening the comment period for this rulemaking until October 31, 1996. The effective dates of the requirements listed in the interim rule will not change.

DATES: The meeting will be held September 26, 1996, from 10 a.m. to 5 p.m. Written material must be received not later than September 25, 1996. Comments on the interim rule must be received on or before October 31, 1996.

ADDRESSES: The meeting will be held in room 166, O'Hare Lake Office Plaza, Federal Aviation Administration (FAA) Great Lakes Regional Office, 2300 East Devon Avenue, DesPlaines, IL 60018. Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA)[CGD84–069], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Chief, Lifesaving and Fire Safety Standards Division (G–MSE–4), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–1444, fax (202) 267–1069. Normal office hours are between 8 a.m. and 5 p.m. Persons wishing to make oral presentations during the meeting should contact Ms. Tanya Lyle at (202) 267–0995. Copies of the interim rule may be obtained by submitting a request by fax at (202) 267–1069.

SUPPLEMENTARY INFORMATION:

Background Information

The Coast Guard published an advance notice of proposed rulemaking in the Federal Register on December 31, 1984 (49 FR 50745). That notice described the major changes under consideration and invited comments on the project.

The Coast Guard published a notice of proposed rulemaking (NPRM) for the rulemaking in the Federal Register on April 21, 1989 (54 FR 16196), and invited comments on its proposals.

A public hearing was held to receive comments on the proposed rules, particularly the provisions affecting passenger ferries. The hearing was announced in a Federal Register notice on October 5, 1989 (54 FR 41124), and held in Seattle, Washington, on October 17, 1989.

On May 20, 1996, the Coast Guard published an interim rule in the Federal Register (61 FR 25272) entitled, ''Lifesaving Equipment.'' The project is part of the President's Regulatory Review Initiative to remove or revise unnecessary government regulations. The interim rule removes numerous obsolete sections from the Code of Federal Regulations and eliminates duplication of other provisions by consolidating the lifesaving requirements for most U.S. inspected vessels into the new subchapter W. The rule also revises the lifesaving equipment regulations for U.S. inspected vessels. It implements the provisions of Chapter III of the Safety of Life at Sea Convention (SOLAS) 1974, as amended, and revises lifesaving regulations for Great Lakes vessels and certain vessels in domestic trade which are not covered by SOLAS. The rule also replaces many prescriptive regulations with performance-based alternatives. Because it had been more than 5 years since publication of the NPRM, the Coast Guard requested public comment on the interim rule. The Coast Guard is holding this public meeting in response to comments received relating to the requirements for passenger vessels in domestic service.

Public Meeting

Attendance is open to the public. Persons who are hearing impaired may request sign translation by contacting the person under **FOR FURTHER INFORMATION CONTACT** at least 1 week before the meeting. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted prior to, during, or after the meeting. Persons unable to attend the public meetings are encouraged to submit written comments as outlined in the interim rule prior to October 31, 1996.

Dated: August 20, 1996.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 96–21736 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–106; RM–8797]

Radio Broadcasting Services; Hopkinsville, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Rockin' C Broadcasting, allots Channel 248A at Hopkinsville, Kentucky, as the community's third local commercial FM transmission service. *See* 61 FR 24263, May 14, 1996. Channel 248A can be allotted to Hopkinsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 10 kilometers (6.3 miles) south to avoid a short-spacing to the licensed site of Station WHRZ(FM), Channel 249A, Providence, Kentucky. The coordinates for Channel 248A at Hopkinsville are North Latitude 36–46–18 and West Longitude 87–28–28. With this action, this proceeding is terminated.

DATES: Effective September 27, 1996. The window period for filing applications will open on September 27, 1996, and close on October 28, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 96–106, adopted August 2, 1996, and released August 13, 1996. The full text of this

Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Channel 248A at Hopkinsville.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–21585 Filed 8–23–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: August 26, 1996.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted June 27, 1996, and released July 5, 1996. The full text of this Commission decision is availablefor inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alaska, is amended by removing Channel 273C1 and adding Channel 273C at Fairbanks.

3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 228C3 and adding Channel 227C2 at Page.

4. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 233A and adding Channel 233C3 at Helena.

5. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 269C2 and adding Channel 269C3 at Trenton.

6. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 300A and adding Channel 300C3 at Stuart.

7. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 232C3 and adding Channel 232C2 at Leland.

8. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 292A and adding Channel 292C2 at Lincoln.

9. Section 73.202(b), the Table of FM Allotments under New Hampshire, is amended by removing Channel 263A and adding Channel 263C3 at Lebanon.

10. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 286C2 and adding Channel 286C3 at Havelock.

11. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 259A and adding Channel 259C3 at Huntsville.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–21585 Filed 8–23–96; 8:45 am]

BILLING CODE 6712–01–F

Proposed Rules

Federal Register
Vol. 61, No. 166
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–47–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320–111, –211, –212, and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320–111, –211, –212, and –231 series airplanes. This proposal would require repetitive inspections to detect cracks of the rear bracket attached to the outboard rib of the shroud boxes and the surfaces of the lugs adjacent to the bushes, and replacement, if necessary. This proposal also would require replacement of the outboard aft brackets of the shroud boxes with modified brackets that have floating boxes, which would terminate the repetitive inspections. This proposal is prompted by a report that the lug of the rear outboard bracket failed due to fatigue. The actions specified by the proposed AD are intended to prevent fatigue-related cracking in the subject lug, and the consequent failure of this lug; this condition could result in the loss of the shroud box, and, consequently, lead to reduced controllability of the airplane.

DATES: Comments must be received by October 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–47–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–47–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320–111, –211, –212, and –231 series airplanes. The DGAC advises that it has received a report indicating that, during major fatigue testing on a Model A320 fatigue test wing, the lug of the rear outboard bracket failed at 85,714 simulated flights. This failure was caused by the movement between the shroud box, overwing panel, and the torque box. Such movement applied a longitudinal load to the outboard aft bracket, which resulted in the failure of the lug. Fatigue-related cracking in the subject lug could cause its failure. If the lug fails, the resultant loss of the shroud box could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–57–1034, Revision 2, dated September 8, 1995. The service bulletin describes procedures for repetitive visual inspections to detect cracks of the rear bracket attached to the outboard rib of the shroud boxes and the surfaces of the lugs adjacent to the bushes, and replacement of the bracket with a modified bracket, if any crack is detected.

The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 95–100–068(B), dated May 24, 1995, in order to assure the continued airworthiness of these airplanes in France.

In addition, Airbus has issued Service Bulletin A320–57–1035, Revision 4, dated February 22, 1994, which describes procedures for replacement of the outboard aft brackets of the shroud boxes with modified brackets that have floating boxes. The modified brackets will eliminate the longitudinal loads being applied to the outboard aft brackets. Accomplishment of this replacement would eliminate the need for repetitive inspections.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the

provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive visual inspections to detect cracks of the rear bracket attached to the outboard rib of the shroud boxes and the surfaces of the lugs adjacent to the bushes, and replacement, if necessary. The proposed AD also would require replacement of the outboard aft brackets of the shroud boxes with modified brackets with floating boxes, which would constitute terminating action for the repetitive inspection requirements. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Differences Between the Proposal and the Related French AD

This proposed rule would differ from the parallel French airworthiness directive 95–100–068(B), in that it would mandate the accomplishment of the terminating action for the repetitive inspections. The French airworthiness directive provides that action as optional.

Mandating the terminating action is based on the FAA's determination that long term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed requirement to accomplish the terminating action is in consonance with these considerations.

The proposed rule also would differ from the parallel French airworthiness directive in that its applicability would include, in addition to other airplanes, Model A320–212 series airplanes. Since issuance of the French airworthiness directive, Airbus has issued Revision 2 of Service Bulletin A320–57–1034 (described above), which revises the effectivity listing of Revision 1 of that service bulletin by including Model A320–212 series airplanes. (The French AD references this service bulletin as the appropriate source of service information; however, does not reference any particular revision level.) The FAA has determined that Model A320–212 series airplanes are subject to the addressed unsafe condition.

Cost Impact

The FAA estimates that 70 Airbus Model A320–111, –211, –212, and –231 series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $4,200, or $60 per airplane, per inspection cycle.

It would take approximately 35 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,170 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $298,900, or $4,270 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 96–NM–47–AD.

Applicability: Model A320–111, –211, –212, and –231 series airplanes, as listed in Airbus Service Bulletin A320–57–1034, Revision 2, dated September 8, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking in the shroud box attachment lug, which could result in the loss of the shroud box, and, consequently, lead to reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 17,000 total landings, or within 12 months after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracks of the rear bracket attached to the outboard rib of the shroud boxes and the surfaces of the lugs adjacent to the bushes, in accordance with Airbus Service Bulletin

A320–57–1034, Revision 2, dated September, 8, 1995.

Note 2: Inspections accomplished prior to the effective date of this amendment in accordance with Airbus Service Bulletin A320–57–1034, Revision 1, dated August 24, 1992, are considered acceptable for compliance with the requirements of paragraph (a) of this AD.

(1) If no crack is detected, repeat the visual inspection thereafter at intervals specified in paragraph (a)(1)(i) or (a)(1)(ii), as applicable.

(i) For Model A320–100 series airplanes: Repeat at intervals not to exceed 6,000 landings.

(ii) For Model A320–200 series airplanes: Repeat at intervals not to exceed 4,800 landings.

(2) If any crack is detected, prior to further flight, replace the bracket with a modified bracket, in accordance with Airbus Service Bulletin A320–57–1035, Revision 4, dated February 22, 1994. Accomplishment of this replacement terminates the requirements of this AD for that bracket.

(b) Within 4 years following accomplishment of paragraph (a) of this AD, replace the outboard aft brackets of the shroud boxes with modified brackets that have floating boxes, in accordance with Airbus Service Bulletin A320–57–1035, Revision 4, dated February 22, 1994. Accomplishment of this replacement constitutes terminating action for the repetitive inspections requirements of paragraph (a) of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on August 19, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21597 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–232–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require replacement of certain hydraulic fuses of the landing gear with improved fuses. This proposal is prompted by results of extended testing, which revealed that the hydraulic fuses of the landing gear failed to operate due to movement of the end of the spring within the fuses over the end of the flange of the spool. The actions specified by the proposed AD are intended to prevent such failure, which could result in external leakage in the brake lines downstream of the respective fuse and consequent loss of hydraulic fluid; this condition, if not corrected, could result in partial loss of the main hydraulic power supply.

DATES: Comments must be received by October 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–232–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Connie Beane, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2796; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–232–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–232–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Dornier 328–100 series airplanes. The LBA advises that, during extended testing of this airplane model, the hydraulic fuses of the landing gear failed to operate due to movement of the end of the spring within the fuses over the end of the flange of the spool. If a hydraulic fuse fails to operate, external leakage could occur in the brake lines downstream of the respective fuse and loss of hydraulic fluid could occur. This condition, if not corrected, could result in partial loss of the main hydraulic power supply.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–32–048, dated August 11, 1994, which describes procedures for replacement of certain hydraulic fuses of the landing gear with fuses having an improved design. The LBA classified

this service bulletin as mandatory and issued German airworthiness directive 95–051, dated February 3, 1995, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require replacement of certain hydraulic fuses of the landing gear with fuses having an improved design. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Explanation of Proposed Compliance Time

Operators should note that, although the Dornier Service Bulletin SB–328–25–072 recommends accomplishment of the described procedures within 45 days, this AD would require accomplishment of the actions within 90 days. Based upon an analysis of the unsafe condition, the FAA finds that a compliance time of 90 days will address the unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the safety implications and the degree of urgency associated with addressing the subject unsafe condition, but the maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. The FAA finds 90 days to be an appropriate compliance time for accomplishing these actions.

Cost Impact

The FAA estimates that 5 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $600, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

39.13 [Amended]

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

Dornier: Docket 95–NM–232–AD

Applicability: Model 328–100 series airplanes; serial numbers 3005 through 3008 inclusive, 3010, 3011, and 3012; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent partial loss of the main hydraulic power supply due to loss of hydraulic fluid, accomplish the following:

(a) Within 90 days after the effective date of this AD, replace landing gear hydraulic fuses having part number ACM30488, MOD states 2 through 6, with MOD 7 fuses in accordance with Dornier Service Bulletin SB–328–32–048, dated August 11, 1994.

(b) As of the effective date of this AD, no person shall install a landing gear hydraulic fuse having part number ACM30488, MOD states 2 through 6, on any airplane.

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

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

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on August 19, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21596 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–230–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require removal of the acoustic damping foils at the skin behind the overhead switch panel. This proposal is prompted by a report of debonding of the edges of the acoustic damping foils. The actions specified by the proposed AD are intended to prevent such debonding, which could result in short circuiting of parts of the overhead switch panel due to contact with loose edges of the foils, and consequent smoke and/or fire in the cockpit.

DATES: Comments must be received by October 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–230–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Connie Beane, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2796; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–230–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–230–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that it received a report indicating that debonding of the edges of the acoustic damping foils at the skin behind the overhead switch panel was found during production of these airplanes; consequently, parts of the overhead switch panel could come in contact with loose edges of the foils. Such debonding, if not corrected, could result in short circuiting of parts of the overhead switch panel and consequent smoke and/or fire in the cockpit.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–25–072, dated December 16, 1994, which describes procedures for removal of the acoustic damping foils at the skin behind the overhead switch panel. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 95–049, dated February 2, 1995, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require removal of the acoustic damping foils at the skin behind the overhead switch panel. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Explanation of Proposed Compliance Time

Operators should note that, although the Dornier Service Bulletin SB–328–25–072 recommends accomplishment of the described procedures within 100 hours time-in-service, this AD requires accomplishment of the actions within 90 days. Based upon an analysis of the unsafe condition, the FAA finds that a compliance time of 90 days will address the unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the safety implications and the degree of urgency associated with addressing the subject unsafe condition, but the maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. The FAA finds 90 days to be an appropriate compliance time for accomplishing these actions.

Cost Impact

The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $720, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of

the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier: Docket 95–NM–230–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3024 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent debonding of the edges of the acoustic damping foils, which could result in short circuiting of parts of the overhead switch panel due to contact with loose edges of the foils, and consequent smoke and/or fire in the cockpit; accomplish the following:

(a) Within 90 days after the effective date of this AD, remove the acoustic damping foils having part number 001A258A1101204 at the skin behind the overhead switch panel in accordance with Dornier Service Bulletin SB–328–25–072, dated December 16, 1994.

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

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

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on August 19, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21595 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–40–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes and Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. This proposal would require repetitive tests of the integrity of the electrical circuit between the windshear computer and the flap position sensor, and repair of the electrical wiring, if necessary. This proposal also would require replacement of certain windshear computers with new computers, which, when accomplished, terminates the repetitive tests. This proposal is prompted by a report indicating that the existing windshear computer is not capable of detecting a signal indicating loss of flap position; this could result in the flightcrew following erroneous computer-generated guidance. The actions specified by the proposed AD are intended to prevent the incapability of the windshear computer to detect the true flap position, which, if not corrected, could result in the inability of the flightcrew to avoid a windshear encounter, and consequent reduced controllability of the airplane.

DATES: Comments must be received by October 4, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–40–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft Limited, Avro International Aerospace Division, Customer Support, Woodford Aerodrome, Woodford, Cheshire SK7 1QR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications

received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–40–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–40–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. The CAA advises that it received a report indicating that the windshear computer installed on these airplanes is not capable of detecting a signal indicating loss of flap position. During a windshear encounter, the windshear computer displays guidance on the flight directors. This guidance indicates to the flightcrew to avoid windshear. The recommended flight maneuver in such cases depends upon many factors, including flap position. However, if the windshear computer is unable to detect the true flap position because the signal that indicates loss of flap position is not detected, the flightcrew could follow erroneous computer-generated guidance. This condition, if not corrected, could result in inability to avoid a windshear encounter and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Avro International Aerospace has issued Alert Inspection Service Bulletin S.B. 34–A155, Revision 2, dated August 9, 1995, which describes procedures for repetitive tests of the integrity of the electrical circuit between the windshear computer and the flap position sensor, and repair of the electrical wiring, if necessary. The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

Additionally, British Aerospace has issued Modification Service Bulletin SB.34–160–70548A, dated November 21, 1994, which describes procedures for replacement of existing windshear computers with new Safe Flight windshear computers. The new computer is capable of detecting an open circuit failure in the flap position input circuit. Accomplishment of the replacement also involves changing the polarity of the polarizing keys to preclude installation of lesser standard computers. Accomplishment of the replacement eliminates the need for the repetitive tests described previously. The CAA has approved the technical content of this service bulletin.

FAA's Conclusions

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require repetitive tests of the integrity of the electrical circuit between the windshear computer and the flap position sensor, and repair of the electrical wiring, if necessary. The proposed AD also would require replacement of existing windshear computers with new Safe Flight windshear computers. Accomplishment of the replacement would constitute terminating action for the repetitive tests. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Differences Between FAA's Proposed Action and the CAA's Action

Operators should note that, although the CAA did not classify the modification service bulletin as mandatory, this proposed AD would require accomplishment of the replacement described in that service bulletin within 6 months after the effective date of the AD. The FAA finds that accomplishment of continued repetitive tests could increase the likelihood of other failures. In addition, tests in accordance with the inspection service bulletin only verify the condition of the system at the time the tests are performed, and may not reliably predict future system performance. The FAA has determined that long term continued operational safety will be better assured by replacement of the windshear computers to remove the source of the problem, rather than by repetitive tests. Long term testing may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive tests, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed replacement requirement is in consonance with these considerations.

Explanation of Proposed Compliance Time for Replacement

In developing an appropriate compliance time for the proposed replacement, the FAA's intent is that it be performed during a regularly scheduled maintenance visit for the majority of the affected fleet, when the airplanes would be located at a base where special equipment and trained personnel would be readily available, if necessary. The FAA finds that 6 months corresponds closely to the interval representative of most of the affected operators' normal maintenance schedules. The FAA considers that this interval will provide an acceptable level of safety.

Cost Impact

The FAA estimates that 41 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed test, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed test on U.S.

operators is estimated to be $2,460, or $60 per airplane, per test cycle.

The FAA estimates that it would take approximately 4 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be $9,840, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace: Docket 96–NM–40–AD.

Applicability: Model BAe 146 and Model Avro 146–RJ series airplanes on which BAe Modification HCM40270A or HCM40270B (Safe Flight Windshear Computer) has been installed; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the flightcrew to avoid a windshear encounter and consequent reduced controllability of the airplane due to the inability of the windshear computer to detect the true flap position, accomplish the following:

(a) Within 300 landings or 60 days after the effective date of this AD, whichever occurs first: Perform a test of the integrity of the electrical circuit between the windshear computer and the flap position sensor, in accordance with Avro International Aerospace Alert Inspection Service Bulletin S.B. 34–A155, Revision 2, dated August 9, 1995. Repeat the test thereafter at intervals not to exceed 300 landings until the actions required by paragraph (c) of this AD are accomplished.

(b) If any test required by paragraph (a) of this AD fails, prior to further flight, repair the electrical wiring in accordance with Avro International Aerospace Alert Inspection Service Bulletin S.B. 34–A155, Revision 2, dated August 9, 1995. Thereafter, repeat the test required by paragraph (a) of this AD at intervals not to exceed 300 landings until the actions required by paragraph (c) of this AD are accomplished.

(c) Within 6 months after the effective date of this AD: Replace any Safe Flight windshear computer having part number 6508–2 or 6508–4 with a new Safe Flight windshear computer having part number 6508–5; and change the polarity of the polarizing keys; in accordance with British Aerospace Modification Service Bulletin SB.34–160–70548A, dated November 21, 1994. Accomplishment of these actions constitutes terminating action for the repetitive tests required by paragraph (a) of this AD.

(d) As of the effective date of this AD, no person shall install a Safe Flight windshear computer having part number 6508–2 or 6508–4 on any airplane.

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

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

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on August 19, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–21594 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 95–ASO–21]

Proposed Modification of Jet Route J–46

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify Jet Route 46 (J–46) by extending the route from Volunteer, TN, to Alma, GA. The FAA is taking this action to assist aircraft navigating between Tennessee and Georgia, reduce controller workload, and to improve air traffic (ATC) procedures.

DATES: Comments must be received on or before October 7, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500 Docket No. 95–ASO–21, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia Crawford, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ASO–21.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 of the Code of Federal Aviation Regulations part 71 (14 CFR part 71) to modify J–46 by extending the route from Volunteer, TN, to Alma, GA. The volume of aircraft requesting radar vectoring from Volunteer, TN, to Alma, GA, via Athens, GA, has increased. This increase in traffic has made it necessary for a published route to simplify aircraft navigation, reduce controller workload, and to enhance ATC procedures in that area.

Jet routes are published in paragraph 2004 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–46 [Revised]

From Tulsa, OK, via Walnut Ridge, AR; Nashville, TN; to Volunteer, TN; Athens, GA; to Alma, GA.

* * * * *

Issued in Washington, DC, on August 13, 1996.

Jeff Griffith,

Program Director for Air Traffic Airspace Management.

[FR Doc. 96–21592 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–P–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–39–93]

RIN 1545–AR63

Definition of Structure; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of location of public hearing.

SUMMARY: This document changes the location of the public hearing on proposed regulations relating to deductions available upon demolition of a building.

DATES: The public hearing is being held on Wednesday, October 9, 1996, beginning at 10:00 a.m.

ADDRESSES: The public hearing originally scheduled in the Commissioner's Conference Room, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC is changed to room 2615, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate) (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register on Thursday, June 20, 1996 (61 FR 31473), announced that a public hearing on proposed regulations relating to deductions available upon demolition of a building will be held on Wednesday, October 9, 1996, beginning at 10:00 a.m. in the Commissioner's Conference Room, 1111 Constitution Avenue NW, Washington, DC and that request to speak and outlines of oral comments should be received by Wednesday, September 18, 1996.

The location of the pubic hearing has changed. The hearing is scheduled for

Wednesday, October 9, 1996, beginning at 10:00 a.m. in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. The requests to speak and outlines of oral comments must have been received by Wednesday, September 18, 1996. Because of controlled access restrictions, attenders are not admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

The Service will prepare an agenda showing the scheduling of the speakers after the outlines are received from the persons testifying and make copies available free of charge at the hearing.

Michael L. Slaughter,

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

[FR Doc. 96–21600 Filed 8–23–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–239–FOR, #73]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Ohio regulatory program (hereinafter referred to as the ''Ohio program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to sections of the Ohio Administrative Code (OAC) dealing with surface mining operations on remining areas. The amendment is intended to revise the Ohio program to be consistent with the Federal regulations as amended on November 27, 1995 (60 FR 58480).

DATES: Written comments must be received by 4:00 p.m., [E.D.T.] September 25, 1996. If requested, a public hearing on the proposed amendment will be held on September 20, 1996. Requests to speak at the hearing must be received by 4:00 p.m., [E.D.T.], on September 10, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Field Branch Chief, at the address listed below.

Copies of the Ohio program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153

Ohio Division of Mines and Reclamation, 1855 Fountain Square Court, Columbus, Ohio 43244, Telephone: (614) 265–1076.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the August 10, 1982, Federal Register (47 FR 34688). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 935.11, 935.15, and 935.16.

II. Description of the Proposed Amendment

By letter dated July 23, 1996, (Administrative Record No. OH–2168–00) Ohio submitted proposed amendments to the Ohio program concerning remining. Ohio submitted the proposed amendment at its own initiative. The provisions of the Ohio Administrative Code that Ohio proposes to amend are:

1. OAC 1501:13–1–02 Definitions.

(a) New paragraph (OOO) ''Lands eligible for remining'' has been added to mean those lands that would otherwise be eligible for expenditures under section 1513.37 of the Revised Code.

(b) New paragraph (JJJJJJ) ''Unanticipated event or conditions'' has been added to mean (as used in Rule 13–5–01 of the Administrative Code) an event or condition related to prior mining activity which arises from a surface coal mining and reclamation operation on lands eligible for remining and was not contemplated in the applicable permit.

(c) Definitions of ''abatement plan'', ''base line pollution load'', ''best available technology economically achievable'', ''pollution abatement area'', ''pre-existing discharge'', and ''remining NPDES permit'' are relocated here from OAC 1501:13–4–15, and all paragraphs are relettered accordingly.

2. OAC 1501:13–4–08 Hydrologic map and cross-sections.

New paragraph (A)(15) has been added to include any land determined to be eligible for remining.

3. OAC 1501:13–4–10 Uniform color code and map symbols. New paragraph (A)(6) has been added to include any area determined to be eligible for remining shall have its perimeter designated with a dashed black line and the areas therein clearly labeled ''Remine''.

4. OAC 1501:13–4–12 Requirements for permits for special categories of mining.

(a) New paragraph (L) has been added to include the requirement that any person who submits a permit application to conduct a surface coal mining operation on lands eligible for remining must comply with Revised Code Section 1513.37. The requirements of paragraph (L) shall apply until September 30, 1994, or any later date authorized by federal law. The permit application must include: (1) A description of the proposed lands eligible for remining and a demonstration, to the satisfaction of the Chief, how such lands meet the eligibility requirements specified by Revised Code Section 1513.37; (2) Identification, to the extent not otherwise addressed in the permit application, of any potential environmental and safety problems related to the prior mining activity at the site which could be reasonably expected to occur. This identification shall be based on a due diligence investigation which shall include visual observations at the site, a record of past mining at the site, and environmental sampling tailored to current site conditions; and (3) A description, with regard to potential environmental and safety problems identified in paragraph (2), of the mitigative measures that will be taken to ensure that the applicable reclamation requirements of Revised Code Chapter 1513 and these rules can be met.

5. OAC 1501:13–4–15.

(a) The title of this section is changed from ''Authorization to conduct coal mining on previously mined areas'' to ''Authorization to conduct coal mining on pollution abatement areas''.

(b) Definitions of ''abatement plan'', ''base line pollution load'', ''best available technology economically achievable'', ''pollution abatement area'', ''pre-existing discharge'', and ''remining NPDES permit'' are relocated to OAC 15011.3:–1–02, and remaining paragraphs are relettered accordingly.

6. OAC 1501:13–5–01 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

(a) New paragraph (D)(7) has been added to provide that subsequent to the effective date of this rule, the prohibitions of paragraph (D)(3) of this section regarding the issuance of a new permit, shall not apply to any violation that occurs after that date; is unabated; and results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for remining under a permit issued pursuant to OAC 1501:13–4–12(L) and held by the person making application for the new permit.

(b) New paragraph (D)(7)(D) provides that for permits issued under OAC 1501:13–4–12(L), an event or condition shall be presumed to be unanticipated for the purposes of this paragraph if it: arose after permit issuance; was related to prior mining; and was not identified in the permit.

7. OAC 1501:13–9–15 Revegetation.

(a) Paragraph (F)(2) is revised, and subparagraph(F)(2)(A) is added, to provide that the required period of extended responsibility on lands eligible for remining shall be not less than two full years for permits issued pursuant to the requirements of OAC 1501:13–4–12 and renewals thereof.

(b) New paragraph (O) with subparagraphs (1) through (6) are added to include revegetation standards for areas eligible for remining in each land use category and to establish cover standards for hay crops on cropland areas.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under ''DATES'' or at locations other than the Appalachian Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.D.T.] on September 10, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year

on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 14, 1996.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 96–21677 Filed 8–23–96; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5558–3]

RIN 2060–AC19

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks; Proposed Rule Clarifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: Amendments.

SUMMARY: On April 22, 1994 and June 6, 1994, the EPA issued the National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks. This rule is commonly known as the Hazardous Organic NESHAP or the HON. In June 1994, petitions for review of the April 1994 rule were filed in the U.S. Court of Appeals for the District of Columbia Circuit. The petitioners raised over 75 technical issues and concerns with drafting clarity of the rule. Today's action proposes correcting amendments to the rule to address the petitioners' issues.

Today's action proposes new definitions that apply to wastewater and wastewater treatment and revised control and compliance provisions for wastewater. A new compliance date of April 22, 1999, is being proposed for process wastewater, heat exchange systems, in-process equipment subject to the provisions of § 63.149, and maintenance wastewater. The proposed changes to these provisions are sufficiently far reaching and complex to render those provisions effectively a new rule. The EPA is also proposing a separate compliance date for wastewater streams affected by the omission of nitrobenzene from the list of compounds subject to the wastewater provisions. The proposed revisions to the other provisions to the rule are corrections and clarifications to ensure the rule is implemented as intended. Today's amendments would also provide some additional compliance options that would reduce the burden associated with the recordkeeping and reporting requirements of the rule.

The proposed amendments to the rule will not change the basic control requirements of the rule or the level of health protection it provides. The rule requires new and existing major sources to control emissions of hazardous air pollutants to the level reflecting application of the maximum achievable control technology.

DATES: *Comments.* Comments must be received on or before September 25, 1996 unless a hearing is requested by September 5, 1996. If a hearing is requested, written comments must be received by October 10, 1996.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than September 5, 1996. If a hearing is held, it will take place on September 10, 1996, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–19 (see docket section below), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. JoLynn Collins, Waste and Chemical Processes Group, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5671.

Docket. Dockets No. A–90–19 through A–90–23, containing the supporting information for the original NESHAP and this action, are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, first floor, 401 M Street SW, Washington, DC 20460, or by calling (202) 260–7548 or 260–7549. A reasonable fee may be charged for copying. Comments on the proposed changes to the NESHAP may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: For general questions, contact Dr. Janet S. Meyer, Coatings and Consumer Products Group, at (919) 541–5254 or Mary Tom Kissell, Waste and Chemical Processes Group, at (919) 541–4516. For technical questions on wastewater provisions, contact Elaine Manning, Waste and Chemical Processes Group, telephone number (919) 541–5499. The mailing address for the contacts is Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities and Background Information

A. Regulated Entities

The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry	Synthetic organic chemical manufacturing industry (SOCMI) units, e.g., producers of benzene, toluene, or any other chemical listed in Table 1 of 40 CFR part 63, subpart F. Styrene-butadiene rubber producers. Polybutadiene rubber producers. Producers of Captafol®; Captan®; Chlorothalonil; Dacthal; and Tordon™ acid. Producers of Hypalon®; Oxybisphenoxarsine/1,3-diisocyanate (OBPA®); Polycarbonates; Polysulfide rubber; Chlorinated paraffins; and Symmetrical tetrachloropyridine. Pharmaceutical producers.

Category	Examples of regulated entities
	Producers of Methylmethacrylate-butadiene-styrene resins (MBS); Butadiene-furfural cotrimer; Methylmethacrylate-acrylonitrile-butadiene-styrene (MABS) resins; and Ethylidene norbornene.

This table is not intended to be exhaustive but, rather, provides a guide for readers regarding entities likely to be interested in the revisions to the regulation affected by this action. Entities potentially regulated by the HON are those which produce as primary intended products any of the chemicals listed in table 1 of 40 CFR part 63, subpart F and are located at facilities that are major sources as defined in section 112 of the Clean Air Act (CA). Processes subject to the negotiated regulation for equipment leaks (i.e., 40 CFR part 63, subpart I) are also potentially affected by this action. Processes subject to 40 CFR part 63, subpart I are producers of any of the products listed in 40 CFR part 63, subpart I that are located at facilities that are major sources as defined by section 112 of the CA. To determine whether your facility is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.100 and 40 CFR 63.190. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Copies of Regulatory Text

The proposed regulatory text is not included in this Federal Register action because of the length and complexity of the amendments to the rule. The proposed changes to the rule are discussed fully in this preamble. The proposed amendments to the rule are available in Docket A–90–19 or by request from the Air and Radiation Docket and Information Center (see **ADDRESSES**) or the EPA contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. The proposed rule amendments may also be obtained over the Internet at http://ttnwww.rtpnc.epa.gov or from the EPA's Technology Transfer Network (TTN). The TTN is a network of electronic bulletin boards developed and operated by the Office of Air Quality Planning and Standards. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for up to a 14,400 bits per second modem. Select TTN Bulletin Board: Clean Air Act Amendments and select menu item Recently Signed Rules. If more information on TTN is needed, contact the systems operator at (919) 541–5384.

C. Electronic Submission of Comments

Comments on the proposed changes to the NESHAP may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on diskette in WordPerfect 5.1 or ASCII file format. All comments in electronic form must be identified by the docket number A–90–19. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

D. Background on Rule

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA published in the Federal Register the NESHAP for the SOCMI, and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR part 63, and are commonly referred to as the hazardous organic NESHAP, or the HON. Since the April 22, 1994 notice, there have been several amendments to clarify various aspects of the rule. Readers should see the following Federal Register notices for more information: September 20, 1994 (59 FR 48175); October 24, 1994 (59 FR 53359); October 28, 1994 (59 FR 54131); January 27, 1995 (60 FR 5321); April 10, 1995 (60 FR 18020); April 10, 1995 (60 FR 18026); December 12, 1995 (60 FR 63624); February 29, 1996 (61 FR 7716); and June 20, 1996 (61 FR 31435).

In June 1994, the Chemical Manufacturers Association and Dow Chemical Company filed petitions for review of the promulgated rule in the U.S. Court of Appeals for the District of Columbia Circuit, *Chemical Manufacturers Association* v. *EPA*, 94–1463 and 94–1464 (D.C. Cir.) and *Dow Chemical Company* v. *EPA*, 94–1465 (D.C. Cir). The petitioners raised over 75 technical issues on the rule's structure and applicability. Issues were raised regarding details of the technical requirements, drafting clarity, and structural errors in the drafting of certain sections of the rule. Today's proposed revisions address all of the issues raised by CMA and Dow on the April 1994 rule.

With today's action, EPA is proposing clarifying and correcting amendments to subparts F, G, H, and I of part 63. Following review and consideration of comments received on today's proposed revisions in accordance with a settlement agreement reached with CMA and Dow, EPA will take final action on the proposed amendments by December 31, 1996. As of the date of signature of this proposal, the section 113(g) notice process was not yet complete, and, therefore, the settlement was not final. However, EPA believes it is important to publish the proposed rule in accordance with the schedule provided in the draft settlement agreement because of the pendency of the compliance date. When a settlement becomes final, it will govern the date of signature of the final rule. As discussed in section III.B, sources subject to the rule would be expected to be in compliance with the amended provisions for heat exchange systems, maintenance wastewater, in-process equipment subject to § 63.149, and process wastewater by April 22, 1999. Equipment subject to the other provisions of the rule would be expected to be in compliance by April 22, 1997, unless a compliance extension is granted. The EPA anticipates finalizing some portions of the proposed rule earlier than December 31, 1996. For example, the proposal would eliminate the need for filing some implementation plans that would otherwise be due December 31, 1996, and would allow the filing of requests for compliance extensions up to 4 months before the April 1997 compliance date. The EPA will attempt to take final action on these provisions as soon as possible after the close of the comment period in order to give sources as much lead time as possible.

II. Overview of Changes to Rule

With today's proposed action, EPA is proposing clarifying and correcting amendments to subparts F, G, H, and I of 40 CFR part 63. These proposed amendments include an extension of the compliance date to April 22, 1999 for process wastewater, heat exchange systems, maintenance wastewater, and in-process equipment subject to the provisions of § 63.149. These sections of the rule would be extensively revised by

today's proposal. The proposed revisions are intended to remove any ambiguity and clearly convey EPA's intent, to make the rule easier to read and implement, and to increase flexibility for the source.

The proposed amendments would also set a separate compliance date for wastewater streams affected by the omission of nitrobenzene from table 9 of subpart G. A three year compliance date is being proposed for process wastewater streams that are subject to control requirements due to the presence of nitrobenzene due to an error in the April 22, 1994 rule. The compliance date for other emission points remains April 22, 1997.

The proposed revisions to the wastewater sections of the rule have been redrafted to improve organizational structure and drafting clarity. One significant clarification would be to the definition of ''wastewater'' which would be revised to incorporate the concept that only when water is *discarded* from a process is it subject to the HON wastewater provisions. Additional changes would be made to the wastewater provisions to: (1) ensure that streams traveling from one piece of process equipment to another would be handled appropriately to avoid emissions to the environment, and (2) ensure that the changes in the wastewater definitions would not permit sources to dilute their waste streams prior to the point the streams are considered wastewater, thus avoiding control requirements. If a HON source owner or operator wished to ship waste off-site for treatment, the owner or operator may only ship to a facility that has certified that it will treat the waste to the standard required by the HON.

In contrast to the significant redrafting of the wastewater provisions, minor edits are proposed for other sections of the rule. In addition to removing ambiguity and increasing flexibility for the source, some revisions would reduce the reporting and recordkeeping burden for sources. The reporting and recordkeeping revisions would include changes which: reduce the number of copies of reports that must be submitted to EPA and the States; provide for alternative, less frequent recordkeeping of monitoring data where sources show no violations for prolonged stretches of time; and remove the requirement for most sources to file an implementation plan.

III. Compliance Date Changes and Other General Changes

A. Applicability of Rule

1. Designation of the Source

In today's amendments, EPA is proposing revisions to § 63.100, paragraphs (e) and (f) to clarify which equipment is included within the scope of the source regulated by this rule. These revisions are being proposed because the drafting and structure of paragraphs (e) and (f) in § 63.100 have caused confusion and raised concerns as to whether other equipment or activities not listed are included in the source. The proposed revisions to these paragraphs are intended to improve rule clarity.

The present wording of paragraph (e) of § 63.100 incorporates, inter alia ''wastewater and associated treatment residuals'' in the source. This text does not state explicitly whether waste management units, heat exchange systems, or maintenance wastewater are included in the source. The present designation of the source also does not include control devices or recovery devices used to comply with this rule. Some industry representatives have expressed concern that these types of equipment could be considered subject to section 112(g) of the Act because the equipment is not part of a source subject to a section 112(d) standard. To address this concern, the EPA is proposing to revise this paragraph by listing the specific categories of equipment and types of wastewater included in the source and by adding control and recovery devices to the items designated to be included in the source. The EPA is also proposing to revise paragraph (f) of § 63.100 to reverse the drafting structure to state that the listed items are included in the source, but are not subject to the control requirements of the rule. Based on discussions with industry, EPA has found that reversing the structure would make it more understandable to the regulated community and would reduce the chance of incorrect interpretation.

2. Definition of Chemical Manufacturing Process Unit (cmpu)

The EPA is proposing amendments to clarify the definition of cmpu and the definition of unit operation. The proposed revisions consist of clarifying that a cmpu consists of two or more unit operations and correcting the definition of unit operation to refer to the defined term ''distillation units'' instead of distillation columns. These proposed changes are expected to clarify the determination of applicability for facilities with integrated operations.

3. Applicability of Rule to Storage Vessels Located in a Tank Farm or Marine Terminal

The EPA is proposing amendments to clarify the applicability of the rule to storage vessels located in tank farms and marine tank farms. The proposed amendments being added as § 63.100(g)(3) would explicitly specify the procedures to be followed to assign the storage vessels to a process and then to determine the applicability of the rule. Due to an oversight, the provisions currently in § 63.100(g) of subpart F do not include instructions regarding allocation of tanks in remote locations.

Following issuance of the 1994 rule, EPA received inquiries regarding the applicability of the rule to storage vessels that are physically remote from the cmpu, but are located at the major source and connected to the cmpu by piping. Some of the inquiries raised questions regarding the distinction between storage vessels used for product storage and vessels used more for purposes of facilitating product distribution. Other inquiries concerned applicability of the rule where a dedicated product (or raw material) storage tank was located in the tank farm. Following a review of the rule language and the underlying analyses for the rule, EPA concluded that the record on this point was ambiguous and that the rule should be amended to clarify these issues. The proposed revisions to § 63.100(g) are based on the concepts presently used in the rule for assignment of equipment that is shared among several cmpus and on a basic assumption used in developing the rule that, which is typically a cmpu, includes raw material and product storage vessels.

The proposed provisions assign a storage vessel to a cmpu based on three decision rules. First, a storage vessel in a tank farm is considered to be part of a cmpu only if the cmpu does not have another intervening, storage vessel for product (or raw material). Where there is an intervening storage vessel, the boundary of the cmpu would end at that intervening storage vessel (and any associated transfer operations and other equipment) and would exclude the tank farm storage vessel. Second, if two or more cmpus (of those using the tank farm storage vessel) lack a co-located storage vessel, then the storage vessel at the tank farm would be assigned to a cmpu, according to the concepts of predominant use specified in § 63.100(g)(2). Third, if only one cmpu (of those that use the remote storage

vessel) lacks a co-located product (or raw material) storage vessel, then the remote storage vessel would be assigned to that cmpu.

The EPA expects that this assignment procedure will result in assignment of storage vessels in a manner consistent with normal management of facility operations. Specifically, it is expected that storage vessels that are an integral part of operation of a cmpu subject to the HON will be regulated under the HON and that storage vessels that are used to facilitate product distribution will be regulated as part of the organic liquids distribution source category and not under the HON.

4. Determination of Applicability of the Rule to Equipment Shared Among Integrated Operations

Today's proposed amendments include clarifying changes to the equipment assignment procedures specified in § 63.100 (g), (h), and (i) for storage vessels, transfer racks, and distillation units. Since the HON was issued in April 1994, EPA has received inquiries regarding the correct interpretation of the text in these paragraphs. Based on these inquiries and discussions with industry representatives, EPA has concluded that the questions and concerns are due to minor wording differences in paragraphs (g) and (h) and the absence of an explicit statement that paragraph (i) specifies the assignment procedures for shared distillation columns.

Today's proposed amendments would make the wording and structure of these paragraphs parallel. Specifically, the proposed revisions would make the wording of paragraphs (g)(1) and (h)(1) parallel to the wording in paragraphs (g)(2) and (h)(2), respectively. The proposed new paragraphs would add provisions to paragraph (i) that address the assignment of dedicated distillation units and would clarify that the assignment procedure is for distillation units shared among several processes. The proposed revisions also clarify the wording of the requirement to reassess the assignment of the equipment whenever there is a change in the use of the equipment.

5. Revision to Table 2 of Subpart F List of Regulated Hazardous Organic Air Pollutants (HAP's)

The EPA has received numerous requests for clarification of the definition of ''Polycyclic organic matter'' (POM) in table 2 of subpart F. The nature of these requests indicates that there is confusion regarding the scope of the definition. To eliminate this confusion, EPA is proposing to revise table 2 of subpart F to list the specific compounds that are to be regulated as POM in the HON. The specific compounds being listed are consistent with the historical working definition of POM, which emphasizes emissions from incomplete combustion and pyrolysis processes (49 FR 31680). This change is expected to improve rule clarity.

B. Compliance Dates

1. Compliance Date Extension for Wastewater Provisions

With respect to compliance dates, the final rule promulgated on April 22, 1994, provided that existing sources must be in compliance with the requirements of subparts F and G no later than April 22, 1997, unless an extension is granted in accordance with § 63.151(a)(6) of subpart G or § 63.6(i) of subpart A.

Today's proposal would change the compliance date provisions applicable to HON sources in two significant respects. These changes are included in § 63.100(k)(2) of today's proposed rule. First, § 63.100(k)(2)(ii) would set a new compliance date of April 22, 1999, for heat exchange systems, maintenance wastewater, in-process equipment subject to § 63.149, and process wastewater. Second, § 63.100(k)(2)(ii)(A) would set a new compliance date that is three years from the date of final publication for process wastewater streams and in-process equipment subject to § 63.149 that are subject to control requirements due to the contribution of nitrobenzene to the annual average concentration of Table 9 compounds.

The new compliance date for heat exchange systems, maintenance wastewater, in-process equipment subject to § 63.149, and process wastewater is being proposed because the changes to these provisions applicable to HON sources are sufficiently far reaching and complex to render those provisions effectively a new rule warranting a new compliance date. In contrast, the changes to other portions of the April 22, 1994, rule are less extensive, are more in the nature of corrections and clarifications, and EPA does not believe they jeopardize sources' ability to meet the April 1997 compliance date.

Section 112(i)(3) of the Act provides that existing sources are to be in compliance with applicable emission standards ''as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard.'' The April 22, 1994, final rule specified a compliance date applicable to wastewater streams and heat exchange systems that was three years from the issuance of that rule. Section 112(d)(6) provides authority for the Administrator to revise the emission standards issued under section 112 ''no less often than every 8 years.'' EPA believes that the authority to revise the standards inherently includes the authority to set new compliance dates for revised rules. Any other approach would require existing sources to come into compliance with potentially extensive revisions immediately, just as if they were new sources. Obviously, Congress provided EPA discretion to set a compliance date for existing sources of up to three years in order to provide time for retrofitting of controls where necessary. Thus, due to the extensive nature of the revisions to the provisions applicable to heat exchange systems and wastewater streams, the creation of requirements for in-process equipment subject to § 63.149, and the proximity to the April 1997 compliance date in the original rule, EPA is setting a new compliance date for those provisions.

EPA believes that two years from the otherwise applicable compliance date will be sufficient for all sources to come into compliance with the new wastewater and in-process equipment provisions. However, should any source be unable to meet that compliance date because of the need to install controls that cannot be installed by that date, such source may request an extension of up to one year in accordance with § 63.151(a)(6).

The new three year compliance date in § 63.100(k)(2)(ii)(A) for process wastewater streams and in-process equipment subject to § 63.149 that are subject to control requirements due to the presence of nitrobenzene, is being proposed because of an error in the April 22, 1994, rule. Nitrobenzene is a HAP included on the section 112(b) list. However, due to an oversight, it was not included on table 9 (which lists HAPs subject to the wastewater provisions) in the April 22, 1994, rule. Thus, there was confusion as to whether or not the presence of nitrobenzene in wastewater streams should be a factor in determining whether such streams were Group 1 or Group 2. This error was corrected in the December 12, 1995, correction notice (60 FR 63624 (December 12, 1995)). However, due to the extensive changes to the wastewater provisions and the uncertainty caused by the initial omission of nitrobenzene from table 9, EPA is proposing to set a new compliance date for wastewater streams affected by the error.

EPA seeks comment on its proposal to set new compliance dates in § 63.100,

paragraphs (k)(2)(ii) and (k)(2)(ii)(A), and in particular seeks comment on the appropriateness of the particular dates proposed.

2. Timing of Compliance Extension Requests

The April 22, 1994, rule requires that requests for compliance extensions be submitted one year prior to the otherwise applicable compliance date. The EPA is proposing to revise this requirement, which is in § 63.151(a)(6)(i), to allow submittal of requests up to 120 days prior to the compliance date. The EPA is also proposing to add a new paragraph (iv) to § 63.151(a)(6) that would allow requests during the last 120 days before the compliance date if the need arose during that 120 days and if the need was due to circumstances beyond the reasonable control of the owner or operator. Submission of a compliance extension request would not stay the applicability of the rule to the applicant source during the pendency of the request.

The EPA is proposing these revisions in recognition that review of most requests for compliance extensions can be completed within 4 months and it is unlikely that it would require 12 months to complete review of the request. The EPA is also proposing to allow submittal of extension requests up to the compliance date in recognition that unforeseen difficulties, such as construction or operational difficulties, can arise in the last moments of compliance planning. The proposed provisions in § 63.151(a)(6)(iv) are also considered necessary in the case of this rule because it is unlikely that these proposed revisions will be final more than 4 months prior to the April 22, 1997, compliance date for certain control requirements. Any changes in the wording or requirements of the final rule could affect compliance planning for a source. Therefore, EPA believes that it is necessary to provide some opportunity for applications for compliance extension requests after the date that is 4 months prior to the compliance date.

3. Clarification of Compliance Periods

The proposed revisions to subpart F also would add a new paragraph (k)(9) to § 63.100, and a new paragraph (g) to § 63.162 to clarify that when the rule specifies a period of time for completion of required tasks (e.g., weekly, monthly, quarterly, annual), this refers to standard calendar periods unless it is specified otherwise in the section or paragraph that imposes the requirement. The current rule does not specify this, and this text is being added to the rule to remove any potential for ambiguity. The new § 63.100(k)(9) and § 63.162(g) also provide that time periods may be changed by mutual agreement between the owner or operator and the Administrator, as provided in subpart A of this part. Finally, this new set of provisions also provides that if the rule requires completion of a task during each of multiple successive periods, an owner or operator may perform the required task at any time during the specified period, provided the task is conducted at a reasonable interval after completion of the previous task. When the rule was originally drafted it was assumed that this could be done, but an oversight in drafting language specifying this was omitted from the rule.

C. Heat Exchanger Provisions

In today's amendments, the EPA is proposing new requirements for monitoring heat exchange systems for leaks of process fluids into cooling water. The proposed § 63.104 would replace the existing provisions in § 63.104 of subpart F. The proposed revisions are being made to address issues with the existing provisions related to the availability of monitoring methods with sufficient analytical sensitivity, lack of flexibility in some of the requirements, and the burden associated with the monitoring requirements. The major revisions to this section of the rule and the reasons for the changes are described below.

1. Conditions Exempted From Monitoring Requirements

The existing provisions of § 63.104 exempt two categories of heat exchange systems from the monitoring requirements. The first exempt category is heat exchange systems operated with a greater pressure on the cooling water side. These systems were exempted because any leakage would be into the process fluid, not into the cooling water, so it is not necessary to monitor the cooling water for the presence of process fluids. The second exempted category is once-through heat exchange systems operating with a National Pollutant Discharge Elimination System (NPDES) permit allowable discharge limit of less than 1 ppm. These two categories were exempted because the provisions of § 63.104 would impose a redundant requirement. The proposed revisions to § 63.104 would extend this exemption to three additional cases. First, facilities with NPDES permits that require monitoring of a parameter or condition that would detect a leak of process fluids and requires the owner or operator to report and correct leaks when the parameter or condition exceeds the normal range. For facilities with such NPDES permit the requirements in § 63.104 would be redundant with the NPDES permit requirement. Second, systems where there is an intervening cooling fluid (containing less than 5% by weight of the applicable HAP's) between the process and the cooling water would be exempted. In these systems, the monitoring requirements of § 63.104 are unnecessary because leaks of process fluids would be detected in intervening process equipment before there could be a leak into the cooling water. The third exempt category is systems used to cool process fluids that contain less than 5% by weight HAP's. This last category of heat exchange systems is being added because it is consistent with the intent that provisions only require monitoring when HAP's are present in concentrations greater than 5% by weight.

2. Hazardous Air Pollutants Subject to Monitoring Requirements

The April 22, 1994, rule requires owners or operators of recirculating heat exchange systems to monitor for organic HAP's listed in table 2 of subpart F, except for four water-reactive HAP's. Today's proposed amendments would reduce the number of organic HAP's subject to the monitoring requirement for these recirculating systems. The revised list of organic HAP's subject this requirement is provided in proposed table 4 of subpart F. There are no proposed changes to the organic HAP's subject to the monitoring requirement (found in table 9 of subpart G) for once-through cooling systems.

Since the April 22, 1994, rule was issued, EPA has received inquiries regarding the basis for the requirement to monitor for table 2 compounds in cooling water of recirculating heat exchange systems. Some industry representatives have questioned the inclusion of compounds that are not on table 9 of subpart G and have argued that cooling towers are ineffective at air stripping relatively nonvolatile compounds (i.e., compounds not in table 9) listed in table 2 of subpart F. In response to these questions, EPA modeled the potential air emissions of each table 2 compound from a process cooling tower. This analysis indicated that there are about 23 compounds listed in table 2 of subpart F that have no, or very insignificant, potential for emissions. Examples of organic HAP compounds that were found to have little potential for volatilization in a cooling tower are ethylene glycol and acrylamide. Based on this modeling

analysis, EPA concluded that it would be appropriate to apply monitoring requirements to some compounds on table 2 of subpart F as well as to compounds listed on table 9 of subpart G. This conclusion is based on finding that there are a number of compounds which have an insignificant potential for emission from typical wastewater collection and conveyance systems but which can have fairly substantial losses when sent through a process cooling tower. Proposed table 4 lists the compounds modelled to have significant emission potential when sent through a process cooling tower. Also, in order to limit monitoring to only those compounds calculated to have significant emission potential and to eliminate unnecessary burden, proposed table 4 lists specific glycol ethers instead of the family of compounds. This was done because different glycol ethers have significantly different physical properties.

3. Added Flexibility to Monitoring Requirements

The rule currently requires monitoring of cooling water using any EPA approved method in 40 CFR part 136 as long as the method can measure concentrations of the compound as low as 1 ppm. Since issuance of the rule in April 1994, EPA has received information that the methods in 40 CFR part 136 are not available for some HAP's and that the additional requirement for measurement sensitivity further reduces the number of available methods. To correct these implementation problems, EPA is proposing the following revisions to § 63.104.

The proposed § 63.104 includes provisions that would allow monitoring of a surrogate indicator of a heat exchanger leak in lieu of monitoring for specific organic HAP's in the cooling water. This new option is being proposed because of analytical limitations and costs of measuring some of the organic HAP's regulated by this provision and because, in some cases, the intent of this section can be met by using a surrogate indicator. Proposed § 63.104 also includes provisions that would allow monitoring of a surrogate indicator such as ion specific electrode monitoring, pH, or other physical properties of the cooling water or process operations. The EPA expects that this option would be useful in cases where there are no EPA approved methods for any compounds in the process or where there are easily measured process parameters that provide a reliable indication of heat exchanger leaks. Under this new alternative, an owner or operator would prepare and implement a monitoring plan that would specify the parameters that would be monitored and the criteria which, if exceeded, would constitute a leak. The owner or operator would have to update the monitoring plan anytime a substantial leak is detected by methods other than those described in the plan and identify the methods in the plan that did not detect the leak. These provisions were developed based on consideration of existing programs and work practices at some SOCMI facilities for detecting leaks of process fluids into cooling water. It is expected that this alternative will be less burdensome than the existing requirements and may allow use of existing procedures to meet this requirement.

The EPA is also proposing to revise the minimum sensitivity requirement for analytical methods from 1 ppm to 10 ppm. This change is being proposed to increase the number of methods available for use in the organic HAP monitoring alternative and to reduce the cost of this monitoring. The EPA selected 10 ppm as the minimum sensitivity for the method based on consideration of the detection limits for the EPA 600 series methods.

The EPA also realizes that even with this increase in the minimum sensitivity to 10 ppm, there will be a few compounds for which there is no approved quantitative analysis method. Because of this problem, the existing provisions of § 63.104(b) were revised to specify that the monitoring of organic HAP's may be to monitor a subset (one or more) of the organic HAP's in the cooling water. The EPA expects that this change in the wording of the organic HAP monitoring alternative will allow monitoring of the compound (or compounds) that can be measured and will remove the appearance that the monitoring has to be capable of detecting every HAP at the minimum sensitivity.

4. Miscellaneous Clarifications to § 63.104

Today's proposed § 63.104 would allow sampling across the cooling tower, at the entrance and exit of each heat exchange system, or any combination of heat exchangers (e.g., across a cmpu or at a plant site). The April 1994 rule specified that the sampling was to be across the cooling tower. The EPA is proposing to revise this requirement because of concerns that have been expressed that the present rule is inflexible and requires monitoring at a location that is less cost effective. The April 1994 rule specified monitoring across the cooling tower because of public comments received on the proposed rule. Today's proposed revisions differ from the original proposed language in that there is more flexibility in the selection of sampling locations and the terminology has been clarified in that the rule now specifically defines the convention for entrance and exit of systems.

Today's proposed revisions to § 63.104 include clarification and correction of the existing language that defines a leak. The wording of the existing provision in § 63.104(b)(1)(v) has resulted in inquiries regarding the proper interpretation. Proposed § 63.104(b)(6) specifies the type of statistical test as well as the significance level in defining a leak. The EPA requests comment on whether the revised language will appropriately identify and minimize the number of false positive indications of a leak.

The proposed § 63.104 would also revise the delay of repair provisions to allow delay until the next shutdown if a shutdown is planned within 2 months of determination that delay of repair is necessary. The proposed revisions to § 63.104 would also allow delay of repair up to a maximum of 120 days if the necessary parts or personnel are not available. The April 1994 rule only allows delay of repair when it can be demonstrated that immediate shutdown for repair would create more emissions than the emissions that would result from delaying repair of the leaking heat exchanger until the next shutdown. The proposed revisions to the delay of repair provisions of the rule are being made to make these provisions workable and to minimize debate over modeling of emissions from heat exchanger systems.

D. Control Alternatives

1. Routing Emissions to a Process

The EPA proposes to add provisions to the rule to allow routing of emissions to a process or fuel gas system as a means of compliance where appropriate. Currently, subparts G and H are not amenable to use of recycling to a process or fuel gas system as a means of compliance with the control requirements. These revisions would allow use of this compliance approach without defining the process or fuel gas system as a control device and imposing, in turn, control device monitoring and recordkeeping requirements. This change is being made to encourage use of pollution prevention control approaches and to reduce the monitoring and recordkeeping burden of the rule.

The proposed amendments consist of: (1) revisions to the definitions for

process vent and vapor balancing system and addition of definitions for fuel gas and fuel gas system in subpart F; (2) amendments to the storage vessels and transfer operations provisions in subpart G; and (3) addition of a definition of ''route to a process'' and inclusion of this option in the list of control requirements in subpart H. The definitions for fuel gas and fuel gas system are based on the definitions recently promulgated in subpart VV, part 60 and in subpart CC, part 63 (Refinery NESHAP). The proposed definitions have been reworded slightly to remove the refinery-specific references and to refer to combustion devices more generally instead of listing specific types of combustors.

The proposed amendments to subpart G to allow recycling to a process for storage vessels and transfer operations require that the recycled material be used or consumed in the same manner as a material that fulfills the same function in the process, be transformed into a material that is not an organic hazardous air pollutant, or be recovered or incorporated into a product. These restrictions are placed on this option to avoid the potential for sham claims of recycling. The proposed provisions for storage vessels also include provisions to allow limited by-pass of the process or fuel gas system during periods of maintenance or repair of the process or fuel gas system. These provisions are necessary because these storage vessels would not necessarily be emptied during these maintenance periods and emissions would continue from the vessel. Since more emissions would result if the rule were to require emptying and degassing of storage vessels during these periods than if the vessels were allowed to vent to the atmosphere, provisions are being added to § 63.119 to allow by-pass of the fuel gas system or process during these periods. These provisions specify the conditions that must be met during these by-pass periods to minimize emissions. Similar provisions are not being proposed for transfer operations because it is not believed to be necessary. Loading operations can normally be postponed until the process or fuel gas system is operational again.

The proposed amendments to subpart H consist of addition of a definition of ''route to a process'' and changes to the control options for pumps, compressors, etc. The definition of ''route to a process'' incorporates the key concepts used in subpart G provisions for storage vessels and transfer operations. No provisions have been included in the proposed amendments to subpart H to allow by-pass during periods of maintenance or repair of the process or fuel gas system. The EPA does not believe that parallel provisions are needed for equipment leaks.

2. Lower Bound Concentration Performance Standard

The EPA is proposing to add an alternative performance standard limit of 20 parts per million by volume concentration limit for noncombustion control devices used to comply with the process vent, storage vessel, and wastewater provisions in subpart G and the equipment leak provisions of subpart H. This option would be in addition to the present performance standard of 98 or 95 percent removal of total VOC or HAP, respectively, in these sections of the rule. This lower bound concentration standard is being added to those sections of the rule where EPA believes there would not normally be significant amounts of dilution air and any attempts to circumvent could be detected. The EPA is proposing this change to the rule to provide a lower bound concentration level for use in cost effective design of control devices and recovery devices such as carbon adsorbers and condensers.

This lower bound concentration performance standard is proposed to be added to the rule to reflect actual performance of these control devices and to make the rule's requirements consistent with the underlying cost and emission analyses for this rule. Most recovery devices (e.g., condensers, adsorbers, etc.) are designed to achieve a specific outlet concentration for a maximum loading scenario for a stream with specific characteristics. The specific outlet concentration of a given system is a function of the equilibrium and kinetic limits for the technology and the characteristics of the gas stream and the cost of the system. For any given design, these devices will typically reduce emissions to the same concentration level over a relatively wide range of inlet concentrations. Thus, when the inlet concentration is substantially below the design maximum loading conditions (and begins to approach the residual level in the outlet stream) the recovery device efficiency will decrease. When this occurs the outlet concentration is the same or lower than the outlet concentration during maximum loading conditions. The cost and emission control estimates used in development of this rule were based on maximum design loading conditions and did not reflect operations over the full range of potential operating conditions for the SOCMI industry. Therefore, it is necessary to specify a lower bound concentration performance level in addition to the removal efficiency in the rule to ensure that this rule is implemented as intended. Where EPA considered the use of this alternative to be appropriate, the proposed amendments would add provisions to specific sections to allow use of the 20 ppm standard.

This addition of a lower bound concentration limit to the performance standard will also encourage use of devices that recover and allow for reuse of materials and will remove an inequity between requirements for different types of control equipment. With this additional control alternative, the requirements for process vents, storage vessels, vapor control devices applied to certain waste management units, and equipment leaks will be consistent with the requirements for transfer racks.

This lower bound concentration standard is not being allowed as an option for compliance with the enclosed process unit alternative in § 63.172 of subpart H or with the control requirements for surface impoundments subject to § 63.134 of subpart G. The use of this lower bound concentration limit is considered inappropriate in those situations because of the large volumes of dilution air involved.

3. Recapture Devices

The EPA is proposing to revise the rule to clarify the requirements for equipment such as adsorbers, condensers, and scrubbers that are used to recover materials (but not primarily for use, reuse, or sale), and are used to meet the control requirements. The proposed amendments introduce a new term, ''recapture device'', to identify these devices, which capture emissions and then send the material for ultimate disposal, revise the definition of control device to include this concept, and revise various sections of the rule to refer to recapture devices. Currently, the rule allows the use of control devices and recovery devices and specifies the applicable monitoring and recordkeeping requirements by type of equipment (e.g., adsorbers, etc.). However, the rule does not indicate how to treat a non-combustion device that is not used as a recovery device (as defined in the rule).

The EPA is proposing to revise the rule in this manner in order to address the regulatory void for non-combustion/non-recovery devices while preserving the approach used in this rule (and earlier rules) to differentiate between process and control in this industry. The existing definitions in the rule for recovery device and control device reflect the regulatory approach used in

the NSPS standards for process vents associated with distillation operations, air oxidation reactors, and other reactors. Under this approach, equipment is considered to be part of the process if the recovered materials are used, reused, or sold. The NSPS standards for process vents and the HON process vent provisions treated all condensers, adsorbers, scrubbers as ''recovery devices'' and never considered situations where this equipment could be used to capture the emissions and then send the material for ultimate disposal. Since these uses of these types of equipment do occur and the approach used to distinguish between process and control was an integral part of the data analysis used to support this rule, the EPA concluded that the best approach would be to define a new term to identify this additional category of equipment and to explicitly identify this equipment and the monitoring requirements in the rule.

4. Industrial Furnaces

In today's amendments, the EPA is proposing to include RCRA-regulated industrial furnaces under the HON's provisions for boilers. This change is being proposed because industrial furnaces, like other RCRA-regulated combustion devices, are subject to RCRA requirements which accomplish the same purpose as some HON provisions. For example, owners and operators are already required to demonstrate that industrial furnaces are capable of achieving the RCRA-required destruction and removal efficiency. A second performance test under the HON is not considered necessary. By amending the definition of ''boiler'' to include industrial furnaces, the rule would treat industrial furnaces similarly to other RCRA-regulated combustion devices.

The EPA has chosen to include industrial furnaces within an existing HON definition, the definition of ''boiler'', rather than creating separate regulatory provisions for industrial furnaces throughout subparts F, G and H. This decision is based on a desire to avoid making the HON longer and more complex. The EPA recognizes that some confusion may result from calling these devices ''boilers'' in the HON, when they are known as ''industrial furnaces'' under RCRA. However, this potential is small, and can be managed through appropriate definitions.

The EPA considered several alternatives to using the definition of ''boilers'' to address industrial furnaces. All these alternatives presented more serious difficulties than using the term ''boilers.'' For example, except for one instance in the wastewater provisions of subpart G (an error which is being corrected by these amendments), the HON does not use the term ''industrial furnace.'' In order to use that term consistently, it would have to be added to multiple locations throughout three subparts, and a new definition would probably be needed. In contrast, the provisions for ''boilers'' are already appropriate for industrial furnaces. Thus, the desired result can be accomplished with less revision of the regulatory text.

The EPA also considered the option of calling these devices ''incinerators'', because many industrial furnaces more closely resemble incinerators than boilers, i.e., they combust organic HAP without producing steam. However, in this case there would still be confusion because RCRA regulations differentiate between incinerators and industrial furnaces. Additionally, incinerators and industrial furnaces are regulated under different subparts of the RCRA regulations. This would make the HON's cross-references to RCRA regulations extremely complex, if the EPA attempted to address industrial furnaces in the existing HON provisions for incinerators. In contrast, boilers and industrial furnaces are regulated in the same subpart of the RCRA regulations (40 CFR part 266, subpart H), so that the existing cross-references may be used without revision. After balancing all these factors, the EPA concluded the best approach would be to include industrial furnaces within the HON definition of ''boiler.''

E. Monitoring/Recordkeeping/Reporting Provisions

1. Correction to Monitoring Requirements for Acid Gas Scrubbers

The EPA is also proposing corrections to the requirements for continuous monitoring of gas flow entering an acid gas scrubber. In cases where a scrubber is used after a combustion device for halogenated streams, subpart G currently requires that a flow meter with a continuous recorder be installed at the scrubber inlet to measure gas flow. The EPA has received new information that demonstrates that continuous monitoring of this acid gas stream is impractical due to the harsh conditions at the scrubber inlet. A continuous monitoring device would be expected to have a very short service life due to the combination of high temperature and corrosivity/low pH. Thus, it would be extremely costly to comply with the current requirement for continuous monitoring of gas stream flow. Therefore, the EPA is proposing to revise § 63.114(a)(4)(ii) and § 63.127(a)(4)(ii) to allow three different options for determining gas flow. Each of these options would provide sufficient data to determine a liquid/gas (L/G) ratio for use in monitoring operation of the acid gas scrubber.

The first option being proposed would allow owners or operators to determine gas flow to the scrubber by using the design blower capacity, with appropriate adjustments for pressure drop. This would provide a ''worst case'' gas flow. If the required compliance demonstration showed that a scrubber could meet the emission reduction requirements of subpart G for hydrogen halides and halogens during these worst-case flow conditions, the EPA anticipates that compliance would also be achieved during conditions of lower gas flow.

In the second proposed option, the EPA recognizes that some post-combustion scrubbers, regulated under RCRA, are already required to determine a L/G ratio to demonstrate compliance with emission reduction requirements. The EPA is proposing that methods of determining gas flow which have been utilized to comply with pre-existing RCRA regulations should also be acceptable for purposes of subpart G. This proposed option also provides that a determination made before the compliance date for this rule may be used in the compliance demonstration if it is still representative.

Finally, the EPA is proposing that owners or operators may develop a gas flow determination plan. The plan would specify a reliable method for determining gas stream flow, to provide a representative or at least a worst-case flow rate during representative operating conditions. Recordkeeping requirements would apply. The EPA believes that this performance-oriented option is necessary due to the wide variety of technologies and process configurations in existence. For example, many SOCMI combustion units utilize multiple scrubbers in series. This may require a different approach to determining gas flow, than when a single scrubber is used.

2. Implementation Plans

With today's proposed amendments, EPA is proposing to remove the requirement for submittal of implementation plans for existing sources' emission points that are not included in an emissions average. Under the April 22, 1994, rule, owners or operators, who have not yet submitted an operating permit application with the information specified in § 63.152(e), were required

to submit by April 22, 1996, an implementation plan for points not included in an emissions average. On February 29, 1996 (61 FR 7716), this date was revised to December 31, 1996, to allow time for owners or operators of sources to consider recent changes to the rule and to allow for expected further revisions to the rule.

This change is being proposed because it no longer appears that this report would serve a useful function, and the implementation plan for points not included in an emission average represents a duplicative and unnecessary burden with the Notification of Compliance Status. By December 31, 1996, many, if not most, sources will have already submitted the information covered by the implementation plan in permit applications. Any remaining sources will be covered by subsequent permit applications. Thus, the implementation plan requirement is redundant and, therefore, unnecessary. Furthermore, the implementation plan for points not included in an emission average would not have been subject to EPA approval. Finally, eliminating the implementation plan requirement would make the HON consistent with later MACT standards for the same types of emission points which have not required this report.

It should not be inferred from this proposal to eliminate implementation plans for points not included in an emissions average that the requirement for an implementation plan for points included in an emission average will be eliminated. This report is needed to ensure that a proposed average will meet all the criteria in the rule and that it will result in credits exceeding the debits. Because of the complexities and site-specific nature of emissions averaging, this report will remain subject to EPA approval.

3. Startup/Shutdown/Malfunction Plans

The EPA is proposing to revise several sections in the rule to clarify the requirements for start-up/shutdown/malfunction periods. These clarifications include revisions to the definitions of ''*start-up*'' and ''*shutdown*'' and revisions to the monitoring and recordkeeping requirements in § 63.152 of subpart G. These changes are being proposed to address several oversights in the original drafting and to make the requirements for start-ups/shutdowns/malfunctions more explicit to avoid potential misunderstanding of the requirements.

Revisions are being proposed to the definitions for the terms ''*start-up*'' and ''*shutdown*'' to make these terms more consistent and to extend these terms to include part of a cmpu (such as a wastewater tank) as well as the entire unit. The present definitions also do not apply to control equipment used to comply with the rule or to waste management units. Thus, if there were a start-up/shutdown/malfunction of an individual item of equipment or an item of equipment not presently included in the definition, it would not be permissible for the owner or operator to follow the start-up/shutdown/malfunction plan because it would not apply. Since it was intended that the start-up/shutdown/malfunction plan would be followed in such situations, the definitions are being revised to reflect this intent. The definition of ''start-up'' is also being revised to include activities associated with initial start-up, testing of equipment, and transitional conditions due to changes in product for flexible operation units. The current definition for ''start-up'' erroneously excludes these activities which should be addressed under the start-up/shutdown/malfunction plan. The proposed revisions correct these drafting errors. As part of the correction to the definitions for ''start-up'' and ''shutdown,'' EPA is also proposing to add two paragraphs to § 63.102(a) to clarify operational requirements during periods of start-up/shutdown/malfunction. These provisions are necessary to avoid misuse of the revised definition of the term ''shutdown.''

Revisions are being proposed for several paragraphs in § 63.152 to clarify that monitoring is not required during periods when the source is not operating and that the start-up/shutdown/malfunction plan details the monitoring requirements during periods when the plan is applicable. Currently, the rule does not explicitly address monitoring requirements during periods when the source is not operating. Because of concerns that this absence of direction could be interpreted as requiring monitoring after shutdown of a source, clarifying language is being proposed to remove any potential for misinterpretation. Minor revisions are proposed to § 63.152, paragraphs (c) and (f) to clarify that data recorded during periods of start-up/shutdown/malfunction are not excursions and are not to be included in averages of monitoring data. These changes are being made to ensure that it is clear that during periods of start-up/shutdown/malfunction the source is required to follow the procedures in the start-up/shutdown/malfunction plan in lieu of requirements that would otherwise apply to the affected emission points under subpart G.

4. Alternative recordkeeping provisions

Today's proposed changes to the rule include addition of new provisions to allow use of an alternative recordkeeping system that records fewer data points during periods of routine compliance provided the system meets specified criteria and the system is verified annually to meet the requirements. The proposed provisions would provide an alternative to the existing provisions in § 63.152(f) for data compression systems. These new provisions are expected to reduce recordkeeping burden for some facilities.

The proposed alternative recordkeeping provisions allow an owner or operator to use an exception-only recording system provided the system meets specified criteria and the system is demonstrated to operate properly initially, annually, and on demand. The new provisions require that the monitoring system be able to: (1) Detect abnormal or ''impossible'' data (e.g., temperature reading of −200°C on a boiler), (2) detect inappropriate ''flat-line'' data, (3) alarm at a set-point that is related to a limit on a parameter range, (4) generate a running daily average that could be used by plant personnel or to satisfy an inspector that the system is operating and the parameter is within established limits, and (5) allow a system check on demand during normal operations to verify that the system is recording data properly. A description of the monitoring system, and the most recent superseded description, must be retained. The current description would be retained at least 5 years and longer, if it has not been superseded. It must be retained either on-site or by a method that allows access within two hours after a request. The most recent superseded description would be retained for at least 5 years from its creation but could be stored off-site if it is more than six months old. If the superseded version is already more than 5 years old (at the time it becomes superseded) it may be discarded immediately. The facility would select the specific levels for the alarm set points considering the variability of the process operations and the control device stability under different operating conditions. It is expected that these alarm set points would be established at a level such that corrective action could be taken to prevent occurrence of a parameter excursion. The alternative provisions allow the owner or operator to retain

only the daily average value under most circumstances. If no excursions occur in a period of 6 consecutive months, the owner or operator is not required to record the daily average, but must record and retain weekly at least one parameter value during a period of operation other than a start-up, shutdown, or malfunction. If a non-excused excursion occurs, the owner or operator must immediately resume retaining the daily average value for each day. An owner or operator electing to use this alternative is required to notify EPA in the Notification of Compliance Status or periodic report with updates whenever there is a change in the frequency of data retention.

The proposed alternative system in § 63.152(g) differs from the alternative system for data compression systems provided in § 63.152(f) and the existing continuous monitoring requirements in that the § 63.152(g) alternative bases compliance on demonstration of a system and records for periods of abnormal operation. The EPA believes that this alternative provides an opportunity to use current technology to reduce the cost of monitoring and compliance demonstration. It is also anticipated that facilities electing to use these provisions will have better emission control than facilities not using an early warning type system. Because the system has to pass an initial, annual, and on demand performance demonstration, EPA believes that there are sufficient safeguards to ensure the system is operated properly.

5. Miscellaneous Clarifying Edits to Recordkeeping Requirements

The proposed amendments to the rule include several other revisions to reduce the recordkeeping burden of the rule in addition to those described above. First, the proposed amendments include an additional alternative for cmpus that do not use as a reactant, or make as a product, any of the organic HAP's listed in table 2 of subpart F. Parallel changes are also being proposed for similar documentation requirements in subpart I. The new provisions, which would be added to § 63.103(e) and § 63.192(k), would allow an owner or operator to document the inapplicability of the rule on the request of an inspector. This alternative is being provided because it was never EPA's intent to impose an ongoing recordkeeping requirement on sources not subject to the rule and because the current provisions can be interpreted to impose such a requirement.

EPA proposes to revise § 63.103(c) to remove the requirement for an owner or operator to maintain copies of reports if the report has been sent to the EPA Regional Office and the State agency. If the EPA Regional Office has waived the requirement for submittal of reports to the Region, the owner or operator is not required to maintain copies of the reports. This revision is being made due to concern that misplacing a copy of a report would be a violation, even though the report had been properly submitted. This was not EPA's intent.

It is also proposed to revise § 63.103(c) to reduce the volume of records that must be stored on-site. Concern has been expressed that on-site storage is often limited and more costly than off-site storage. Subpart F currently requires the most recent 2 years' records to be stored on-site. The proposed revision would specify that at least 6 months' records either be stored on-site or be available within 2 hours by any means. The remaining 4 and one-half years worth of records may be retained off-site. A definition of ''on-site'' would be added to clarify that the records may be kept anywhere at the source, such as a central filing area. These changes are being made to clarify what the necessary records are and to specify the performance objective, and not the method, that must be used to comply with the requirement.

The proposed amendments to subpart F include revisions to § 63.103(c)(2) documentation requirements for periods of start-up/shutdown/malfunction. The proposed changes would make these provisions consistent with the requirements in subpart A (General Provisions) to document and report periods in which excess emissions occur. Another proposed change to reduce burden and simplify the reporting requirements is the elimination of the difference in submittal dates for reports sent by U.S. Mail and by other delivery services. This proposed revision to § 63.103(d)(1) specifies that reports shall be submitted on or before the relevant dates and the provisions in § 63.103(d)(1)(i) and (ii) would be removed from the rule. This change is being made to eliminate an unnecessary restriction.

The proposed amendments include revisions to table 3 of subpart F to clarify the applicability of specific sections in subpart A to subpart H. Table 3 to subpart F currently does not explicitly detail the applicability of the requirements to subpart H, and there are some incorrect references to subpart A. The proposed revisions to the table correct these errors.

6. Miscellaneous Changes to Monitoring Requirements

The EPA is proposing to clarify the instrument installation, calibration, operational, and maintenance requirements that occur throughout subpart G for instrumental monitoring of control devices. The current rule requires the owner or operator to follow the instrument manufacturer's recommendations for installation, calibration, and maintenance. The proposed revision would allow the owner or operator to develop a written procedure that provides adequate assurance that the equipment would reasonably be expected to monitor accurately. This revision is being proposed because many facilities in the SOCMI industry do not purchase off-the-shelf monitoring systems. Instead, it is common in this industry to develop monitoring systems from equipment purchased from several suppliers. Thus, it is likely that there are no manufacturer's instructions for the particular system installed. Even in cases where a monitoring system is purchased and used without substantial modification, the environment in which the instrument is operating may differ from the manufacturer's expected conditions sufficiently to make the manufacturer's recommendations meaningless or inappropriate. The proposed amendment would provide the necessary flexibility while preserving the intent to ensure accurate data.

Today's proposed amendments also clarify that the requirement to monitor regeneration stream ''mass flow'' in carbon adsorbers means volumetric flow of the regeneration stream. This requirement occurs in several places in the rule (e.g., 40 CFR § 63.114(b)(3)). The language in these sections is being revised because there is concern that the word ''mass'' might be misinterpreted as prohibiting existing types of monitoring that meet the intent of the requirement. The purpose of the requirement is simply to monitor to show that the carbon beds are being regenerated and maintained properly. While there are systems that provide a measure of the mass by monitoring several parameters and converting the results to mass, these systems as well as volumetric flow metering systems all start with measurements of volume. The proposed amendments replace all existing references to ''mass flow'' with ''mass or volumetric flow.''

The EPA is also proposing to amend subpart G by revising the definition of ''flow indicator'' and by revising the regulatory language specifying the

requirement for monitoring by-pass lines (e.g. § 63.114(d)(1)) to be consistent with the provisions and definitions in subpart H. The proposed definition includes reference to devices that detect the potential for diversion of a stream by methods other than ''flow'' monitoring and the by-pass monitoring requirements no longer refer exclusively to the presence of flow or imply that flow has to be measured. The revised definitions and rule provisions allow use of any means that will provide an indication of diversion of the stream from the control device.

7. Manual Recordkeeping Provisions

The EPA is requesting comment on whether the provisions in § 63.151(g)(3) for manual recordkeeping systems should be revised to allow requests for approval of monitoring on a less frequent basis than once every 15 minutes. The EPA has received requests that this provision allow monitoring once per 8-hour shift (or less frequently) if the owner or operator can demonstrate that operating parameters for the control device do not vary significantly over time. Examples of systems that the requestor believed should require only limited monitoring include condensers and acid gas scrubbers that vary slowly over time. The requestor believed that the present rule requirements impose a significant burden on facilities without automated recording systems since plant personnel would have to expend considerable time recording data.

In previous decisions on requests for alternative monitoring systems for standards established under 40 CFR parts 60 and 61, EPA has sometimes allowed less frequent monitoring based on consideration of the level of the actual emissions in relation to the standard and the control technology stability. These reviews have considered the process operating characteristics and the nature of the types of control problems that could occur. In situations where it is extremely unlikely that a significant emission event could go undetected, less frequent monitoring has been allowed. If EPA were to revise subpart G to allow less frequent monitoring for facilities with manual recordkeeping systems, it is likely that the provisions would require that the emission point be operated at a level substantially below the level of the standard (e.g., a TRE greater than 4, a 99 percent reduction when the rule requires a 95 percent reduction, or a substantially lower emission rate than allowed), and its availability would be limited to certain control technologies. Monitoring less frequently than once per hour might be appropriate for carbon adsorbers and some absorbers but less frequent monitoring would not be appropriate for equipment such as condensers. Adsorbers tend to exhibit failure over a relatively long period of time while condensers can fail quickly if a compressor fails or if flow rates through the condenser are increased significantly. Monitoring a condenser once a day could permit a significant undetected emissions episode. The EPA is not currently proposing a reduced frequency of monitoring. However, the EPA requests comment on the need for a reduced frequency as well as the appropriate criteria for allowing the use of less frequent monitoring (such as once per shift) and the basis for the recommended criteria.

F. Overlap with Other Regulations

1. Benzene Waste NESHAP

The April 22, 1994 rule requires that sources with wastewater streams subject to control requirements in the HON and Benzene Waste NESHAP (40 CFR part 61, subpart FF) comply with both rules. Since April 1994, members of the regulated community have objected that this requirement unnecessarily increases the cost of demonstrating compliance and complicates management of environmental programs at a facility without providing a corresponding environmental benefit. To address these concerns, EPA is proposing to add a compliance option to § 63.110(e)(1) that would allow some consolidation of the inspection, monitoring, recordkeeping, and reporting requirements of these two NESHAP.

The proposed amendments would allow an owner or operator to use the wastewater provisions of this rule as compliance with the provisions of the Benzene Waste NESHAP provided two conditions are met. First, the owner or operator must comply with the wastewater provisions of subpart G. Second, for any Group 2 wastewater or organic stream whose benzene emissions are subject to control under the provisions of the Benzene Waste NESHAP, the owner or operator will comply with the requirements for Group 1 wastewater streams in subpart G for that stream. This proposed additional compliance option is designed to maintain the applicability and stringency of existing control requirements for the Benzene Waste NESHAP while providing an opportunity to reduce the complexity of the compliance demonstration by reducing the number of separate rules that apply to the equipment. The number of streams that are subject to control under the Benzene Waste NESHAP would not be changed by electing to use this option. The EPA wishes to emphasize that this additional compliance option would not supersede any existing, still-effective agreements to take mitigating actions that were granted in exchange for additional compliance time with the Benzene Waste NESHAP. These agreements would not be altered by this proposed amendment to this rule.

2. Resource Conservation and Recovery Act (RCRA)

In developing the April 1994 rule, EPA attempted to address the problem of overlapping requirements by specifying which provisions apply for each of the known cases of overlapping rules. These instructions on overlapping requirements were provided in § 63.110 of subpart G and in § 63.160 of subpart H. Since issuance of the rule, EPA has learned that there is another broad category of overlapping RCRA requirements that was not addressed in the April 1994 rule. In today's amendments, EPA is proposing provisions to allow use of certain RCRA-required monitoring to satisfy corresponding requirements in subpart G and H. These proposed provisions would be added to these subparts as § 63.110(h) and § 63.172(n).

The April 1994 rule addressed the known overlaps of control requirements between the RCRA rules in 40 CFR parts 260 through 272 and the wastewater control requirements of this rule. Due to an oversight, the April 1994 rule did not specify the applicable requirements in cases where the same control device (e.g., incinerator or adsorber) is subject to a RCRA rule and would be used to comply with requirements for non-wastewater provisions of this rule. Presently, the April 1994 rule would require the owner or operator to comply with the applicable monitoring, recordkeeping, and reporting provisions of each rule. Compliance with both rules' monitoring, recordkeeping, and reporting requirements would significantly increase the cost of compliance demonstrations without providing a corresponding environmental benefit. To reduce this unnecessary burden, the EPA is proposing to allow an owner or operator to elect to use the monitoring, recordkeeping, and reporting requirements in 40 CFR parts 260 through 272 for this rule.

The EPA considers this proposed consolidation of overlapping monitoring, recordkeeping, and reporting requirements to be appropriate

because the RCRA air rules and the HON have the same objective and monitor similar operational characteristics of control devices. In general, the RCRA requirements tend to require more frequent monitoring and retention of more detailed information. Therefore, it is possible to use the RCRA data and reports to demonstrate compliance with the provisions of this rule.

Today's amendments also propose to accept demonstrations of compliance with RCRA requirements as demonstration of compliance with the process vent, transfer operations, storage vessels, and equipment leak provisions of the HON. The wastewater provisions in subpart G presently exempt hazardous waste incinerators permitted under 40 CFR part 270 and boilers and industrial furnaces permitted under 40 CFR part 266 from performance test requirements of § 63.139. These RCRA air rules were judged to be at least as stringent in controlling air emissions as this rule so that a second compliance demonstration was not necessary. This judgment is applicable to the control requirements for the non-wastewater provisions of this rule. Therefore, it is proposed to add these rules to the list of controls exempted from performance tests or other compliance demonstration requirements in § 63.116(b), § 63.128(c), and § 63.139(d)(4) and to add provisions to § 63.120(d) to list controls exempt from compliance demonstration requirements.

G. Proposed Changes to Subparts H and I

In addition to the applicable changes discussed in earlier sections of this preamble, the proposed changes to subpart H consist of: (1) clarification of the terms ''repaired'' and ''first attempt at repair'' and clarification of the followup monitoring requirements for connectors and valves; (2) correction of § 63.180(b)(4) to allow use of calibration gases other than methane; and (3) miscellaneous corrections and clarifications to the wording of a few paragraphs.

1. Clarification of Definitions

The EPA is proposing to revise the definitions of the terms ''repaired'' and ''first attempt at repair.'' These proposed changes are intended to eliminate the confusion that presently exists regarding what monitoring is required after leaks are repaired. The definition of ''repaired'' presently states that the equipment is adjusted or otherwise altered to eliminate a leak. The EPA has received inquiries whether this definition implies that there must be proof by monitoring data that the leak was repaired. These questions have been raised because other sections of subpart H impose such a requirement. Because of inquiries such as these, EPA reviewed subpart H and determined that the confusion regarding the requirement was due in part to the lack of specificity in the definition of the terms ''repaired'' and ''first attempt at repair.'' The proposed amendments to subpart H would revise these definitions to explicitly include reference to verification monitoring according to the procedures in § 63.180(b) and (c), as appropriate. From this review, it was also determined that some of the confusion was arising from lack of specific statement in applicable sections of the rule that verification monitoring was required. The proposed changes to subpart H would correct this problem.

2. Followup Monitoring

The EPA has received inquiries regarding the requirements for monitoring within 3 months after repair of a leaking valve and the relationship between this monitoring and the periodic monitoring required by the standard. The proposed amendments would add provisions to § 63.168(f)(3) to clarify that (1) monitoring is conducted according to the procedures specified in § 63.180 (b) and (c) and (2) the periodic monitoring may be used to satisfy this requirement if the timing of this monitoring coincides with the timing specified for the followup monitoring. The new provisions that would be added to § 63.168(f)(3) would also specify how to consider the results of this monitoring in the calculation of percent leaking valves should a leak be detected. These proposed changes would revise the rule to correct oversights in the original drafting and to ensure that the rule reflects EPA's intent.

The EPA has also received inquiries regarding whether subpart H requires followup monitoring of connectors found to be leaking. These questions have arisen due to a lack of clarity in § 63.174 (c)(1)(i) and (c)(1)(ii) that these provisions apply to connectors that have been opened. The proposed change to the rule would clarify this point.

3. Calibration Gases Other Than Methane

The EPA is proposing to revise § 63.180(b)(4) to allow use of calibration gases other than methane. Since April 1994, some industry representatives and equipment vendors have expressed concern to EPA that present restriction to use methane as the calibration gas precludes use of the procedures in Method 21 which permit calibration with another reference compound. As discussed in the April 22, 1994 Federal Register, EPA intended to allow the use of reference compounds other than methane in the calibration gases. However, due to a drafting error § 63.180(b)(4)(ii) was not modified to allow this flexibility. The proposed amendments to this section of the rule would revise this paragraph to allow the use of other compounds when the instrument does not respond to methane or does not meet the performance specifications of § 63.180(b)(2)(i). The EPA considered whether this revision should include a requirement to adjust the instrument readings to a methane base in order to have the readings on the same basis as instruments calibrated using methane. The proposed provisions do not require such an adjustment for the same reasons given in the April 22, 1994 notice for removal of the 1992 proposed rule's requirement of adjustment for response factors (59 FR 19447–19448).

Changes to Subpart I

The proposed changes to subpart I consist of corrections of several cross-referencing errors and revisions to the general recordkeeping and reporting requirements in § 63.190(f). The proposed amendments to § 63.190(f) are the same as the revisions to § 63.103(c) discussed in section III. E. 5 of this preamble.

IV. Basis for Proposed Changes to Wastewater Provisions

A. General Comments on Changes to Wastewater Provisions

Today the Agency is proposing amendments to the wastewater provisions in subpart G that are designed to clarify provisions of the rule that have been misunderstood by some in the SOCMI industry. If promulgated, the proposed clarifying amendments would not change the basic control requirements, predicted emission reductions, or cost of the rule. A summary of the amendments is provided in the following paragraphs.

Four sections have been rewritten entirely in today's amendments to improve clarity and to incorporate the new ''point of determination'' concept discussed in section IV.D of this preamble. The four sections address: criteria for determining the Group 1 and Group 2 wastewater streams (§ 63.132); performance standards for process wastewater (§ 63.138); procedures for determining Group 1 and Group 2 wastewater streams (§ 63.144); and procedures for demonstrating

compliance (§ 63.145). Also, requirements allowing the use of floating flexible membrane covers on surface impoundments have been added to § 63.134, and a section addressing in-process equipment (§ 63.149) has been added.

Minor changes are proposed to the sections governing waste management units, control devices, delay of repair of waste management units, inspections and monitoring, recordkeeping, and reporting.

As a result, today's wastewater provisions are being proposed in §§ 63.132 through 63.147, in § 63.149, in tables 8 through 20, in tables 34 through 37, and in figure 1 of appendix A to subpart G. Deletions include § 63.131 (reserved since information became unnecessary with amendments) and the figures and tables 14a, 14b, and 16 to subpart G. The proposed amendments would add a new table 15, which replaces tables 15a and 15b of the April 1994 rule, and tables 35 through 37 and figure 1, which provides a key to the terms in the wastewater equations. Fraction measured values (Fm) in Table 34 were corrected for four compounds: trichlorophenol, Fm=0.11; chlorobenzene, Fm=1.00; isophorone, Fm=0.51; and 1,1,2-trichloroethane, Fm=1.00. In addition, tables 11, 12, 17, and 18 were revised.

B. Wastewater Definitions

1. Summary of Significant Changes

Significant changes proposed are: revisions to the ''wastewater'' definition; replacement of the ''point of generation'' (POG) definition with ''point of determination'' (POD) definition; addition of ''closed'' and ''open biological treatment process'' definitions; addition of the ''enhanced biological treatment system'' definition; revisions to the ''individual drain system'' definition; and deletion of definitions for ''total volatile organic hazardous air pollutant (VOHAP)'', ''volatile organic concentration'', and ''VOHAP concentration.''

Changes to some of the definitions, especially ''wastewater'', ''recovery device'', and ''point of generation'', were necessary due to circularity and a lack of specificity in the definitions. The definitions were revised to clarify EPA's intent concerning which organic HAP-containing waters are in-process fluids regulated by the provisions in § 63.149 and which are wastewater and regulated by the provisions in § 63.132 through § 63.147.

2. Revised Wastewater Definition

The most significant change proposed today to the ''wastewater'' definition is the addition of the concept of ''discard.'' The discard concept is fundamental in distinguishing which fluids exiting the cmpu are subject to the HON wastewater provisions in §§ 63.132 through 63.147. Together with the point of determination and in-process equipment concepts, the revised definition of wastewater makes decision-making for facilities and regulatory authorities more straightforward, and the rule more easily implemented. Since fluids in the in-process equipment are also controlled by the HON, emission reductions will not be affected by this proposed change.

3. Replaced Point of Generation With Point of Determination

Today's proposal would change the definition for ''point of generation'' in two ways—one way a conceptual change and the other a change in terminology. ''Point of generation'' was changed to ''point of determination'' to distinguish it from the term, ''point of generation'' as used in the Benzene Waste NESHAP. ''Point of generation'' was defined in the April 1994 rule as ''the location where process wastewater exits the process unit equipment,'' (i.e. exits the last recovery device). In today's proposal, it has been replaced by ''point of determination'', which is defined as ''each point where the process wastewater exits the chemical manufacturing process unit.'' The need for and significance of this change is discussed in more detail in section IV.D. of this preamble.

4. Recovery Device

The proposed amendments include a revised definition of ''recovery device.'' The proposed definition of ''recovery device'' differs from the existing definition in order to reflect the revised approach to the definition of ''wastewater'' and to reflect the fact that deviations from normal operations do occur.

Under the revised approach for defining wastewater, a stream does not become wastewater until it exits the last recovery device. As a recovery device had been defined as an item of equipment used to recover chemicals for fuel value, use, reuse, or ''sale'', it would seem impossible—by definition—to sell a wastewater stream or residual extracted from a wastewater stream. In developing the revised approach for wastewater, it became apparent that using the term ''sale'' without any qualification in the definition of ''recovery device'' left a potential loophole. A bad actor could ''sell'' a Group 1 stream to an affiliate for a negligible amount, claim that it was a sale so that the stream had not yet exited the last recovery device (so it was not wastewater), and the affiliate could simply dispose of the stream or residual without treating it in accordance with the HON provisions (and incurring the costs of such treatment). The additional language is intended to remove the possibility of such sham transactions by limiting the concept of sales to sales for the same general purposes for which chemicals may be recovered and utilized within the HON facility (i.e.,use, reuse, or burning as fuel). The EPA believes that such language is broad enough to encompass any sale that is not a sham since ''use'' and ''reuse'' are very general concepts. The definition also differs from the existing definition in that the word ''normally'' now modifies the phrase ''used for the purpose of recovering ....'' This change was made to recognize that occasional exceptions to normal usage can and will arise.

5. Added Definitions for Closed Biological Treatment Process, Open Biological Treatment Process, and Enhanced Biological Unit

Definitions for closed biological treatment process, open biological treatment process, and enhanced biological treatment system would be added to the definitions in subpart G. The new definitions are necessary to make distinctions among biological treatment processes which allow the incorporation of more flexible and less burdensome compliance demonstrations for some facilities. This is discussed in more detail in the discussion of changes to § 63.145 in section IV.F. of this preamble.

6. Modified Individual Drain System Definition

The definition for individual drain system would be modified to clarify three key concepts and incorporate minor wording changes. The definition in today's proposal would clarify that only stationary systems are included in the definition; that individual drain systems are used to convey residuals as well as wastewater streams; and that the individual drain system does not include in-process equipment as described in § 63.149.

7. Deletion of Total VOHAP, VO Concentration, and VOHAP Concentration Definitions

The EPA proposes to delete the definitions for ''total VOHAP'', ''VO concentration'', and ''VOHAP concentration.'' As discussed in section IV.F. of this preamble, these terms would no longer be used in the rule; therefore, the definitions would not be needed.

C. Changes to § 63.132

In the April 1994 rule and in today's proposed changes to the rule, § 63.132 provides the instructions on how to determine if a process wastewater stream requires control and the general outline of requirements for process wastewater streams. The general approach for determining which wastewater streams are Group 1 or Group 2 would not change. Determination of whether a wastewater stream is Group 1 or Group 2 would still be based on the same concentration and flow rate criteria as the current rule. Control requirements for Group 1 wastewater streams still require that HAP emissions be controlled until the HAPs are either removed from the wastewater or destroyed. Today's proposal reorganizes § 63.132 to eliminate redundant sections, clarify requirements, and change the order of the provisions into a more reader friendly format. Other proposed changes include use of the point of determination concept instead of the point of generation concept (discussed in IV.D. of this preamble) and the addition of language prohibiting the discard of certain organic material into water or wastewater.

Language prohibiting the discard of certain organic material into water or wastewater would be added as § 63.132(f). Specifically, liquid or solid organic materials containing greater than 10,000 parts per million of Table 9 compounds may not be discarded into water or wastewater unless the receiving stream is managed and treated as a Group 1 wastewater stream. The prohibition would exclude equipment leaks; activities included in the start-up/shutdown/malfunction plan, including maintenance wastewater; spills; and samples. This paragraph would be added to eliminate the potential for dumping of high concentration organic streams, such as off-specification product, into the sewer. The EPA seeks comment on the appropriate size of a sample.

D. Basis of Determining Group Status of a Wastewater Stream: Change From Point of Generation to Point of Determination

The EPA is proposing to revise the rule to base the determination of applicability of control requirements to a wastewater stream on its characteristics at the point where the wastewater stream exits the last recovery device instead of at the point of generation (POG). The new location for determining the characteristics of a wastewater stream is being called the point of determination (POD) to distinguish it from the POG concept used in other air rules for waste and wastewater such as the Benzene Waste NESHAP. As discussed earlier in the OVERVIEW OF CHANGES TO THE RULE, this proposed revision is one of several changes being made to address problems with drafting clarity and structure of the wastewater provisions. The proposed concept of POD along with the revised definitions for key wastewater terms and the provisions for in-process equipment subject to the provisions of § 63.149 is consistent with the emission and cost estimates used to support the April 1994 rule.

1. Point of Generation Concept in April 1994 Rule

In the April 1994 rule, the term POG is defined as the point where the process wastewater exits the process unit equipment. The EPA's intent with the POG approach was to identify wastewater streams for control prior to opportunities for losses due to emissions to the atmosphere, prior to dilution with other wastewater streams, and prior to partial treatment of the wastewater stream. If dilution or partial treatment prior to a control determination were allowed, some wastewater streams that would have required control based on the concentration criteria would not meet the requirement of the rule for control and would therefore not be treated.

A fundamental premise of the POG concept is that a clear distinction can be made between process equipment and waste management units. In development of the April 1994 rule, EPA emphasized that the distinction was based on whether the material and the unit in which it is managed is an integral part of the production process. The EPA has learned since 1994 that industry has numerous interpretations of the concept of ''integral to the process'' and hence the POG concept. Interpretations vary because evaluation of what is integral to the process takes into consideration economic and process design factors as well as knowledge of the process and the industry. Because processes and configurations of equipment in facilities subject to this rule vary widely, it is difficult to develop a set of criteria that can be used to make clear distinctions between process and waste management equipment. The combination of this problem with the ambiguities and the lack of specificity in the other key wastewater definitions (e.g., wastewater) has resulted in a rule that may be misinterpreted. It is important that the rule be clear and unambiguous so that all parties interpret its requirements consistently.

Because of issues raised since promulgation of the April 1994 rule concerning EPA's intent and the difficulty of making the POG determination, the EPA has reevaluated the POG concept. As part of this reevaluation, EPA reviewed the data that were used to develop the emission and cost estimates for the April 1994 rule. It was determined from this review that the industry responses in 1990 to the section 114 wastewater questionnaires did not reflect a consistent understanding of what EPA considered to be wastewater and what EPA meant by the concept of POG. In many cases, the respondents provided information for a location that was after the point that EPA considered to be the POG. In a few cases, it was not possible to determine from the process description and the description of wastewater streams whether the information was or was not after the POG. Thus, because of the lack of consistency in the responses, it is not possible to be certain that the emission and cost analyses used in development of the April 1994 rule reflected the POG concept in the rule language. Moreover, it is now apparent that the POG approach is inherently foreign to the way facility operators view their processes and it is unlikely that this concept would be generally accepted and understood by the regulated community. Because of these practical problems, the EPA concluded that it was appropriate to develop a new approach for the initial point of evaluation of a wastewater stream. The new approach that would replace the POG is called the point of determination (POD).

2. Point of Determination Concept in Today's Proposal

The EPA's intent in developing the POD approach is to have a decision criterion that is replicable and unequivocally specifies the location for evaluation of a wastewater stream for

the purposes of control. The POD therefore encompasses each point where process wastewater exits the last recovery device. This proposed definition of POD would allow a facility to recover chemicals for fuel value, use, reuse or for sale for fuel value, use, or reuse. As with the POG, under the POD approach owners/operators would not be allowed to mix streams together for the purpose of escaping compliance by the diluting of wastewater streams to a level below the 1000 ppmw at 10 L/min or greater flowrate or the 10,000 ppmw at any flowrate level. Under the POD approach, process units conveying process fluids in the chemical manufacturing process unit are subject to the requirements established in Table 35. Table 35 is consistent with the suppression requirement for a wastewater stream requiring control. Again, the EPA's intent is to allow process fluids that have recovery potential to be sent to recovery devices; however, these fluids are required to be managed so as to minimize the potential for losses due to emissions to the atmosphere. In addition, making the POD the location after the last recovery unit would eliminate the need for the recycle option allowed under the current wastewater provisions.

The EPA believes the POD approach would allow more flexibility than currently provided in the rule with regard to materials recovery while eliminating confusion over the initial point of evaluation for a wastewater stream for the purposes of control and, at the same time, maintain the suppression requirements for more concentrated streams. The POD approach would also make the wastewater provisions consistent with the data collected for development of the rule and with the other provisions in the rule concerning definition of process. There are no expected changes in emission reductions or costs associated with this revision to the rule.

The EPA considers the proposed POD approach to provide a workable alternative to the POG approach because the HON addresses the other emission points in the cmpu. The EPA does not believe that the POD approach would be appropriate for other rules that are not as comprehensive in the coverage of emission points. The POD concept would not be appropriate in cases where it is known that the other emission points would not be subject to any control requirements.

E. Changes to Waste Management Unit Provisions

1. Clarifications to Process Wastewater Provisions

The proposed clarifications to the text concern the mixing of wastewater in tanks, methods to insure a water seal is maintained, use of a flexible shield restricting wind motion across the space between the discharging pipe and the receiving drain, and venting from junction boxes. Text was added to explain that alternative methods (other than the example given in the rule) could be used to demonstrate that water seals are maintained properly. Clarification was added to the requirements concerning the flexible shield to describe more fully where the shield should be located. The proposed clarification for the venting of junction boxes was written to explain the difference between venting to the atmosphere of junction boxes with gravity wastewater flow and venting to the atmosphere of junction boxes with wastewater pumps. Under today's proposed clarification to the provisions, water sealed junction boxes with gravity flow or systems that operate with only slight fluctuations in the liquid level are allowed to vent to the atmosphere through a specified size of vent pipe. Junction boxes with pumps that turn on and off, allowing the junction box to alternately empty and fill, are not allowed to vent to the atmosphere due to the vapor headspace turnover that occurs. Clarifications were made to the process wastewater provisions for wastewater tanks to express more fully the EPA's intent to suppress emissions from these systems.

2. Floating Membrane Covers

Since April 1994 the EPA has received inquires as to the reason floating membrane covers were not allowed under the wastewater provisions of the HON. The EPA has allowed the use of floating membrane covers in other rules. The EPA considered this inquiry and decided that floating membrane covers would be acceptable for suppressing emissions from surface impoundments. Provisions would be added to the surface impoundment requirements derived from the standards in Subpart QQ of 40 CFR part 63 for floating membrane covers. The provisions provide the requirements for the material used for construction of the floating membrane cover and for the installation of the cover.

3. Individual Drain System Suppression Requirements

Since promulgation of the April 1994 rule, industry has raised concerns that the individual drain system suppression requirements would lead to vapor lock in wastewater collection systems. A vapor lock occurs in a wastewater system when the wastewater attempts to flow into or out of an area that is sealed and the pressure in the system cannot equalize, thereby restricting the flow of the wastewater. The EPA's intent is to suppress emissions from the collection system and not to seal the system such that gravity flow systems will be inoperative. The concern over potential for vapor lock to occur in the individual drain system would be addressed by removing the requirement to gasket and latch covers or openings.

In today's proposed amendments, the requirement to seal, gasket, or latch covers or openings in the individual drain system has been deleted. The proposed amended text would now read that openings shall be equipped with a tight fitting solid cover (i.e., no visible gaps, cracks, or holes). The EPA believes that this requirement would minimize emissions from openings in wastewater treatment systems and can be met without creating a vapor lock. The EPA recognizes that normally there will be a ''visible'' point of juncture between the cover and the opening, such as where a manhole cover contacts the manhole frame. The point of juncture generally is a thin, visible line or crack running around the circumference of the cover. These points of juncture are not prohibited. The intent is to prohibit gaps or openings that allow air flow into or out of the collection system. A tightly fitting solid cover will contact the manhole frame in such a way that there is a surface (cover) to surface (frame) contact. Certain minor surface irregularities, such as those associated with a manhole cover manufactured by casting, are acceptable. A gap between surfaces that are not intended for sealing is acceptable. For example, a gap between the outer rim of a manhole cover and the inner rim of the manhole is acceptable, if the actual sealing surface is between the bottom of the cover and the top of the manhole. Plugged or capped holes (such as plugged or capped holes to insert a tool for removal of a cover) are acceptable. Removal of the plugs or caps is unacceptable, except for the purpose of conducting those activities for which the rule allows the cover to be opened and provided the plug or cap is replaced upon completion of the activity. Warped covers that create a gap for air passage

are unacceptable. The EPA believes that relaxing the requirements for tightly fitting solid covers for individual drain systems will suppress emissions effectively while also allowing small changes in pressure to occur in the system and, thereby, eliminating the problem from vapor lock.

4. Repair Time Allowed for Waste Management Units

The April 1994 rule provides that repair can be delayed for up to 15 or 45 days depending on the type of waste management unit. The EPA has received requests that 45 days be allowed for repair of all types of waste management units. This change was requested in order to simplify implementation of the rule. The EPA evaluated the need for additional time for repairs for some types of units and determined that the April 1994 rule provisions did not address situations where parts could not be obtained in the specified time period. In addition, due to an oversight, § 63.140 did not allow delay of repair when the waste management unit was taken out of service. As a result, EPA is proposing revisions to § 63.140 to allow delay of repair when waste management units are taken out of service and when additional time is necessary to obtain spare parts. The proposed revisions do not revise the time provided for repair of some waste management units from 15 days to 45 days.

F. Changes to §§ 63.138, 63.144, and 63.145

1. General

Three sections of today's proposed rule, §§ 63.138, 63.144, and 63.145, were rewritten to improve clarity, to incorporate the point of determination concept, and to add flexibility in the compliance demonstration for facilities using biological treatment processes to achieve the control requirements. Revisions to § 63.144 in the April 1994 rule contained in today's proposal are reorganization for clarity; addition of methods and an alternative validation procedure; deletion of the term VOHAP from text; and deletion of simple equations that are unnecessary. These three sections are discussed together because the changes made to one of them most likely appears in all three of the sections. A specific change will be discussed where it first appears or has the most impact.

2. Changes to § 63.138, Process Wastewater Provisions—Performance Standards for Treatment Processes Managing Group 1 Wastewater Streams and/or Residuals Removed From Group 1 Wastewater Streams

Section 63.138 contains provisions for control of Group 1 wastewater streams and residuals from Group 1 wastewater streams. The most significant changes proposed to § 63.138 are: reorganization for clarity; deletion of recycling and process unit alternative as control options; technical corrections to the design steam stripper specifications and removal of unnecessary specification of steam quality; clarification of compliance demonstration procedures that may be used for biological treatment processes; clarification that treatment in series is allowed; consolidation of provisions for the 1 megagram source-wide exemption into § 63.138; and clarification of when design evaluations may be used to demonstrate compliance instead of performance tests.

3. Deletion of Recycling and Process Unit Alternative Options From § 63.138

The recycling and process unit alternative options (April 1994 rule paragraphs (b)(1)(i), (c)(1)(i), (d)(2)(ii), and (h)(1), and paragraph (d), respectively) would be deleted from today's proposed rule. Both options would become unnecessary under the POD concept proposed to replace the POG concept. The recycling option allowed an owner or operator to achieve compliance by recycling a process stream to a process unit. The recycling provisions in paragraph (f) of the April 1994 rule require that the wastewater or residual not be exposed to the atmosphere and that waste management units in contact with the wastewater streams or residual comply with control and inspection and monitoring requirements. With the proposed point of determination concept, the recycling option would become redundant because as long as a fluid stays in the process, it would not be a wastewater subject to the provisions of § 63.138; instead, it would be subject to the other provisions of the rule such as storage vessels or § 63.149.

4. Clarification That Treatment in Series Is Allowed

Although it is not stated clearly, the April 1994 rule intended that more than one treatment process could be used to comply with the rule. Today's proposed amendments would provide provisions for treatment in series in §§ 63.138 and 63.145 and would clarify EPA's intent. Treatment in series may be used whether or not treatment processes are connected by hard piping. However, inlet and outlet mass flow rate determination for compliance demonstration differ, depending on whether hard piping is used to connect treatment processes and whether a biological treatment process is part of the series.

5. Consolidation of Provisions for the One Megagram Source-Wide Exemption Into § 63.138

The provisions for the 1 megagram source-wide option would be clarified and would be consolidated from §§ 63.138 and 63.144 in the April 1994 rule into § 63.138 in today's proposed amendments. This would make the provisions easier to find and understand for the reader.

6. Alternative Methods to Method 305 used in § 63.144

The EPA is proposing to revise the rule to allow use of alternative methods for Group 1 or Group 2 determinations for process wastewater streams in lieu of Method 305. The EPA specifically reviewed Methods 624, 625, 1624, and 1625 and has determined that these methods may be used with certain additional requirements. These requirements are specified in § 63.144 (b) of the proposed amendments. Other methods may be used if they are validated by the Method 301 validation procedure as discussed below. Because the alternative methods determine actual concentrations of the organic compounds, the fraction measured (Fm) values listed in table 34 can be used to adjust the alternative method measurements to a value representative of what Method 305 would provide.

Method 305 was developed by EPA to identify streams requiring control for air emissions; therefore, the method was developed specifically to retain and measure organic compounds of concern from an air emission perspective. The Office of Water methods (Methods 624, 625, 1624, and 1625) were developed for different purposes and would not necessarily address air concerns as does Method 305. The EPA used four criteria of concern from the air perspective to evaluate the methods. These four criteria were used to ensure that the alternative method retained and quantified the organic compounds of concern, generally referred to as target compounds. The first criterion is that the method provide a sampling approach that would minimize the loss of volatiles from the sample while maintaining sample integrity. The second criterion is that the method

detect the organic compounds of concern. Third, the method must have adequate up-front quality assurance and quality control to ensure valid data. Finally, the alternative method must correct for analyte preparation and analysis bias. That is, the method adjusts to the actual concentration of the compound in the sample.

The EPA has compared Methods 624, 625, 1624, and 1625 against the four criteria listed above and proposes to allow these methods to be used as alternative methods to Method 305 with some additional requirements as specified in the proposed revised rule. The EPA is proposing to allow the use of alternative methods based on the belief that those parties using this alternative approach are following the procedures specified in the alternative method and are not using some modified version of the method. One of the additional requirements proposed consists of employing a sampling and collection procedure that minimizes the volatilization of organics. For Method 625, EPA proposes to require corrections to the compounds for which the analysis is being conducted. For example, Method 624 requires initial calibration of the analytical system with the target compounds. The four methods also specify the list of analytes for which the method can be used. Additional compounds may be added to the four reviewed methods' analyte lists by using the Office of Water's Alternative Test Procedure (40 CFR 136.4 and 136.5).

Additional methods other than those previously mentioned also may be used in lieu of Method 305 if a procedure that minimizes loss of volatile organic compounds during sampling and collection is employed and if the method is validated in accordance with sections 5.1 or 5.3, and the corresponding calculations in sections 6.1 or 6.3, of Method 301. Other EPA methods may be validated using Appendix D of part 63, ''Alternative Validation Procedure for EPA Waste Methods'', provided that a procedure that minimizes loss of volatile organic compounds during sampling and collection is also be employed.

7. Deletion of Term ''Volatile Organic Hazardous Air Pollutant''

The EPA found that many in the regulated community found the terminology ''volatile organic hazardous air pollutant'' (VOHAP) confusing. The term VOHAP concentration is used in the April 1994 rule to mean the weight concentration of Table 9 HAP's as determined by Method 305. This meant when a VOHAP concentration was required, the results from methods other than Method 305 had to be adjusted by the compound-specific fraction measured factor (Fm) listed in table 34 of subpart G to convert actual concentration to Method 305 concentration. When the April 1994 rule specified a HAP concentration, results from Method 305 were required to be adjusted by the Fm factors to correct to the actual concentration while results from other methods would be used as measured (without Fm adjustment).

With today's proposed amendments, §§ 63.144 and 63.145 of the rule would explicitly state when Fm adjustments are appropriate rather than relying on using the term VOHAP to convey EPA's intent. The proposed amendments would also remove the term VOHAP. Also under the proposed amendments, it would be clarified in § 63.144 that annual average concentration may be expressed either as adjusted by the Fm factors or with no adjustment.

8. Changes to § 63.145, Process Wastewater—Test Methods and Procedures to Determine Compliance

Section 63.145 contains the provisions that explain how to demonstrate compliance with the performance standards in § 63.138. Several significant changes are proposed to this section. It was rewritten to improve drafting quality, provide clear statements of EPA's intent, and correct errors.

9. Reorganization of § 63.145

In today's proposal, § 63.145 is reorganized to clarify requirements and provide the reader with an understanding of which paragraphs to use for demonstrating compliance with the compliance options in § 63.138. Three clarifications are of particular note: (1) ''Representative operating conditions'' for treatment processes and control devices are specified in paragraphs (a)(3) and (a)(4) of § 63.145; (2) conditions under which a performance test or design evaluation is allowed or under which neither is required are specified in paragraphs (a)(1) and (a)(2); and, (3) clarification of when Fm adjustments are allowed are included throughout the section. These proposed clarifications were in the April 1994 rule but may have been unclear or placed in other sections, causing readers difficulty in determining how the sections fit together. The reorganized section would also make provisions for measuring concentration and flow rate consistent among paragraphs. EPA believes these changes in rule language will improve clarity and will improve reader comprehension.

10. Demonstrating Compliance for Biological Treatment Processes

Concerns have been raised that the requirements concerning demonstrating compliance for biological treatment processes are confusing and the requirement for site-specific fraction biodegraded (Fbio) determinations is unnecessarily burdensome. To respond to these concerns, the EPA reevaluated the performance determination requirements for biological treatment processes and found that adjustments could be made to the requirements consistent with the intent of the rule. The EPA's intent was to allow the use of biological treatment units that achieved the required mass removal of table 9 compounds through biodegradation and not through emissions to the atmosphere. Today's proposed amendments would add paragraph (h) which describes how to determine the site-specific fraction of Table 8 and/or Table 9 compounds biodegradated (Fbio); clarify that biological treatment processes must use one of the required mass removal options to comply with the rule; add flexibility in demonstrating compliance for biological treatment processes; and add provisions that allow a subset of the Table 8 or Table 9 compounds to be used to demonstrate compliance.

Paragraph (h)—how to determine Fbio—is added to make the provisions easier to find than in the April 1994 rule. In addition, § 63.145(h), together with appendix C to part 63, provide more flexibility to the owner or operator to demonstrate compliance for biological treatment processes. The April 1994 rule required owners and operators using biological treatment processes to demonstrate compliance using appendix C to part 63 to determine Fbio. Today's proposal recognizes that for some biological treatment processes, a less rigorous determination of Fbio is sufficient to demonstrate compliance.

When a biological treatment process is used, one of the required mass removal options, § 63.138(f) or (g), must be chosen as the compliance option. This was EPA's intent in the April 1994 rule but it was not stated clearly. The provisions that may be used to demonstrate compliance depend on whether the biological treatment process is open or closed. In each case, the proposed rule specifies which compliance demonstration provisions may be used.

For open biological treatment processes, volatilization is an important

concern. Therefore, to demonstrate compliance, the owner or operator must determine the mass of the Table 8 or Table 9 compounds that is removed due to biodegradation rather than volatilization. If the open biological treatment process is an enhanced biological treatment process, the source would have more flexibility in demonstrating compliance. To incorporate this flexibility, EPA looked at the Table 9 compounds and determined which are more readily biodegraded and which are more likely to volatilize before biodegradation can occur in an enhanced biological treatment process.

11. Performance Requirements for Open Biological Treatment Processes

Because of the reevaluation of the Table 9 compounds, the EPA was able to separate the compounds on Table 9 into three lists which appear in table 36. These lists would be used together with other provisions to specify how the source may demonstrate compliance. Table 36 may only be used for wastewater streams treated in an enhanced biological treatment system as defined by the proposed revisions to the rule.

The development of the three lists in table 36 was based on the individual compound's fraction emitted (Fe), fraction removed in a steam stripper (Fr), and fraction biodegraded in a biological treatment unit (Fbio). The values for Fe and Fr that were evaluated were based on analysis performed for the April 1994 rule. Documentation of this analysis is available in the docket A–90–23. The Fbio values used to compile the three lists in table 36 were based on default values for an enhanced biological treatment unit from the EPA Water8 model. List 1 consists of Table 9 compounds that have Fr values approximately equal to or less than their Fbio values, and Fe values that are in the middle to lower volatility range. List 3 consists of Table 9 compounds that have Fr values of 0.99, Fbio values that are considerably lower than 0.99, and Fe values in the higher volatility range. The Table 9 compounds that were left after this evaluation became List 2.

A performance demonstration would not be required for enhanced biological treatment systems that receive wastewater streams that require control and that contain only List 1 compounds on table 36. An example would be an activated sludge unit that meets the proposed enhanced biological treatment system definition and treats Group 1 wastewater streams that contain only methanol and nitrobenzene (List 1 compounds). A compliance demonstration would not be required because the only Table 9 compounds requiring control appear on List 1. For enhanced biological treatment systems treating wastewater containing compounds on Lists 1, 2, and/or 3, a performance demonstration is required.

Today's proposal offers several techniques for demonstrating compliance for an open biological treatment unit meeting the proposed definition of an enhanced biological treatment system. The demonstration is performed by estimating the Fbio for the system using the first order biodegradation constant (K1) and the forms in appendix C to part 63. The owner/operator may use any of the procedures specified in 40 CFR part 63, appendix C to calculate the site-specific K1s for compounds on Lists 1 and/or 2. The owner/operator may elect not to calculate site-specific biodegradation rate constants but instead to calculate Fbio for the List 1 compounds using the defaults for K1s in table 37 and to follow the procedure explained in Form IIA of appendix C. For compounds on List 3, the owner/operator is allowed to use any of the procedures specified in 40 CFR part 63, appendix C, except the batch tests procedure, to calculate the site-specific K1. Biological treatment units not meeting the definition of an enhanced biological treatment system are allowed to determine the Fbio using the site-specific K1 values determined by any of the procedures in appendix C to part 63 except the proposed batch tests procedure.

The EPA believes that today's proposed revisions to the biological treatment option adds additional flexibility without sacrificing reduction of emissions. By separating the Table 9 compounds into 3 lists and allowing different performance requirements depending on the properties of the compounds on the lists, additional options have been made available to the owner/operator. The EPA maintained the original intent of the rule by limiting the additional options to biological units meeting the definition for enhanced biological treatment systems.

The flexibility allowed by not requiring that the site-specific fraction biodegraded be determined for all Table 8 or Table 9 compounds in the wastewater stream is predicated on the underlying assumption that the wastewater is treated in an enhanced biological treatment system. The definition for enhanced biological treatment system is proposed in today's notice. The definition is based on extensive discussions with individuals knowledgeable in the area of biological treatment. Well-designed, operated, and maintained activated sludge systems meet the definition of enhanced biological treatment systems.

12. Equations in § 63.145

Many of the equations in § 63.145 would be revised to make mathematical corrections or to make the equations consistent with the rest of the rule. The equations for control devices performance tests—paragraph (i) in today's proposal—are proposed to be based on the equation in the process vents section of the rule rather than the equations in the April 1994 rule. The terms in the equations were changed to make them consistent. Figure 1 in appendix A to subpart G lists the new terms.

13. Compounds Not Required To Be Considered in Performance Tests

Today's proposal would add § 63.145(a)(6) which specifies when compounds are not required to be included in a performance test. These provisions were added because EPA recognizes that not all Table 8 or Table 9 compounds are present in a wastewater stream; and not all compounds need to be measured to demonstrate compliance, i.e., measuring a predominant compound may be enough to show the mass removal necessary to achieve compliance. These provisions would also provide that compounds present at concentrations less than 1 ppmw at the POD or compounds present at the POD at concentrations less than the lower detection limit where the lower detection limit is greater than 1 ppmw may be excluded from the performance test. This provision was added to avoid imposing an unnecessary analytical burden.

G. Off-Site Treatment

Today's proposed amendments include provisions to allow owners and operators of HON sources to transfer Group 1 wastewater streams or residuals off-site for treatment provided the owner/operator obtains from the transferee a copy of a written statement submitted by the transferee to EPA certifying that the transferee will manage and treat the wastewater streams or residuals in accordance with the HON's provisions. These new provisions replace the existing provisions in § 63.132(j) that required that the owner/operator ensure that the transferee complies with the suppression and treatment requirements of the rule. The existing provisions in § 63.132(j) are revised to provide a means to allow transfers of treatment responsibility without imposing liability

for actions of another party on the owner/operator of the HON source.

The new provisions allowing for off-site or on-site third party treatment require the owner/operator transferring the wastewater stream or residual to comply with the suppression requirements specified in §§ 63.133 through 63.137 of this subpart for each waste management unit that receives or manages a Group 1 wastewater stream or residual removed from a Group 1 wastewater stream prior to shipment or transport. The owner or operator may not transfer the wastewater stream or residual unless the transferee has submitted to EPA a written certification that the transferee will manage and treat, in accordance with subpart G, any Group 1 wastewater stream or residual removed from a Group 1 wastewater stream that was received from a source subject to the requirements of this subpart. The owner or operator has to notify the third party treater that the wastewater stream or residual has to be handled and treated in accordance with the requirements of the rule.

The statements of compliance with the rule by third party treaters need only be submitted to EPA; the provisions do not contain or envision any requirements that EPA approve the written statements before shipments of wastewater streams or residuals to off-site treaters are permitted. The proposed provisions provide, however, that EPA may revoke or suspend a certification statement in the event the off-site treater violates the pertinent HON wastewater provisions. The proposed provisions also require that the written statement from the off-site treater contain a statement that EPA has not revoked or suspended a certification statement within the previous three years. The intent of this is to provide an adequate incentive for compliance on the part of the off-site treaters.

The proposed provisions also differ from the existing requirements in § 63.132(j) for notice from the owner/operator of the HON source in that the requirement that notice be provided at least once a year in the case of continuous shipments is replaced by a requirement only for notice at the outset of such shipments and when there is a change in the required treatment. In drafting the revised language, the general statements of the obligation on off-site treaters in the old § 63.132(j)(3) have been replaced with explicit cross references to the applicable requirements. This change is proposed to provide a clearer statement of the applicable requirements and to minimize potential for misunderstandings. This change is not considered to be a substantive change in the requirements for off-site treaters. Another change of significance in the provisions for third party treaters concerns the concept of sale. The phrase in the opening paragraph of § 63.132(j), permitting the sale of Group 1 wastewater streams or residuals ''for any other purpose'' has been eliminated in the proposed replacement provisions. This change is necessary in light of the revised approach to defining wastewater. Inherent in the new approach is the concept that a stream is not wastewater unless it is being discarded. Thus, the concept of selling wastewater is inherently inconsistent.

H. Addition of § 63.149 and Table 35

The proposed amendments to add a new § 63.149 and table 35 to subpart G are an outgrowth of the change from the POG concept of the April 1994 rule to the POD concept in these proposed amendments. The purpose of this new section is to ensure that the organic HAP containing fluids are properly managed in closed systems. Table 35 lists the applicable requirements for drain or drain hub, manhole, lift station, trench, oil/water separator, and tank.

I. Proposed Changes to Appendix C of Part 63

The EPA is proposing to revise appendix C to part 63 to clarify the language and to add an additional procedure for determining the fraction biodegraded in a biological treatment unit. The new procedure added to appendix C is called the Batch test procedure.

Appendix C contains instruction on how to determine the fraction biodegraded in a biological treatment unit. Today's proposal addresses several issues concerning Appendix C. The first issue concerns problems with concentrations below the detection limit for the effluent stream from the Method 304 benchscale reactor. Another issue involving the Method 304 reactor is the time and expense required to operate the benchscale reactor. Both of these issues would be addressed by the addition of the Batch tests procedure to appendix C. The proposed rule amendments would allow owners and operators to use the batch tests to determine first order biodegradation constants for compounds on Lists 1 and/or 2 of table 34 treated in a unit meeting the definition of an enhanced biological treatment process. (See the discussion of performance requirements for open biological treatment processes for further information.)

The Batch tests procedure consists of the aerated reactor test and the sealed reactor test. These two tests are less time intensive, and thereby less expensive, than the Method 304 procedure. These two tests are used widely in industry to design biological treatment units. Basic instructions for the two tests are being added to appendix C; however, these tests should be conducted only by persons familiar with procedures for determining biodegradation kinetics. References were supplied in appendix C for further information.

The appendix C requirements would be clarified by explaining that every compound present in the wastewater would not be required to have a site-specific, first order biodegradation constant determined. The owner or operator can assume the first order biodegradation constant is zero for any compound as long as the required mass removal can be demonstrated.

J. Proposed Changes to Methods 304A and 304B

The EPA is proposing to make minor revisions to Methods 304A and 304B that would clarify several points and eliminate prescriptive details while maintaining the quality of the data. Methods 304A and 304B are procedures that may be used to determine the biodegradation rates of organic compounds in biological treatment processes. The proposed revisions consist of making the terminology consistent and allowing more flexibility in the setup and operation of the methods. The section discussing the oxygen control system would be clarified. References to reactor or bioreactor would be changed to benchtop bioreactor for consistency. Additional flexibility would be added throughout the method in numerous ways such as eliminating the requirement for a specific size reactor or a specific blower, not requiring a specific hydraulic residence time, allowing alteration of the operation of the Method 304 unit to increase the effluent concentration above the limit of quantitation, and other ways. The EPA believes these changes will allow owners and operators more flexibility while maintaining the original intent of the method.

K. Alternative Control Techniques (ACT) for Industrial Wastewater

The EPA believes that today's proposal makes the Industrial Wastewater ACT internally inconsistent and is recommending that States consider the revisions to the HON wastewater provisions definitions and control approaches as discussed below when regulating sources covered by the ACT. When issued in April 1994, the

ACT consisted of three documents: a September, 1992 draft Industrial Wastewater Control Techniques Guideline (CTG); Revisions to Impacts of the Draft Industrial Wastewater CTG; and the HON wastewater provisions (as promulgated in 1994) as the model rule. The ACT was issued to assist States in selecting Reasonably Available Control Technology (RACT) for control of volatile organic compounds (VOC) from wastewater at Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) Facilities, Pharmaceutical Plants, Pesticide Sources, and Hazardous Waste Treatment Storage and Disposal Facilities in ozone nonattainment areas. In today's action, the EPA is proposing fundamental changes to the wastewater provisions of the HON. The EPA believes that these proposed amendments will result in a more effective and better-understood regulation. Thus, some aspects of the ACT are inconsistent with the revised wastewater provisions in the HON, and should not be used without considering the intent of the control requirements and these proposed revisions.

The Agency's intent has been and continues to be that the wastewater collection and treatment control philosophy will be consistent between the Industrial Wastewater ACT and the HON. Although the ACT and the HON address somewhat different pollutants (not all VOC's are HAP's, and vice-versa), the technologies and control requirements were deliberately made consistent. Specifically, the wastewater collection and treatment control philosophy is a basic approach designed to minimize emissions from designated wastewater streams meeting a certain concentration and flow rate. The approach requires control of the transfer of the designated streams to a treatment unit, treating the wastewater to a specified level, and controlling emissions from the treatment unit. Although the basic wastewater control philosophy will be the same between the HON and the ACT, there will be major differences. The Industrial Wastewater ACT and the HON will continue to differ in the compounds that are the basis for control; the ACT addresses VOC emissions and the HON is concerned with HAP emissions. The HON is a national standard for portions of the chemical industry while the Industrial Wastewater ACT addresses facilities in ozone non-attainment areas in four separate industry groups, including a broader definition of the chemical industry. The EPA still believes the RACT recommendation presented in the Draft Industrial Wastewater CTG is reasonable; however the State agency should consider all information presented in the Industrial Wastewater ACT and the HON along with additional information about specific sources to which the regulation applies.

To cite a few examples of changes to the HON that should be considered by those referencing the Industrial Wastewater ACT: the principle of a ''point of generation'' is being revised substantially and renamed ''point of determination''; the definition of ''wastewater'' is being revised; and requirements are being added for control of emissions from certain in-process streams. If the ''point of determination'' approach is adopted, the State agency should ensure that provisions similar to those in proposed section 63.149 are also adopted.

V. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 1414.02) may be obtained from Sandy Farmer, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740.

Today's changes to the NESHAP should have no impact on the information collection burden estimates made previously. The changes consist of new definitions, alternative test procedures, and clarifications of requirements. The changes are not additional requirements. Consequently, the ICR has not been revised.

B. Executive Order 12866 Review

Under Executive Order 12866, the EPA must determine whether the proposed regulatory action is ''significant'' and, therefore, subject to the OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The HON rule promulgated on April 22, 1994, was considered ''significant'' under Executive Order 12866, and a regulatory impact analysis (RIA) was prepared. The amendments proposed today would clarify the rule and correct structural problems with the drafting of some sections. The proposed amendments do not add any new control requirements. Therefore, this regulatory action is considered not significant.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), as amended, Pub. L. 104–121, 110 Stat. 847, EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities and therefore no initial regulatory flexibility analysis under section 604(a) of the Act is required. For the reasons discussed in the April 22, 1994 Federal Register (59 FR 19449), this rule does not have a significant impact on a substantial number of small entities. The proposed changes to the rule are merely corrections and revisions that do not add new control requirements to the April 1994 rule. Therefore, the proposed changes are also not considered significant.

D. Unfunded Mandates

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

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

private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 63

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

Dated: August 15, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–21280 Filed 8–23–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7192]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street S.W., Washington, D.C. 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California	Sacramento County (unincorporated areas).	Cosumnes River	At confluence with North Fork Mokelumne River.	None	*19
			At the Union Pacific Railroad	None	*19
			Approximately 3,500 feet upstream of the Union Pacific Railroad.	None	*19
			Approximately 7,000 feet upstream of the Union Pacific Railroad.	None	*20
		Cosumnes River Overflow North of Lambert Road.	Approximately 250 feet upstream of the Union Pacific Railroad.	None	*17
			Approximately 1,000 feet upstream of Core Road.	None	*18

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			At Eschinger Road	None	*18
			At Fitzgerald Road	None	*19
			At Lambert Road	None	*20
		North Fork Mokelumne River.	Approximately 5,300 feet upstream of divergence from South Fork Mokelumne River.	*15	*15
			Approximately 6,900 feet upstream of divergence from South Fork Mokelumne River.	*15	*16
			Approximately 10,600 feet upstream of divergence from South Fork Mokelumne River.	*15	*17
			Approximately 14,300 feet upstream of divergence from South Fork Mokelumne River.	None	*18
			Approximately 1,300 feet downstream of confluence with the Cosumnes River.	None	*19
		North Fork Mokelumne River Overflow Channel.	At confluence with Snodgrass Slough	*15	*15
			Approximately 5,000 feet upstream of confluence with Snodgrass Slough.	*15	*16
			Approximately 7,500 feet upstream of confluence with Snodgrass Slough.	None	*17
			Approximately 10,000 feet upstream of confluence with Snodgrass Slough.	None	*18
			At confluence with North Fork Mokelumne River.	None	*19
		Snodgrass Slough	At confluence with Delta Cross Channel	*15	*15
			Approximately 4,400 feet upstream of confluence with Delta Cross Channel.	*15	*15
			Approximately 800 feet upstream of the Southern Pacific Railroad.	*15	*16

Maps are available for inspection at the Sacramento County Department of Public Works, Water Resources Division, 827 Seventh Street, Room 301, Sacramento, California.

Send comments to The Honorable Roger Dickinson, Chairman, Sacramento County Board of Supervisors, 700 H Street, Room 2450, Sacramento, California 95814.

	Tehama County (Unincorporated Areas).	Reeds Creek	Approximately 2,600 feet downstream of Paskenta Road.	*276	*280
			Just upstream of Paskenta Road	None	*284
		Brewery Creek Tributary	At corporate limit	None	*291

Maps are available for inspection at the Building Department, Room H, 444 Oak Street, Red Bluff, California.

Send comments to The Honorable Barbara McIver, Chairperson, Tehama County Board of Supervisors, P.O. Box 250, Red Bluff, California 96080.

Colorado	Westminster (City)	Big Dry Creek	Approximately 3,300 feet downstream of Westcliff Parkway.	*5,298	*5,298
	Jefferson and Adams Countries.		Approximately 200 feet upstream of Westcliff Parkway.	*5,309	*5,311
			Just downstream of Wadsworth Boulevard.	*5,321	*5,321

Maps are available for inspection at the City of Westminster Engineering Department, 3031 West 76th Avenue, Westminster, Colorado.

Send comments to The Honorable Nancy Heil, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, Colorado 80030.

Louisiana	Shreveport (City) Caddo and Bossier Parishes.	Bayou Pierre	Approximately 1,050 feet downstream of Flournoy-Lucas Road.	*156	*158
			At Texas and Pacific Railroad	*160	*161
			At Gregg Street	*167	*167
		Sand Beach Bayou	At confluence with South Broadmoor Lateral.	*159	*159
			Approximately 600 feet upstream of Youree Drive.	None	*162
		South Broadmoor Lateral	At confluence with Sand Beach Bayou	*159	*159
			Approximately 1,950 feet upstream of Pomeroy Street.	*160	*159

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Old River	At confluence with Sand Beach Bayou	*160	*160
			Approximately 3,500 feet upstream of East 70th Street.	*165	*162
		Pierremont Ditch	At confluence with Bayou Pierre	*164	*165
			At Gilbert Avenue	*165	*165

Maps are available for inspection at the City of Shreveport, City Hall, 1234 Texas Avenue, Shreveport, Louisiana.

Send comments to The Honorable Robert Bo Williams, Mayor, City of Shreveport, P.O. Box 31109, Shreveport, Louisiana 71130.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: August 15, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–21688 Filed 8–23–96; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 15

[CGD 94–055]

RIN 2115–AF23

Licensing and Manning for Officers of Towing Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Coast Guard is holding a public meeting on its proposed rule to revise the requirements for licensing mariners that operate uninspected as well as inspected towing vessels. The proposed rule would ensure that all towing vessels are manned by officers holding licenses specifically authorizing their service. The Coast Guard is conducting the public meeting to receive additional views on the proposed licensing issues.

DATES: The meeting will be held on September 25, 1996, from 9 a.m. to 5 p.m. Written material must be received not later than October 17, 1996. Comments on the notice of proposed rulemaking must be received on or before October 17, 1996.

ADDRESSES: The meeting will be held in the hearing room of the Marine Safety Office, 1615 Poydras Street, New Orleans, LA 70112–1289. Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA)[CGD 94–055], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Don Darcy, Operating and Environmental Standards Division (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–0221.

SUPPLEMENTARY INFORMATION:

Background Information

The proposed rule is part of a comprehensive initiative by the Coast Guard to improve navigational safety for towing vessels. It follows a report directed by the Secretary of Transportation entitled, ''Review of Marine Safety Issues Related to Uninspected Towing Vessels'' (hereafter Review), which identified improvements in licensing, training, and qualifications of operators of uninspected towing vessels that may be necessary to achieve this goal.

The Secretary of Transportation initiated the Review after the collision in September 1993, of a towing vessel and its barges with a railroad bridge near Mobile, Alabama (hereafter Amtrak casualty). This casualty was closely followed by several others involving towing vessels. Each emphasized the urgency of examining the rules for the licensing of all operators of towing vessels. In general, the Review and a previous study, also by the Coast Guard entitled, ''Licensing 2000 and Beyond,'' concluded that the requirements for licensing all operators of towing vessels are outdated and need improvement.

In response to the Review on March 2, 1994, the Coast Guard published a notice of public meeting and availability of study (59 FR 1003) that announced the availability of the Review and scheduled a meeting to seek public comment on the recommendations made in it. The public meeting was held on April 4, 1994.

The National Transportation Safety Board (NTSB) investigation identified one of the probable causes of the Amtrak casualty as the Coast Guard's failure to establish higher standards for the licensing of inland operators of towing vessels.

On June 19, 1996, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled, ''Licensing and Manning for Officers of Towing Vessels,'' in the Federal Register (61 FR 31332). The proposed rule aims to update the licensing, training and qualifications of personnel on towing vessels in order to reduce similar vessel casualties attributable to human factors. Specifically, the NPRM addresses (1) levels of licenses; (2) restrictions of licenses by horsepower; (3) practical demonstrations of skills; and (4) responsibility of industry.

In addition, the proposed rule has taken into account nine recommendations from the Review that affect licensing:

(1) The creation of levels of licenses;

(2) A requirement of practical demonstration, by simulator or equivalent, for upgrade of license;

(3) A requirement of practical demonstration, by simulator or equivalent, for increase in scope of license;

(4) A requirement of practical demonstration, by simulator or equivalent, for renewal of license;

(5) A limitation to smaller vessels of the license for second-class operator of uninspected towing vessels;

(6) A requirement of experience to receive an endorsement on the Western rivers;

(7) The assurance that any new license meets international standards:

(8) Provisions for crossover or equivalence for masters and mates of vessels of between 500 and 1,600 gross tons; and

(9) Emphasis on responsibility of owners of towing vessels to employ qualified, experienced personnel as operators in charge (or masters) of their vessels.

In response to comments received from industry requesting a public hearing, the Coast Guard is holding this meeting to receive additional views on the licensing requirements as proposed in the NPRM.

In addition to the requirements set forth in this rulemaking, mariners serving on seagoing towing vessels must meet the training certification and watchkeeping requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW). The Convention was adopted in 1978 and it entered into force in 1984. The U.S. became a party in 1991. The Convention applies to mariners serving on board seagoing vessels that operate beyond the boundary line as defined in 46 CFR part 7. On July 7, 1995, a Conference of Parties to STCW adopted a comprehensive package of Amendments to STCW. The amendments will enter into force on February 1, 1997. They will affect virtually all phases of the system used in the U.S. to train, test, evaluate, license, certify, and document merchant mariners for service on seagoing vessels. On March 2, 1996, the Coast Guard published a notice of proposed rulemaking in the Federal Register (61 FR 13284) concerning changes to the U.S. licensing and documentation system to conform to STCW as recently amended.

Public Meeting

Attendance is open to the public. Persons who are hearing impaired may request sign translation by contacting the person under **FOR FURTHER INFORMATION CONTACT** at least one week before the meeting. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted prior to, during, or after the meeting. Persons unable to attend the public meetings are encouraged to submit written comments as outlined in the interim rule prior to October 17, 1996.

Dated: August 20, 1996.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 96–21734 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22, 24, 90

[WT Docket No. 96–6; FCC 96–283]

Flexible Service Offerings in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Further Notice of Proposed Rule Making the Commission seeks comment on the regulatory treatment of entities offering fixed services on CMRS spectrum. The rule amendments are necessary to respond to the strong support to flexible services show in the initial Notice of Proposed Rule Making. The comment period is necessary for clarification prior to making a final determination with respect to the regulatory treatment of licensees providing such services. The intended effect of this action is to provide a service that will further the public interest.

DATES: Comments are to be filed on or before November 25, 1996, and reply comments are to be filed on or before December 24, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: David Krech, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: The First Report and Order and Further Notice of Proposed Rule Making in WT Docket No. 96–6, adopted on June 27, 1996, and released on August 1, 1996, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 575, 2000 M Street N.W., Washington, D.C. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800.

Summary of Action

I. Introduction & Executive Summary

1. In the Notice of Proposed Rule Making in WT Docket No. 96–6 (''NPRM'') (Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, Notice of Proposed Rule Making, WT Docket No. 96–6, 11 FCC Rcd 2445 (1996)), released on January 25, 1996, 61 FR 6189 (February 16, 1996), we sought comment on proposals for expanding permitted offerings of fixed wireless service by Commercial Mobile Radio Service (''CMRS'') providers. In addition, we sought comment with regard to the regulatory treatment for such services under Section 332 of the Communications Act of 1934, as amended. 47 U.S.C. § 332.

2. In this Further Notice of Proposed Rule Making, we seek additional comment on the regulatory treatment of entities offering fixed services on CMRS spectrum:

- We do not intend to alter the regulatory treatment of licensees offering the types of ancillary, auxiliary, and incidental fixed services that have been offered by CMRS providers under our rules prior to this order.
- We propose to establish a presumption that licensees offering other fixed services over CMRS spectrum should be regulated as CMRS. We seek comment on such a presumption and, if adopted, what factors should be used to support or rebut this presumption.

II. Further Notice of Proposed Rule Making

3. *Discussion*. Based on our review of the record in WT 96–6, we believe it is premature to attempt a final comprehensive determination regarding the regulatory treatment of these various types of fixed services that may be offered by licensees. While some commenters argue that all of the fixed offerings described above should be treated as sufficiently related to CMRS to justify uniform regulatory treatment, we believe that a uniform approach would be premature at this time. Instead, we believe that the regulatory issues raised by this proceeding require further development of the record and more specific analysis related to the particular fixed service offerings that carriers develop. Therefore, we propose to refine the approach set forth in the NPRM by seeking comment on additional guidelines for determining when fixed wireless services may fall within the scope of CMRS regulation.

4. At the outset, we emphasize that our decision in the First Report in Order to allow carriers to offer co-primary fixed services on spectrum allocated for CMRS does not alter in any way our regulatory treatment of fixed services

that have been provided by CMRS providers under our prior rules. In the CMRS Second Report and Order, 59 FR 18493 (April 19, 1994), we stated that ancillary, auxiliary, and incidental services offered by CMRS providers fall within the statutory definition of mobile service, and are subject to CMRS regulation. We reaffirm that determination here. In the First Report and Order, however, we broadened the potential scope of fixed services that may be offered by CMRS providers. We therefore seek further comment on the regulatory treatment of such fixed services that may not be considered ancillary, auxiliary or incidental to mobile service.

5. Several parties argue that because the definition of ''mobile service'' contains a clause referencing PCS licenses, Congress intended that all service provided through a PCS license would be treated as mobile. According to Omnipoint, inclusion of the PCS clause means that the Act, unlike FCC regulations, does not limit the amount of fixed service a PCS provider may offer, and the offering of fixed service by a PCS licensee does not change its status as a CMRS provider. AT&T and CTIA argue, further, that since one goal of Congress and the Commission is regulatory parity for similarly situated CMRS providers, all services provided through a license for a CMRS service, not just a PCS license, come within the definition of ''mobile service.'' One could also read the definition of ''mobile service'' to require the use of ''mobile stations'' and the ''and includes'' language which precedes the description of the three enumerated services to mean that they are examples. In that case, a service provided with a PCS license would have to include the use of a ''mobile station'' to come within the definition of ''mobile service'' and consequently be considered in the definition of ''commercial mobile service.'' ''Mobile station'' is defined in the Act as ''a radio-communication station capable of being moved and which ordinarily does move.'' 47 U.S.C. § 153(28). We seek comment on these alternative statutory interpretations and their regulatory consequences. Parties should submit support from the legislative history or prior Commission rulings for or against the argument that the language ''and includes'' in the definition of ''mobile service'' sets out examples of mobile services, rather than listing additional services which come under the definition.

6. CTIA also argues that the Commission has substantial discretion under the Act to define ''mobile services.'' CTIA states that this authority stems from the language in the PCS clause of the definition of ''mobile service'' that refers to ''any successor proceeding.'' According to CTIA, that language allows the Commission to establish alternative definitions of ''mobile service'' in successor proceedings. We seek comment on the breadth and scope of Commission authority under the PCS clause and the ''any successor proceeding'' language.

7. As noted above, in the CMRS Second Report and Order we found that the definition of ''mobile service'' includes ''all auxiliary services provided by mobile service licensees.'' We seek comment on what precedential value, if any, we should give to our treatment of auxiliary, ancillary, and incidental services as CMRS for regulatory purposes when determining how to regulate other fixed wireless services provided by CMRS providers. For example, because we consider a fixed service that is ancillary to a mobile service to be CMRS, what implications should that have for how we should treat a wholly fixed service that may use no mobile stations.

8. Some parties have also argued that because these fixed wireless services would be provided by CMRS providers in spectrum that has been allocated for CMRS, the service providers must therefore be regulated as CMRS. We disagree. The regulatory structure for providers of the primary service to which the spectrum is allocated does not necessarily dictate the type of regulation to which every service provider in that same band will be subject regardless of the particular attributes of that service. A pertinent example is BETRS. While BETRS is provided in a spectrum band allocated to Public Land Mobile Service, we have determined that BETRS is a fixed service, rather than a mobile service, and therefore BETRS providers are not subject to CMRS regulation under Section 332. Similarly, private service licensees in the 220 and 800 MHz SMR bands are not subject to CMRS regulation. Likewise, we do not intend to base our decision here merely on the classification of the majority of users of the spectrum in which the fixed service in question is provided.

9. We believe that, ultimately, the regulatory issues on which we seek comment herein may require resolution on a case-by-base basis. We seek comment on this conclusion, including whether we may be able to establish a uniform approach for determining the regulatory status of fixed services offered on CMRS spectrum. To provide a framework for a case-by-case analysis, we propose to establish a rebuttable presumption that any wireless service provided under a CMRS provider's license would be considered to come within the definition of CMRS and consequently regulated as CMRS. Based on the record in this proceeding, we believe this to be a reasonable presumption. Most of the fixed wireless service applications which commenters have discussed in the record would be provided in conjunction with a traditional CMRS services such as cellular or paging.

10. Under our proposed approach, the Commission would allow any interested party to challenge this presumption regarding a particular service offered by a CMRS provider. If a party could demonstrate that the service provider in question does not meet the definition of CMRS for a particular offering, we would not regulate that particular offering as CMRS. We seek comment on this approach and what types of evidence the Commission should evaluate when considering a challenge to a presumption that a fixed wireless service provided by a CMRS provider should be regulated as CMRS. Possible factors may include: the relative mobility of mobile stations used in conjunction with the fixed service; whether the fixed service is part of a larger package which includes mobile services or is offered alone; the size of the service area over which the fixed wireless service is provided; the amount of mobile versus fixed traffic over the wireless system; whether the fixed service is offered over a discrete block of spectrum separate from the spectrum used for mobile services; the degree to which fixed and mobile services are integrated; and whether customers perceive the service to be a fixed service. Part of any analysis of customer perception may also include consideration of how the service is marketed by the CMRS provider to potential customers.

11. The Commission seeks comment on the appropriateness of using these factors or other types of evidence that may be presented to rebut this presumption. We also seek comment on the extent to which services provided under separate licenses or by separate entities may be relevant to the regulatory status of a particular fixed service offering provided under a given license. For example, should we consider only the services provided under a particular license or consider the services provided by a common licensee under multiple licenses, e.g., a licensee who provides fixed service under its PCS license and mobile service under a cellular license in the same market. Similarly, in instances

where fixed and mobile services are provided by different corporate affiliates, should we look at each affiliate's service separately or at the services provided by the corporation as a whole? Another possible scenario would be where a CMRS provider provides fixed service under its own license and has a joint marketing arrangement or resale agreement with another CMRS provider in that market. How should we consider such arrangements in making our analysis under this presumption? We seek comment on our proposal for regulating fixed wireless service provided by a CMRS provider and we seek alternative suggestions for presumptive regulatory classifications.

12. Some parties have advocated that we regulate any fixed wireless service provided by a CMRS provider as CMRS until such time that the service constitutes a substitute for land line telephone exchange service in a substantial portion of a state. Under this approach a state would have to petition the Commission under Section 332(c)(3), and the Commission would have to grant such a petition, before a CMRS provider's fixed wireless service would be subject to state regulation. The Commission seeks comment on this approach. We also seek comment on what federal regulation should be imposed on a CMRS provider's offering of fixed wireless service if we find that it does not come within the purview of CMRS. To the extent that there are interstate common carrier services, such services would be subject to regulation under Title II; if so are there any Title II regulations from which such services should be exempt?

13. The Commission recognizes that we are addressing a related issue in the context of our proceeding on implementation of Section 251 of the Communications Act, as amended by the 1996 Act—i.e., in what circumstances, if any, a CMRS provider should be regulated as a ''local exchange carrier'' under the Act. Herein we are concerned with whether service providers should be regulated as CMRS if they provide fixed services. While we will review and consider the comments submitted in the Section 251 proceeding, we do not believe that resolution of the issue presented in the Section 251 proceeding resolves the issues presented here. For example, even if we were to find that a CMRS provider could be considered a local exchange carrier in terms of the requirements in Section 251, we tentatively conclude that it could still be considered engaged in the provision of CMRS under Section 332 and therefore exempt from states' regulation of intrastate rates. We seek comment on this tentative conclusion and whether the other obligations imposed on LECs have a direct relationship to the rates charged by CMRS providers, and thus may impact on the rate regulation scheme set out in Section 332.

III. Procedural Matters

A. Regulatory Flexibility Act

14. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. We also seek comment on the number of CMRS entities affected by the proposed rules are small businesses, and request that commenters identify whether they themselves are small businesses. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Further Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this First Report and Order and Further 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 paragraph 603(a) of the Regulatory Flexibility Act. Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 et. seq. (1981).

1. Reason for Action

15. This rule making proceeding was initiated to secure comment on proposals for allowing CMRS providers greater flexibility in the provision of fixed wireless services. The proposals advanced in the Further Notice of Proposed Rule Making are designed to determine the appropriate regulatory scheme for CMRS providers who wish to offer fixed wireless services. The Commission seeks comment on the appropriate role of the federal government and the states in the regulation of CMRS providers who offer hybrid mobile and fixed services on a co-primary basis.

2. Objectives

16. The Commission proposes to establish a rebuttable presumption that any wireless service provided under a CMRS provider's license would be considered to come within the definition of CMRS and consequently regulated as CMRS. Under this approach, the Commission would allow any interested party to challenge this presumption regarding a particular service offered by a CMRS provider. If a party could demonstrate that the service provider in question does not meet the definition of CMRS for a particular offering, we would not regulate that particular offering as CMRS. We seek comment on this approach and what types of evidence the Commission should evaluate when considering a challenge to a presumption that a fixed wireless service provided by a CMRS provider should be regulated as CMRS. We also seek comment on the extent to which services provided under separate licenses or by separate entities may be relevant to the regulatory status of a particular fixed service offering provided under a given license. Some parties have advocated that we regulate any fixed wireless service provided by a CMRS provider as CMRS until such time that the service constitutes a substitute for land line telephone exchange service in a substantial portion of a state. We seek comment on this approach. We also seek comment on what federal regulation should be imposed on a CMRS provider's offering of fixed wireless service if we find that it does not come within the purview of CMRS.

3. Reporting, Recordkeeping, and Other Compliance Requirements

17. The proposals under consideration in the Further Notice of Proposed Rule Making do not require recordkeeping, or other compliance requirements for small business entities.

4. Federal Rules Which Overlap, Duplicate or Conflict With These Rules

18. None.

5. Description, and Number of Small Entities Involved

19. Pursuant to the Contract with America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996), the Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total CMRS entities would be affected by the proposed rules in the Further Notice of Proposed Rule Making. In particular, we seek estimates of how many CMRS entities are small businesses.

20. There are different definitions of ''small business'' for the various services affected by this proceeding. Since the Commission did not define a small business with respect to cellular services, paging, and interconnected business radio service, we will utilize the Small Business Administration's (SBA) definition applicable to radiotelephone companies—i.e. an entity employing less than 1,500 persons. 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4812. We seek comment on whether this definition should be refined to take into account the different classes of cellular, paging and for-profit interconnected business radio services. With respect to narrowband and broadband PCS, the Commission defines small business to mean firms who have gross revenues of not more than $40 million in each of the preceding three calendar years. With respect to 800 MHz and 900 MHz SMR services, the Commission has a two-tiered definition of small business: (a) ''very small businesses'' are firms who have gross revenues of not more than $3 million in each of the preceding three calendar years; and (b) ''small businesses'' are firms who have annual gross revenues of not more than $15 million in the each of the preceding three years. With respect to commercial 220 MHz services, the Commission has proposed a two-tiered analysis: (1) for EA licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding 3 years.

21. We seek comment on our use of these definitions in this context. Additionally, we request commenters to identify whether they are a ''small business'' under this definition. For commenters that are a subsidiary of another entity, we seek this information for both the subsidiary and the parent corporation or entity.

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

22. In the Further Notice of Proposed Rule Making the Commission proposes to establish a rebuttable presumption that any wireless service provided under a CMRS provider's license would be considered to come within the definition of CMRS and be regulated as CMRS. The Commission seeks comment on this approach and what types of evidence the Commission should evaluate when considering a challenge to such a presumption. Other alternatives suggested in the comment to the Notice of Proposed Rule Making, 61 FR 6189 (February 16, 1996), include regulating any fixed wireless service provided by a CMRS provider as CMRS until such time that the service constitutes a substitute for land line telephone exchange service in a substantial portion of a state. We seek comment on that approach and any additional significant alternatives presented in the comments also will be considered. If the fixed wireless service provided by a CMRS provider, including small business entities, is not regulated as CMRS, that service may be subject to state regulation of entry and rates. We also seek comment on what Federal regulation should be imposed on a CMRS provider's offering of fixed wireless service if that service does not come within the purview of CMRS. We also seek comment on what impact each alternative may have on small business entities.

7. Legal Basis

23. The proposed action is authorized under Sections 4(i), 4(j), 7(a), 303(b), 303(f), 303(g), 303(r), 332(a), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 303(b), 303(f), 303(g), 303(r), 332(a), and 332(c).

8. IRFA Comments

24. We request written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in paragraph 27 below.

B. Ex Parte Rules—Non-Restricted Proceeding

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

C. Initial Paperwork Reduction Act of 1995 Analysis

26. The First Report and Order and Further Notice of Proposed Rule Making do not contain either a proposed or modified information collection.

D. Comment Dates

27. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before November 25, 1996, and reply comments on or before December 24, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to 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 of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

28. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis of the expected impact on small entities of the proposals suggested in the Further Notice of Proposed Rule Making. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the remainder of the Further Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this Further Notice of Proposed Rule Making, including the IRFA, the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 et. seq. (1981).

E. Contacts for Information

29. For further information concerning this proceeding, contact David Krech at (202) 418–0620 (Commercial Wireless Division, Wireless Telecommunications Bureau).

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 22

Communications common carriers, Radio.

47 CFR Part 24

Communications common carriers, Radio.

47 CFR Part 90

Business and industry, Common carriers, Radio.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–21793 Filed 8–23–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 383 and 391

[FHWA Docket No. MC–93–23]

RIN 2125–AD20

Commercial Driver Physical Qualifications as Part of the Commercial Driver's License Process

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of meetings of negotiated rulemaking advisory committee.

SUMMARY: The FHWA announces the meeting dates of an advisory committee (the Committee) established under the Federal Advisory Committee Act and the Negotiated Rulemaking Act to consider the relevant issues and attempt to reach a consensus in developing regulations governing the proposed merger of the State-administered commercial driver's license (CDL) procedures of 49 CFR Part 383 and the driver physical qualifications requirements of 49 CFR Part 391. The Committee is composed of persons who represent the interests that would be substantially affected by the rule.

The FHWA believes that public participation is critical to the success of this proceeding. Participation is not limited to Committee members. Negotiation sessions are open to the public, so interested parties may observe the negotiations and communicate their views in the appropriate time and manner to Committee members.

For a listing of Committee members, see the notice published on July 23, 1996, 61 FR 38133. Please note that the United Motorcoach Association and the American Bus Association will serve as full members of the Committee. For additional background information on this negotiated rulemaking, see the notice published on April 29, 1996, at 61 FR 18713.

DATES: The second meeting of the advisory committee will begin at 10:00 a.m. on September 4–5, 1996. Subsequent meetings are scheduled to be held on October 22–23, 1996, and November 19–20, 1996 and will also begin at 10:00 a.m. each day.

ADDRESSES: The second meeting of the advisory committee will be held at the International Trade Commission, 500 E Street, SW, Washington, D.C. The Committee will meet in the main hearing room (room 101). Subsequent meetings will be held at locations to be announced.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Doggett, Office of Motor Carrier Research and Standards, (202) 366–4001, or Ms. Grace Reidy, Office of Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

Authority: [5 U.S.C. §§ 561–570; 5 U.S.C. App. 2 §§ 1–15]

Issued on: August 21, 1996.

George L. Reagle,

Associate Administrator for Motor Carriers.

[FR Doc. 96–21782 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 960520141–6224–03; I.D. 073096D]

RIN: 0648–AH05

Fisheries of the Northeastern United States; Amendment 8 to the Summer Flounder and Scup Fishery Management Plan; Resubmission of Disapproved Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement three provisions of Amendment 8 to the Fishery Management Plan (FMP) for the Summer Flounder and Scup Fisheries that were initially disapproved, but that have been revised and resubmitted by the Mid-Atlantic Fishery Management Council (Council). These measures would: Establish criteria under which vessels under construction or being rerigged for the scup fishery on January 26, 1993, could qualify for a moratorium permit, define scup pots and traps, and require the consideration of recreational landings in the process of setting annual recreational harvest limits. The intent of Amendment 8 is to reduce fishing mortality and allow the stock to rebuild.

DATES: Public comments must be received on or before September 16, 1996.

ADDRESSES: Comments on this proposed rule should be sent to Dr. Andrew A. Rosenberg, Director, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the Resubmitted Portion of the Summer Flounder and Scup Plan.''

Comments regarding burden-hour estimates for collection-of- information requirements contained in this proposed rule should be sent to the Director, Northeast Region, NMFS (Regional Director), at the address above and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20502 (Attention: NOAA Desk Officer).

Copies of the resubmitted portion of Amendment 8 and other supporting documents are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION:

Background

The Council submitted Amendment 8 to the FMP on April 23, 1996. NMFS, on behalf of the Secretary of Commerce, disapproved six measures proposed in Amendment 8 upon preliminary evaluation of the amendment as authorized under section 304(a)(1)(A)(ii) of the Magnuson Fishery Management and Conservation Act (Magnuson Act). The measures, which were found to be inconsistent with the national standards and other applicable law, would have: (1) Conferred moratorium permit eligibility upon vessels that were rerigging on January 26, 1993, and landed scup prior to the implementation of the FMP, (2) required vessels to keep scup catches of less than 4,000 lb (1,814 kg) (the level at which the minimum mesh requirement is triggered) in 100–lb (45.36 kg) boxes to enhance enforcement, (3) accepted state dealer permits in lieu of the required Federal permit, (4) denied access to the exclusive economic zone to vessels from states that do not implement recreational measures equivalent to those specified in the Federal plan, (5) used state regulations to define scup pots for the residents of that state, and (6) established annual recreational

harvest limits and deducted catches in excess of those limits from the limits for the following year. The remainder of Amendment 8 was published as a proposed rule on June 3, 1996 (61 FR 27851).

The Council and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Board met on May 15, 1996, to review the disapproved measures and, pursuant to section 304(b)(3)(A) of the Magnuson Act, voted to revise and resubmit three provisions: The rerigging measure, the scup pot and trap definition, and the annual recreational harvest limit. The remaining disapproved measures were not resubmitted.

Proposed Measures

Rerigging Measure

For the purposes of moratorium eligibility, the resubmitted provision would require that a vessel under construction for, or being rerigged for, use in the directed fishery for scup on January 26, 1993, to have landed scup for sale by January 26, 1994. For the purpose of this paragraph, ''under construction'' would mean that the keel had been laid or the vessel was under written agreement for construction or the vessel was under written contract for purchase. ''Being rerigged'' would mean physical alteration of the vessel or its gear had begun to transform the vessel into one capable of fishing commercially for scup.

Scup Pot and Trap Definition

Scup pots and traps would be defined as pots or traps catching and retaining scup. Harvesters would be required to identify such gear with numbers assigned by the Regional Director and/or identification markings as required by the vessel's home port state.

Annual Harvest Limit

In the second year of implementation of the amendment, a coastwide harvest limit would be specified at a level that would reduce the exploitation rate to the level specified in the rebuilding schedule. This harvest limit would be allocated 78 percent to the commercial fishery, via a coastwide commercial quota, and 22 percent to the recreational fishery, via a recreational harvest limit. The coastwide harvest limit would be set annually following the Monitoring Committee process set forth in the amendment. Any landings in excess of the target harvest level would be considered in the process of setting recreational harvest regulations in the following year.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended, requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the amendment and proposed regulations. At this time, NMFS has not determined whether the measures that this rule would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. NMFS, in making that determination, will take into account the information, views, and comments received during the comment period.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration regarding the resubmitted measures in proposed Amendment 8 as follows:

I certify that the attached proposed rule issued under authority section 304(a) of the Magnuson Fishery Conservation and Management Act will not have a significant economic impact on a substantial number of small entities. The proposed measures are not significantly modified from the original submitted measures analyzed as part of the Amendment 8 package, which was found not to have a significant economic impact on a substantial number of small entities. The proposed modified measures fall within the scope of measures previously analyzed, so the certification remains unchanged. The proposed rule would revise and implement three of the six disapproved measures contained in Amendment 8 to the FMP. The measures contained in the resubmission would: (1) Confer moratorium permit eligibility upon vessels that were re-rigging on January 26, 1993, and land scup prior to January 26, 1994; (2) define a scup pot or trap as any scup pot or trap used by fishermen to catch and retain scup; and (3) establish that any landings in excess of the specified recreational harvest limit would be considered in the process of setting recreational harvest regulations in later years.

The resubmitted rerigging provision is the only measure that requires elaboration. The resubmitted measure is the same as those in the other vessel permit moratoria administered to date in the Northeast Region. It is intended to address the circumstance of a vessel owner who took a definite action on a specified date to construct or substantially rerig a vessel in order to participate in a moratorium fishery. Because these owners can demonstrate that they took such action, they are given an additional 12-month period to satisfy the requirement that they submit proof that the vessel actually landed the required species to qualify for the moratorium fishery. In past moratoria, such as Northeast multispecies and summer flounder, the provision has been applicable in a relatively limited number of cases and that is expected to be the case in the scup moratorium as well. Based on our past experience with Northeast multispecies and, especially, summer flounder, the number of applicants affected by the provision is expected to be within a small range of 4 to 10 vessels. Therefore, no additional analysis is needed.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The requirement to mark traps and pots has been approved by OMB, OMB Control Number 0648–0305. The marking of traps and pots is estimated to take 1 minute per trap or pot.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The response estimates shown include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding any of these burden estimates or any other aspect of the collection of information to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 19, 1996.

C. Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648––FISHERIES OF THE NORTHEASTERN UNITED STATES

1. In § 648.2, the definition for ''Scup pot or trap'' is added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Scup pot or *trap* means a pot or trap catching and retaining scup.

* * * * *

2. In § 648.4, paragraph, (a)(6)(i)(A)(*3*) is added to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(6) * * * (i) * * * (A) * * *

(*3*) The vessel was under construction for, or was being rerigged for, use in the directed fishery for scup on January 26,

1993, provided the vessel landed scup for sale by January 26, 1994.

* * * * *

3. In § 648.14, paragraph (k)(12) is added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(12) Use a scup trap or pot that does not have identification as specified in § 648.123(b)(3).

* * * * *

4. In § 648.123, paragraph (b)(3) is added to read as follows:

§ 648.123 Gear restrictions.

(a) * * *

(b) * * *

(3) *Pot and trap identification*. Pots or traps used in fishing for scup must be marked with the number assigned by the Regional Director and/or identification marking as required by the vessel's home port state.

* * * * *

[FR Doc. 96–21553 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 166
Monday, August 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

Food Safety and Inspection Service

[Docket No. 96–033N]

National Advisory Committee on Microbiological Criteria for Foods; Meeting

The National Advisory Committee on Microbiological Criteria for Foods' (NACMCF) subcommittees on Risk Assessment, Fresh Produce, Codex, and Hazard Analysis and Critical Control Points (HACCP) will hold meetings on September 10 and 11, 1996, in Rooms 4347 and 0745, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700.

On September 10, 1996, the Codex Subcommittee will meet in Room 4347 from 8:00 a.m. to 10:00 a.m. to hear a presentation from a U.S. Government representative about the proposed draft ''Code of Hygienic Practice for Uncured and Unripened Cheese and Ripened Soft Cheese'' which will be discussed by the Codex Committee on Food Hygiene in October 1996.

On September 10, 1996, the Fresh Produce Subcommittee will meet from 10:30 a.m. to 5:00 p.m. in Room 4347 to continue writing a report about pathogens on fresh produce.

On September 10 and 11, 1996, the HACCP Subcommittee drafting group will meet from 8:00 a.m. to 5:00 p.m. in Room 0745 to continue updating the Committee's 1992 document on HACCP principles.

On September 11, 1996, the Risk Assessment Subcommittee will meet from 8:00 to 5:00 p.m. in Room 4347 to complete work on a document addressing microbiological risk assessment.

The Subcommittee meetings are open to the public on a space available basis. Comments may be sent before and after the meetings and should be addressed to: Mr. Craig Fedchock, Advisory Committee Specialist, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 311, 1255 22nd Street, NW, Washington, DC 20250–3700. Background materials are available for inspection by contacting Mr. Fedchock on (202) 254–2517.

Done at Washington, DC, on August 21, 1996.

Michael R. Taylor,

Administrator.

[FR Doc. 96–21731 Filed 8–23–96; 8:45 am]

BILLING CODE 3410–DM–M

Forest Service

Prince John Project, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Cascade Ranger District of the Boise National Forest will prepare an environmental impact statement (EIS) for an integrated resource management project in the headwaters of Big Creek, a tributary of the North Fork Payette River below Cascade Reservoir. The project area is located 15 miles east of Cascade, Idaho, and about 100 road miles north of Boise, Idaho.

The agency invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of the environmental analysis and decision-making process that will occur on the proposal so interested and affected people are aware of how they may participate and contribute to the final decision.

SUPPLEMENTARY INFORMATION: An environmental assessment (EA) for this project was released for a 30-day public review and comment period in April 1996 under the auspices of Public Law 104–19. Since that time, and prior to the release of the Decision Notice, clarification on implementation of Public Law 104–19 has made it necessary to prepare an EIS for the project (Secretary of Agriculture Glickman, July 2, 1996).

Proposed Action

Five primary objectives have been identified for the project: (1) Salvage the dead and imminently dead trees from the area; (2) achieve the desired future condition of a healthy diverse forest in which important resource values, including healthy timber stands, are sustained; (3) improve big-game forage habitat, thin overcrowded stands of plantations, and reduce natural fuel loads through the use of prescribed fire; (4) reduce current sediment delivery from existing roads by obliterating sections of these roads located immediately adjacent to perennial streams; and (5) provide sawlogs and other wood products to help sustain local sawmills and economies.

The proposed action would treat, either with timber harvest or prescribed fire, a total of 3,695 acres in the 67,637-acre Gold Fork/Clear Creek Management Area. An estimated 15 MMBF of timber would be harvested through silvicultural treatment of the stands. Approximately 2,856 acres would be harvested by ground-based (916 acres), cable (772 acres), or helicopter (1,168 acres) yarding systems. The proposed action would employ a variety of silvicultural systems including clearcutting with reserve trees (9 percent), irregular shelterwood (74 percent), and individual tree selection (17 percent). Prescribed fire would occur on another 839 acres to improve big-game forage habitat (110 acres), thin overcrowded plantations (385 acres), and/or reduce natural fuel loads (344 acres). The existing transportation system would be improved to facilitate harvest and reduce sedimentation, with individual sections of 28 miles of road being reconstructed, 4.7 miles of new specified road construction, and 2 miles of temporary road construction. An estimated 6.1 miles of existing roads, most of which lie immediately adjacent to perennial streams, would be obliterated. Portions of the new specified road construction would be necessary to access heavily used recreational areas, such as Gold Fork Meadows.

Preliminary Issues

Anticipated concerns with the proposed action are: (1) The project's visual impacts to the area as seen from Forest Highway 22; (2) timber harvest and associated road construction could impact the undeveloped characteristics and wilderness attributes of the Needles and Stony Meadows Inventoried Roadless Areas (IRA's); (3) proposed activities could result in a low likelihood of persistence of pileated woodpecker, northern goshawk, and fisher within the analysis area; and (4)

proposed activities could increase water yield in amounts that would decrease bank stability, thus increasing sediment in Johnson Creek and lower Big Creek.

Possible Alternatives to the Proposed Action

Three alternatives to the proposed action have been identified: (1) A no action alternative; (2) An alternative that would exclude timber harvesting and road construction in the IRA's; and (3) an alternative that would mitigate increases in water yield and loss of pileated woodpecker, northern goshawk, and fisher habitat. Other alternatives may be developed as issues are raised and information is received.

Decisions To Be Made

The Boise National Forest Supervisor will decide the following:

Should roads be built and timber harvested within the Prince John Project area at this time, and if so; where within the project area, and how many miles of road should be built; and which stands should be treated and what silvicultural systems should be used?

Should prescribed fire be used within the Prince John Project area at this time, and if so; where within the project area; and what mitigation/watershed enhancement measures should be applied to the project?

Should the obliteration of portions of roads 497, 497A, 497A2, 497F, 497J1, and 497L be implemented at this time?

Schedule

Draft Environmental Impact Statement (DEIS), September 1996.
Final EIS, November 1996.

Public Involvement

The proposal has been previously scoped by two public meetings. The first was at the Cascade Ranger District office on December 6, 1995, with the second meeting at the Boise National Forest Supervisor's Office on December 7, 1995. In addition, the Cascade Ranger District mailed a scoping package in November 1995 to over 180 individuals and/or groups who may be affected by the decision. Further, the EA was released for a 30-day public review and comment period in April 1996 to 75 interested groups and/or individuals. Comments received from these public involvement efforts will be incorporated into the analysis process.

Comments

Written comments concerning the proposed project and analysis are encouraged and should be postmarked within 30 days following publication of this announcement in the Federal Register. Mail comments to Steve Patterson, Cascade Ranger District, Boise National Forest, P.O. Box 696, Cascade, ID 83611, telephone, 208–382–7430. Further information can be obtained at the same location.

The comment period on the DEIS 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 the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon.* v. *Hodel,* 803 F.2d 1016, 1002 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed section 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 EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

David D. Rittenhouse, Forest Supervisor, Boise National Forest, 1750 Front Street, Boise, ID 83702.

Dated: August 14, 1996.

Milton D. Coffman,

Acting Forest Supervisor.

[FR Doc. 96–21684 Filed 8–23–96; 8:45 am]

BILLING CODE 3410–11–M

Natural Resources Conservation Service

Potomac Headwaters Watershed, Hardy, Hampshire, Mineral, Grant, and Pendleton Counties WV; Finding of No Significant Impact

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Potomac Headwaters Watershed, Hardy, Hampshire, Mineral, Grant, and Pendleton Counties, West Virginia.

FOR FURTHER INFORMATION CONTACT: Roger L. Bensey, State Conservationist, Natural Resources Conservation Service, 75 High Street, Morgantown, West Virginia 26505, Telephone: 304–291–4153.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roger L. Bensey, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is water quality improvement of streams in the Potomac Headwaters. The planned works of improvement include installation of animal waste storage systems, dead bird composters, livestock confinement areas, nutrient management plans, and riparian buffer zones.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roger L. Bensey.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Richard W. Sims,

Acting State Conservationist.

Finding of No Significant Impact for Potomac Headwaters Land Treatment Watershed Project Hardy, Hampshire, Mineral, Grant, and Pendleton Counties, West Virginia

Introduction

The Potomac Headwaters Land Treatment Watershed Project is a federally assisted action authorized for planning under Public Law 78–534, the Flood Control Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505.

Recommended Action

Proposed is the installation of animal waste storage systems, dead bird composters, livestock confinement improvements, nutrient management plans, and riparian buffer zones for the purpose of reducing nutrient and bacterial pollution in the Potomac River headwaters.

Effects of the Recommended Action

Improvements in animal waste management will result in decreased runoff of nutrients and bacteria to streams, improving the water quality of the project area. Proper storage and application of manure and poultry litter will not only improve water quality, but will also improve the farmers efficiencies and make the product available for market. Installation of dead bird composters will enable more growers to manage this poultry waste product in an environmentally sound and economical means. Development of nutrient management plans will assure proper field application rates of animal waste. Installation of riparian buffer zones will reduce nutrient and bacteria runoff to streams and surface waters.

Risks of water-borne illnesses will be reduced, and the water pollution threat to fishing, boating, swimming, and tourism in the area will be lessened.

The proposed action will have little or no effect on wetlands. No adverse effects to threatened/endangered species are anticipated.

Consultation has been initiated with the State Historic Preservation Office. Should significant cultural resources be identified during implementation, they will be avoided or otherwise preserved in place to the fullest practical extent. If significant cultural resources cannot be avoided or preserved, pertinent information will be recovered before construction. If there is a significant cultural resource discovery during construction, appropriate notice will be made by NRCS to the State Historic Preservation Officer and the National Park Service. Consultation and coordination have been and will continue to be used to ensure the provisions of Section 106 of Public Law 89–665 have been met and to include provisions of Public Law 89–523, as amended by Public Law 93–291. NRCS will take action as prescribed in NRCS GM 420, Part 401, to protect or recover any significant cultural resources discovered during construction.

Alternatives

The planned action is the most practical means of reducing nutrient and bacterial pollution of streams. Because no significant adverse environmental impacts will result from installation of the measures, no other alternatives, other than the no project one, were considered.

Consultation—Public Participation

Formal agency consultation began with the initiation of the notification of the State Single Point of Contact for Federal Assistance in September 1995. Scoping meetings were held in September, October, and December 1995 and interdisciplinary efforts were used in all cases. A public meeting was held on May 2, 1996 to present the Draft Plan-Environmental Assessment to the Public and to receive comments and questions.

Specific consultation was conducted with the State Historic Preservation Officer concerning cultural resources in the watershed, and with the U.S. Fish and Wildlife Service regarding threatened/endangered species. The U.S. Geological Survey, through a cooperative agreement, conducted water sampling and testing to establish baseline water quality values.

The plan-environmental assessment was transmitted to all participating and interested agencies, groups, and individuals for review and comment on March 29, 1996.

Agency consultation and public participation to date have shown no unresolved conflicts with the implementation of the selected plan.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Potomac Headwaters Land Treatment Watershed Project is not required.

Dated: August 19, 1996.

Richard W. Sims,

Acting State Conservationist.

[FR Doc. 96–21627 Filed 8–25–96; 8:45 am]

BILLING CODE 3410–06–M

ASSASSINATION RECORDS REVIEW BOARD

Notice of Formal Determinations, Releases, and Designations

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on August 5–6, 1996, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (Supp. V 1994) (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the Federal Register within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, General Counsel and Associate Director for Research and Analysis, Assassination Records Review Board, Second Floor, Washington, D.C. 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On August 5–6, 1996, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records

Collection database maintained by the National Archives.

Notice of Formal Determinations

For each document, the number of releases of previously redacted information immediately follows the record identification number, followed in turn by the number of postponements sustained, and, where appropriate, the date the document is scheduled to be released or re-reviewed.

FBI Documents: Open in Full

124–10035–10171; 3; 0; n/a
124–10035–10355; 6; 0; n/a
124–10060–10069; 1; 0; n/a
124–10060–10079; 1; 0; n/a
124–10067–10356; 3; 0; n/a
124–10096–10054; 6; 0; n/a
124–10096–10382; 6; 0; n/a
124–10099–10260; 7; 0; n/a
124–10099–10293; 6; 0; n/a
124–10099–10302; 3; 0; n/a
124–10099–10310; 6; 0; n/a
124–10100–10231; 20; 0; n/a
124–10100–10293; 4; 0; n/a
124–10101–10226; 7; 0; n/a
124–10102–10051; 9; 0; n/a
124–10102–10312; 9; 0; n/a
124–10108–10134; 2; 0; n/a
124–10108–10179; 9; 0; n/a
124–10108–10250; 7; 0; n/a
124–10108–10308; 4; 0; n/a
124–10118–10391; 5; 0; n/a
124–10118–10392; 5; 0; n/a
124–10119–10128; 2; 0; n/a
124–10099–10321; 4; 0; n/a
124–10119–10184; 4; 0; n/a
124–10119–10292; 6; 0; n/a
124–10125–10116; 2; 0; n/a
124–10138–10063; 5; 0; n/a
124–10138–10064; 12; 0; n/a
124–10139–10087; 9; 0; n/a
124–10139–10091; 5; 0; n/a
124–10139–10092; 5; 0; n/a
124–10139–10093; 4; 0; n/a
124–10139–10095; 5; 0; n/a
124–10139–10097; 4; 0; n/a
124–10139–10098; 9; 0; n/a
124–10139–10099; 4; 0; n/a
124–10139–10102; 12; 0; n/a
124–10139–10103; 8; 0; n/a
124–10142–10000; 5; 0; n/a
124–10142–10002; 3; 0; n/a
124–10142–10003; 5; 0; n/a
124–10142–10010; 5; 0; n/a
124–10142–10013; 5; 0; n/a
124–10142–10016; 3; 0; n/a
124–10142–10017; 3; 0; n/a
124–10142–10020; 3; 0; n/a
124–10142–10026; 3; 0; n/a
124–10142–10037; 5; 0; n/a
124–10142–10040; 5; 0; n/a
124–10142–10041; 5; 0; n/a
124–10142–10043; 5; 0; n/a
124–10142–10044; 8; 0; n/a
124–10142–10046; 12; 0; n/a
124–10142–10059; 2; 0; n/a
124–10142–10160; 5; 0; n/a
124–10155–10149; 2; 0; n/a

CIA Documents: Open in Full

104–10049–10140; 2; 0; n/a
104–10052–10246; 2; 0; n/a
104–10054–10129; 6; 0; n/a
104–10055–10027; 3; 0; n/a
104–10059–10052; 2; 0; n/a
104–10059–10131; 1; 0; n/a
104–10059–10164; 1; 0; n/a
104–10059–10186; 1; 0; n/a

HSCA Documents: Open in Full

180–10082–10142; 1; 0; n/a
180–10090–10224; 1; 0; n/a
180–10090–10275; 1; 0; n/a
180–10090–10288; 1; 0; n/a
180–10091–10324; 1; 0; n/a
180–10091–10333; 1; 0; n/a

FBI Documents: Postponed in Part

124–10006–10372; 2; 3; 08/2006
124–10027–10188; 1; 1; 08/2006
124–10027–10204; 27; 6; 08/2006
124–10027–10427; 1; 1; 08/2006
124–10035–10335; 1; 1; 08/2006
124–10060–10416; 3; 3; 08/2006
124–10073–10001; 8; 1; 10/2017
124–10073–10191; 3; 2; 08/2006
124–10079–10229; 2; 2; 08/2006
124–10079–10363; 3; 1; 08/2006
124–10079–10371; 6; 6; 08/2006
124–10081–10317; 4; 2; 08/2006
124–10099–10263; 7; 3; 08/2006
124–10100–10249; 1; 1; 08/2006
124–10101–10255; 7; 1; 08/2006
124–10102–10016; 1; 1; 08/2006
124–10102–10188; 1; 1; 08/2006
124–10105–10196; 16; 1; 08/2006
124–10108–10101; 1; 1; 08/2006
124–10110–10271; 2; 2; 08/2006
124–10119–10157; 2; 1; 08/2006
124–10179–10025; 8; 1; 10/2017
124–10182–10072; 1; 1; 08/2006
124–10232–10262; 2; 2; 08/2006
124–10235–10156; 8; 1; 10/2017
124–10238–10391; 2; 2; 08/2006
124–10245–10432; 2; 2; 08/2006
124–10247–10222; 1; 1; 08/2006
124–10248–10386; 8; 1; 10/2017
124–10250–10392; 1; 1; 08/2006
124–10275–10284; 2; 2; 08/2006
124–10049–10184; 1; 1; 08/2006
124–10119–10176; 1; 1; 08/2006
124–10126–10084; 18; 3; 08/2006
124–10126–10325; 52; 9; 08/2006
124–10138–10026; 24; 6; 08/2006
124–10138–10058; 2; 1; 08/2006
124–10139–10084; 19; 2; 08/2006
124–10139–10094; 9; 2; 08/2006
124–10139–10096; 5; 1; 08/2006
124–10139–10105; 1; 1; 08/2006
124–10142–10029; 2; 3; 08/2006
124–10142–10134; 12; 11; 08/2006
124–10142–10165; 13; 1; 08/2006
124–10146–10177; 12; 1; 08/2006
124–10162–10092; 11; 9; 08/2006
124–10250–10053; 11; 9; 08/2006

CIA Documents: Postponed in Part

104–10015–10377; 2; 3; 05/1997
104–10015–10395; 7; 5; 05/2001
104–10050–10109; 0; 2; 05/2001
104–10050–10119; 10; 4; 05/1997
104–10050–10121; 1; 1; 05/1997
104–10050–10123; 3; 1; 05/1997
104–10051–10201; 1; 1; 05/1997
104–10051–10202; 1; 1; 05/1997
104–10051–10207; 13; 1; 05/2001
104–10051–10250; 12; 1; 10/2017
104–10051–10273; 1; 1; 05/1997
104–10051–10275; 3; 1; 05/1997
104–10051–10278; 11; 5; 05/1997
104–10051–10287; 13; 2; 08/2006
104–10052–10018; 1; 1; 05/2001
104–10052–10026; 6; 1; 05/2001
104–10052–10028; 4; 2; 05/2001
104–10052–10030; 0; 2; 05/2001
104–10052–10036; 12; 1; 05/2001
104–10052–10039; 0; 1; 05/2001
104–10052–10046; 3; 1; 05/2001
104–10052–10047; 0; 1; 05/2001
104–10052–10052; 23; 3; 08/2006
104–10052–10057; 15; 1; 05/2001
104–10052–10058; 1; 3; 12/1996
104–10052–10059; 12; 2; 05/1997
104–10052–10063; 1; 1; 05/1997
104–10052–10078; 21; 5; 05/1997
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104–10052–10103; 0; 1; 05/2001
104–10052–10112; 0; 1; 05/2001
104–10052–10113; 2; 3; 05/2001
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104–10052–10128; 3; 5; 08/2006
104–10052–10129; 9; 2; 05/1997
104–10052–10132; 7; 2; 08/2006
104–10052–10137; 8; 2; 05/1997
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104–10052–10166; 0; 2; 05/2001
104–10052–10167; 18; 1; 08/2006
104–10052–10169; 49; 2; 05/2001
104–10052–10170; 16; 5; 05/1997
104–10052–10174; 4; 5; 05/1997
104–10052–10186; 0; 1; 05/1997
104–10052–10192; 8; 1; 10/2017
104–10052–10197; 0; 1; 05/1997
104–10052–10198; 0; 2; 05/1997
104–10052–10199; 0; 1; 05/1997
104–10052–10205; 1; 4; 08/2006
104–10052–10213; 0; 1; 05/1997
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104–10052–10235; 0; 1; 05/1997
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104–10052–10244; 10; 4; 05/1997
104–10052–10251; 3; 1; 05/1997
104–10052–10255; 1; 2; 05/1997
104–10052–10260; 10; 2; 08/2006
104–10052–10277; 4; 3; 05/2001
104–10052–10279; 23; 6; 05/2001
104–10052–10280; 3; 2; 05/2001
104–10052–10281; 1; 2; 05/2001
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104–10052–10289; 2; 1; 08/2006
104–10052–10443; 2; 1; 05/2001
104–10054–10081; 8; 1; 05/2001
104–10054–10084; 5; 1; 05/2001
104–10054–10087; 4; 2; 05/2001
104–10054–10090; 2; 3; 05/2001
104–10054–10098; 1; 2; 05/2001
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104–10054–10109; 1; 1; 05/1997
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104–10054–10117; 5; 3; 08/2006
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104–10054–10176; 2; 1; 05/1997
104–10054–10192; 1; 1; 05/2001
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104–10054–10203; 10; 2; 08/2006
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104–10054–10236; 0; 5; 12/1996
104–10054–10238; 1; 1; 05/2001
104–10054–10246; 10; 4; 05/1997
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104–10054–10257; 2; 3; 05/2001
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104–10054–10264; 1; 1; 05/2001
104–10054–10265; 9; 1; 10/2017
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104–10054–10276; 1; 3; 05/2001
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104–10054–10279; 1; 1; 05/2001
104–10054–10293; 5; 1; 05/1997
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104–10054–10373; 0; 1; 05/1997
104–10054–10380; 0; 1; 05/2001
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104–10054–10391; 0; 1; 05/1997
104–10054–10400; 10; 4; 05/1997
104–10054–10405; 1; 1; 05/1997
104–10054–10412; 1; 1; 05/1997
104–10054–10432; 2; 2; 05/2001
104–10054–10437; 10; 4; 05/1997
104–10054–10439; 1; 1; 05/1997
104–10054–10441; 3; 1; 05/1997
104–10054–10446; 1; 2; 05/2001
104–10054–10448; 5; 1; 05/2001
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104–10055–10007; 0; 1; 05/2001
104–10055–10012; 0; 1; 05/2001
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104–10055–10038; 0; 1; 05/1997
104–10055–10041; 12; 1; 05/2001
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104–10055–10050; 2; 3; 05/2001
104–10055–10055; 2; 3; 05/1997
104–10055–10084; 0; 1; 05/2001
104–10055–10087; 20; 4; 08/2006
104–10055–10091; 8; 3; 05/1997
104–10055–10095; 0; 2; 05/2001
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104–10055–10107; 8; 1; 05/2001
104–10055–10112; 6; 1; 05/1997
104–10055–10114; 1; 2; 05/2001
104–10055–10115; 2; 2; 05/2001
104–10055–10118; 8; 1; 05/1997
104–10055–10121; 7; 1; 05/1997
104–10056–10379; 1; 7; 10/2017
104–10058–10111; 5; 4; 08/2006
104–10059–10012; 55; 34; 08/2006
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104–10059–10092; 1; 3; 05/1997
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104–10059–10248; 0; 1; 05/1997
104–10059–10249; 1; 1; 08/2006
104–10059–10252; 0; 3; 05/1997
104–10059–10324; 8; 4; 08/2006
104–10059–10327; 1; 4; 08/2006

HSCA Documents: Postponed in Part

180–10110–10484; 437; 302; 12/1996
180–10131–10330; 41; 40; 05/1997

Notice of Additional Openings in Full

After consultation with appropriate Federal Agencies, the Review Board announces that the following Federal Bureau of Investigation records are now being opened in full: 124–10001–10370; 124–10003–10390; 124–10003–10458; 124–10006–10344; 124–10027–10118; 124–10027–10131; 124–10027–10178; 124–10035–10063; 124–10035–10305; 124–10035–10321; 124–10035–10425; 124–10039–10299; 124–10048–10416; 124–10049–10022; 124–10053–10465; 124–10059–10159; 124–10060–10005; 124–10060–10019; 124–10060–10083; 124–10060–10317; 124–10061–10009; 124–10061–10189; 124–10061–10250; 124–10061–10274; 124–10061–10479; 124–10065–10052; 124–10075–10285; 124–10079–10312; 124–10079–10336; 124–10079–10337; 124–10079–10349; 124–10079–10353; 124–10079–10357; 124–10079–10358; 124–10079–10359; 124–10079–10366; 124–10079–10368; 124–10079–10384; 124–10079–10386; 124–10079–10387; 124–10079–10391; 124–10079–10396; 124–10079–10397; 124–10079–10401; 124–10079–10402; 124–10079–10413; 124–10079–10421; 124–10079–10439; 124–10079–10449; 124–10079–10455; 124–10079–10461; 124–10079–10463; 124–10079–10469; 124–10084–10180; 124–10086–10300; 124–10095–10127; 124–10096–10062; 124–10096–10063; 124–10100–10218; 124–10100–10253; 124–10102–10088; 124–10102–10143; 124–10102–10152; 124–10102–10319; 124–10103–10164; 124–10108–10166; 124–10108–10320; 124–10110–10291; 124–10110–10369; 124–10110–10391; 124–10117–10100; 124–10119–10160; 124–10119–10165; 124–10119–10215; 124–10119–10251; 124–10125–10119; 124–10128–10076; 124–10142–10124; 124–10144–10266; 124–10146–10016; 124–10146–10021; 124–10151–10496; 124–10156–10394; 124–10158–10021; 124–10160–10216; 124–10170–10122; 124–10172–10025; 124–10172–10305; 124–10176–10182; 124–10177–10381; 124–10183–10009; 124–10234–10296; 124–10235–10300; 124–10240–10313; 124–10241–10288; 124–10241–10352; 124–10241–10353; 124–10241–10354; 124–10241–10355; 124–10241–10356; 124–10241–10357; 124–10241–10479; 124–10244–10361; 124–10244–10363; 124–10244–10364; 124–10244–10384; 124–10247–10226; 124–10249–10214; 124–10250–10296; 124–10251–10298; 124–10254–10289; 124–10254–10297; 124–10254–10300; 124–10254–10301; 124–10254–10308; 124–10254–10309; 124–10254–10310; 124–10254–10311; 124–10254–10318; 124–10254–10339; 124–10254–10404; 124–10255–10473; 124–10255–10482; 124–10256–10364; 124–10256–10373; 124–10256–10393; 124–10256–10394; 124–10256–10462; 124–10256–10466; 124–10256–10495; 124–10257–10264; 124–10257–10344; 124–10260–10038; 124–10260–10228; 124–10263–10066; 124–10263–10464; 124–10263–10471; 124–10264–10219; 124–10264–10234; 124–10264–10251; 124–10264–10372; 124–10265–10087; 124–10265–10090; 124–10265–10155; 124–10265–10156; 124–10265–10161; 124–10265–10162; 124–10265–10163; 124–10265–10164; 124–10265–10173; 124–10265–10177; 124–10266–10118; 124–10267–10228; 124–10267–10268; 124–10268–10008; 124–10268–10011; 124–10268–10087; 124–10268–10088; 124–10268–10089; 124–10268–10119; 124–10268–10120; 124–10268–10338; 124–10268–10356; 124–10268–10362; 124–10268–10428; 124–10268–10453; 124–10269–10173; 124–10269–10448; 124–10269–10490; 124–10270–10023; 124–10272–10039; 124–10272–10066; 124–10272–10071; 124–10272–10253; 124–10272–10261; 124–10272–10300; 124–10272–10346; 124–10275–10041; 124–10275–10407; 124–10275–10429.

After consultation with appropriate Federal Agencies, the Review Board announces that the following Central Intelligence Agency records are now being opened in full: 104–10001–10120; 104–10003–10131; 104–10004–10076; 104–10004–10087; 104–10004–10167;

104–10004–10197; 104–10004–10291; 104–10005–10341; 104–10006–10000; 104–10006–10002; 104–10007–10001; 104–10010–10058; 104–10010–10062; 104–10010–10294; 104–10010–10298; 104–10010–10299; 104–10010–10306; 104–10011–10107; 104–10013–10000; 104–10013–10024; 104–10013–10088; 104–10013–10153; 104–10013–10217; 104–10013–10370.

After consultation with appropriate Federal Agencies, the Review Board announces that the following House Select Committee on Assassination records are now being opened in full: 180–10076–10353; 180–10090–10293; 180–10090–10294; 180–10090–10295; 180–10090–10296; 180–10090–10297; 180–10090–10298; 180–10090–10299; 180–10090–10300; 180–10090–10301; 180–10090–10302; 180–10090–10303; 180–10090–10304; 180–10090–10305; 180–10090–10307; 180–10090–10309; 180–10090–10310.

Notice of Assassination Record Determination

Designation: The following United States Secret Service materials are designated ''assassination records:'' Protective survey reports for planned Presidential trips to Philadelphia; Elkton, Maryland; New York; Palm Beach; Cape Canaveral; Miami; Tampa; and San Antonio in the October 31, 1963–November 21, 1963 period; and a thirteen-minute radio interview (on tape cassette) with Chief James Rowley on August 7, 1963.

Description: On August 6, 1996, the Assassination Records Review Board designated the above listed materials as ''assassination records'' pursuant to Section 7(i)(2)(A) and 9(c)(1)(A) of the President John F. Kennedy Assassination Records Collection Act (''the JFK Act'') and § 1400.1 and § 1400.8 of the Guidance for Interpretation and Implementation of the JFK Act. 36 CFR part 1400 (1995).

Dated: August 19, 1996.

David G. Marwell,

Executive Director.

[FR Doc. 96–21620 Filed 8–23–96; 8:45 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Notice of Open Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held September 16, 1996, 9:00 a.m., at the Country Side Inn & Suites, 325 Bristol Street, Costa Mesa, California. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

AGENDA

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion on renewal of Committee charter.
4. Update on Bureau of Export Administration initiatives.
5. Update on reform of the EAR.
6. Discussion on the Automated Export System.
7. Discussion on control issues regarding foreign nationals.
8. Update on the Export Administration Act.
9. Reports from the working groups.
10. Discussion on encryption and related issues.
11. Discussion on the Enhanced Proliferation Control Initiative.
12. Discussion regarding priorities for post-EAR reform policy initiatives.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials, two weeks prior to the meeting date, to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS–EA Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: August 16, 1996.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 96–21676 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Agency: International Trade Administration.

Title: Trade Fair Privatization Application.

Agency Number: ITA–4134P.

OMB Number: 0625–0222.

Type of Request: Renewal of an existing collection.

Burden: 600.

Number of Respondents: 50.

Avg. Hour Per Response: 12.

Needs and Uses: The Trade Fair Certification (TFC) program is a service of the U.S. Department of Commerce (Commerce) that provides Commerce endorsement and support for high quality international trade fairs which are organized by private-sector firms. The TFC program seeks to broaden the base of U.S. firms, particularly new-to-market companies by introducing them to key international trade fairs where they can achieve their export objectives. Those objectives include one or more of the following: direct sales, identification of local agents or distributors, market research and exposure, and joint venture and licensing opportunities for their products and services. The objective of the application is to make a determination that the trade fair organizer is qualified to organize and manage U.S. exhibitions at a foreign trade show.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Wassmer, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 20, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–21724 Filed 8–23–96; 8:45 am]

BILLING CODE: 3510–F–P

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, Application No. 96–00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to The Rice Millers' Association (''RMA''). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

Semi-milled and wholly milled rice, whether or not polished or glazed (Harmonized Tariff Schedule 1006.30) (referred to as ''milled rice'') and husked (brown) rice (Harmonized Tariff Schedule 1006.20).

Export Markets

For purposes of administering the European Union's tariff rate quota: The countries of the European Union.

For purposes of Export Trade Activity and Method of Operation 3: All parts of the world except the United States (the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. RMA will administer a system for allocating the U.S. share of the European Union (EU) tariff rate quotas (''TRQs'') for milled rice and brown rice (roughly 38,000 tons of milled rice and 8,000 tons of brown rice) agreed to as compensation to the United States for the EU enlargement, to include Austria, Finland and Sweden, as follows:

A. RMA shall establish a special tariff rate quota (hereinafter referred to as ''Quota A'') for the balance of calendar year 1996 and for calendar year 1997 for those RMA Members which can document exports of milled rice or brown rice to Austria, Finland and Sweden during the period 1990–1993. For the balance of 1996 and for 1997, RMA shall annually award a Member a milled rice and brown rice Quota A amount equal to 100 percent of the annual average quantity of U.S. milled rice and brown rice that the Member documents that it exported to Austria, Finland and Sweden during the period 1990–1993.

(i) RMA Members receiving a milled rice or brown rice Quota A allocation during 1996 or 1997 shall not be eligible to receive a milled rice or brown rice Quota B allocation during that period unless the Member declines the milled rice or brown rice Quota A allocation during that period.

B. For any particular time period, RMA shall establish a tariff rate quota allocation (hereinafter referred to as ''Quota B'') for milled rice and brown rice allocation equal to the EU milled rice and brown rice tariff rate quota remaining after deducting the milled rice and brown rice Quota A quantity, if any, for that particular time period.

(i) RMA shall allocate an amount of Quota B milled rice and brown rice available for a given period to eligible RMA Members based on the Member's proportional share of milled rice and brown rice exports to the EU for a previous period duly registered with RMA by a date certain during the period the quota is being allocated, as determined by RMA. A Member can only receive an allocation not exceeding the tonnage it has actually exported during the previous period.

2. RMA shall assess a fee to pay for administration of all matters related to establishing, operating and auditing RMA export trade certificate of review operations and for certain market development activities.

3. RMA and/or its Member shall use those funds remaining after payment of its administrative expenses to carry out market development activities. Such activities shall be of the types approved by RMA that are comparable to those funded under the Department of Agriculture's market access program with primary emphasis on rice market development activities in the European Union.

4. RMA and/or its Members may:

(i) provide for an administrative structure to implement the foregoing tariff rate quota system, relating to the U.S.-EU Compensation Agreement and EU regulations,

(ii) exchange and discuss information regarding the structure and method for implementing the foregoing tariff rate quota system, relating to the U.S.-EU Compensation Agreement and EU regulations,

(iii) discuss the type of information needed regarding past transactions and exports that are necessary for implementing the foregoing tariff rate quota system, relating to the U.S.-EU Compensation Agreement and EU regulations,

(iv) exchange and discuss information about U.S. and foreign legislation and regulations affecting the foregoing tariff rate quota system, relating to the U.S.-EU Compensation Agreement and EU regulations,

(v) discuss and establish the fees to be assessed upon Members to pay for administrative expenses and market promotion activities,

(vi) discuss and provide for the market promotion activities to be undertaken with the fees remaining after payment of administrative expenses,

(vii) otherwise exchange and discuss information as necessary to implement the foregoing activities and take the necessary action to implement the allocation system for the foregoing tariff rate quota, relating to the U.S.-EU Compensation Agreement and EU regulations,

(viii) meet to engage in the activities described above, and

(ix) announce the total TRQ amounts available under Quota A and Quota B prior to or at the beginning of the 1996 and 1997 allocation periods.

5. In allocating quotas among Members, a Neutral Third Party, as hereinafter defined, will (i) receive information from the Members as to the Members' sales and exports of milled rice and brown rice to the EU as is necessary to calculate the share each Member will receive, and (ii) make the TRQ allocations.

(i) A Neutral Third Party means an individual, partnership, corporation (for profit or non-profit), or any representative thereof which is not engaged in the production, milling, distribution, or sale of milled or brown rice.

(ii) The Neutral Third Party may not disclose the information obtained from each Member to any other Member or any other person, except to another Neutral Third Party who must have access to the information in order to administer the quota allocation. The Neutral Third Party may disclose the total rice exports to the EU during the

period used for calculating the allocation. After the last allocation for each year, the Neutral Third Party may also disclose to the Members the allocation that each Member received in each allocation period during that allocation year.

Terms and Conditions of Certificate

1. Except as expressly authorized in Export Trade Activity and Methods of Operation 4(iii), in engaging in Export Trade Activities and Methods of Operation, neither RMA nor any Member shall intentionally disclose, directly or indirectly, to any other Member (including parent companies, subsidiaries, or other entities related to any Member not named as a Member) any information that is about its or any other Member's costs, production, inventories, domestic prices, domestic sales, capacity to produce Products for domestic sale, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless (1) such information is already generally available to the trade or public; or (2) the information disclosed is a necessary term or condition (e.g., price, time required to fill an order, etc.) of an actual or potential *bona fide* export sale and the disclosure is limited to the prospective purchaser.

2. RMA and its Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Definitions

''Members'' means a mill member of the Rice Millers' Association who has been certified as a ''Member'' within the meaning of Section 325.1(1) of the Regulations and is listed in Attachment I. Members must sign the Operating Agreement of the Rice Millers' Association Export Trade Certificate of Review in order to participate in the certified activities. Any RMA mill member who is not a Member listed in Attachment I may join RMA's export trade certificate of review by requesting that RMA file for an amended certificate and by signing the Operating Agreement. Any U.S. rice milling company who is not a member of RMA and who wishes to participate in the activities covered by this certificate, may join RMA's membership and then request that RMA file for an amended certificate. A Member may withdraw from coverage under this certificate at any time by giving written notice to RMA, a copy of which RMA will promptly transmit to the Secretary of Commerce and the Attorney General.

Protection Provided by Certificate

This Certificate protects RMA, its Members, and directors, officers, and employees acting on behalf of RMA and its Members from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits RMA and its Members from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to RMA by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary of Commerce or by the Attorney General concerning either (a) the viability or quality of the business plans of RMA or its Members or (b) the legality of such business plans of RMA or its Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the ''Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition),'' 50 Fed. Reg. 1786 (January 11, 1985).

In accordance with the authority granted under the Act and Regulations, this Certificate of Review is hereby granted to RMA.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: August 20, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

Attachment I

Affiliated Rice Milling, Inc., Alvin, Texas
American Rice, Inc., Houston, Texas
Brinkley Rice Milling Company, Brinkley, Arkansas
Broussard Rice Mill, Inc., Mermentau, Louisiana
Busch Agricultural Resources, Inc., St. Louis, Missouri
Cargill, Incorporated, for the activities of its division
Cargill Rice Milling, Greenville, Mississippi
Louis Dreyfus Corporation, Wilton, Connecticut
El Campo Rice Milling Company, Louise, Texas
Farmers' Rice Cooperative, Sacramento, California
Farmers Rice Milling Company, Inc., Lake Charles, Louisiana
Gulf Rice Milling, Inc., Houston, Texas
Liberty Rice Mill, Inc., Kaplan, Louisiana
Producers Rice Mill, Inc., Stuttgart, Arkansas
The Rice Company, Roseville, California
Riceland Foods, Inc., Stuttgart, Arkansas
RiceTec, Inc., Alvin, Texas
Riviana Foods Inc., Houston, Texas
Supreme Rice Mill, Inc., Crowley, Louisiana
Uncle Ben's, Inc., Houston, Texas

[FR Doc. 96–21603 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–DR–P

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology's Visiting Committee on Advanced Technology (NIST) will meet on Tuesday, September 17, 1996, from 8:30 a.m. to 5:00 and on Wednesday, September 18, from 8:30 a.m. to 9:30 a.m. The Visiting Committee on Advanced Technology is composed of 15 members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new

product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include presentations on NIST programs, including the Manufacturing Extension Partnership (MEP): Role of the States and of Industry and Customer and Center Perspective, MEP Workforce Initiatives; the Advanced Technology Program (ATP): Components Based Software and Digital Data Storage; Laboratory Council Approach to Assessing and Assuring Measurement and Standards Needs; NIST budget; and a laboratory tour to review the AC Voltage Standards Using Josephson Arrays.

Discussions on the NIST budget, including funding levels of the Applied Technology Program and the Manufacturing Extension Partnership and the staffing of management positions at NIST scheduled to begin at 4:30 p.m. and to end at 5:00 p.m. on September 17, 1996, will be closed.

DATES: The meeting will convene September 17, 1996, at 8:30 a.m. and will adjourn at 9:30 a.m. on September 18, 1996.

ADDRESSES: On September 17, 1996, from 8:30 a.m. to 11:50 a.m. the meeting will be held in the Millennium Room at the Regal Harvest House, 1345 Twenty-eighth Street, Boulder, Colorado and from 1:15 p.m. in the Radio Building, Room 1107, at the National Institute of Standards and Technology, Boulder, Colorado; and on September 18, 1996, from 8:30 a.m. to 9:30 a.m. the meeting will be held in the Millennium Room at the Regal Harvest House, 1345 Twenty-eighth Street, Boulder, Colorado.

FOR FURTHER INFORMATION CONTACT: Chris E. Kuyatt, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–6090.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on August 15, 1996, that portions of the meeting of the Visiting Committee on Advanced Technology which involve discussion of proposed funding of the MEP and the ATP Programs may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of the staffing issues of management and other positions at NIST may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 19, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–21711 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Environmental Protection Agency

Coastal Nonpoint Pollution Control Program: Proposed Finding Documents, Environmental Assessments, and Findings of No Significant Impact

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and The U.S. Environmental Protection Agency.

ACTION: Notice of availability of proposed findings documents, environmental assessments, and findings of no significant impact on approval of coastal nonpoint pollution control programs for States of Rhode Island and Delaware.

SUMMARY: Notice is hereby given of the availability of the Proposed Findings Documents, Environmental Assessments (EA's), and Findings of No Significant Impact for the states of Rhode Island and Delaware. Coastal states were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. The Findings documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve each state's coastal nonpoint pollution control program. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. 1455b, requires states with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint pollution control programs. The EA's were prepared by NOAA, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, to assess the environmental impacts associated with the approval of the coastal nonpoint pollution control programs submitted to NOAA and EPA by the states of Rhode Island and Delaware.

NOAA and EPA have proposed to approve, with conditions, the coastal nonpoint pollution control programs submitted by the states of Rhode Island and Delaware. The requirements of 40 CFR parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of the Environmental Assessments. Specifically, 40 CFR 1506.6 requires agencies to provide public notice of the availability of environmental documents. This notice is part of NOAA's action to comply with this requirement.

Copies of the Proposed Findings Documents, Environmental Assessments, and Findings of No Significant Impact may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. (301) 713–3121, x201.

DATES: Individuals or organizations wishing to submit comments on the proposed Findings or Environmental Assessments should do so by September 25, 1996.

ADDRESSES: Comments should be made to: Joseph A. Uravitch, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. (301) 713–3155, x195.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: August 21, 1996.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans and Watersheds, Environmental Protection Agency.

[FR Doc. 96–21699 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–12–M

[I.D. 081996A]

Marine Mammals; Pinniped Removal Authority

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

ACTION: Public Meeting.

SUMMARY: NMFS announces a public meeting of the Pinniped-Fishery Interaction Task Force (Task Force) on the sea lion/steelhead conflict at the Ballard Locks. The Task Force is meeting to review the available information from the 1996 winter steelhead run and evaluate the effectiveness of the permitted intentional lethal taking of individually identified pinnipeds or alternative actions that were implemented. Following its evaluation, the Task Force may recommend additional actions that it believes to be necessary for the elimination of the problem interaction.

DATES: The public meeting of the Task Force is scheduled for September 16–17, 1996, from 9 a.m. to 5 p.m. each day.

ADDRESSES: The Task Force meeting will be held in the Snoqualmie Room at the Marriott Hotel, 3201 S. 176th St., Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206–526–6140.

SUPPLEMENTARY INFORMATION: A Task Force was formed pursuant to section 120 of the Marine Mammal Protection Act (MMPA) in 1994 to provide recommendations to NMFS on an application from the State of Washington for the lethal removal of California sea lions that have a significant negative impact on the wild run of winter steelhead that migrate through the Ballard Locks. A complete description of the State's application and the formation of the Task Force was published in the Federal Register on August 2, 1994 (59 FR 39325), and September 27, 1994 (59 FR 49234). After several public meetings in 1994, the Task Force submitted its report to NMFS recommending approval of the State's application for lethal removal of California sea lions at the Ballard Locks, and NMFS issued a 3-year Letter of Authorization to the State (see 60 FR 3841, January 19, 1995). In the fall of 1995, the Task Force was reconvened to evaluate the effectiveness of the lethal removal authorization and alternative actions that were implemented in 1995 in accordance with section 120 of the MMPA. The report and recommendations from the fall 1995 meetings of the Task Force were considered by NMFS, and NMFS modified the conditions for lethal removal in the Letter of Authorization to Washington for 1996 (61 FR 13153, March 26, 1996).

The Task Force will meet again on September 16 and 17, 1996, to evaluate the effectiveness of actions taken in 1996 under the modified Letter of Authorization. The meeting is open to the public; however, the public will not be allowed to discuss or debate the issues with members of the Task Force at the meetings. There will be an opportunity for the public to provide comments to the Task Force at 4 p.m. on the first day of the meeting. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joe Scordino at (206)526–6140 at least 5 days prior to the meeting date.

Dated: August 20, 1996.

John F. Witzig,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–21710 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 082096C]

Marine Mammals; Scientific Research Permits (P619 and P532C)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Catherine Schaeff, Department of Biology, American University, 4400 Massachusetts Avenue NW, Washington, D.C. 20016 (P619), and Texas A&M University, P.O. Box 1675, Galveston, TX 77551 [Principal Investigators: Dr. Randall Davis, *et al.*] (P532C) have applied in due form for individual permits to take marine mammals for purposes of scientific research.

DATES: Written comments must be received on or before September 25, 1996.

ADDRESSES: The application 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);

P619 - Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 (508/281–9250); and

P532C - Southeast Region, NMFS, 9721 Executive Center Drive, North, St. Petersburg, FL 33702–2532 (813/570–5301).

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 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 permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 220–222.23).

Dr. Catherine Schaeff (P617) requests a permit to import approximately 1067 skin samples collected from gray whales (*Eschrichtius robustus*). Up to 507 skin samples are requested to be imported from Canada and 560 skin samples imported from Mexico for DNA analysis.

Texas A&M University (532C), Principal Investigator Dr. Randall W. Davis, *et al.*, requests a permit to take a variety of marine mammals and marine turtles in three proposed projects: (1) Study of the Effects of Low Frequency Sound on Sperm Whales in the Gulf of Mexico - up to 225 sperm whales (*Physeter macrocephalus*) may be taken by harassment from 30 exposure trails of low frequency sound (LFS) experiments and approached for photo-identification over a 3-year period. Potentially each individual could be taken up to 30 times. A variety of cetacea and marine turtle species will be inadvertently harassed due to the LFS experiments (a list will be provided upon request); (2) Study on the Behavior and Tracking of Cetaceans in the Gulf of Mexico - a variety of 28 cetacean species found in the Gulf of Mexico (list provided upon request) will be taken during (a) censusing and behavioral observations, (b) photo-identification of sperm, killer and Bryde's whales, (c) skin/blubber biopsies of all cetacean species, (d) attachment of video camera/data logger package and satellite-linked time-depth recorders to sperm whales, and (e)

temporarily capture, blood and skin/blubber sample, freeze-brand, and attach satellite-linked time-depth records on small delphinids; and (3) Study of Diving Adaptations in Tissues of Marine Mammals - import muscle and skeletal material taken from South African fur seals (*Arctocephalus pusillus*), harp seals (*Phoca groenlandica*), harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), Steller sea lions (*Eumetopias jubatus*), and common dolphins (*Delphinus delphis*) from South Africa and Canada. Other cetacean and pinniped specimens are requested to be imported worldwide as they become available.

Dated: August 20, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–21707 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 081696C]

Marine Mammals; Scientific Research Permit No. 1009 (P613)

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Glenn Cota, Center for Coastal Physical Oceanography, Old Dominion University, Norfolk, Virginia 23529, has been issued a permit to import marine mammal specimens for scientific purposes.

ADDRESSES: The permit 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 (508/281–9250).

SUPPLEMENTARY INFORMATION: On June 12, 1996, notice was published in the Federal Register (61 FR 29741) that a request for a scientific research permit to import Narwhal (Monodon monoceros), beluga whale (Dephinapterus leucas), bearded seal (Erignahtus barbatus), and ringed seal (Phoca sibirica) samples from Canada had been submitted by the above-named individual. The requested permit has been issued 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).

Dated: August 15, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–21708 Filed 8–23–96; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974: System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of effectiveness of new system of records.

SUMMARY: On May 2, 1996 the Commission gave notice of a new system of records maintained under the Privacy Act to include data from electronic key card systems used by the Commission in its Headquarters Office in Washington, D.C. and in certain of its regional offices (61 FR 19613). The Commission also invited public comment concerning two proposed routine uses for this system. No comments were received. This notice is intended to inform the public of the effective date of the system of records and the two new routine uses. Also with this publication, clarifying language is being added to the systems notice under the headings ''System Location'' and ''Record Source Categories.''

DATES: The effective date of this system of records is June 11, 1996, and of the new routine uses is August 26, 1996.

ADDRESSES: Copies of the new system of records may be obtained from Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Office of General Counsel, (202) 418–5120, Lisa La Chance, Office of Administrative Services, (202) 418–5167, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Commission published on May 2, 1996 a description of a new system of records and invited comments on the proposed new routine uses for the system. (61 FR 19613). No comments were received.

The electronic key card usage system of records described in 61 FR 19613 is a by-product of the Commission's physical security system. The principal purpose of the key cards themselves is to limit physical access to most of the Commission's office space to authorized key holders. Most of these are agency employees, but they also include visitors and representatives of landlords. Under most of the Commission's office space leases, maintenance of the key card systems is the landlord's obligation. Most of the records of card usage belong to the Commission's landlords, and are not agency records. As part of such a system, each use of any key card is recorded on the landlord's computerized tracking system, or the Commission's system in the case of the Chicago office.

Upon request to a landlord by the Director, Office of Administrative Services (or his/her designee), the landlord will provide a print-out of recorded use of one or more key cards within a block of time. Printouts usually contain the number of the key card and the name of the person to whom that key card is assigned.

Principally this system of records consists of the data obtained from a landlord. It also includes, however, the records maintained by the Commission for the Chicago office suite. None of the Commission's landlords is a government entity, and the system of records does not include any information on usage of key cards held solely by a landlord. Accordingly, no person may, under Section 552a(d), obtain information concerning material solely in a landlord's possession concerning themselves, *see* Notification Procedures, *infra*. It should be noted, however, that the Commission's landlords represent that in the ordinary course they retain this data for no more than six months. The Commission retains its records for the Chicago office for about 90 days.

The principal purposes of the key card system relate to security of personnel and property. Information about usage may, however, be accessed for security and non-security purposes.

Thus, in the case of a theft on agency premises, a printout or similar document would be obtained showing entries into the relevant portion of the premises. This information might be conveyed to local or other law enforcement authorities. If a question arose whether an agency employee had in fact been at his or her workstation during non-business hours for purposes of a claim for overtime pay, the records

of key card usage might be accessed to confirm or rebut the claim. The Commission does not, however, use the key card system for regular, routine time and attendance purposes. See 5 U.S.C. 6106. The system may also be used for analysis of traffic and similar space usage purposes and may be accessed as part of service of data processing systems.

Accordingly, the Commission affirms the effectiveness of the new system of records as of June 11, 1996, with certain additional descriptive language added to the systems notice under the headings ''System Location'' and ''Record Source Categories.'' The Commission also adopts the two new routine uses effective on publication as follows:

CFTC–33

SYSTEM NAME:

Electronic key card usage.

SYSTEM LOCATION:

Key card security systems are in use in the Commission's Headquarters, Chicago, Kansas City and Los Angeles offices. While each of these offices maintains the contents of its key card system, the system of records itself is under the control of the Office of Administrative Services, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 2(a)(2)(A)(b) and 12(b)(3), Commodity Exchange Act, 7 U.S.C. 4a(e) and 16(b)(3).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See the Commission's ''General Statement of Routine Uses,'' Nos. 1, 2, 6 and 7, *Privacy Act Issuances,* 1991 Comp., Vol. IV, p. 144. In addition, information contained in this system may be disclosed by the Commission (1) to any person in connection with architectural, security or other surveys concerning use of office space and (2) to employees and contractors for the purpose of maintenance or service of data processing systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer diskettes and computer memory.

RETRIEVABILITY:

By name of the subject, by assigned key card number, by time period and by entry point.

SAFEGUARDS:

Information from the Commission's landlords' data bases may only be requested from the landlords by the Director of the Office of Administrative Services, or his/her designee. The Commission maintains all key card usage records in limited access areas at all times.

RETENTION AND DISPOSAL:

In accordance with the general record schedules and the Commission's record management handbook the records in the system are considered temporary and are destroyed when no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administrative Services, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether the system of records contains information about themselves, seeking access to records about themselves in the system of records or contesting the content of records about themselves should address written inquiries to the FOIA, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. The system of records and the notification, access and challenge procedures apply only to records of key card usage in the Commission's actual possession. None of these applies to any information solely in a landlord's possession.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures,'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures,'' above.

RECORD SOURCE CATEGORIES:

With one exception, information in the system is supplied by the Commission's landlords in Washington, DC, Chicago, Kansas City and Los Angeles, typically on request. Information supplied is a record of use of electronic key cards and in that sense the information is obtained directly from the users of the key cards. Both the landlord and the Commission maintain key card systems in Chicago. Information in the data base maintained in Chicago by the Commission itself is also merely recorded usage of electronic key cards and similarly is obtained directly from the user of the key card.

Issued in Washington, DC, on August 20, 1996, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–21673 Filed 8–23–96; 8:45 am]

BILLING CODE 6351–01

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Specialized Treatment Service (STS) Program

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

SUMMARY: This notice is to advise interested parties that the New Mexico Regional Federal Medical Center (NMFRMC) has been designated as a National Specialized Treatment Services (STS) Facility for Advanced Neuoroimaging. This designation covers neuroimaging to support care for the following Diagnosis Related Groups (DRGs):

2—Craniotomy for trauma, age greater than 17
3—Craniotomy, age 0–17
10—Nervous system neoplasms with complications or comorbid conditions
11—Nervous system neoplasms without complications or comorbid conditions
12—Degenerative nervous system disorders
13—Specific cerebrovascular disorders except transient ischemic attack
16—Nonspecific cerebrovascular disorders with complications or comorbid conditions
17—Nonspecific cerebrovascular disorders without complications or comorbid conditions
24—Seizure and headache, age greater than 17 with complications or comorbid conditions
25—Seizure and headache, age greater than 17 with complications or comorbid conditions
26—Seizure and headache, age 0 to 17
34—Other disorders of the nervous system with complications or comorbid conditions
35—Other disorders of the nervous system without complications or comorbid conditions

The advanced neuroimaging modalities include 122 channel whole head magnetic source imaging, magnetic resonance imaging, and electroencephalography, with three dimensional integration of data. Advance neuroimaging evaluation will

be offered to those DOD beneficiaries with abnormalities that cannot be adequately defined by imaging methods available elsewhere, when the advance imaging would be reasonably expected to provide information that will guide surgical or medical therapy. Requests for advanced neuroimaging by a referring physician will be considered and approved, if indicated, by a staff neuroradiologist at Walter Reed Army Medical Center (WRAMC). There is no requirement for Nonavailability Statement issuance by the facility to beneficiaries who undergo neuroimaging elsewhere. Travel and lodging for the patient and, if stated to be medically necessary by a referring physician, for one nonmedical attendant, will be reimbursed in accordance with the provisions of the Joint Federal Regulation.

EFFECTIVE DATE: October 1, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Michael Brazaitis, WRAMC, at (202) 782–0508, Major Mark Depper, WRAMC, at (202) 782–9362, or Colonel Michael Dunn, OSD (Health Affairs), at (703) 695–6800.

SUPPLEMENTARY INFORMATION: In FR DOC 93–27050, appearing in the Federal Register on November 5, 1993 (Vol. 58, FR 58995–58964), the final rule on the STS Program was published. Included in the final rule was a provision that a notice of all military and civilian STS facilities be published in the Federal Register annually.

Dated: August 20, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–21681 Filed 8–23–96; 8:45 am]

BILLING CODE 5000–04–M

Renewal of the Ballistic Missile Defense Advisory Committee

ACTION: Notice.

SUMMARY: The Ballistic Missile Defense Advisory Committee (BMDAC) has been renewed in consonance with the public interest, and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act.''

The BMDAC provides the Director, Ballistic Missile Defense Organization and the Secretary of Defense with advice and insights into the ballistic missile defense program, and makes recommendations on the acquisition and development of systems related to the program.

The Committee will continue to be composed of 15–20 leaders from government and the public sector who are recognized authorities in policy, acquisition, and technical areas related to the ballistic missile defense program. Efforts will be made to ensure that there is a fairly balanced membership in terms of the functions to be performed and the interest groups represented.

For further information regarding the BMDAC, contact: Ms. Pat McCready, telephone: 703–693–1086.

Dated: August 20, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–21680 Filed 8–23–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Special Weapons Agency

Privacy Act of 1974; Notice to Amend Record Systems.

AGENCY: Defense Special Weapons Agency, DOD.

ACTION: Notice to amend record systems.

SUMMARY: As of June 26, 1996, the Defense Nuclear Agency will be known as the Defense Special Weapons Agency (DSWA). These amendments reflect the name change and other administrative changes. The Defense Special Weapons Agency proposes to amend systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on September 25, 1996, comments are received that would result in a contrary determination.

ADDRESSES: Send comments to General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Barker at (703) 325–7681.

SUPPLEMENTARY INFORMATION: The Defense Special Weapons Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record systems being amended are set forth below followed by the notices, as amended, published in their entirety.

Dated: August 19, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

HDNA 001

SYSTEM NAME:

Employee Assistance Program *(November 23, 1993, 58 FR 61896).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 001'.

* * * * *

SYSTEM LOCATION:

Change first line to read 'Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with 'The Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended; Employee Assistance Program, 42 CFR Ch. I, Subchapter A; 5 U.S.C. 7904 and E.O. 9397.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Headquarters, DSWA: Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Field Command, DSWA: Civilian Personnel Officer, Kirtland Air Force Base, NM 87115–5000.

On Site Inspection Agency: Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC 20041–0498.'

* * * * *

HDSWA 001

SYSTEM NAME:

Employee Assistance Program.

SYSTEM LOCATION:

Office of Manpower Management and Personnel, HQ, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398;

Civilian Personnel Office, Building 20203A, Kirtland Air Force Base, NM 87115–5000; and

Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC 20041–0498.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees in appropriated and non-appropriated fund activities who are referred by management for, or voluntarily request, counseling assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case records on employees which are maintained by counselors, supervisors, and civilian personnel offices, that consist of information on condition, current status, and progress of employees or dependents who have alcohol, drug, or emotional problems (referrals only).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended; Employee Assistance Program, 42 CFR Ch. I, Subchapter A; 5 U.S.C. 7904 and E.O. 9397.

PURPOSE(S):

For use by the Drug and Alcohol Abuse Coordinator in referring individuals for counseling and by management officials for follow-up actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with provisions of 42 U.S.C. 290dd–2, the DSWA 'Blanket Routine Uses' do not apply to this system of records.

Records in this system may not be disclosed without the prior written consent of such patient, unless the disclosure would be:

To medical personnel to the extent necessary to meet a bona fide medical emergency.

To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner; and

If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case records are stored in paper file folders.

RETRIEVABILITY:

Retrieved by the individuals Social Security Number.

SAFEGUARDS:

Buildings are protected by security guards and an intrusion alarm system. Records are maintained in locked security containers accessible only to personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are purged of identifying information within five years after termination of counseling or destroyed when they are no longer useful.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters DSWA: Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Field Command, DSWA: Civilian Personnel Officer, Kirtland Air Force Base, NM 87115–5000.

On Site Inspection Agency: Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC 20041–0498.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the appropriate system manager.

The letter should contain the full name, Social Security Number, and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the appropriate system manager.

The letter should contain the full name, Social Security Number, and signature of the requester and the approximate period of time, by date, during which the case record was developed.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

Counselors, other officials, individuals or practitioners, and other agencies both in and outside of Government.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HDNA 002

SYSTEM NAME:

Employee Relations *(November 23, 1993, 58 FR 61897).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 002'.

* * * * *

SYSTEM LOCATION:

Change first part of line one to read 'Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency,.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete 'E.O. 11222' and add 'E.O. 12564 and E.O. 9397'.

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Records at Headquarters, Defense Special Weapons and at the On Site Inspection Agency are retrieved alphabetically by last name of individual. Records at Kirtland Air Force Base are filed by Social Security Number.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'For Headquarters, DSWA: Civilian Personnel Officer, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Field Command, DSWA: Civilian Personnel Officer, Kirtland Air Force Base, NM 87115–5000.

On Site Inspection Agency: Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC, 20041–0498.'

* * * * *

HDSWA 002

SYSTEM NAME:

Employee Relations.

SYSTEM LOCATION:

Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398;

Civilian Personnel Office, Building 20203A, Kirtland Air Force Base, NM 87115–5000; and

Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC 20041–0498.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and former employees paid from appropriated funds serving under career, career-conditional, temporary and excepted service appointments on whom suitability, discipline, grievance, and appeal records exist.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and information pertaining to discipline, grievances, and appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 7301; E.O. 11557; E.O. 11491; E.O. 12564 and E.O. 9397.

PURPOSE(S):

For use by agency officials and employees in the performance of their official duties related to management of civilian employees and the processing, administration and adjudication of discipline, grievances, suitability and appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Appeals examiners of the Merit Systems Protection Board to adjudicate appeals.

The Comptroller General or his authorized representatives and the Attorney General of the United States or his authorized representatives in connection with grievances, disciplinary actions, suitability, and appeals, and to Federal Labor Relations officials in the performance of official duties.

The 'Blanket Routine Uses' published at the beginning of DSWA's compilation of system of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper folders.

RETRIEVABILITY:

Records at Headquarters, Defense Special Weapons and at the On Site Inspection Agency are retrieved alphabetically by last name of individual. Records at Kirtland Air Force Base are filed by Social Security Number.

SAFEGUARDS:

Buildings are protected by security guards and an intrusion alarm system. Records are maintained in locked security containers in a locked room accessible only to personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are destroyed upon separation of the employee from the agency or in accordance with appropriate records disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters, DSWA: Civilian Personnel Officer, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Field Command, DSWA: Civilian Personnel Officer, Kirtland Air Force Base, NM 87115–5000.

On Site Inspection Agency: Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC 20041–0498.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the appropriate system manager.

The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the appropriate system manager.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

Supervisors or other appointed officials designated for this purpose.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HDNA 004

SYSTEM NAME:

Nuclear Weapons Accident Exercise Personnel Radiation Exposure Records *(February 22, 1993, 58 FR 10551).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 004'.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard, SE, Kirtland Air Force Base, NM 87117–5669.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Records may be retrieved by names, Social Security Number, service or organization, grade/rank, dosimeter number, or date and place of participation.'

SAFEGUARDS:

Delete entry and replace with 'Records and computer printouts are available only to authorized persons with an official need to know. The files are in a secure office area with limited access during duty hours. The office is locked during non-duty hours.'

* * * * *

HDSWA 004

SYSTEM NAME:

Nuclear Weapons Accident Exercise Personnel Radiation Exposure Records.

SYSTEM LOCATION:

Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard, SE, Kirtland Air Force Base, NM 87117–5669.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian employees of the Department of Defense and other

federal, state, and local government agencies, contractor personnel, and visitors from foreign countries, who participated in planned exercises.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security Number; date of birth; service; grade/rank; specialty code; job series or profession; experience with radioactive materials such as classification as 'radiation worker;' use of film badge or other dosimetric device; respiratory protection equipment; training and actual work in anti-contamination clothing and respirators; awareness of radiation risks associated with exercises; previous radiation exposure; role in exercise; employer/organization mailing address and telephone; unit responsible for individuals radiation exposure records; time in exercise radiological control area; and external and internal radiation monitoring and/or dosimetry results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2013 and 2201 (Atomic Energy Act of 1954) and 10 CFR parts 10 and 20; 5 U.S.C. 7902 and 84 Stat. 1599 (Occupational Safety and Health Act of 1970) and 29 CFR subparts 1910.20 and 1910.96; E.O. 12196, as amended, February 26, 1980, (Occupational Safety and Health Programs for Federal Employees); and E.O. 9397.

PURPOSE(S):

For use by agency officials and employees in determining and evaluating individual and exercise collective radiation doses and in reporting dosimetry results to individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Officials and employees of other government agencies, authorized government contractors, current or potential employers, national, state and local government organizations and foreign governments in the performance of official duties related to evaluating, reporting and documenting radiation dosimetry data.

Officials of government investigatory agencies in the performance of official duties relating to enforcement of Federal rules and regulations.

The 'Blanket Routine Uses' published at the beginning of DSWA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer printouts and in paper files folders.

RETRIEVABILITY:

Records may be retrieved by names, Social Security Number, service or organization, grade/rank, dosimeter number, or date and place of participation.

SAFEGUARDS:

Records and computer printouts are available only to authorized persons with an official need to know. The files are in a secure office area with limited access during duty hours. The office is locked during non-duty hours.

RETENTION AND DISPOSAL:

All records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard, SE, Kirtland Air Force Base, NM 87117–5669.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Commander, Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard, SE, Kirtland Air Force Base, NM 87117–5669.

Inquiry should contain full name and Social Security Number of the individual and applicable dates of participation, if available. Visits can be arranged with the system manager.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information about themselves contained in this system of records should address inquiries to the Commander, Defense Nuclear Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard, SE, Kirtland Air Force Base, NM 87117–5669.

Inquiry should contain full name and Social Security Number of the individual and applicable dates of participation, if available. Visits can be arranged with the system manager.

Requests from current or potential employers must include a signed authorization from the individual.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

Information in this system of records was supplied directly by the individual; or derived from information supplied by the individual; or supplied by a contractor or government dosimetry service; or developed by radiation measurements at the exercise site.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HDNA 005

SYSTEM NAME:

Manpower/Personnel Management System *(November 23, 1993, 58 FR 61898).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 005'.

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SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Secondary locations: Field Command, Defense Special Weapons Agency, Building 20364, 1680 Texas Street SE, Kirtland Air Force Base, NM 87117–5669 and Johnston Atoll;

Nevada Operations Office, Defense Special Weapons Agency, Mercury, NV 89193–8539; and

Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC, 20041–0498.'

* * * * *

SAFEGUARDS:

Change last sentence to read 'Buildings are protected by security guards and/or intrusion alarm systems'.

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HDSWA 005

SYSTEM NAME:

Manpower/Personnel Management System.

SYSTEM LOCATION:

Primary location: Office of Manpower Management and Personnel,

Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Secondary locations: Field Command, Defense Special Weapons Agency, Building 20364, 1680 Texas Street SE, Kirtland Air Force Base, NM 87117–5669 and Johnston Atoll;

Nevada Operations Office, Defense Special Weapons Agency, Mercury, NV 89193–8539; and

Civilian Personnel Office, On Site Inspection Agency, Dulles International Airport, Washington, DC 20041–0498.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, military or civilian, employed by DSWA, and all On Site Inspection Agency civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains the following information on all personnel assigned to DSWA and all civilian employees of the On Site Inspection Agency: Social Security Number; agency; employee name; birth date; veteran's preference; tenure group; service computation date; federal employees group life insurance; retirement code; nature of action code; effective date of action; position number; pay plan; occupation code; functional classification code; grade; step; pay basis; salary; supervisory position; location code/duty station; position occupied; work schedule; pay rate determinant; sex; citizen status; date entered present grade; date entered present step; separation date; reason for separation (quit code); cost center; academic discipline; career conditional appointment date (conversion to career); education level; degree date; purpose of training; type of training; source of training; special interest; direct cost; indirect cost; date of completion; on-duty hours; off-duty hours; JTD paragraph number; JTD line number; competitive level; military service retirement date; uniformed service; joint specialty officer; service position number; career status; officer evaluation report date (Army only); highest professional military education; rank; grade; status of incumbent in Personnel Reliability Program (PRP); date of latest PRP certification;' promotion sequence number; service commissioned (military); service pay grade (rank); Agency sub-element code; submitting office number; retired military code; bureau; unit identification code; program element code; civil function code; guard/reserve technician; appropriation code; active/inactive strength designation; work center code; projected vacancy date; targeted grade; position title; date of last equivalent increase; fair labor standards act designator; health benefits enrollment code; type and date of incentive award; civil service or other legal authority; date probationary period begins; performance rating; due date for future action; position tenure; leave category; personnel authorized; projected personnel requirement; special experience identifiers; additional duties; manpower track: facility; branch of service; date of rank; primary/Alternate specialty; control specialty; last OER/EER; total commissioned service date; total active service date; date of arrival; projected rotation date; security clearance; marital status; spouse's name; dependents; address (Number and street, city, state, Zip Code); phones (home and duty); handicap code; minority group designator; aggregate program element code; position indicator; academic degree requirements; directorate/department, division, branch, and section office titles; service authorization position number; physical profile; nature of action code No. 2; annuitant indicator; Vietnam veteran; entered present position; future action type; agency submitting element; submitting office code; merit pay designator; bargaining unit designator; old Social Security Number; course title host; tuition; Transportation Per Diem; hourly rate; training grade level; administrative cost; type of career training program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 302, 4103; Pub. L. 89–554. September 6, 1966; and E.O. 9397.

PURPOSE(S):

For use by officials and employees of the Defense Special Weapons Agency in the performance of their official duties related to the management of civilian and military employee programs and for preparation and publication of personnel rosters to facilitate communications/contact for official, or emergency purposes.

To compile and consolidate reports relating to manpower authorization/assigned strengths and to record personnel data and use that data to compile information as required by management officials within the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Representatives of the Merit Systems Protection Board on matters relating to the inspection, survey, audit or evaluation of the civilian programs or such other matters under the jurisdiction of that organization.

The Comptroller General or any of his authorized representatives in the course of performance of duties of the General Accounting Office relating to civilian programs.

Duly appointed Hearing Examiners or Arbitrators for the purpose of conducting hearings in connection with an employee grievance.

The 'Blanket Routine Uses' published at beginning of DSWA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, discs, computer printouts, and on punched cards. Manual records are stored in paper file folders and card file boxes.

RETRIEVABILITY:

Automated records are retrieved by employee name, Social Security Number or Position Service Number (PSN). Manual records are retrieved by employee's last name and PSN.

SAFEGUARDS:

The computer facility and data base are located in a restricted area accessible only to authorized personnel that are properly screened, cleared, and trained. Terminal users are within a restricted area. Use of these terminals are by authorized personnel who have a need to acquire data from the database. Terminal users are cleared, provided proper training and are assigned a password/code to retrieve data. Manual records and computer printouts are available only to authorized personnel having a need to know. Buildings are protected by security guards and/or an intrusion alarm system.

RETENTION AND DISPOSAL:

Computer magnetic tapes are permanent. Manpower's manual records are maintained indefinitely and all personnel manual records are kept until the employee departs. Monthly reports are destroyed at the end of each fiscal year; annual reports are retained in 5–year blocks, transferred to the Washington National Records Center, and offered to National Archives and Records Administration 20 years after cutoff.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

The letter should contain the full name, Social Security Number, and signature of the requester and the approximate period of time, by date, during which the record was developed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Written requests for information should contain the full name, Social Security Number, and signature of individual. For personal visits, the individual should provide military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

Information is extracted from military and civilian personnel records, Joint Manpower Program documents and voluntarily submitted by individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HDNA 006

SYSTEM NAME:

Employees Occupational Health Programs *(February 22, 1993, 58 FR 10553).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 006'.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of Manpower Management and Personnel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.'

* * * * *

HDSWA 006

SYSTEM NAME:

Employees Occupational Health Programs.

SYSTEM LOCATION:

Office of Manpower Management and Personnel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, military or civilian, employed by the Defense Special Weapons Agency (DSWA) and General Services Agency employees assigned to the building.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains a variety of records relating to an employee's participation in the DSWA Occupational Health Program. Information which may be included in this system are the employee's name, Social Security Number, date of birth, weight, height, blood pressure, medical history, blood type, nature of injury or complaint, type of treatment/medication received, immunizations, examination findings and laboratory findings, exposure to occupational hazards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901 et seq., Pub. L. 79–658; and E.O. 9397.

PURPOSE(S):

For use by authorized medical personnel in providing any medical treatment or referral; to provide information to agency management officials pertaining to job-related injuries or potential hazardous conditions' and to provide information relative to claims or litigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The Office of Personnel Management, and the Federal Labor Relations Authority (including the General Counsel) in the Performance of official duties.

The Department of Labor in connection with claims for compensation.

The Department of Justice in connection with litigation relating to claims.

The Occupational Safety and Health Agency in connection with job-related injuries, illnesses, or hazardous condition.

The 'Blanket Routine Uses' published at the beginning of DSWA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper file folders in a locked file cabinet.

RETRIEVABILITY:

Records are manually retrieved by using the terminal digit filing system (Social Security Number).

SAFEGUARDS:

During the employment of the individual, medical records are maintained in files located in a secured room with access limited to those whose official duties require access. Buildings are protected by security guards and an intrusion alarm system.

RETENTION AND DISPOSAL:

Records are retained until the individual leaves the DSWA. Records are combined with the Official Personnel Folder which is forwarded to the Federal Personnel Records Center or to the new employing agency, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

The letter should contain the full name, Social Security Number and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquires to the Chief, Civilian Personnel Management Division, Office of Manpower Management and Personnel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Written requests for information should contain the full name, Social Security Number, and signature of the requester. For personal visits the individual should provide a military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

Information is supplied directly by the individual, or derived from information supplied by the individual, or supplied by the medical officer or nurse providing treatment or medication, or supplied by the individual's private physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HDNA 007

SYSTEM NAME:

Security Operations *(November 23, 1993, 58 FR 61899).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 007'.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Security Support Branch, Forces and Security Support Division, Operations Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Secondary locations: Defense Special Weapons Agency, Telegraph Village, 6940 S. Kings Highway, Alexandria, VA 22310–3398; and

Field Command, Defense Special Weapons Agency, Building 20364, 1680 Texas Street SE, Kirtland Air Force Base, NM 87117–5669.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete 'security incident files'.

* * * * *

RECORD SOURCE CATEGORIES:

Add new sentence 'Other Government agencies, law enforcement officials and contractors may provide the same data.'

* * * * *

HDSWA 007

SYSTEM NAME:

Security Operations.

SYSTEM LOCATION:

Primary location: Security Support Branch, Forces and Security Support Division, Operations Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Secondary locations: Defense Special Weapons Agency, Telegraph Village, 6940 S. Kings Highway, Alexandria, VA 22310–3398; and

Field Command, Defense Special Weapons Agency, Building 20364, 1680 Texas Street SE, Kirtland Air Force Base, NM 87117–5669.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian personnel assigned to, or employed by Headquarters, Defense Special Weapons Agency (DSWA); and the Field Command, Defense Special Weapons Agency (FC DSWA).

Other U.S. Government personnel, U.S. Government contractors, foreign government representatives, and visitors from foreign countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security Number; date and place of birth; height; weight; hair/eye color; citizenship; grade/rank; service; organization; security clearance; date of clearance; basis special accesses; courier authorization; continuous access roster expiration date; badge number; vehicle ID and sticker Number; special intelligence access; expiration date; agency; billet number; list of badges/passes issued; list of keys issued; conference title; conference duties; location; Department of Defense Form 398 'Statement of Personal History;' Reports of Investigation; visit requests; conference rosters; clearance and special access rosters; picture identification; and correspondence concerning adjudication/passing of clearances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450, Security Requirements for Government Employment, 27 April 1953, as amended by E.O.s 10491, 10531, 10548, 10558, 11605, and 11785; E.O. 12065, 'National Security Information,' 28 June 1978; Section 21 of the Internal Security Act of 1950 (Pub. L. 831); sec. 145 of the Atomic Energy Act of 1954, as amended by Pub. L. 83–703, 42 U.S.C. 2185; and E.O. 9397.

PURPOSE(S):

For use by officials and employees of the Defense Special Weapons Agency and other DoD Components in the performance of their official duties related to determining the eligibility of individuals for access to classified information, access to buildings and facilities, or to conferences over which DSWA has security responsibility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Officials and employees of Government contractors and other Government agencies in the performance of their official duties related to the screening and selection of individuals for security clearances and/or special authorizations, access to facilities or attendance at conferences.

The 'Blanket Routine Uses' published at the beginning of DSWA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, discs, computer printouts, and/or hard drives. Manual records are stored in paper file folders, card files and paper rosters.

RETRIEVABILITY:

Automated records are retrieved by individual's last name, Social Security Number, conference title, and by type of badge issued. Manual records are retrieved by individuals last name, Social Security Number, organization or subject file.

SAFEGUARDS:

The computer facility and terminals are located in restricted areas accessible only to authorized personnel. Manual records and computer printouts are available only to authorized persons with an official need to know. Buildings are protected by security guards and an intrusion alarm system.

RETENTION AND DISPOSAL:

Computer records on individuals are erased upon termination of an individual's affiliation with DSWA and FC DSWA; personnel security files are destroyed within thirty days from the date of termination of an individual's employment, assignment or affiliation with DSWA or FC DSWA. Manual records or conference attendees, visitors, and visit certifications to other agencies are maintained for two years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security Support Branch, Forces and Security Support Division, Operations Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Security Support Branch, Forces and Security Support Division, Operations Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Chief, Security Support Branch, Forces and Security Support Division, Operations Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Written requests for information should contain the full name, home address, Social Security Number, date and place of birth. For personal visits, the individual must be able to provide identification showing full name, date and place of birth, and their Social Security Number.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

Information is extracted from military and civilian personnel records, investigative files, and voluntarily submitted by the individual. Other Government agencies, law enforcement officials and contractors may provide the same data.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Part of this system may be exempt under the provisions of 5 U.S.C. 552a(k)(5), as applicable.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 318. For additional information contact the system manager.

HDNA 010

SYSTEM NAME:

Nuclear Test Participants *(February 22, 1993, 58 FR 10556).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 010'.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Nuclear Test Personnel Review Office, Electronics and Systems Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398 and at applicable contractor facilities.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Name, Social Security Number, service number, or military ID number.

* * * * *

HDSWA 010

SYSTEM NAME:

Nuclear Test Participants.

SYSTEM LOCATION:

Nuclear Test Personnel Review Office, Electronics and Systems Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398 and at applicable contractor facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and DoD civilian participants of the U.S. nuclear testing programs, military occupation forces assigned to Hiroshima or Nagasaki from August 6, 1945 to July 1, 1946, and individuals who participated in the cleanup of Enewetak Atoll.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, grade, service number, Social Security Number, last known or current address, dates and extent of test participation, exposure data, unit of assignment, medical data, and documentation relative to administrative claims or civil litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Atomic Energy Act of 1954, 42 U.S.C. 2013, Tasking Memorandum from Office of the Secretary of Defense to the Director, Defense Special Weapons Agency dated 28 Jan 78, Subject: DoD Personnel Participation in Atmospheric Nuclear Weapons Testing and Military Construction Appropriations Act of 1977 (Pub. L. 94–367), DSWA OPLAN 600–77, Cleanup of Enewetak Atoll, and the Radiation Exposure Compensation Act (Pub. L. 100–426, as amended by Pub. L. 100–510); and E.O. 9397.

PURPOSE(S):

For use by agency officials and employees, or authorized contractors, and other DoD components in the preparation of the histories of nuclear test programs; to conduct scientific studies or medical follow-up programs and to provide data or documentation relevant to the processing of administrative claims or litigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

National Research Council and the Center for Disease Control, for the purpose of conducting epidemiological studies on the effects of ionizing radiation on participants of nuclear test programs.

Department of Labor and the Department of Justice for the purpose of processing claims by individuals who allege job-related disabilities as a result of participation in nuclear test programs and for litigation actions.

Department of Energy (DOE) for the purpose of identifying DOE and DOE contractor personnel who were, or may be in the future, involved in nuclear test programs; and for use in processing claims or litigation actions.

Department of Veterans Affairs for the purpose of processing claims by individuals who allege service-connected disabilities as a result of participation in nuclear test programs and for litigation actions' and to conduct epidemiological studies on the effect of radiation on nuclear test participants.

Information may be released to individuals or their authorized representatives.

The 'Blanket Routine Uses' published at the beginning of DSWA's compilation of system of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in files folders, microfilm/fiche, computer magnetic tape disks, and printouts in secure computer facilities.

RETRIEVABILITY:

Name, Social Security Number, service number, or military ID number.

SAFEGUARDS:

Paper records are filed in folders, microfilm/fiche and computer printouts stored in area accessible only by authorized personnel. Buildings are protected by security guards and intrusion alarm systems. Magnetic tapes are stored in a vault in a controlled area within limited access facilities. Access to computer programs is controlled through software applications which require validation prior to use.

RETENTION AND DISPOSAL:

Records are retained for 75 years after termination of case.

SYSTEM MANAGER(S) AND ADDRESS:

NTPR Program Manager, Nuclear Test Personnel Review Office, Electronics and Systems Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the NTPR Program Manager, Nuclear Test Personnel Review Office, Electronics and Systems Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the NTPR Program Manager, Nuclear Test Personnel Review Office, Electronics and Systems Directorate, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

Retired Military Personnel records form the National Personnel Records Center, US DSWA Form 10 from individuals voluntarily contacting DSWA or other elements of DoD or other Government Agencies by phone or mail. DoD historical records, dosimetry records and records from the Department of Energy, Department of Veterans Affairs, the Social Security Administration, the Internal Revenue Service, and the Department of Health and Human Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HDNA 011

SYSTEM NAME:

Inspector General Investigation Files *(July 28, 1994, 59 FR 38444)*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 011'.

* * * * *

HDSWA 011

SYSTEM NAME:

Inspector General Investigation Files.

SYSTEM LOCATION:

Office of the Inspector General, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who is the subject of or a witness for an Inspector General investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains files on individual investigations including investigative reports and related documents generated during the course of or subsequent to an investigation.

Reports of investigation contain the authority for the investigation, matters investigated, narrative, documentary evidence, and transcripts of verbatim testimony or summaries thereof.

The system includes 'Hotline' telephone logs, investigator workpapers and memoranda and letter referrals to management or others, and a chronological listing for identification and location of files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4 App. 4(a)(1) and 6(a)(2); 10 U.S.C. 140; and E.O. 9397.

PURPOSE(S):

To investigate the facts and circumstances surrounding allegations or problems reported to the OIG.

Open and closed case listings are used to manage investigations, to produce statistical reports, and to control various aspects of the investigative process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the DSWA's compilation of systems of records notices will apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer disks and log books.

RETRIEVABILITY:

Retrieved alphabetically by surname of individual, year, investigation number, hotline case number, referral number or investigative subject matter.

SAFEGUARDS:

Access is limited to the Inspector Generals staff, and, as delegated by the Commanding Officer, or Officer-in-Charge, on a need to know basis. Case records are maintained in locked security containers.

Automated records are controlled by limiting physical access to terminals and by the use of passwords. Work areas are sight controlled during normal duty hours. Buildings are protected by security guards and an intrusion alarm system.

RETENTION AND DISPOSAL:

Requests for assistance and/or complaints acted on by the Inspector General are retained at the agency for 2 years and subsequently destroyed as classified waste.

Computer disks are cleared, erased or destroyed when no longer useful.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Inspector General, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to the Inspector General, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Individual should provide their name, address, and proof of identity (photo identification for in person access or an unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Inspector General, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Individuals should provide their name, address, and proof of identity (photo identification for in person access or an unsworn declaration in accordance with 28 U.S.C. 1746 or a notarized statement may be required for identity verification).

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

From the individual, DSWA records and reports, DSWA employees, witnesses, informants, and other sources providing or containing pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 318. For additional information contact the Office of General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

HDNA 012

SYSTEM NAME:

Carpooling Program *(December 2, 1994, 59 FR 61887).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 012'

* * * * *

HDSWA 012

SYSTEM NAME:

Carpooling Program.

SYSTEM LOCATION:

Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

All military and civilian personnel assigned to, or employed by Headquarters, Defense Special Weapons Agency, other U.S. Government personnel, and U.S. Government contractors who elect to participate in the program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, home address and phone number, office phone number, working hours, map coordinate of home or nearby reference points, and similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Service Act of 1949, 63 Stat. 377, as amended.

PURPOSE(S):

To assist members and applicants in contacting one another and provide printout of individuals in the system to other participants who desire to arrange a carpool.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the states of Maryland, Virginia, and the District of Columbia for inclusion in their Ridesharing Programs.

The 'Blanket Routine Uses' published at the beginning of DSWA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes, disks, and paper printouts, and manual storage within self-help carpool locator board.

RETRIEVABILITY:

Information is accessed and retrieved by name and home address map grid for automated system. Information is manually accessed and retrieved from cards in map grids for locator board.

SAFEGUARDS:

All participants have access to the data. The computer terminals are located in restricted areas accessible only to authorized personnel. Buildings are protected by security guards and an intrusion alarm system.

RETENTION AND DISPOSAL:

Data is retained only on active participants; destroyed upon request or reassignment.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Logistics and Engineering, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Office of Logistics and Engineering, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Individuals should provide name, current address, and sufficient information to permit locating the record.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Logistics Division, Office of Logistics and Engineering, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

Individuals should provide name, current address, and sufficient information to permit locating the record.

For personal visits, the individual should provide military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HDNA 014

SYSTEM NAME:

Student Records *(September 25, 1995, 60 FR 49398).*

CHANGES:

SYSTEM IDENTIFIER:

Change to 'HDSWA 014'

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, NM 87117–5669.

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Records and computer printouts are available only to authorized persons with an official need to know. The files are in a secure office area with limited access during duty hours. The office is locked during non–duty hours.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Individual academic records are retained for 75 years. Records are maintained at the school for five years, then subsequently retired to the Federal Records Center, Fort Worth, TX for the remaining 70 years and then destroyed.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, NM 87117–5669.'

* * * * *

HDSWA 014

SYSTEM NAME:

Student Records.

SYSTEM LOCATION:

Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, NM 87117–5669.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Any student attending the Defense Special Weapons School.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student academic records consisting of course completion; locator information; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 302, 4103; and E.O. 9397.

PURPOSE(S):

To determine applicant eligibility, as a record of attendance and training, completion or elimination, as a locator, and a source of statistical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of DSWA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files and on computer media.

RETRIEVABILITY:

Information may be retrieved by name or Social Security Number.

SAFEGUARDS:

Records and computer printouts are available only to authorized persons with an official need to know. The files are in a secure office area with limited access during duty hours. The office is locked during non–duty hours.

RETENTION AND DISPOSAL:

Individual academic records are retained for 75 years. Records are maintained at the school for five years, then subsequently retired to the Federal Records Center, Fort Worth, TX for the remaining 70 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, NM 87117–5669.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Commander, Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, NM 87117–5669.

Individuals should provide their name, Social Security Number, current address, and proof of identity (photo identification for in person access).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Defense Special Weapons School, Field Command, Defense Special Weapons Agency, 1900 Wyoming Boulevard SE, Kirtland Air Force Base, NM 87117–5669.

Individuals should provide name, Social Security Number, current address, and sufficient information to permit locating the record.

For personal visits, the individual should provide military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The DSWA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DSWA Instruction 5400.11B; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–21683 Filed 8–23–96; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT96–97–000]

Columbia Gas Transmission Company; Notice of Report of GRI Refunds

August 20, 1996.

Take notice that on August 9, 1996, Columbia Gas Transmission Company

(Columbia Gas) submitted for filing its Report of Gas Research Institute (GRI) Refunds for over collections during the calendar year 1995.

Columbia Gas states that it received a refund from GRI for overcollections during 1995 in the amount of $1,802,946.00. Columbia Gas states that on or around July 10, 1996, it issued refunds in the form of credits to eligible firm shippers.

Columbia Gas states that copies of its refund report are being served upon all affected interstate pipeline system transportation customers of Columbia Gas and interested state regulatory 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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest must be filed on or before August 27, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21615 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–96–000]

Columbia Gulf Transmission Company; Notice of Report of GRI Refunds

August 20, 1996.

Take notice that on August 9, 1996, Columbia Gulf Transmission Company (Columbia Gulf) submitted for filing its Report of Gas Research Institute (GRI) Refunds for overcollections during the calendar year 1995.

Columbia Gulf states that it received a refund from GRI for overcollections during 1995 in the amount of $163,070,00. Columbia Gulf states that on or around July 10, 1996, it issued refunds in the form of credits to eligible firm shippers.

Columbia Gulf states that copies of its refund report is being served upon all affected interstate pipeline system transportation customers of Columbia Gulf and interested state regulatory 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, N.E. Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest must be filed on or before August 27, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21616 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–283–000]

Columbia Gulf Transmission Company; Notice of Technical Conference

August 21, 1996.

In the Commission's order issued July 31, 1996, the Commission held that the filing in the above captioned proceeding raises issues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Tuesday, September 10, 1996, at 10:00 a.m., and if necessary Wednesday, September 11 1996 at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All interested parties and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21657 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP–96–342–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 20, 1996.

Take notice that on August 16, 1996, Mississippi River Transmission Corporation (MRT) tendered for filing to become part of MRT's FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 219, to be effective September 16, 1996.

MRT states that the purpose of the instant filing is to revise the twelve month period when MRT will accumulate revenues for purposes of filing its Miscellaneous Revenue Flowthrough Adjustment set forth in Section 18 of the General Terms and Conditions of MRT's Tariff. MRT states that this filing is consistent with what MRT represented it would do in its filing in Mississippi River Transmission Corporation Docket No. TM96–4–25–000.

MRT states that copies of its filing have been mailed to all of its affected customers and the State Commissions of Arkansas, Missouri, and Illinois.

Any person desiring to be heard or protest the subject 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 §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure: 18 CFR 385.211 and 385.214. All such motions and protests must be filed as provided in § 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 available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21612 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–701–000]

Mississippi River Transmission Corporation; Notice of Application

August 20, 1996.

Take notice that on August 9, 1996, Mississippi River Transmission Corporation (MRT), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP96–701–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange service with Mid Louisiana Gas Company (Mid La), which was authorized in Docket No. CP73–83, all as more fully set forth in the application on file with the Commission and open to public inspection.

MRT proposes to abandon an exchange service with Mid La because the service is no longer necessary or beneficial and both parties have agreed to terminate the exchange service.

Any person desiring to be heard or to make protest with reference to said application should on or before September 10, 1996, file with the Federal Energy Regulatory Commission,

Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for MRT to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21617 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–98–000]

NorAm Gas Transmission Company; Notice of Refund Report Filing

August 20, 1996.

Take notice that on August 12, 1996, NorAm Gas Transmission Corporation (NorAm) filed a report pursuant to the Commission's October 13, 1995 order issued in Opinion No. 402 (72 FERC ¶ 61,073).

NorAm states that the 1995 Gas Research Institute Tier 1 refunds totaling $225,937, were made to its firm transportation customers from July 29 to August 6, 1996.

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 §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 27, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21614 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–302–001]

Northern Natural Gas Company; Notice of Compliance Filing

August 20, 1996.

Take notice that on August 15, 1996, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, the following tariff sheets:

Fifth Revised Volume No. 1
Second Revised Sheet No. 226
First Revised Sheet No. 226A

Reason for Filing

On July 1, 1996 in Docket No. RP96–302–000, Northern filed tariff sheets to increase the positive and punitive daily delivery variance charge (DDVC) only on those limited days when a Critical Day is in effect on Northern's system, and to revise the receipt point scheduling penalties and provisions applicable to hourly takes of gas. On July 31, 1996, the Commission issued an Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions and Establishing Technical Conference (Order). In that Order the Commission directed Northern to refile tariff sheets to correct the pagination. 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 § 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in § 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. 96–21613 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–302–000]

Northern Natural Gas Company; Notice of Technical Conference

August 21, 1996.

In the Commission's order issued July 31, 1996, the Commission held that the filing in the above captioned proceeding raises issues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Wednesday, September 18, 1996, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. All interested parties and staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21658 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–721–000]

Tennessee Gas Pipeline Company; Notice of Application

August 21, 1996

Take notice that on August 16, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP96–721–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authorization to uprate by 1000 horsepower (hp) an existing compressor unit at Station 230–C, Lockport, New York, that will expand the capacity of the jointly-owned Niagara Spur Loop Line in order to permit National Fuel Gas Supply Corporation (National Fuel) to provide an additional 21,344 Dth per day of annual firm transportation service (as set forth in National Fuel's application for a certificate of public convenience and necessity in Docket No. CP96–671–000), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that it is filing this application as operator and co-owner of

the Niagara Spur Loop Line pursuant to the terms of a Construction and Ownership Agreement (C&O Agreement). It is stated that the C&O Agreement governs expansions of the Niagara Spur Loop Line and provides that Tennessee, as operator, will seek all regulatory approvals from the Commission to construct the facilities necessary for such expansions. Tennessee further states that National Fuel has notified Tennessee and the other co-owners of its intention to use its expansion rights on the Niagara Spur Lool Line under the C&O agreement to provide additional firm service and has requested Tennessee to uprate an existing compressor station so that National Fuel can transport additional quantities of gas on a firm basis over the Niagara Spur Loop Line from the Niagara Import Point to an interconnection with National's facilities at Clarence, New York.

It is stated that the total cost of the uprating is estimated to be $51,620, and, in accordance with the C&O Agreement, all costs actually incurred in the preparation and prosecution of this application and the construction of the facilities will be paid by National Fuel to Tennessee as such costs are incurred. In addition, it is stated that National Fuel is required to make payments to the co-owners of the Niagara Spur Loop Line under the C&O Agreement to equalize the capital cost per Mcf-mile of all the co-owners. Tennessee states that these payments are intended to give all co-owners the benefit of the inexpensive expansibility of the Niagara Spur Loop Line that can be achieved through additional compression facilities. Tennessee contends that the amount of the cost equalization payments to all co-owners is currently estimated to be $562,450.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 4, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 96–21656 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

August 21, 1996.

Take notice that on August 15, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Fifteenth Revised Sheet No. 60. Such tariff sheet is proposed to be effective October 1, 1996.

Transco states that the purpose of the filing is to reflect a decrease in the Annual Charge Adjustment (ACA) Charge in the commodity portion of Transco's transportation rates. Pursuant to Order No. 472, the Commission has assessed Transco its ACA unit rate of $0.0020/Mcf ($0.0019/dt on Transco's system) for the annual period commencing October 1, 1996.

Transco states that copies of the filing are being mailed to affected 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, 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. 96–21659 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–706–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

August 21, 1996.

Take notice that on August 12, 1996, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma, 74101, filed in Docket No. CP96–706–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to replace and relocate the Western Resources, Inc. (WRI) South Topeka town border setting located in Shawnee County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to reclaim the South Topeka four run, 12-inch orifice meter and appurtenant facilities located in Section 10, Township 12 South, Range 16 East, Shawnee County, Kansas, and to relocate and install a new five run orifice meter and appurtenant facilities at the site of WNG's mainline gate in Section 7, Township 12 South, Range 17 East, Shawnee County, Kansas.

WNG states that the replacement of the town border facilities is not prohibited by its existing tariff and that WNG has sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers. This proposal will not have an effect on WNG's peak day and annual deliveries and the total volumes delivered will not exceed total volumes authorized prior to this request.

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 proposal 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. 96–21655 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–2664–000, et al.]

Entergy Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 19, 1996.

Take notice that the following filings have been made with the Commission:

1. Entergy Services, Inc.

[Docket No. ER96–2664–000]

Take notice that on August 8, 1996, Entergy Services, Inc. (Entergy Services), submitted for filing the Interchange Agreement between Entergy Arkansas, Inc.; Entergy Gulf States, Inc.; Entergy Louisiana, Inc.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; and Entergy Services, Inc., and the Sam Rayburn Municipal Power Agency (SRMPA). To the extent necessary, Entergy Services requests a waiver of notice requirements of the Federal Power Act and the Commission's Regulations.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Northeast Utilities Service Company

[Docket No. ER96–2666–000]

Take notice that on August 8, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing an unexecuted Service Agreement to provide Network Integration Transmission Service to Unitil Power Corporation (UNITIL) under the terms and conditions of the NU System Companies' Open Access Transmission Service Tariff No. 8.

NUSCO states that a copy of this filing has been mailed to UNITIL.

NUSCO requests that the Service Agreement become effective July 9, 1996.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Company

[Docket No. ER96–2667–000]

Take notice that on August 9, 1996, Florida Power & Light Company (FPL), tendered for filing (i) Amendment Number Eleven to the Agreement to Provide Specified Transmission Service between Florida Power & Light Company and City of Starke, Florida; (ii) Short-Term Firm Umbrella Service Agreement between Florida Power & Light Company and City of Starke, Florida; and (iii) Non-Firm Umbrella Service Agreement between Florida Power & Light Company and City of Starke, Florida. FPL asks that the filing be made effective July 9, 1996.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania-New Jersey-Maryland Interconnection Restructuring

[Docket No. ER96–2668–000]

Take notice that on August 8, 1996, PECO Energy Company (PECO) filed the following documents as part of PECO's restructuring plan for the Pennsylvania-New Jersey-Maryland (PJM) Interconnection (the Open Market Plan):

1. PJM Regional Open Access Transmission Tariff, including a black-lined comparison to the Commission's *pro forma* tariff
2. PJM Regional Transmission Owners' Agreement
3. PJM Wholesale Power Exchange Agreement
4. PJM Regional Reserve Planning Agreement
5. Independent System Operator Agreement
6. Exchange Service Agreement
7. Independent System Planner Agreement

As part of the Open Market Plan, PECO filed revisions to certain other existing agreements concerning the PJM Interconnection. PECO also filed with the Commission an application pursuant to § 202 of the Federal Power Act (FPA), 16 U.S.C. 824b, to be separately noticed.

Copies of the filing were served on the Regulatory Commission of Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania, and Virginia.

PECO states that a copy of the filing may be downloaded from its OASIS on the internet at http/oasis peco.com.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power & Light Company

[Docket No. ER96–2669–000]

Take notice that on August 9, 1996, Florida Power & Light Company (FPL), tendered for filing (i) Amendment Number Twenty-Five to Revised Agreement to Provide Specified Transmission Service between Florida Power & Light Company and Utilities Commission, City of New Smyrna Beach, Florida; (ii) Short-Term Firm Umbrella Service Agreement between Florida Power & Light Company and Utilities Commission, City of New Smyrna Beach, Florida; and (iii) Non-Firm Umbrella Service Agreement between Florida Power & Light Company and Utilities Commission, City of New Smyrna Beach, Florida. FPL asks that the filing be made effective July 9, 1996.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. The Dayton Power and Light Company

[Docket No. ER96–2670–000]

Take notice that on August 9, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Electric Interchange Agreement between Dayton and PanEnergy Power Services, Inc. (PanEnergy).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to PanEnergy power and/or energy for resale.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Power & Light Company

[Docket No. ER96–2671–000]

Take notice that on August 9, 1996, Puget Sound Power & Light Company (Puget), tendered for filing the 1996–97 Operating Procedures under the Pacific Northwest Coordination Agreement (PNCA).

Puget states that the 1996–97 Operating Procedures relate to service under the PNCA. A copy of the filing was served upon the parties to the PNCA.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Power and Light Company

[Docket No. ER96–2672–000]

Take notice that on August 9, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing Agreements dated July 11, 1996, establishing Dairyland Power Cooperative as a point-to-point transmission customer under the terms of WP&L's Transmission Tariff.

WP&L requests an effective date of July 11, 1996 and accordingly seeks waiver of the Commission's notice

requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. AYP Energy Inc.

[Docket No. ER96–2673–000]

Take notice that on August 9, 1996, AYP Energy Inc. (Applicant), filed with the Federal Energy Regulatory Commission a petition for authority to sell power at market-based rates, and request for blanket authorization and for certain waivers of the Commission's Regulations. Applicant has also filed its FERC Electric Rate Schedule No. 1.

Applicant has requested that its rate schedule be accepted for filing and allowed to become effective immediately upon acceptance. Applicant intends to engage in transactions in which it will sell electric power at rates and on terms and conditions that are negotiated with the purchaser.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. The Dayton Power and Light Company

[Docket No. ER96–2674–000]

Take notice that on August 9, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Electric Interchange Agreement between Dayton and Sonat Power Marketing, Inc. (Sonat).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to Sonat power and/or energy for resale.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. The Dayton Power and Light Company

[Docket No. ER96–2675–000]

Take notice that on August 9, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Electric Interchange Agreement between Dayton and Citizens Lehman Power Sales (CLPS).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to CLPS power and/or energy for resale.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Illinois Power Company

[Docket No. ER96–2676–000]

Take notice that on August 9, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Sonat Power Marketing, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1996.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Central Louisiana Electric Company, Inc.

[Docket No. ER96–2677–000]

Take notice that on August 9, 1996, Central Louisiana Electric Company, Inc. (CLECO), tendered for filing an initial MR–1 Tariff for Power Sales at Negotiated Rates.

CLECO has served a copy of the filing on the Louisiana Public Service Commission and a copy of the filing is available for public inspection at CLECO's offices during normal business hours.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Commonwealth Edison Company

[Docket No. ER96–2678–000]

Take notice that on August 9, 1996, Commonwealth Edison Company (ComEd), submitted for filing four Service Agreements, establishing Calpine Power Services Company (Calpine), dated June 26, 1996, Pacificorp Power Marketing (Pacificorp), dated July 9, 1996, Entergy Power Inc. (EPI), dated July 15, 1996, and Entergy Power Marketing Corp. (EPMC), dated July 15, 1996, as customers under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of July 15, 1996 for the Service Agreements between ComEd and Calpine, Pacificorp and EPI, and an effective date of July 22, 1996 for the Service Agreement between ComEd and EPMC, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Calpine, Pacificorp, EPI, EPMC and the Illinois Commerce Commission.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Arizona Public Service Company

[Docket No. ER96–2679–000]

Take notice that on August 12, 1996, Arizona Public Service Company (APS), tendered for filing a Service Agreement under APS–FERC Electric Tariff Original Volume No. 1 (APS Tariff) with the following entity: Koch Power Services, Inc.

A copy of this filing has been served on the above listed party and the Arizona Corporation Commission.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Virginia Electric and Power Company

[Docket No. ER96–2680–000]

Take notice that on August 12, 1996, Virginia Electric and Power Company (the Company), tendered for filing a letter agreement implementing the rate schedules included in the Agreement for the Purchase of electricity for Resale between the Company and the Virginia Municipal Electric Association Number 1 (VMEA).

Copies of the filing were served upon VMEA, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Jersey Central Power & Light Co., Metropolitan Edison Company, Pennsylvania Electric Company.

[Docket No. ER96–2682–000]

Take notice that on August 12, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Companies), filed a Service Agreement between GPU and Vastar Power Marketing, Inc. (VPM) dated July 25, 1996. This Service Agreement specifies that VPM has agreed to the rates, terms and conditions of the GPU Companies' Energy Transmission Service Tariff accepted by the Commission on September 28, 1995, in Docket No. ER5–791–000 and designated as FERC Electric Tariff, Original Volume No. 3.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date July 25, 1996, for the Service Agreement. GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and on VPM.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Jersey Central Power & Light Co., Metropolitan Edison Company, Pennsylvania Electric Company.

[Docket No. ER96–2683–000]

Take notice that on August 12, 1996, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Companies), filed a Service Agreement between GPU and Entergy Power Marketing Corporation (ENTERGY) dated July 25, 1996. This Service Agreement specifies that ENTERGY has agreed to the rates, terms and conditions of the GPU Companies' Energy Transmission Service Tariff accepted by the Commission on September 28, 1995, in Docket No. ER95–791–000 and designated as FERC Electric Tariff, Original Volume No. 3.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date July 25, 1996, for the Service Agreement. GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and on ENTERGY.

Comment date: September 3, 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. 96–21611 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG96–87–000, et al.]

LSP-Cottage Grove Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

August 20, 1996.

Take notice that the following filings have been made with the Commission:

1. LSP-Cottage Grove Limited Partnership

[Docket No. EG96–87–000]

On August 15, 1996, LSP-Cottage Grove L.P. (''LSP–CG), a Delaware limited partnership, with a principal place of business at 402 East Maine Street, Bozeman, Montana 59715, filed with the Federal Energy Regulatory Commission (''Commission''), an application for a determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

LSP–CG is in the process of constructing a dispatchable, combined-cycle natural gas-fired (with fuel oil back-up) cogeneration facility designed to generate approximately 245 megawatts of electrical capacity measured at summer conditions, and 262 megawatts of electrical capacity measured at winter conditions in Cottage Grove, Minnesota (the ''Facility''). The Facility is scheduled to commence commercial operation by May 31, 1997. Electrical capacity and energy from the Facility will be sold to Northern States Power Company (''NSP'') pursuant to a power purchase agreement dated May 9, 1994. LSP–CG may also sell electrical capacity and energy from the Facility in excess of NSP's requirements to other third parties. All electrical power sales will be exclusively at wholesale. Thermal energy from the Facility will be sold to Minnesota Mining and Manufacturing Company (''3M'') under a long term steam supply agreement.

The Facility was certified as a qualified facility (QF) under the Public Utility Regulatory Policies Act (PURPA) and the FERC regulations promulgated thereunder on November 14, 1994 and was self-certified as a QF on June 7, 1995. The Facility was recertified as a QF by FERC on May 9, 1996. The facility intends to operate as a QF.

Comment date: September 10, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. LSP-Whitewater Limited Partnership

[Docket No. EG96–88–000]

On August 15, 1996, LSP-Whitewater Limited Partnership (the ''Applicant''), a Delaware limited partnership, with a principal place of business at Two Tower Center, 10th Floor, East Brunswick, NJ 08816, filed with the Federal Energy Regulatory Commission (''Commission''), an application for a new determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant is in the process of constructing a 245 megawatt (approximate summer rating) combined-cycle, gas-fired, cogeneration facility in the City of Whitewater, Wisconsin. The Facility is scheduled to commence commercial operation by June 1, 1997. The thermal energy generated by the Facility will be sold to the University of Wisconsin-Whitewater and Dominion Growers/Whitewater, L.C. pursuant to two long-term thermal energy agreements.

The Facility was certified as a qualified facility (''QF'') under the Public Utility Regulatory Policies Act (''PURPA'') and the FERC regulations promulgated thereunder on November 14, 1994, was self-certified as a QF on June 7, 1995; and intends to operate as a QF.

Comment date: September 10, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Golden Spread Electric Cooperative, Inc. v. Southwestern Public Service Company

[Docket No. EL96–71–000]

Take notice that on August 9, 1996, Golden Spread Electric Cooperative, Inc. tendered for filing a complaint, motion to consolidate and motion for summary disposition, alleging that Southwestern Public Service Company's rates and charges for wholesale transmission service as filed with the Commission in Docket No. OA96–33–000 are unjust, unreasonable, and unduly discriminatory. Golden Spread further requests that the Commission consolidate this complaint with the Motion to Intervene, Protest and Request for Hearing filed by Golden Spread in Docket No. OA96–33–000.

Comment date: September 19, 1996, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before September 19, 1996.

4. Western Resources, Inc.

[Docket Nos. ER95–1515–002, ER96–459–002]

Take notice that on February 20, 1996, Western Resources, Inc. (Western Resources) tendered for filing revised point-to-point requirements specified in the Commission's January 31, 1996 and February 14, 1996, Orders in the above listed dockets.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER96–2681–000]

Take notice that on August 12, 1996, Southern California Edison Company tendered for a Notice of Cancellation of FERC Rate Schedule No. 283.

Comment date: September 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Red Top Cogeneration, L.P. Pacific Gas and Electric Company

[Docket Nos. QF84–329–001 and EL96–70–000]

Take notice that on August 7, 1996, Red Top Cogeneration, L.P. (Red Top) tendered for filing a Motion of Pacific Gas and Electric Company for revocation of certification of Red Top's Facility, as a qualifying cogeneration facility.

Comment date: September 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company

[Docket Nos. ER96–1663–000, EC96–19–000, and EL96–48–000]

Take notice that on August 15, 1996, the California Public Utilities Commission (CPUC) tendered for filing supplemental comments regarding the proposals of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company's (Applicants) proposals in the above referenced dockets.

Comment date: September 3, 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. 96–21610 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–178–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Meeting

August 20, 1996.

On August 26, 1996, the Office of Pipeline Regulation staff will meet at the request of Maritimes & Northeast Pipeline, L.L.C. (Maritimes), with Maritimes for a pre-filing conference regarding the proposed Maritimes and Northeast Phase II Pipeline Project. The proposed project would be located between Wells, Maine, and the Canadian border.

The meeting will occur at 2:00 p.m., at the Commission's headquarters, 888 First Street NE, Washington, DC, in Room 3M–3.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21618 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–582–000, et al.]

Texas Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

August 19, 1996.

Take notice that the following filings have been made with the Commission:

1. Texas Gas Transmission Corporation

[Docket No. CP96–582–000]

Take notice that on June 18, 1996, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 20008, Owensboro, Kentucky 42304 filed, in Docket No. CP96–582–000, a petition to amend the certificate issued on October 26, 1956, in Docket No. G–10594, pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations, to incorporate additional acreage to the storage boundary of the Dixie Storage Field (Dixie Field) located in Henderson County, Kentucky, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Texas Gas seeks authorization to acquire by lease, purchase or the exercise of eminent domain, approximately 837 additional acres contained in seven lease tracks inside what would become the new boundary of the Dixie Field. Texas Gas states that analysis and testing of the storage reservoir indicated that communication exists between the original boundaries of the Dixie Field and certain production reservoirs located below the additional acreage proposed to be acquired. Texas Gas says the proposed additional storage acreage is required to protect the integrity of the Dixie Field.

Comment date: September 9, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. CNG Transmission Corporation

[Docket No. CP96–700–000]

Take notice that on August 8, 1996, CNG Transmission Corporation (CNGT), 445 West Main Street, Clarksburg, West Virginia 26301, filed a prior notice request with the Commission in Docket No. CP96–700–000, as supplemented on August 15, 1996, pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon outdated metering and regulating facilities and to replace it by adding new measurement and flow control devices and bi-directional capabilities at CNGT's existing measuring and regulating station in Loudon Township, Carroll County, Ohio, under CNGT's blanket certificate issued in Docket No. CP82–537–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

CNGT proposes to abandon and replace outdated metering and regulating facilities (some of which are no longer serviceable) at its existing Loudon Township measuring station which CNGT uses to deliver gas to East Ohio Gas Company (East Ohio). CNGT proposes to replace its outdated measuring and regulating equipment by adding new measurement and flow control devices and bi-directional capabilities in order to serve as an interconnection with East Ohio. CNGT would deliver to East Ohio up to 190,000 Dth equivalent of natural gas per day for East Ohio's system requirements. CNGT verifies that the proposed natural gas volumes it would deliver to East Ohio are within East Ohio's certificated entitlements. CNGT estimates that the proposed upgrades at the Loudon Township measuring and

regulating station would cost $775,000 to accomplish.

Comment date: September 30, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Gas Transport, Inc.

[Docket No. CP96–704–000]

Take notice that on August 12, 1996, Gas Transport, Inc. (Gas Transport), P.O. Box 430, Lancaster, Ohio 43130–0430, filed in Docket No. CP96–704–000, an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of a new delivery point and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Gas Transport proposes to construct and operate a new delivery point and a related metering station in Wood County, West Virginia to provide transportation service to Fenton Art Glass Company (Fenton). The estimated cost of the facilities is $38,500. Fenton currently receives gas from Hope Gas Company, Inc. and local producers and has indicated a desire to establish a secondary source of gas supply through a direct connection with Gas Transport. Gas Transport states that it will provide firm and interruptible transportation to Fenton at its existing rates pursuant to Part 284 of the Commission's regulations.

Comment date: September 9, 1996, in accordance with Standard Paragraph F at the end of this notice.

4. Discovery Producer Services LLC

[Docket No. CP96–711–000]

Take notice that on August 14, 1996, Discovery Producer Services LLC (DPS), P.O. Box 4700, 1111 Bagby Street, Houston, Texas 77002, filed a petition for declaratory order in Docket No. CP96–711–000, requesting that the Commission declare that facilities to be constructed from the Outer Continental Shelf (OCS) to a proposed onshore processing facility would have the primary function of gathering natural gas and would thereby be exempt from the Commission's jurisdiction pursuant to Section 1(b) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

DPS states that the proposed pipeline is designed to attach existing and proposed development projects in the Mississippi Canyon, Green Canyon, Ewing Bank, South Timbalier, and Grand Isle areas. DPS indicates that the system would consist of approximately 147 miles of pipe ranging in size from 18 to 30 inches and four meter stations. It is stated that the system would consist of a spine or mainline, 104.36 miles in length and 30 inches in diameter, and extending from a platform in Ewing Bank (EW) Block 873 operated by Marathon Oil Company and Texaco Exploration and Production Inc. and extending to a proposed onshore processing plant near Larose, Lafourche Parish, Louisiana. It is stated that the proposed pipeline will roughly parallel the edge of the OCS for a significant portion of its offshore route. DPS also states that the system will initially include two laterals, with one 10.8 mile, 20-inch lateral proceeding in an easterly direction from the main trunkline to Grand Isle South Addition Block 115 (GI 115) and one 26.2 mile, 18-inch lateral proceeding in a westerly direction to South Timbalier (ST) Block 200. DPS indicates that it would also construct a parallel 24-inch line for the last 6.4 miles to serve as a bypass line to assist in pigging operations, and 2,300 feet of 30-inch pipeline to attach the proposed plant to the facilities of Bridgeline Gas Distribution LLC. DPS states that it is contemplating additional laterals and interconnects.

DPS states that the proposed facilities meet the criteria in support of its claim that the facilities are gathering as set forth in a February 28, 1996, Statement of Policy with respect to OCS facilities, 74 FERC ¶ 61,222 as well as the gathering criteria set forth in *Farmland Industries, Inc.,* 23 FERC ¶ 61,063. as modified in later orders. DPS states that the Commission in its OCS Policy Statement added a new element to its analysis, granting a presumption of gathering to facilities designed to collect gas produced from water depths of 200 meters or greater, with the presumption extending to facilities up to the point or points of potential connection with the interstate pipeline grid. DPS submits that the entirety of its proposed system was primarily designed to collect gas from deepwater wells, and should be granted such a presumption. DPS also states that it will gather gas from wells located in wells located in shallower water along its route. DPS indicates that the initial construction of the proposed gathering system will be primarily at water depths of less than 200 meters, but that the wells to be connected to the system at EW 873 are in depths greater than 200 meters. DPS also states that the GI 115 lateral is expected to eventually serve as a landing point for deepwater production as well, and since much of DPS's offshore route is roughly parallel to the OCS, the line is well positioned to serve as a landing point for deep production.

DPS states that, under this theory, the entire system should be granted a presumption of gathering. Accordingly, DPS requests that the Commission disclaim jurisdiction over the entire system as proposed and the any future construction upstream of EW 873, GI 115, and ST 200 should qualify under this presumption.

DPS states that, as a second element of the gathering policy, the Commission indicated that where proposed OCS facilities are in proximity to existing interstate pipelines, the Commission will determine jurisdictional status on the basis on the existing primary function test. DPS submits that, since portions of the proposed facilities could be viewed as falling within this element of the Commission's review process as a result of the location of other interstate pipelines in the general area of DPS's proposed route, DPS is also analyzing the proposed construction downstream of the EW platform under the modified primary function test.

With respect to the length and diameter of the line, DPS submits that the 104-mile length of the spine is solely a function of the production to be attached and the location of the nearest pipeline infrastructure with sufficient capacity to receive the full amount of projected production. DPS submits that, although the applicability of the central point in the field is questionable with respect to isolated OCS operations, the DPS gathering system, like Viosca Knoll Gathering System, resembles a spine and laterals network, and will aggregate production for delivery to the central point located at the proposed production plant. DPS states that there is no planned compression on the system, but that, in the future, producers may add compression at individual platforms. DPS states that gas injected into the system will not be processed, but will be dehydrated and free liquids will be mechanically separated from the gas. DPS also notes that the system will be a spine and laterals design, attaching wells located on both the onshore and offshore segments. DPS also notes that the offshore terminus is expected to serve as a collection point for additional gas produced from prospects in the EW Area.

DPS projects that initial operating pressures of its system will range from 1250 psig at the EW 873 platform to approximately 900 psig at the onshore terminus. DPS estimates pressure on the GI 115 and ST 200 laterals at 1300 and 1400 psig, respectively. DPS indicates that the facilities will operate at high

pressures because the offshore gas is produced at high pressures.

Comment date: September 9, 1996, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

5. Discovery Gas Transmission LLC

[Docket Nos. CP96–712–000 and CP96–719–000]

Take notice that on August 14, 1996, Discovery Gas Transmission LLC (Discovery), P.O. Box 60252, 400 Poydras Street, Suite 2016, New Orleans, Louisiana 70130, filed in Docket Nos. CP96–712–000 an application, pursuant to Section 7(c) of the Natural Gas Act and Parts 284 and 157 of the Commission's Regulations, for a certificate of public convenience and necessity to construct and operate pipeline, lateral and metering facilities and for blanket authority to provide open-access firm and interruptible transportation service. Discovery also filed in Docket No. CP96–719–000 for blanket authority pursuant to Part 157, Subpart F of the Commission's Regulations to engage in certain routine activities,[1] all as more fully set forth in the applications, which are on file with the Commission and open for public inspection.

Discovery indicates that the proposed facilities include approximately 147 miles of pipe ranging in diameter from 18 to 30 inches. It is stated that the spine of the system will extend approximately 104 miles from a platform in Ewing Bank (EW) 873 to a proposed processing plant near Larose, Louisiana. Discovery also proposes to construct a parallel 24-inch line for the last 6.4 miles to serve as a bypass line to assist in pigging operations. It is also stated that two laterals extend from the spine 10.8 miles (20-inch pipe) to a platform in Grand Isle (GI) South Addition 115 and from the spine 26.2 miles (18-inch pipe) to South Timbalier (ST) Block 200. Discovery states that the system will include four meter stations, one each in EW 873, GI 115, and ST 200 and one at the plant inlet. It is stated that the system will also include two main line valve platforms, one which will serve as a pig launching/receiving platform, and a slugcatcher. Discovery also plans to construct 2,300 feet of 30-inch line at the plant tailgate to attach the system to the facilities of Bridgeline Gas Distribution LLC.

Discovery indicates that the capacity of the system will be approximately 600,000 Mcf per day and 7,500 barrels of condensate per day, with the majority of the anticipated throughput from wells at water depths greater than 600 feet, with some production at depths in excess of 2,000 feet. It is stated, however, that initial throughput will be from wells at shallower depths. It is also stated that construction of the new capacity is essential not only to serve existing developmental projects but also future development projects in the area.

Discovery estimates a facilities cost of $187,880,100, which would be financed initially through a construction loan. Discovery states that, upon completion of construction, Discovery anticipates that twenty percent of the required capital will be furnished by the members of the limited liability company, and eighty percent will consist of bank debt.

Discovery requests that it be issued a blanket certificate pursuant to Section 284.221 of the Commission's Regulations. Discovery proposes to provide transportation service under three rate schedules, including (1) FT–1 firm service based on the straight fixed variable methodology, (2) FT–2 volumetric firm service available to producers who commit gas to the system by January 1, 1997, and (3) IT interruptible service at the 100 percent load factor of the FT–1 rate. Discovery states that it anticipates holding an open season approximately two weeks from the date of filing to last for a period of three weeks.

Discovery anticipates a build-up of throughput over the first three to five years of operation, and projects operations approaching the design capacity of the pipeline after the year 2000. Discovery proposes to base the depreciation on the straight line method and an estimated economic life of 15 years, yielding a rate of 6 ⅔ percent per year. However, it is indicated that depreciation is used to levelize the proposed rate for transportation service at two levels, with the first ten years to recover the debt to be issued, and the remaining five years to recover the remaining investment. Discovery proposes to design the initial rates using the straight fixed variable method, and base the billing determinants on the projected throughput for the build-up period. Discovery proposes a rate of return of 14.5 percent to recognize the high risk associated with offshore projects. Therefore, Discovery proposes an initial reservation rate and usage charge under Rate Schedule FT–1 of $5.9994 per Mcf, and $0.1972 per Mcf, respectively, during the first ten years, decreasing to $3.3323 per Mcf and $0.1096 per Mcf, respectively for years 11 through 15. Under Rate Schedules FT–2 and IT–1, Discovery proposes a usage rate of $0.1972 per Mcf for the first ten years, and $0.1096 for the years 11–15.

Also, Discovery requests that it be issued a blanket certificate pursuant to Subpart F of Part 157 of the Commission's Regulations, and states that it will comply with the terms, conditions and procedures of Subpart F of Part 157.

Comment date: September 9, 1996, in accordance with Standard Paragraph F at the end of this notice.

6. Williston Basin Interstate Pipeline Company

[Docket No. CP96–713–000]

Take notice that on August 15, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed an abbreviated application pursuant to Section 7(b) of the Natural Gas Act and Sections 157.7 and 157.18 of the Commission's Regulations to abandon three natural gas storage wells and certain related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Williston Basin seeks Commission authorization to plug and abandon the Rider #1, Rider #4 and Hesse #2 gas storage wells, and to abandon the associated field lines, buildings, storage meters and other appurtenant facilities, all of which are located in the Billy Creek Storage Field, Johnson County, Wyoming.

Comment date: September 9, 1996, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to

[1] Discovery Producer Services LLC has filed in Docket No. CP96–711–000 a petition seeking that the Commission declare that its proposed facilities are gathering facilities exempt from Commission jurisdiction pursuant to Section 1(b) of the Natural Gas Act. Discovery seeks the requested authorization only if the Commission finds that any of the requested facilities are subject to the Commission's jurisdiction.

participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–21609 Filed 8–23–96; 8:45 am]

BILLING CODE 6717–01–P

Proposed Rate Adjustment—Stonewall Jackson Project

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate adjustment and opportunities for public review and comment.

SUMMARY: Southeastern proposes to include the Stonewall Jackson Project in the Cumberland System. New Wholesale Power Rate Schedule SJ–1 will be for the sale of power from the Stonewall Jackson Project. The new rate schedule will be applicable to Southeastern power sold to Monongahela Power Company. Opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, and to submit written comments.

Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before September 27, 1996.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, 2 South Public Square, Elberton, Georgia 30635.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, 2 South Public Square, Elberton, Georgia 30635, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued December 14, 1994, in Docket No. EF94–3021–000, confirmed and approved Wholesale Power Rate Schedules CC–1–D, CM–1–C, CEK–1–C, CSI–1–C, CTV–1–C, CK–1–C, and CBR–1–C applicable to Cumberland System of Projects' power for a period ending June 30, 1999.

Background

The Stonewall Jackson Project is located on the West Fork River in North Central West Virginia. The Corps of Engineers installed a 300 KW generator in Stonewall Jackson Dam to avoid the cost of purchasing power for station service. This addition was not undertaken for commercial purposes. The project will generate approximately 1.7 million KWH per year. Excess energy for marketing purposes is estimated to be approximately 1.4 million KWH per year. None of Southeastern's preference customers in the immediate area could or would receive Stonewall Jackson power. The Monongahela Power Company was the only entity willing to make necessary transmission arrangements to receive it. Monongahela will pay the lower of the cost of power from the Stonewall Jackson Project or its avoided cost of energy. For the period of September 7, 1996 through September 6, 1997, Southeastern has the authority to market the power to Monongahela based on its avoided cost.

Discussion

Existing rate schedules are predicated upon a January 1994 repayment study and other supporting data all of which are contained in EF94–3021–000. A June 1996 repayment study prepared using present rates and including the Stonewall Jackson Project demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to include the Stonewall Jackson Project in the Cumberland System by adding Wholesale Power Rate Schedule SJ–1. The Rate Schedule SJ–1 will be applicable to Southeastern power sold to Monongahela Power Company.

The rate to Monongahela Power Company will be the lower of 32.8 mills per kilowatt-hour or Monongahela's avoided cost of energy. The referenced June 1996 system repayment study along with previous system repayment studies are available for examination at the Samuel Elbert Building, 2 South Public Square, Elberton, Georgia 30635. Proposed Rate Schedule SJ–1 is also available.

Issued at Elberton, Georgia.

Charles A. Borchardt

Administrator.

[FR Doc. 96–21647 Filed 8–23–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5560–3]

National Advisory Council for Environmental Policy and Technology Reinvention Criteria Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Meeting.

SUMMARY: Under the Federal Advisory Committee Act, PL 92463, EPA gives notice of a two-day meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT) Reinvention Criteria Committee (RCC). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues. The RCC has been asked to identify criteria the Agency can use to measure the progress and success of specific reinvention projects and its overall reinvention efforts; and to identify criteria to promote opportunities for self-certification, similar to the concept used for pesticide registration. This meeting is being held to provide the

EPA with perspective from representatives of state and local government, academia, industry, and NGOs.

DATES: The two-day public meeting will be held on Tuesday, September 10, 1996 from 8:30 am to 5:00 pm and on Wednesday, September 11, 1996 from 8:30 am to 3:00 pm. The meeting will be held at the Holiday Inn on The Hill, 415 New Jersey Avenue, N.W., Washington, D.C. 20001.

ADDRESSES: Materials, or written comments, may be transmitted to the Committee through Gwendolyn Whitt, Designated Federal Official, NACEPT/RCC, U.S. EPA, Office of Cooperative Environmental Management (1601–F), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Whitt, Designated Federal Official for the Reinvention Criteria Committee at 202–260–9484.

Dated: August 13, 1996.

Gwendolyn C.L. Whitt,

Designated Federal Official.

[FR Doc. 96–21630 Filed 8–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5559–9]

Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has issued a policy outlining an interim approach for incorporating water quality-based effluent limitations into storm water permits.

Background and Purpose

Due to the nature of storm water discharges, and the typical lack of information on which to base numeric water quality-based effluent limitations (expressed as concentration and mass), EPA has developed an interim permitting approach for National Pollution Discharge Elimination System (NPDES) storm water permits. While this interim permitting approach applies only to EPA, the Agency also encourages authorized States and Tribes to adopt similar policies for storm water permits.

The policy addresses issues related to the type of effluent limitations that are most appropriate for NPDES storm water permits to provide for the attainment of water quality standards. Since the policy only applies to water quality-based effluent limitations, it is not intended to affect technology-based limitations, such as those based on effluent guidelines or the permit writer's best professional judgements, that are incorporated into storm water permits. With this policy, the Office of Water is seeking to fulfill objectives of the 1996–1997 National Water Program Agenda for the Future, including reducing the threat of wet weather discharges to water quality, providing States and local governments with greater flexibility to solve wet weather problems, and identifying and taking appropriate steps to reduce the existing burden of the Storm Water Phase I program.

Numerous parties were involved in preparing this policy. In addition to receiving significant input from the Urban Wet Weather Flows (UWWF) Federal Advisory Committee, EPA also consulted with the States and Regional Storm Water Coordinators. This interim permitting approach may be modified as a result of ongoing policy dialogue with the UWWF Federal Advisory Committee.

Policy Statement

In response to recent questions regarding the type of water quality-based effluent limitations that are most appropriate for National Pollutant Discharge Elimination System (NPDES) storm water permits, the Environmental Protection Agency (EPA) is adopting an interim permitting approach for regulating wet weather storm water discharges. Due to the nature of storm water discharges, and the typical lack of information on which to base numeric water quality-based effluent limitations (expressed as concentration and mass), EPA will use an interim permitting approach for NPDES storm water permits.

The interim permitting approach uses best management practices (BMPs) in first-round storm water permits, and expanded or better-tailored BMPs in subsequent permits, where necessary, to provide for the attainment of water quality standards. In cases where adequate information exists to develop more specific conditions or limitations to meet water quality standards, these conditions or limitations are to be incorporated into storm water permits, as necessary and appropriate. This interim permitting approach is not intended to affect those storm water permits that already include appropriately derived numeric water quality-based effluent limitations. Since the policy only applies to water quality-based effluent limitations, it is not intended to affect technology-based limitations, such as those based on effluent guidelines or the permit writer's best professional judgement, that are incorporated into storm water permits.

Each storm water permit should include coordinated and cost-effective monitoring program to gather necessary information to determine the extent to which the permit provides for attainment of applicable water quality standards and to determine the appropriate conditions or limitations for subsequent permits. Such a monitoring program may include, ambient monitoring, receiving water assessment, discharge monitoring (as needed), or a combination of monitoring procedures designed to gather necessary information.

This interim permitting approach applies only to EPA, however, EPA also encourages authorized States and Tribes to adopt similar policies for storm water permits. This interim permitting approach provides time, where necessary, to more fully assess the range of issues and possible options for the control of storm water discharges for the protection of water quality. This interim permitting approach may be modified as a result of the ongoing Urban Wet Weather Flows Federal Advisory Committee policy dialogue on this subject.

DATES: The policy was signed by the Assistant Administrator for Water on August 1, 1996.

FOR FURTHER INFORMATION: If you have questions about the police, please contact, Bill Swietlik, Storm Water Phase I Matrix Manager, Office of Wastewater Management, at (202) 260–9529 or William Hall, Urban Wet Weather Flows Matrix Manager, Office of Wastewater Management, at (202) 260–1458, or by Internet: hall.william@epamail.epa.gov.

Dated: August 19, 1996.

Fred Lindsey,

Acting Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 96–21671 Filed 8–23–96; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act Special 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)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in

McLean, Virginia, on August 28, 1996, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. Reports

1. Flood Insurance Regulations

2. Book-Entry Regulations

3. Global Debt Funding Program

C. New Business

Regulations

1. Disclosure to Shareholders [12 CFR Part 620] (Proposed)

2. Secondary Market Participations [12 CFR Part 614] (Proposed)

Closed Session*

A. Report

OSMO's Quarterly Report

*Session Closed—Exempt pursuant to U.S.C. Sec 552b(c) (8) and (9).

Dated: August 22, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–21828 Filed 8–22–96; 2:13 pm]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, August 20, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's liquidation and administrative enforcement activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Mr. John Downey, acting in the place and stead of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Director Joseph H. Neely (Appointive), Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: August 20, 1996.

Federal Deposit Insurance Corporation

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 96–21761 Filed 8–21–96; 4:18 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1128–DR]

Michigan; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Michigan, (FEMA–1128–DR), dated July 23, 1996, and related determinations.

EFFECTIVE DATE: August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Michigan dated July 23, 1996, is hereby amended to include Individual Assistance in the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 23, 1996:

The counties of Bay, Lapeer, Midland, Saginaw, Sanilac, St. Clair and Tuscola for Individual Assistance. (Already designated for Public Assistance and Hazard Mitigation.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–21701 Filed 8–23–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1127–DR]

North Carolina; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Carolina, (FEMA–1127–DR), dated July 18, 1996, and related determinations.

EFFECTIVE DATE: August 14, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Carolina, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 18, 1996:

Columbus County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–21702 Filed 8–23–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1120–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1120–DR), dated June 18, 1996, and related determinations.

EFFECTIVE DATE: August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the

Commonwealth of Pennsylvania, is hereby amended to include Public Assistance in the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 18, 1996:

The counties of Adams and Bedford for Public Assistance. (Already designated for Individual Assistance and Hazard Mitigation.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–21703 Filed 8–23–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–011284–028

Title: Equipment Interchange Discussion Agreement

Parties:

American President Lines, Ltd.
A.P. Moller-Maersk Line
Hapag-Lloyd A.G.
Kawasaki Kisen Kaisha
Mitsui O.S.K. Lines, Ltd.
Nedlloyd Lijnen B.V.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line
P&O Containers Limited
Sea-Land Service, Inc.

Synopsis: The proposed amendment revises Article 5.1 by clarifying the Agreement's authority of two or more parties to meet, discuss and agree upon matters in the trade. It also deletes language from Article 5.1 pertaining to the discussion of rates, charges, or other terms of transportation made available to shippers. In addition, it adds a new Article 5.7 regarding interstitial agreements.

Agreement No.: 232–011466–002

Title: Container Transport Agreement

Parties:

Compagnie Maritime d'Affretement
DSR-Senator Lines
Cho Yang Shipping Co. Ltd.

Synopsis: The proposed amendment deletes Articles 5 (b) and (c) pertaining to the Agreement's authority to discuss and reach voluntary non-binding agreement on rates and other matters. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: August 21, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–21679 Filed 8–23–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 19, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. MarTex Bancshares, Inc., Marshall, Texas; to merge with Heritage Texas Group, Inc., Pittsburg, Texas, and thereby indirectly acquire First Heritage Bank, N.A., Pittsburg, Texas.

Board of Governors of the Federal Reserve System, August 20, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–21646 Filed 8-23-96; 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 September 9, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Bayerische Vereinsbank AG, Munich, Germany; to engage *de novo* through its subsidiary, VB Structured Finance Inc., New York, New York, in commercial finance activities, including project finance, trade finance, acquisition finance, real estate loans, debtor in possession financing, and the provision of liquidity lines to asset-backed commercial paper conduits, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Joseph Thomas McLane, as conservator for Jerry F. 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, August 20, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–21645 Filed 8-23-96; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Notice of Proposed Information Collection Requests

AGENCY: Federal Trade Commission.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The FTC is soliciting public comments on proposed extensions of Paperwork Reduction Act clearance for information collection requirements contained in twelve rules issued or enforced by the Commission. These OMB clearances expire on December 31, 1996. The FTC proposes that OMB extend its approvals through December 31, 1999.

DATES: Comments due: October 25, 1996.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, ATTN: Desk Officer for the Federal Trade Commission, and to Elaine W. Crockett, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 326–2453.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Elaine W. Crockett at the address listed above.

SUPPLEMENTARY INFORMATION: The FTC will submit the proposed information collections to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The purpose of this Notice is to solicit comments from members of the public and affected agencies concerning the proposed collections of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility, (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, (3) Enhance the quality, utility, and clarity of the information to be collected, and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The FTC attempts to minimize the burden of collections of information on the public whenever possible. In this regard it should be noted that the great majority of the disclosure requirements discussed below entail burdens associated with statutorily required disclosure provisions. For example, the Truth-in-Lending, Textile Act, and Fair Packaging Regulations all involve large burden estimates, totaling approximately 69 million burden hours. Much of this burden reflects statutory provisions that require the disclosure of such basic consumer information as the annual percentage interest rate charged on loans, the composition of clothing and other textile items, and the size and content of packaged products. While the burden imposed on any individual party is often quite small (sometimes measured in seconds), the number of affected parties is often very high (sometimes measured in millions), and the total burden is therefore large. *See e.g.*, the Regulations implementing the Equal Credit Opportunity Act, the Electronic Fund Transfer Act, and the Consumer Leasing Act.

The great majority of the recordkeeping and reporting provisions discussed below entail burdens that are necessary for the enforcement of the regulation and/or statute. In some instances, these recordkeeping requirements are statutorily mandated. *See, e.g.* the regulations implementing the Fur Products Labeling Act. In most instances, the regulated entities keep these records in the normal course of business, and thus these recordkeeping requirements do not impose an additional ''burden'' on members of the public. *See* 5 C.F.R. § 1320.3(b)(2) (burden hours exclude effort that would be expended regardless of any regulatory requirement).

1. Collection Title: The Games of Chance Rule, 16 C.F.R. Part 419

OMB Control Number: 3084–0067.

Description of the collection of information and proposed use: The Rule establishes both recordkeeping and disclosure requirements for food and gasoline retailers in conducting and advertising games of chance. The Rule requires that games promoters retain records showing compliance with certain provisions, and identify winners, prizes, and number of game pieces. The recordkeeping requirements assist in the enforcement of the Rule.

The Rule also requires that games promoters disclose the odds-of-winning and other prize information in broadcast and print advertisements. Promoters must also post a winners' list, containing the names and addresses of winners, the prizes won, and the number of game pieces. The disclosure requirements assist customers in determining both the likelihood of winning prizes and the legitimacy of the game.

Estimate of information collection burden: 8,250 total burden hours.

Recordkeeping: Approximately 30 independent firms contract to conduct an average of 50 promotions per year at an average burden per respondent of 150 hours for a total recordkeeping burden of 4,500 hours.

Disclosures: Approximately 30 game promoters conduct an average of 50 games per year at an average burden per promotion of 2.5 hours for a total disclosure burden of 3,750 hours.

2. Title: Regulations Promulgated Under the Equal Credit Opportunity Act, 15 U.S.C. § 1691 et seq. (''ECOA''), (''Regulation B'')

Control Number: 3084–0087.

Description of the collection of information and proposed use: The ECOA prohibits discrimination in the extension of credit on the basis of sex, marital status, race, color, religion, national origin, age, derivation of income from a public assistance program, or good faith exercise of any right under the Consumer Credit Protection Act. Regulation B, 12 C.F.R. Part 202, promulgated by the Board of Governors of the Federal Reserve System, implements the ECOA. Among other things, section 202.12 of Regulation B requires creditors to retain records relating to consumer credit applications for 25 months, and records of business credit applications for 12 months. Section 202.13 of Regulation B requires creditors that receive mortgage credit applications to record the applicant's race or national origin, sex, marital status, and age. These requirements assist in enforcement of the Act and implementing Regulation.

Regulation B also has two primary disclosure provisions, both of which are statutorily required. First, creditors are required to provide applicants with information about adverse credit actions. 15 U.S.C. § 1691(d). Second, creditors are required to provide notification to mortgage credit applicants concerning appraisal reports. 15 U.S.C. § 1691(e). These disclosure requirements assist consumers in understanding their rights under the ECOA. They also assist the Commission in detecting unlawful discrimination.

Estimate of information collection burden: 14,400,000 total burden hours.

Recordkeeping: The FTC estimates that Regulation B's recordkeeping requirements affect 1 million credit firms at an average burden of 1 hour per firm per year, for a total estimated burden of 1,000,000 hours. The FTC estimates that approximately 4,000 creditors are subject to the requirement to collect information about race/national origin, sex, age, and marital status and that approximately 4 million credit applications are affected. Because Regulation B contains a model form that creditors may use to collect the information, staff estimates that the burden associated with this recordkeeping requirement is no more than one minute for each application for a burden total of 66,700 hours.

Disclosures: The disclosures are all specifically mandated by the ECOA. Approximately 1 million creditors are subject to the requirement to provide notice of adverse credit action and 200 million accounts are covered by this requirement. Because the Regulation provides model forms for these notices, the burden of providing notice of adverse action is estimated to be 4 minutes for each application, for a burden total of 13.3 million hours.

The other disclosure requirement under Regulation B involves providing appraisal reports to consumers. The FTC estimates that 4,000 creditors and 4 million mortgage credit applications are subject to this requirement. Because creditors have the option to include the required notice on other forms that would be provided to the consumer during the ordinary course of business, the additional burden of making this disclosure is estimated to be 15 seconds for each application, for a total burden estimate of 16,666 hours.

3. Title: Regulations Promulgated Under the Electronic Fund Transfer Act, 15 U.S.C. § 1693 et seq. (''EFTA''), (''Regulation E'')

Control Number: 3084–0085.

Description of the collection of information and proposed use: The EFTA requires accurate disclosure of the costs, terms and rights relating to electronic fund transfer (EFT) services to consumers. Regulation E, promulgated by the Board of Governors of the Federal Reserve System, implements the EFTA. Among other things, section 205.13 of Regulation E requires entities subject to the EFTA to retain evidence of compliance with the regulation for two years. These requirements assist in the enforcement of the Act and implementing regulations. The FTC is the enforcing agency for the EFTA and Regulation E as to all entities providing EFT services except those (such as federally chartered or insured depository institutions) that are subject to the regulatory authority of another federal agency.

Regulation E contains several disclosure requirements relating to the terms and conditions of electronic fund transfer services. For example, among other disclosures, Regulation E requires financial institutions to (1) make initial disclosures to a customer about the terms and conditions of electronic fund transfer accounts; (2) deliver written notices concerning changes in certain terms or conditions in the customer's account; and (3) send periodic statements to customers concerning any account to or from which electronic fund transfers can be made. The disclosure requirements of Regulation E assist consumers in assessing the costs and terms of EFT services. The vast majority of Regulation E's disclosure requirements are expressly mandated by the EFTA. *See, e.g.,* consumer liability for unauthorized use, 15 U.S.C. § 1693g; initial disclosures, 15 U.S.C. § 1693c(a); and documentation of transfers and receipts.

Estimate of information collection burden: 20,500,000 total burden hours.

Recordkeeping: The FTC estimates that Regulation E's recordkeeping requirements affect 500,000 firms that offer EFT services to consumers at an average annual burden of 1 hour per firm, for a total recordkeeping estimate of 500,000 hours.

Disclosures: Regulation E also contains a wide variety of disclosure requirements, which are more difficult to quantify. The number of regulated entities and the estimated amount of time necessary to comply with each requirement varies widely according to the specific provisions of each requirement, and the number of entities and the number of transactions affected by these requirements cannot readily be ascertained. Also, in recent years a large number of additional entities subject to Regulation E have entered the market.

As stated above, the FTC estimates that approximately 500,000 firms offer EFT services to consumers. However, the average burden hours relating to disclosures vary significantly according to the type of transaction involved and related disclosures. For example, EFT initial account disclosures are sent to approximately 1 million new accounts per year at an average burden of 1 second per account, whereas investigations and resolutions of account errors average 10 minutes per

complaint per year. Although this figure is difficult to quantify, the FTC estimates that the total burden estimate relating to disclosures is approximately 20,000,000 hours.

4. Title: Regulations Promulgated Under the Consumer Leasing Act, 15 U.S.C. § 1667 et seq., (''CLA''), (''Regulation M'')

Control Number: 3084–0086.

Description of the collection of information and proposed use: The CLA requires accurate disclosure of the costs and terms of leases to consumers. Regulation M, promulgated by the Board of Governors of the Federal Reserve System, implements the CLA. Section 213.6 of Regulation M requires lessors to retain evidence of compliance with the regulation (other than advertising requirements) for two years after the date disclosures are required to be made. These requirements assist in enforcement of the Act and implementing regulations. The FTC is the enforcing agency for the Consumer Leasing Act as to all lessors except those (such as federally chartered or insured depository institutions) that are subject to the regulatory authority of another federal agency.

Regulation M imposes disclosure requirements on all types of lessors, including leasing companies, finance companies, auto dealers, and some furniture, appliance, radio and television dealers. The written disclosures required by Regulation M are specifically required by the CLA. *See* 15 U.S.C. 1667a. Similarly, the advertising disclosures required by Regulation M are also specifically required by the CLA. *See* 15 U.S.C. 1667c. These disclosures assist consumers in understanding the terms of leases prior to entering into a lease agreement.

Estimate of information collection burden: 533,400 total burden hours.

Recordkeeping: The FTC estimates that 100,000 firms leasing products to consumers are affected by Regulation M's recordkeeping requirements at an average burden of 1 hour per year, for a total recordkeeping burden of 100,000 hours.

Disclosures: The burden relating to disclosure requirements has increased significantly in recent years because the number of consumer automobile leases (the largest category of consumer leases) has grown dramatically and the current burden estimate reflects this growth. The FTC estimates that approximately 2,500,000 lease transactions are subject to the written disclosure requirements and that providing the required disclosures takes an average of 10 minutes per lease for a total burden related to lease transactions of 416,700 hours. With respect to lease advertising disclosures, most (although certainly not all) lease promotions offer automobile transactions. The FTC estimates that approximately 1 million lease advertisements per year are affected by the Rule at 1 minute per advertisement for a total burden related to lease advertisements of 16,666 burden hours.

5. Title: Regulations Promulgated Under the Truth-in-Lending Act, 15 U.S.C. § 1601 et seq. (''TILA''), (''Regulation Z'')

Control Number: 3084–0088.

Description of collection of information and proposed use: The TILA was enacted to foster comparison credit shopping and informed credit decisionmaking by requiring accurate disclosure of the costs and terms of credit to consumers. Regulation Z, promulgated by the Board of Governors of the Federal Reserve System, implements the TILA. Among other things, section 226.25 of Regulation Z requires creditors to retain evidence of compliance with the regulation (other than the advertising requirements) for two years after the date disclosures are required to be made or other action is required to be taken. These requirements assist in enforcement of the Act and implementing regulations. The FTC enforces the TILA as to all creditors except those (such as federally chartered or insured depository institutions) that are subject to the regulatory authority of another federal agency.

Regulation Z requires creditors to calculate and disclose terms that apply to both open-end credit (*e.g.*, revolving credit or credit lines) and closed-end credit (*e.g.*, installment financing). Regulation Z imposes disclosure requirements on all types of creditors in connection with consumer credit, including mortgage companies, finance companies, retailers, and credit card issuers, to ensure that consumers are fully apprised of the terms of financing prior to consummation of the transaction and, in some instances, during the loan term. It also imposes advertising disclosure requirements on advertisers of consumer credit. Among other things, Regulation Z also establishes billing error resolution procedures and limits consumer liability for the unauthorized use of credit cards. The vast majority of Regulation Z's disclosure requirements are expressly mandated by the TILA. *See, e.g.*, open-end initial disclosures, 15 U.S.C. § 1637(a); and open-end periodic disclosures, 15 U.S.C. § 1637(b). In most instances, the disclosure and other requirements of Regulation Z form the basis both for administrative enforcement of the TILA by the FTC and other agencies and for private rights of action by private litigants.

Estimate of Collection of information burden: 41,600,000 total burden hours.

Recordkeeping and Disclosures: In recent years Congress has amended the TILA to include additional requirements. In addition, the various types of credit accounts affected by the Regulation have greatly increased. Because Regulation Z contains a wide variety of requirements, it is extremely difficult to quantify the number of entities and the number of transactions affected by these requirements. Further, the number of regulated entities and the estimated amount of time necessary to comply with each requirement varies widely according to the specific provisions of each requirement. For example, businesses place approximately 200,000 open-end home equity line of credit advertisements per year at an average burden of 5 minutes per advertisement. On the other hand, 4 million residential loan originations are made per year at 10 minutes per loan. These figures are difficult to quantify; however, the FTC estimates Regulation Z's recordkeeping requirements to be approximately 1,000,000 hours and Regulation Z's disclosure requirements to be 40,600,000 burden hours.

6. Title: Regulations Under the Textile Fiber Products Identification Act, 15 U.S.C. § 70 et seq. (''Textile Act'')

Control Number: 3084–0047.

Description of the collection of information and proposed use: The Textile Act prohibits misbranding and false advertising of textile fiber products. The Textile Act Regulations, 16 C.F.R. § 303, which implement the Textile Act, require accurate disclosure of material product information in a standardized format. Many of these disclosures are required by the Textile Act. *See* 15 U.S.C. 70(b). The disclosure requirements assist consumers in making informed purchasing decisions.

The Regulations also require manufacturers and marketers who substitute labels (*e.g.*, resellers) to maintain records, invoices, and other documents that reflect the bases relied upon in making fiber content and country of origin disclosures. These recordkeeping requirements are specifically mandated by the Textile Act. *See* 15 U.S.C. 70d. The recordkeeping requirements assist the

Commission in enforcing the Regulations.

The Regulations also contain a petition procedure for requesting the establishment of generic names for textile fibers. The information submitted is used by the FTC to determine whether the petition should be granted.

Estimate of information collection burden: 15,500,000 total burden hours.

Recordkeeping: The FTC estimates that approximately 30,000 textile firms retain required records at an average burden of 43 hours per year, for a total recordkeeping burden of 1,290,000 hours. *Disclosures:* The FTC also estimates that approximately 40,000 textile firms make disclosures for 9,300,000,000 covered products at an average burden of 5.5 seconds per item, for a total disclosure burden of 14,208,000 hours. *Petitions:* Approximately 1 textile firm submits 1 petition per year at an average burden of 50 hours.

7. Title: Regulations Under the Wool Products Labeling Act, 5 U.S.C. § 68 et seq. (''Wool Act'')

Control Number: 3084–0047.

Description of the collection of information and proposed use: The Wool Act prohibits misbranding of wool products. The Wool Act Regulations, 16 CFR § 300, require accurate disclosure of material information about wool products, including fiber content and country of origin disclosures. Many of these disclosures are mandated by the Wool Act. *See* 15 U.S.C. § 68b. The disclosure requirements assist consumers in making informed purchasing decisions.

The Regulations also require manufacturers and other marketers of covered products to maintain records that support both claims made on labels and invoices and savings representations. These recordkeeping requirements are specifically mandated by the Wool Act, *see* 15 U.S.C. § 68d, and assist the Commission in enforcing the Regulations.

The Regulations also contain a procedure for filing a petition concerning whether or not representations of the fiber content of a class of articles are commonly made, or whether or not the textile content of certain products is insignificant or inconsequential. The information submitted is used by the FTC to determine whether the petition should be granted.

Estimate of information collection burden: 2,291,000 total burden hours.

Recordkeeping: The FTC estimates that approximately 15,000 wool firms retain records at an average burden of 12.73 hours per firm, for a total recordkeeping burden of 191,000 hours. *Disclosures:* Approximately 20,000 wool firms make disclosures on 1,375,000,000 covered products at an average burden of 5.5 seconds per item, for a total disclosure burden of approximately 2,100,000 hours. *Petitions:* Approximately 1 wool firm submits 1 petition per year at an average burden of 50 hours.

8. Title: Regulations Under the Fur Products Labeling Act, 15 U.S.C. § 69 et. seq. (''Fur Act'')

Control Number: 3084–0047.

Description of the collection of information and proposed use: The Fur Act prohibits misbranding and false advertising of fur products. The Fur Products Regulations, 16 CFR § 301, which implement the Fur Products Labeling Act, require accurate disclosure of material information about fur products, including the fur content and the country of origin. Many of these disclosures are mandated by the Fur Act. *See* 15 U.S.C. § 69b. The disclosure requirements assist consumers in making informed purchasing decisions.

The Regulations also require manufacturers and dealers in fur products to retain records to support claims made on labels and to support representations made in advertisements. The recordkeeping requirements are specifically mandated by the Fur Act, *see* 15 U.S.C. § 69e, and assist the Commission in enforcing the Regulations.

The Regulations also provide a procedure for exemption from certain disclosure provisions under the Act.

Estimate of Information Collection Burden: 137,600 total burden hours.

Recordkeeping: The burden associated with the rule's general recordkeeping requirements is estimated to be 15 to 30 minutes per week for retailers and 1 hour per week for manufacturers. With an allowance for the specific recordkeeping requirements associated with exempted products and price savings claims, the total recordkeeping burden associated with the rules is estimated to be approximately 59,000 hours.

Disclosures: The FTC estimates that approximately 600 fur products manufacturers make an average of 2,000 garments per year. In addition, approximately 1,000 retailers will substitute labels for 500 fur garments apiece. Preparation of a label for each garment will take an average of 2 minutes per garment for a total labeling burden of 57,000 hours annually. Because invoices will be generated in the normal course of business, the additional time needed to comply with the rule's invoice disclosure requirement should be minimal and is estimated to be 30 seconds per garment, or an industry total of approximately 14,000 hours. The FTC also estimates that the advertising disclosure requirement in the rule imposes an average burden of 1 hour per year for each of the approximately 7,500 fur retailers in the nation, for an estimated burden of 7,500 hours.

Petitions: Over the past decade, the FTC has received no petitions for an exemption under the Fur Act provisions. Nonetheless, the FTC is estimating this yearly burden to be approximately 50 hours.

9. Title: The ''900'' Number Rule, 16 CFR Part 308

Control Number: 3084–0102

Description of the collection of information and proposed use: The 900 Number Rule establishes requirements for advertising and operating pay-per-call services. The Rule also establishes procedures for billing and collecting charges for these services. The primary purpose of the Rule is to assist in preventing unfair and deceptive acts or practices by ensuring that consumers are informed of cost and other material information prior to calling 900 numbers; to provide consumers with adequate billing information subsequent to calling 900 numbers; and to establish a mechanism for disputing charges for 900 number calls. The advertising, preamble, and billing statement disclosures are specifically mandated by the Telephone Disclosure and Dispute Resolution Act. 15 U.S.C. § 5701 *et seq* (''TDDRA''). The TDDRA also requires the rules under the billing dispute resolution portion of the Rule to be substantially similar to the requirements imposed under the Truth-in-Lending Act and Fair Credit Billing Acts. 15 U.S.C. § 5721(a)(2).

In addition, any common carrier who provides telecommunication services to a provider of pay-per-call services is required to provide the Commission with financial information and other records relating to the arrangement. This requirement assists in the enforcement of the Rule by permitting the Commission to obtain information from telephone companies that provide transmission services to 900 number providers.

Estimate of information collection burden: 3,241,200 total burden hours.

Recordkeeping/Reporting: The FTC estimates that approximately 25 common carriers make records available to the Commission at an average burden

of 5 hours per submission, for a total reporting burden of 125 hours.

Disclosures: As directed by statute, the 900 Number Rule requires certain disclosures to be made in advertisements for 900 numbers. Specifically, every advertisement for a 900 number must contain a disclosure of the cost of the telephone call. Other types of 900 number advertisements (those directed primarily to individuals under 18, sweepstakes ads, and federal programs ads) must contain additional disclosures. The FTC estimates that each disclosure mandated by the Rule requires 1 hour of compliance time. Of 60,000 advertisements (20,000 information providers × 3 services/ads for each), approximately 30% are advertisements for sweepstakes or federal programs, and approximately 50% are directed to individuals under the age of 18. Thus, it would take 110,000 burden hours (60,000 (cost) + 20,000 (sweepstakes/federal programs) + 30,000 (parental permission) to comply with all of the advertising disclosures contained in the Rule.

The FTC estimates that approximately 60,000 pay-per-call services are required to make disclosures in the preamble at an average burden of 10 hours for each preamble, for a total burden estimate of 600,000 hours.

In addition, the 900 Number Rule requires information providers to ensure that disclosures appear on each billing statement. The FTC estimates that approximately 2,000 of 20,000 information providers will conduct monitoring of billing statements at an average burden estimate of 12 hours per provider, for a total burden estimate of 24,000 hours.

Pursuant to the statute, the Rule also requires that information providers ensure that certain disclosures appear on each billing statement that contains a charge for a call to a 900 number. The FTC estimates that approximately 50,000,000 calls are made to pay-per-call services each year; of those calls, approximately 5% result in charges about which consumers call to complain and which constitute ''billing errors'' as defined by the Rule. While the time it takes to respond to each alleged billing error will vary according to the type of complaint and the ease with which it can be resolved, staff estimates that, on average, a billing entity will spend 1 hour resolving each alleged billing error. Accordingly, the compliance burden would be 2,500,000 hours (5% of 50,000,000 × 1 hour for each billing error) to comply with the dispute resolution requirements contained in the rule.

Billing entities are also required to notify pay-per-call customers in writing, at least annually, of their rights and obligations with respect to pay-per-call service charges. The FTC estimates that it will take 7,000 hours for billing entities to notify pay-per-call customers in writing, at least annually, of their rights and obligations with respect to pay-per-call service charges (1400 billing entities × 5 hours to review and revise disclosure each year), for a total burden estimate of 7,000 hours.

Based on these figures, the total yearly burden of the 900 Number Rule is approximately 3,241,125 hours (125 reporting hours + 3,241,000 disclosure hours).

10. Title: The Care Labeling Rule, 16 CFR Part 423

Control Number: 3084–0103.

Description of collection of information and proposed use: The Care Labeling Rule requires manufacturers and importers to attach a permanent care label to all covered textile clothing. Also, manufacturers and importers of piece goods used to make textile clothing must provide the same care information on the end of each bolt or roll of fabric. These labels disclose information about washing or dry cleaning the apparel or fabric. These requirements assist consumers in making purchasing decisions and in deciding what method to use to clean their apparel. Professional cleaners also use this information to clean apparel in a manner that avoids damage to the garment. The Rule also provides a procedure whereby a member of the industry may petition the Commission for an exemption for products that are claimed to be harmed in appearance by the requirement for a permanent label.

Estimate of information collection burden: 3,985,000 total burden hours.

Disclosures: The FTC estimates that approximately 25,000 apparel manufacturers and importers make disclosures at an average burden of approximately 159 hours per company per year, for a total burden estimate of approximately 3,985,000 hours.

Petitions: Only 1 petition, subsequently withdrawn, has been filed in recent years. Thus, an estimated 50 hours for preparing a petition has been incorporated into the total burden calculated for the disclosure requirements.

11. Title: Regulation Under the Fair Packaging and Labeling Act, 15 U.S.C. § 1450 (''FPLA'')

Control Number: 3084–0110.

Description of collection of information and proposed use: The FPLA was enacted to eliminate consumer deception concerning product size representations and package content information. The Regulations that implement the FPLA, 16 CFR § 500, establish requirements for the manner and form of labeling consumer commodities. Section 4 of the FPLA specifically requires packages or labels to be marked with: (1) a statement of identity, (2) a net quantity of contents disclosure, and (3) the name and place of business of a company that is responsible for the product.

Estimate of Information Collection Burden: 12,000,000 total burden hours.

Recordkeeping: Most of the records that manufacturers, packagers, distributors, and retailers of consumer commodities are required to retain would otherwise be kept in the normal course of business, and any hours that would constitute a ''burden'' under the Paperwork Reduction Act have been included in the figure established for disclosures.

Disclosures: The FTC estimates that approximately 1,200,000 manufacturers, packagers, distributors, and retailers of consumer commodities make disclosures, most of which are statutorily required, at an average burden of 10 hours per company, for a total disclosure burden of 12,000,000 hours.

12. Title: The Fuel Rating Rule, 16 CFR Part 306

Control Number: 3084–0068.

Description of collection of information and proposed use: The Fuel Rating Rule establishes standard procedures for determining, certifying and disclosing the octane rating of automotive gasoline and the automotive fuel rating of alternative liquid automotive fuel. These requirements are specifically mandated by the Petroleum Marketing Practices Act. *See* 15 U.S.C. § 2822(a)–(c). The fuel rating determination, certification, and labeling requirements establish a framework that provides consumers with reliable, comparable, and readily available information about the fuel ratings of similar types of fuel.

The Rule also requires refiners, producers, importers, distributors and retailers to retain records of delivery tickets, letters of certification or tests upon which automotive fuel ratings are based. The primary purpose of the Rule's recordkeeping requirements is to preserve evidence of automotive fuel rating certification for enforcement purposes.

Estimate of Information Collection Burden: 43,000 total burden hours.

Recordkeeping: The FTC estimates that approximately 190,000 automotive fuel industry members retain records at an average annual burden of 6 minutes per industry member, for a total recordkeeping burden of 19,000 hours. *Disclosures:* The FTC also estimates that approximately 24,000 distributors make required disclosures at an average annual burden of 1 hour per industry member, for a total disclosure burden of 24,000 hours.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–21799 Filed 8–23–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. 93N–0371]

Prescription Drug Information for Patients: Notice of Request for Collaboration to Develop an Action Plan

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (the Department) is requesting that national organizations which have an interest in providing prescription drug information to patients collaborate to develop a long-range action plan for distributing useful written prescription information to 75 percent of individuals receiving new prescriptions by the year 2000, and to 95 percent of individuals receiving new prescriptions by the year 2006. This document also describes the mechanism that the Department is instituting to facilitate collaboration among national organizations. This action is being taken under certain provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997.

DATES: Submit written requests for participation in this process by September 3, 1996.

ADDRESSES: Submission of notice of desire to participate should be addressed to: Keystone Center; 1001 G Street, NW., Suite 430 West, Washington, DC. 20001.

FOR FURTHER INFORMATION CONTACT: Kevin S. Curtis, Keystone Center, 1001 G Street, NW., 430 West, Washington, DC., 20001, 202–783–0248 or via FAX 202–783–0328, or Internet KCurtis@Keystone.ORG; or Betty Palsgrove, (HFY–40), Office of Health Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1652, or via FAX 301–443–2446, or Internet Epalsgro@bangate.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 601 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997 (Pub. L. 104–180) (The Appropriations Act), the Department is requesting the collaborative development and submission of an acceptable long-range, comprehensive action plan that will meet the goals for providing useful written prescription drug information to patients. This notice summarizes the Appropriations Act's requirements for the development and submission of the plan. It also describes a mechanism to facilitate development of a single unified plan.

A. Summary of the Appropriations Act

The Appropriations Act directs the Secretary of Health and Human Services (the Secretary) to request that national organizations representing health care professionals, consumer organizations, voluntary health agencies, the pharmaceutical industry, drug wholesalers, patient information data base companies, and other relevant parties collaborate to develop a long-range, comprehensive action plan. The goals of this long-range, comprehensive action plan are the distribution of useful written information to 75 percent of individuals receiving new prescriptions by the year 2000, and to 95 percent of individuals receiving new prescriptions by the year 2006.

The Appropriations Act identifies six elements that must be part of this plan: (1) Goal identification, (2) assessment of the effectiveness of current private-sector approaches to providing oral and written information, (3) development of guidelines for providing effective oral and written information, (4) inclusion of elements necessary for the transmittal of useful information (scientifically accurate, nonpromotional in tone and content, sufficiently specific and comprehensive, and presented in an understandable and legible format readily comprehensible to product users), (5) development of a mechanism for periodic assessment of information quality and frequency of provision, and (6) provision for compliance with State Board regulations.

If an acceptable long-range, comprehensive action plan is submitted to the Secretary not later than 120 days after the enactment of this Appropriations Act (i.e., by December 4, 1996), the Secretary will have no authority to implement FDA's proposed rule, Prescription Drug Product Labeling: Medication Guide Requirements (60 FR 44182, August 24, 1995). The Secretary is to, in good faith and after due consideration, accept, reject, or suggest modifications to the plan within 30 days of the plan's submission. If the Secretary takes no action on the plan within 30 days of its submission, the submitted plan commences within 60 days of its submission. The Appropriations Act also states that the Secretary may confer with and assist private parties in the development of this plan.

The Appropriations Act requires that, not later than January 1, 2001, the Secretary is to review the status of the private sector initiative. If the specified goals are not achieved, the limitation on the Secretary's authority to implement the proposed rule would not apply. At that juncture, the Department would seek public comment on other initiatives that could be carried out to meet the previously stated goals.

B. The Collaborative Process

The Appropriations Act specifies that the Department request a collaborative process to develop this plan, which would include a full range of representative national organizations. The Appropriations Act envisions the development of a single plan that would be submitted for review. However, the Appropriations Act does not specify a mechanism to ensure that a single plan be submitted, or how the Secretary should react if multiple plans are submitted. Thus, it is important to assure that a single unified plan representing the broad range of national organizations be submitted so that all parties interested in and responsible for the provision of patient information understand the goals and criteria for evaluating progress towards meeting these goals.

Numerous national organizations representing health care professionals, consumer organizations, voluntary health agencies, the pharmaceutical industry, drug wholesalers, patient drug information data base companies, and other relevant parties have an interest in patient information. Many of these organizations have commented on FDA's proposed rule or attended conferences or meetings hosted by FDA and others to discuss this topic. However, no one single organization fully represents all of the interests, views, and capabilities of all the relevant organizations. Therefore, in order to assure a broad and balanced collaborative process and to aid in the

development of an acceptable, long-range, comprehensive action plan, the Department has asked the Keystone Center to serve as a facilitator to provide the organizational and logistical services and expertise for the development of this plan. The Keystone Center is a private, nonprofit public policy, science, and education organization that has broad experience in bringing together the diverse views of industry, consumer, and health professional groups. Additionally, the Department has asked the Keystone Center to form, in consultation with the Department, a steering committee that will solicit and coordinate input from all interested parties and oversee the development of the plan.

The Department requests that all parties who represent national organizations and wish to participate on the steering committee, submit the following information to the Keystone Center (address above): (1) Name of individual and organization, (2) specification or certification that the organization is of national standing, (3) type of group represented (e.g., health care professionals, consumers, pharmaceutical manufacturers), (4) size of membership, (5) relevance of the organization to the plan goals or organizational interest in participation in development of the plan, and (6) address, e-mail, telephone number, and facsimile number of individual and alternate contact. Due to the shore timeframes specified in the Appropriations Act, this submission should be received [by] no later than 5 p.m. (EDT), September 3, 1996.

The Keystone Center, in consultation with the Department, will select organization representatives from the submissions to become members of the steering committee. The committee will then solicit input from *all* interested parties and may hold a series of meetings to allow the parties to discuss and develop the plan. The first meeting of the steering committee will be hosted by the Department at a time and place to be announced. Invitations will be issued to the selected representatives. At this meeting, representatives from the Department and from the Keystone Center will discuss the development of an action plan and be available to answer questions.

Dated: August 23, 1996.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 96–21942 Filed 8–23–96; 12:08 am]

BILLING CODE 4110–60–M

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering Laboratory Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering Laboratory (INEL) Health Effects Subcommittee.

Times and Dates: 8 a.m.–5 p.m., September 10, 1996, 7 p.m.–9 p.m., September 10, 1996, 8 a.m.–12:15 p.m., September 11, 1996.

Place: Best Western Canyon Springs Inn, 1357 Blue Lakes Boulevard North, Twin Falls, Idaho 83301, telephone 208/734–5000.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The Subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at respective DOE sites. Activities shall focus on providing a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include presentations from the National Center for Environmental Health (NCEH), the National Institute for Occupational Safety and Health, and ATSDR, on the progress of current studies. On September 10, at 7 p.m., the meeting will continue in order to allow more time for public input and comment.

Agenda items are subject to change as priorities dictate.

Contact Persons For More Information: Arthur J. Robinson or Nadine Dickerson, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, M/S F–35, Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: August 21, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–21780 Filed 8–23–96; 8:45 am]

BILLING CODE 4163–18–M

Administration for Children and Families

President's Committee on Mental Retardation; Notice of Meeting

Agency Holding the Meeting: President's Committee on Mental Retardation.

Time and Date: Full Committee Meeting, September 26, 1996, 2:00 p.m.–8:00 p.m.

Place: Crystal City Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, Virginia 22202.

Status: Meetings are open to the public. An interpreter for the deaf will be available upon advance request. All locations are barrier free.

To Be Considered: The Committee plans to discuss critical issues concerning Federal Policy, Federal Research and Demonstration, State Policy Collaboration, Minority and Cultural Diversity and Mission and Public Awareness.

The PCMR acts in an advisory capacity to the President and the Secretary of the U.S. Department of Health and Human Services on a broad range of topics relating to programs and services for persons with mental retardation. The Committee, by Executive Order, is responsible for evaluating the adequacy of current practices in programs for persons with mental retardation, and for reviewing legislative proposals that impact the quality of life that is experienced by citizens with mental retardation and their families.

Contact Person for More Information: Gary H. Blumenthal, 352–G Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201–0001, (202) 619–0634.

Dated: August 19, 1996.

Gary H. Blumenthal,

Executive Director, PCMR.

[FR Doc. 96–21648 Filed 8–23–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

Blood Donor Incentive Programs for Volunteer (Non-remunerated) Donors; Notice of Public Workshop

AGENCY: Food and Drug Administration, HHS

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) and the National Heart, Lung, and Blood Institute (NHLBI) of the National Institutes of Health are announcing a public workshop to discuss the use of donor

incentive programs to recruit donors of blood and blood products. The purpose of the workshop, sponsored by FDA and NHLBI, is to gather information regarding the use of blood donor incentive programs to motivate persons to become donors and the suitability of donors recruited by the incentives. The information gathered during the workshop will be useful to FDA and NHLBI in determining whether donor incentive programs could affect the safety and/or availability of blood.

DATES: The public workshop will be held on Wednesday, September 25, 1996, from 8 a.m. to 4:30 p.m. Registration is requested by September 18, 1996, and is recommended because seating is limited to 350. Registration at the site will be done on a space-available basis on the day of the workshop beginning at 7:30 a.m.

ADDRESSES: The public workshop will be held at the Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Office of Blood Research and Review (HFM–350), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514.

Those persons interested in attending this workshop should FAX their registration to 301–827–2843, including name, title, firm name, address, and telephone number. There is no registration fee for this workshop, but advance registration is requested. Interested parties are encouraged to register early because space is limited.

SUPPLEMENTARY INFORMATION: FDA is charged with overseeing the safety of the nation's blood supply. In 1978, FDA published labeling requirements for blood and blood products that were intended to reduce the risk of transfusion-associated hepatitis by establishing categories of paid and volunteer donors. Paid donor labeling did not include donor incentives such as lotteries, time off from work, novelties, and other similar incentives. Such incentives have been used with increasing frequency since the labeling requirements were published. Recent circumstances have raised concerns within the agency and prompted FDA to schedule this workshop. One concern is that some currently used incentives may lead to recruitment of donors whose blood is unsuitable for blood and plasma donation. FDA is concerned that some unsuitable donors, intent on receiving a particular incentive, may not be fully candid and truthful during predonation screening. In addition, there may be certain recruiting situations where unsuitable donors who are members of a recruited group may feel compelled or coerced to participate (donate) in support of the group initiative. Another general concern is the possibility that an increased level of competition for suitable donors may affect the safety of the blood supply. A goal of the workshop is to gather data and information on the positive and negative effects of donor incentive programs. Interested members of the public are invited to attend the workshop and to present their experiences with blood and plasma donor incentive programs. Discussion sessions allowing for questions and answers are planned for the following topics: (1) Current Definitions: Paid vs. Volunteer Blood Donors; (2) Paid Donations and Recruitment Practices; (3) Donor Motivational Factors-Volunteer/Autologous/Designated/Non-volunteer; (4) Public Health Risk/Benefits of Using Donor Incentives; and (5) Panel Discussions and Questions. Information presented at this workshop will assist FDA in determining whether further action may be appropriate.

Dated: August 20, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–21729 Filed 8–21–96; 3:33 pm]

BILLING CODE 4160–01–F

[Docket No. 96F–0292]

Cytec Industries, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cytec Industries, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyethyleneglycol alkyl (C_{10}–C_{12}) ether sulfosuccinate, disodium salt as a component of adhesives and as an emulsifier and/or surface-active agent in the manufacture of articles or components of articles intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by September 25, 1996.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216),Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4518) has been filed by Cytec Industries, Inc., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations to provide for the safe use of polyethyleneglycol alkyl (C_{10}–C_{12}) ether sulfosuccinate, disodium salt as a component of adhesives and as an emulsifier and/or surface-active agent in the manufacture of articles or components of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before September 25, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: August 8, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–21652 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96F–0291]

ICI Americas Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that ICI Americas Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 12-hydroxystearic acid-polyethylene glycol (minimum MW 200) block copolymer as an surfactant in the manufacture of paper and paperboard intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by September 25, 1996.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4519) has been filed by ICI Americas Inc., 3411 Silverside Rd., Wilmington, DE 19850. The petition proposes to amend the food additive regulations to provide for the safe use of 12-hydroxystearic acid-polyethylene glycol (minimum MW 200) block copolymer as a surfactant in the manufacture of paper and paperboard intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before September 25, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: August 8, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–21727 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. September 20, 1996, 9:45 a.m., Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD. A limited number of overnight accommodations have been reserved at the Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Blvd., Gaithersburg, MD. Attendees requiring overnight accommodations may contact the hotel at 301–590–0044 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Shirley L. Meeks, Conference Management, 301–594–1283, ext. 113. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Closed committee deliberations, 9:45 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 4 p.m.; Michael G. Bazaral, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Anesthesiology and Respiratory Therapy Devices Panel, code 12624. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 12, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will hear presentations and public comment on the development of a guidance document for premarket notification submissions for continuous positive airway pressure devices for

treatment of obstructive sleep apnea. The panel will also hear presentations and public comment on the application of the rule exempting certain devices from premarket notification (510(k)) review (61 FR 1117, January 16, 1996), as related to anesthesiology and respiratory therapy devices.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding present and future FDA issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Neurological Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. September 25, 1996, 9:30 a.m., Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD. A limited number of overnight accommodations have been reserved at the Courtyard by Marriott, 2500 Research Blvd., Rockville, MD. Attendees requiring overnight accommodations may contact the hotel at 301–670–6700 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Shirley L. Meeks, Conference Management, 301–594–1283, ext. 113. The availability of appropriate accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Open public hearing, 9:30 a.m. to 10:30 a.m., unless public participation does not last that long; open committee discussion, 10:30 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Jerilyn K. Glass, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8517, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Neurological Devices Panel, code 12513. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 12, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss and vote on a premarket approval application (PMA) for an implantable upper extremity functional neuroprosthetic device.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding present and future FDA issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Hematology and Pathology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. September 27, 1996, 9:30 a.m., Gaithersburg Hilton, Ballroom, 620 Perry Pkwy., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the Gaithersburg Hilton. Attendees requiring overnight accommodations may contact the hotel at 301–977–8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Joanne K. Choy, Conference Management, 301–594–1283, ext. 105. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Closed committee deliberations, 9:30 a.m. to 10 a.m.; open public hearing, 10 a.m. to 11:15 a.m., unless public participation does not last that long; open committee discussion, 11:15 a.m. to 6 p.m.; Djuana P. Blagmon, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1243, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Hematology and Pathology Devices Panel, code 12515. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 13, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a PMA supplement for a computerized automated PAP smear reader that is indicated for use as a primary screener to select a subpopulation of smears that will be designated for no further review.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding pending or future device submissions. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: August 19, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–21653 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[R–187]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* National Provider System (NPS); *Form No.:* HCFA–R–187; *Use:* HHS is consolidating provider enumeration across programs. The NPS will be used in program operations and management to assign provider identification numbers, i.e., billing numbers for claims processing and payment. It will replace the current Medicare Physician and eligibility System (MPIES) and UPIN; it will replace the enumeration functions of the Medicare OSCAR, CLIA, and NSC provider numbering systems. *Frequency:* Annually; *Affected Public:* Federal Government, State, Local or Tribal Government, Individuals or Households, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 88; *Total Annual Hours:* 23,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov , or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 19, 1996.

Edwin J. Glatzel,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–21686 Filed 8–23–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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

Proposed Project

Uncompensated Services Reporting and Recordkeeping—42 CFR 124, Subpart F (OMB No. 0915–0077)—Extension and Revision—Titles VI and XVI of the PHS Act, commonly known as the Hill-Burton Act, provide for government grants and loans for construction or renovation of health care facilities. As a condition of receiving this construction assistance, facilities are required to provide a ''reasonable volume'' of services to persons unable to pay. Facilities are also required to provide assurances periodically that the required level of uncompensated care is being provided, and to follow certain notification and recordkeeping procedures. These requirements are referred to as the uncompensated services assurance.

The regulations contain provision for reporting to the government the amount of free care provided, as well as provisions for following certain notification and recordkeeping procedures. All of these regulations are included in this clearance request. The Uncompensated Services Assurance Report (USAR) (HRSA form 710) is one of the methods of reporting the amount of free care provided. There are no changes to the USAR form. There will be a significant reduction in the burden from the previous request for OMB approval. Fewer facilities are obligated to report since many have met their obligation. A new Charitable Facilities Compliance Alternative has been added. Burden estimates are as follows:

Requirement	Number of respondents	Responses per respondent	Burden per response	Total burden hours
Disclosure Requirements (42 CFR):				
Published Notices (124.504(a))	788	1	1	788
Individual Notices (124.504(c))	788	1	59	46,492
Determinations of Eligibility (124.507)	788	160	2	252,160
Reporting Requirements (42 CFR)—Uncompensated Services—HRSA Form 710 (USAR) (124.509(a))	678	1	14	9,492
Complaint Information (124.511(a)):				
Individuals	4	1	.25	1
Facilities	4	1	.50	2
Application for Compliance Alternative for Public Facilities (124.513(c))	5	1	6	30
Annual Certification for Public Facilities (124.509(b))	355	1	.5	178
Application for Compliance Alternative for Small Obligation Facilities (124.514(c))	0	0	2	0
Annual Certification for Small Obligation Facilities (124.509(c))	2	1	.5	1
Application for Compliance Alternative for Charitable Facilities (124.516(c))	2	1	6	12
Annual Certification for Charitable Facilities (124.516(c))	19	1	.5	10
Subtotal—Reporting and Disclosure—309,166				

Recordkeeping Burden is as follows:

Requirement (42 CFR)	Number of recordkeepers	Hours/facility/year	Recordkeeping burden
Nonalternative Facilities (124.510(a))	788	75	59,100
Small Obligation Facilities (124.510(b)) [1]	2	0	0
Public Facilities (124.510(b)) [1]	355	0	0
Subtotal—Recordkeeping—59,100			

[1] Requires facilites under the public facilities compliance alternative and the small obligation compliance alternative to maintain qualification documents. These are ordinarily retained by facilities, so there is no burden.

Total burden for this project is estimated to be 368,266 hours.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 20, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–21650 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–15–P

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)-443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Survey of Exchange Visitor Physicians Remaining in the United States on a Waiver—NEW—A survey is planned of exchange visitor physicians, i.e., physicians who entered the United States on a J–1 visa to engage in graduate medical education, who have been granted waivers to the return home requirement. Exchange visitor foreign physicians receive a J–1 visa and agree to return to their home country or country of last residence for a minimum of two years upon completing their training. The Department of Health and Human Services plans to collect information about practice specialty and site of these physicians to make informed decisions regarding the implementation of waiver policy. The information to be collected includes: basis of waiver; initial and current geographic location; initial and current medical specialty; number of years of training completed in the U.S.; changes of venue after initial practice site; sequence of specialties after initial practice specialty; and related information.

Type of Form	Number of respondents	Frequency of response	Hours per response	Total burden hours
Survey of Physicians with J–1 Visa Waivers	1,240	1	.33	413

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 19, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–21650 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–15–P

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Organ Procurement and Transplantation Network (OPTN) Data System (OMB No. 0915–0157)—Extension and Revision—The data collection system of the OPTN and Scientific Registry provides for collection of data on organ transplantation, including heart, kidney, liver, heart-lung, pancreas and small intestine transplants. The OPTN data collection is required under Section 372 of the Public Health Service Act and includes data on pre-transplant activities. This includes cadaveric and live donor characteristics, and histocompatibility testing that is used in the matching of donor organs with recipients. Section 373 of the Public Health Service act requires the Scientific Registry to collect, analyze and report on clinical and scientific data of importance to post-transplant graft and patient function. This involves a routine, periodic, submission of data for each organ transplant patient at the time of transplant, one-year (or six months for heart transplant patients), and annually post-transplant until graft failure or patient death.

Information and data collected by the OPTN and Scientific Registry are used primarily to match donor organs with recipients, analyze policies for the allocation of donor organs, and assess the clinical outcomes of transplantation. The data are also used by the committees and Board of Directors of the OPTN for developing and reviewing policies related to allocation, patient listing criteria, optimal organ preservation times, and infectious disease screening.

Respondents include organ procurement organizations (for cadaveric donor data), histocompatibility laboratories (for tissue typing data), and transplant hospitals (for pre- and post-transplant data on recipients). The data are used to issue two key reports—the Annual Data Report and the Report of Patient and Graft Survival Rates (issued biennially).

HRSA proposes to make only minor changes to the data elements, to obtain more detailed information on transplant patients and their post-clinical course. For example, additional categories will be added to several items on the forms.

The estimated annual response burden is as follows:

Form type	Number of respondents	Number of responses per respondent	Total responses	Hours per response	Total burden hours
Cadaver Donor Registration/Referral	69	217	15,000	0.2	3,000
Living Donor Registration	69	54	3,700	0.2	740
Donor Histocompatibility	51	196	10,000	0.1	1,000
Potential Recipient Form	69	275	19,000	0.1	1,900
Recipient Histocompatibility	51	392	20,000	0.1	2,000
Transplant Candidate Registration	69	638	44,000	0.1	4,400
Thoracic Registration	166	21	3,500	0.3	1,050
Thoracic Follow-Up	166	101	16,800	0.2	3,360
Kidney Registration	248	49	12,200	0.2	2,440
Kidney Follow-Up	248	448	111,000	0.1	11,100
Liver Registration	119	34	4,000	0.4	1,600
Liver Follow-Up	119	176	21,000	0.3	6,300
Pancreas Registration	120	8	1,000	0.2	200
Pancreas Follow-Up	120	34	4,100	0.2	820
Intestine Registration	26	4	100	0.2	20
Intestine Follow-Up	26	8	200	0.2	40
Total	799	357	285,600	0.14	39,970

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 19, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–21730 Filed 8–23–96; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for the Wetland and Aquatic Species of the Owens Basin, Inyo and Mono Counties, California, for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for endangered, proposed, and species of concern found in the wetland and aquatic habitats of the Owens Basin in Inyo and Mono Counties, California. The recovery plan targets recovery of 11 species found throughout the Owens River drainage on State, Federal and Private lands. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before October 25, 1996 to ensure consideration by the Service.

ADDRESSES: The draft recovery plan is available for public inspection, by appointment, during regular business hours (7:30 a.m. to 4:30 p.m. Monday through Friday) at the Service's Ventura Field Office, 2493 Portola Road, Suite B, Ventura, California, 93003, phone 805–644–1766. A copy of the draft recovery plan can be obtained from the Service's Regional Office at 911 N.E. 11th Avenue, Portland, Oregon, 97232–4181, phone 503–231–6131. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the Ventura Field Office. Comments and materials received are available on request for public inspection by appointment at the Ventura Field Office.

FOR FURTHER INFORMATION CONTACT: Ms. Cat Brown in the Ventura Field Office (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide recovery efforts, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of listed species, establish criteria for the recovery levels for reclassification from endangered to threatened or removal from the list, and estimate the time and cost for implementing the needed recovery measures.

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

The draft recovery plan for the Owens Basin wetland and aquatic species addresses conservation of the following species: Owens tui chub, Owens pupfish, Fish Slough milk-vetch, Owens speckled dace, Long Vally speckled dace, Inyo County mariposa lily, Owens Valley checkerbloom, Fish Slough springsnail, Owens Valley springsnail, Aardhal's springsnail, and Owens Valley vole. Owens tui chub and Owens pupfish are federally listed as endangered, and the Fish Slough milk-vetch has been proposed for listing as endangered. All of these species are threatened by loss and degradation of wetland and aquatic habitats.

The draft recovery plan was developed in accordance with the Service's recent policy emphasizing an ecosystem approach to conservation of endangered species. The goal of the recovery plan is to restore the target species to secure status within their natural habitats. Protecting the ecosystem of endangered species in the Owens Basin will also protect other locally rare species, and, it is hoped,

avert future declines in plant and wildlife populations that could lead to future listings.

The draft recovery plan was developed with the participation of State and Federal land management agencies, local agencies and property owners, including the California Department of Fish and Game, U.S. Bureau of Land Management, Inyo National Forest, and the Los Angeles Department of Water and Power. The plan calls for restoration of wetland and aquatic habitats throughout the Owens River drainage. The plan describes tasks that, when accomplished, should ensure the survival of target species, and thereby justify their removal from the endangered and threatened species list.

Public Comments Solicited

The Service solicits written comments on the recovery plan described herein. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 12, 1996.

Thomas Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 96–21700 Filed 8–23–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[OR–110–6310–04–G015; GP9–156]

Emergency Closure of Public Lands: Josephine County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands and access roads in Josephine County, Oregon.

SUMMARY: Notice is hereby given that certain public lands in Josephine County, Oregon are hereby temporarily closed to all public use, including vehicle operation and sightseeing, from August 12, 1996, until notice is rescinded. The closure is made under the authority of 43 CFR 9268.3(d)(1)(l) and 8364.1(a).

The public lands affected by this emergency closure are specifically identified as follows:

BLM roads 40–7–1, 40–7–1.1, 40–7–4, 40–7–11.2, 40–7–13, and 40–7–13.3. All BLM lands in T. 40 S., R. 7 W., Sections 1, 11, 12, 13, and 14, Willamette Meridian, Josephine County, Oregon.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; and the holders of BLM permits and/or contracts. Access by additional parties may be allowed, but must be approved by the Authorized Officer or his representative.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public land temporarily closed to unauthorized public use under this order will be posted with signs at points of public access.

The purposes of this emergency temporary closure is to protect persons from potential harm and protect valuable public property from authorized use.

This closure is effective from August 12, 1996, until this notice is rescinded.

FOR FURTHER INFORMATION CONTACT: Dave Jones, District Manager, Medford District Office, at (541) 770–2200.

Dated: August 12, 1996.

Wayne M. Kuhn,

Medford Associate District Manager.

[FR Doc. 96–21429 Filed 8–23–96; 8:45 am]

BILLING CODE 4310–33–M

[NV–020–1430–01]

Paradise-Denio and Sonoma-Gerlach (Lands) Management Framework Plans Amendment and Environmental Assessment; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent and scoping period.

SUMMARY: The Bureau of Land Management intends to amend the Lands portion of the Paradise-Denio and Sonoma-Gerlach Management Framework Plans. The purpose of these amendments is to give the Winnemucca District more flexibility to consider requests for disposal and acquisition actions that involve parcels that have not previously been specifically identified in existing land use plans.

Lands considered for acquisition would serve certain purposes. Additionally, lands considered for disposal would be evaluated based on criteria including, but not limited to, public resource values or concerns, accessibility, and other factors. All land disposal actions are discretionary. Exchange is the preferred method of disposal, but sales would be considered where more efficient. Disposal of these lands would be made on a case-by-case basis, and would be accomplished by the most appropriate disposal authority. All lands considered for disposal must meet one or more of the criteria outlined in Sec. 203(a) of the Federal Land Policy and Management Act. A 30-day scoping period to solicit public comment on the Paradise-Denio and Sonoma-Gerlach (Lands) Amendments is scheduled.

DATES: All comments must be submitted in writing and postmarked no later than September 30, 1996.

ADDRESSES: Written comments should be addressed to: Ron Wenker, District Manager, Winnemucca District Office, 5100 E. Winnemucca Boulevard, Winnemucca, NV 89445.

FOR FURTHER INFORMATION CONTACT: Mary Figarelle, Realty Specialist, at the above Winnemucca District Office address or telephone (702) 623–1500.

Dated: August 15, 1996.

Ron Wenker,

District Manager, Winnemucca, Nevada.

[FR Doc. 96–21602 Filed 8–23–96; 8:45 am]

BILLING CODE 4310–HC–P

[ID–060–1430–01; IDI–31387]

Notice of Realty Action: State Indemnity Selection Classification, Boundary, County, ID

SUMMARY: The following public land in Boundary, County, Idaho has been examined and found suitable for classification and conveyance to the State of Idaho under the provisions of Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852). It will be managed by the State as school endowment land to provide the highest possible return to the school endowment fund.

T. 62 N., R. 1 W., Boise Meridian
Section 25, W½SW¼,
T. 62 N., R. 2 E., Boise Meridian
Section 23, lot 13.

The land is not needed for federal purposes. Conveyance is consistent with current and proposed Bureau of Land Management and local planning and is in the public interest.

When issued, the patent will be subject to the following terms, conditions and reservations:

1. A reservation to the United States of America for rights-of-way for ditches and canals constructed by the authority of the Act of Congress approved August 30, 1890 (43 U.S.C. 945).

2. IDI–23802; A road reservation to the U.S.D.A. Forest Service in the W½SW¼ of section 25, T.62N., R.1W.

3. IDI–21932 P; A warranty deed between Hubbard, et.al., and the United States of America affecting the W½SW¼ of section 25, T.62N., R.1W.

4. IDI–29409; A road right-of-way to Jessie Ellis in lot 13, Section 23, T.62.N., R.2E.

Detailed information regarding this action is available for review at the office of the Emerald Empire Resource Area, Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, Idaho.

For a period of 45 days from the publication of this notice in the Federal Register, interested parties may submit comments regarding the proposed conveyance or classification of the land to the Area Manager, Emerald Empire Resource Area Office, 1808 North Third Street, Coeur d'Alene, ID 83814.

Classification Comments: Interested parties may submit comments involving the suitability of these lands for disposal for public purposes. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with state and federal programs.

Application Comments: Interested parties may submit comments regarding the disposal of these lands to the State of Idaho, whether the BLM followed proper administrative procedures in reaching their decision, or any other factors not directly related to the suitability of the land for public purposes.

Comments received on the classification will be answered by the State Director with the right to further comment to the Secretary. Comments on the application will be answered by the State Director with the right of appeal to the Interior Board of Land Appeals (IBLA).

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the Federal Register.

Dated: August 18, 1996.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 96–21685 Filed 8–23–96; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP(NIJ) No. 1098]

RIN 1121–ZA48

Deadline Extension for the National Institute of Justice Solicitation for Evaluations of the Residential Substance Abuse Treatment for State Prisoners Program

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Solicitation deadline extension to October 4, 1996.

SUMMARY: Deadline extension for the National Institute of Justice ''Solicitation for Evaluations of the Residential Substance Abuse Treatment for State Prisoners Program.''

DATES: The EXTENDED deadline for receipt of proposals is close of business on October 4, 1996.

ADDRESSES: National Institute of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Tawana Waugh, U.S. Department of Justice Response Center, at 800–421–6770 (in Metropolitan Washington, DC, 202–307–1480).

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The Violent Crime Control and Law Enforcement Act of 1994 authorizes programs to support both treatment and punishment of drug-using and violent offenders. The Residential Substance Abuse Treatment for State Prisoners Formula Grant Program, created by Subtitle U of the Act, addresses the treatment goal by providing funding for the development of substance abuse treatment programs in State and local correctional facilities. States are encouraged to adopt comprehensive approaches to substance abuse treatment for offenders, including relapse prevention and aftercare services. Program grant awards will be made to the State office that is designated under Section 507 of the Omnibus Crime Control and Safe Streets Act to administer the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program.

The National Institute of Justice (NIJ) is soliciting proposals for evaluations of the Residential Substance Abuse Treatment for State Prisoners Program. It is anticipated that up to ten awards will be made for local evaluations of programs in individual States participating in the Program. Each of these awards is expected to be funded for up to $50,000 for a period of up to 15 months. Researchers will be eligible to conduct at most one local evaluation in collaboration with the appropriate state agencies; these funds are intended to encourage multiple, non-redundant evaluations and build research capacity in this topic area. It is anticipated that one award will be given to conduct a national evaluation, that the amount of this award will be up to $500,000 and that the duration will be up to 24 months. Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Solicitation for Evaluations of the Residential Substance Abuse Treatment for State Prisoners Program'' (refer to document no. SL000176). The solicitation is available electronically via the NCJRS Bulletin Board, which can be accessed via Internet. Telnet to ncjrsbbs.ncj-rs.org, or gopher to ncjrs.org:71. For World Wide Web access, connect to NCJRS Justice Information Center at http://www.ncjrs.org. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301–738–8895. Set modem at 9600 baud, 8–N–1.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 96–21591 Filed 8–25–96; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: September 19, 1996, 10:00 am–12:00 noon, U.S. Department of Labor, Room S–1011, 200 Constitution Ave., NW., Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has

been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, D.C. this 20th day of August 1996.

Andrew J. Samet,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 96–21633 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–28–M

Employment and Training Administration

[TA–W–32,516]

Buster Brown Apparel, Inc., Sylva, NC, Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 8, 1996 in response to a worker petition which was filed June 26, 1996 on behalf of workers at Buster Brown Apparel, Sylva, North Carolina (TA–W–32,516).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–32,260B). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC., this 13th day of August 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21636 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than September 5, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than September 5, 1996.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 5th day of August, 1996.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 08/05/96]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
32,604	Dana Manufacturing, Inc (Comp)	Providence, RI	07/18/96	Die Cut Satin Cover Pads, for Jewelry.
32,605	Keystone Transformer Co (Wkrs)	Pennsburg, PA	07/18/96	Transformers and Ballast.
32,606	Bonaventure Textiles USA (Wkrs)	New York, NY	07/18/96	Designers of Ladies' Sportswear.
32,607	Katie Brooke, Inc (Comp)	Avon, MA	07/10/96	Ladies' Apparel.
32,608	Crown Pacific Ltd (WCIW)	Redmond, OR	07/14/96	Plywood Sheeting.
32,609	Felters Co (Wkrs)	Millbury, Ma	07/23/96	Industrial Felt.
32,610	Runnymede Mills, Inc (Comp)	Tarboro, NC	07/19/96	Knitting and Finishing of Socks.
32,611	J.M. Huber Corp (Comp)	Houston, TX	07/26/96	Oil and Gas.
32,612	Northwest Alloys, Inc (Wkrs)	Addy, WA	07/18/96	Pure Metal Magnesium.
32,613	Texberry Container Corp (Wkrs)	Houston, TX	06/28/96	Plastic Bottles.
32,614	I.R. Hexfet America (Wkrs)	Temecula, CA	06/17/96	Semi-Conductors.
32,615	Burlington Klopman Fabric (Comp)	Hurt, VA	07/17/96	Poly Twills and Poplins.
32,616	U.S. Bureau of Mines (Wkrs)	Lakewood, CO	06/23/96	World Commodity Availability Studies.
32,617	Jolie Handbag (Wkrs)	Hialeah, FL	07/10/96	Ladies' Handbags.
32,618	Apparel Services Co., Inc (Comp)	Andalusia, AL	07/25/96	Sewing Aids for Sewing Machines.
32,619	Ontario Enterprises (Comp)	Ontario, CA	07/19/96	Purchasing of Construction Products.
32,620	Shell Chemical Co (Comp)	Apple Grove, WV	07/19/96	Polyester Resins.
32,621	Tri Tech Tool & Design (Comp)	So. Bound Brook, NJ	05/15/96	Plastic Adapter Parts.
32,622	Bee Jay Apparel, Inc (Comp)	Sparta, TN	07/25/96	Ladies' Blouses and Pants.
32,623	Oak Loom Clothes, Inc (Wkrs)	Baltimore, MD	06/17/96	Men's Suits, Coats, Pants, Vest.

[FR Doc. 96–21634 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,539]

Digital Equipment Corporation, Storage Manufacturing Including Leased Workers of Manpower Temporary Service, Rubicon Staffing, Tad Resources, Kelly Services, Olsten Staffing, and Technical Aid Staffing, Colorado Springs, CO, And Including Leased Workers of Crown Lift Trucks, Aurora, CO, and Computer Merchant, Norwell, MA, Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 23, 1996, applicable to all workers of Digital Equipment Corporation, Storage Manufacturing, Colorado Springs, Colorado. The notice was published in the Federal Register on August 6, 1996 (61 FR 40852).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The State agency reports that employees of several temporary agencies were directly involved in the manufacturing of the storage devices produced by Digital Equipment Corporation in Colorado Springs. Based on these findings, the Department is amending the certification to include leased workers from Manpower Temporary Service, Rubicon Staffing, TAD Resources, Kelly Services, Olsten Staffing, Technical Aid Staffing, all located in Colorado Springs, Colorado, and leased workers from Crown Lift Trucks, Aurora, Colorado and Computer Merchant, Norwell, Massachusetts.

The intent of the Department's certification is to include all workers of Digital Equipment Corporation, Storage Manufacturing adversely affected by imports.

The amended notice applicable to TA–W–32,539 is hereby issued as follows;

All workers of Digital Equipment Corporation, Storage Manufacturing, Colorado Springs, Colorado, and leased workers of Manpower Temporary Service, Rubicon Staffing, TAD Resources, Kelly Services, Olsten Staffing, Technical Aid Staffing, all located in Colorado Springs, Colorado, and leased workers of Crown Lift Trucks, Aurora, Colorado and Computer Merchant, Norwell, Massachusetts, engaged in the production of storage devices for the Digital Equipment Corporation in Colorado Springs, Colorado, who became totally or partially separated from employment on or after June 27, 1995, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of August 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21638 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,449]

Glencraft Lingerie Inc., New York, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 17, 1996 in response to a worker petition which was filed May 28, 1996 on behalf of workers at Glencraft Lingerie Inc., New York, New York (TA–W–32,449).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–31,946A). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 13th day of August 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21635 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,565]

Koomey Inc., Brookshire, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 22, 1996 in response to a worker petition which was filed on July 3, 1996 on behalf of workers at Koomey Inc., Brookshire, Texas.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of July, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21642 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,433; TA–W–32,433A; TA–W–32,433B; TA–W–32,433C]

Paramount Headwear, Incorporated, Bernie, MO, Gerald, MO, Bourbon, MO, and Rosebud, MO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 10, 1996, applicable to all workers of Paramount Headwear, Incorporated, Bernie, Missouri. The notice was published in the Federal Register on August 6, 1996 (61 40852).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that worker separations have occurred at the subject firms' Gerald, Bourbon and Rosebud, Missouri locations. The workers are engaged in the production of hats and caps.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of hats and caps and provided administrative, engineering, office, warehouse, sales and distribution services. Accordingly, the Department is amending the certification to cover the workers of Paramount Headwear, Incorporated located in Gerald, Bourbon and Rosebud Missouri, respectively.

The amended notice applicable to TA–W–32,433 is hereby issued as follows:

All workers of Paramount Headwear, Incorporated, Bernie, Missouri (TA–W–32,433), Gerald, Missouri (TA–W–433A), Bourbon, Missouri (TA–W–433B) and Rosebud, Missouri (TA–W–32,433C) who became totally or partially separated from employment on or after June 2, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of August 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21637 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,742]

Quantum Corporation, High Capacity Storage Group, Shrewsbury, MA, Including Contract Workers of TAD Technical Services, Framingham, MA, and Including Contract Workers of Select Temporary Services, Inc., Worcester, MA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 15, 1996, applicable to all workers of Quantum Corporation, High Capacity Storage Group, Shrewsbury, Massachusetts. The notice was published in the Federal Register on February 28, 1996 (61 FR 18758). The worker certification was amended July 22, 1996, to include leased workers of TAD Technical Services, Shrewsbury, Massachusetts, engaged in the production of computer drives and other computer components for Quantum Corporation, Shrewsbury. The amended notice will soon be published in the Federal Register.

At the request of workers of Select Temporary Services, Inc., Worcester, Massachusetts, the Department reviewed the certification for workers of Quantum Corporation, Shrewsbury, Massachusetts. Based on new findings, the Department is amending the certification to include contract workers from Select Temporary Services, Inc., Worcester, Massachusetts, engaged in the production of computer drives and assemblies for Quantum Corporation.

The intent of the Department's certification is to include all workers at Quantum Corporation, High Capacity Storage Group, Shrewsbury, Massachusetts, including contract workers, adversely affected by imports.

The amended notice applicable to TA–W–31,742 is hereby issued as follows:

All workers of Quantum Corporation, High Capacity Storage Group, Shrewsbury, Massachusetts, and contract workers from TAD Technical Services, Framingham, Massachusetts, and workers of Select Temporary Services, Inc., Worcester, Massachusetts, engaged in the production of computer drives and other computer components for the Quantum Corporation, who became totally or partially separated from employment on or after December 4, 1994, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of August, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21640 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,476]

Vanguard Products Corporation, Berkeley Springs, WV; Notice of Revised Determination on Reconsideration

On July 23, 1996, the Department issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to all workers of Vanguard Products Corporation located in Berkeley Springs, West Virginia. The notice was published in the Federal Register on August 6, 1996 (61 FR 40852).

By letter of July 29, 1996, the petitioners requested administrative reconsideration of the Department's findings in this case. The petitioners present evidence that the Department's survey of Vanguard's customers was incomplete.

Investigation findings revealed that sales, production and employment at the subject firm declined. The plant was expected to close in June 1996. It is anticipated that all workers will be separated from employment by August 15, 1996. The workers produce golf bags.

Findings on reconsideration show that a major customer of Vanguard Products Corporation increased its reliance on imports of golf bags while reducing purchases from Vanguard.

Other findings on reconsideration show that the quantity of U.S. imports of golf bags increased 46% percent between 1994 and 1995, and increased by almost 500% during the twelve-month period of April-March 1995–1996 compared to the same twelve-month period a year earlier.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with golf bags contributed importantly to the declines in sales or production and to the total or partial separation of workers of Vanguard Products Corporation, Berkeley Springs, West Virginia. In accordance with the provisions of the Act, I make the following certification:

All workers of Vanguard Products Corporation, Berkeley Springs, West Virginia who became totally or partially separated from employment on or after June 11, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 14th day of August 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21639 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act: Intertitle Transfers of Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information a Training and Employment Guidance Letter on the subject of Job Training Partnership Act (JTPA) Intertitle Transfers of Funds. The purpose of this directive is to provide guidance on intertitle transfers and respond to questions raised on intertitle fund transfer authority.

FOR FURTHER INFORMATION CONTACT: Mr. James Aaron, Director, Office of Employment Training Programs, Employment and Training Administration, U.S. Department of Labor, Room 4666, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–219–5500 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to the 1996 Omnibus Appropriations Act, the Congress authorized the transfers of Program Year 1996 funds between JTPA titles II–A and III for adults and between title II–B and II–C for youth. In addition the current authorization in JTPA sections 206 and 266 for the transfer of funds between titles II–A and II–C is unaffected. This local flexibility provided to service delivery areas (SDAs) and substate areas (SSAs) in planning and fund transfer requires the approval of the Governor prior to implementation.

A number of significant policy changes are contained in this directive and the attached questions and answers. For ease of reference, they are as follows: a. Notice of Obligations (question 5); b. Reporting Instructions (question 19); c. Recapture/Reallotment

policies under title III (Question 14); d. National Reserve Account application review (question 13); and e. Guidance on inclusions in State transfer systems (question 4).

Signed at Washington, DC, this 31st day of July, 1996.

Timothy M. Barnicle,

Assistant Secretary of Labor.

U.S. Department of Labor, Employment and Training Administration, Washington, D.C. 20210

Classification: JTPA.
Correspondence Symbol: TD
Date: July 31, 1996

Training and Employment Guidance Letter No. 7–95

TO: ALL STATE JTPA LIAISONS, ALL STATE WORKER ADJUSTMENT LIAISONS
FROM: Barbara Ann Farmer, Administrator for Regional Management
SUBJECT: Job Training Partnership Act (JTPA) Intertitle Transfers of Funds

1. *Purpose.* To provide guidance on intertitle transfers and respond to questions raised on intertitle fund transfer authority.

2. *References.*

a. Training and Employment Guidance Letter (TEGL) No. 6–95, JTPA Titles II–A, II–C, and III Allotments; and Wagner-Peyser Final Planning Estimates for Program Year (PY) 1996;

b. Emergency Supplemental and Rescission Act, 1995, Public Law 104–19;

c. Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–134;

d. Job Training Partnership Act, Public Law 97–300, as amended;

e. TEGL No. 5–95, Program Guidance and Allocations for the Calendar Year 1996 Summer Youth Employment and Training Program;

f. TEGL No. 12–94 and Change 1, Changes in Restrictions on Program Year 1995 Funds under Title III of the JTPA; and

g. TEIN No. 6–93 and Changes 1 and 2, Instructions for Title II, JTPA Quarterly Financial Status Report.

3. *Background.* TEGL 6–95 provided to the States the Program Year (PY) 1996 allotments for titles II–A, II–B, II–C and III, pursuant to the Congressional appropriations to the Department. In that communication, we indicated that guidance on intertitle transfers would be forwarded separately. Policy concerning transfer rules and procedures is contained in this TEGL. In addition, in order to be responsive to the entire employment and training community, questions were solicited through the Employment and Training Administration (ETA) Regional offices. The answers to the questions received, including a reference table summarizing potential transfers for all years, are contained in an attachment to this TEGL.

In the 1996 Omnibus Appropriations Act, Congress authorized the transfers of PY 1996 funds between JTPA titles II–A and III for adults and between title II–B and II–C for youth. The current authorization in JTPA sections 206, and 266 for the transfer of funds between titles II–A and II–C is unaffected. This local flexibility provided to service delivery areas (SDAs) and substate areas (SSAs) in planning and fund transfer requires the approval of the Governor prior to implementation.

The goals and objectives of ETA, its partners and stakeholders will remain unchanged as a result of the Congressional appropriations action. We are committed to help:

a. Low income adults and youth get the skills and training they need, and help them find first, new or better jobs; and

b. Laid off workers find new jobs that pay as close as possible to what they used to earn.

4. *Significant Changes.* A number of significant policy changes are contained in this TEGL and the attached questions and answers. For ease of reference, they are as follows:

a. Notice of Obligations (Question 5)

b. Reporting Instructions (Question 19)

c. Recapture/reallotment policies under title III (Question 14);

d. NRA application review (Question 13); and

e. Guidance on inclusions in State transfer systems (Question 4)

5. *Principles.* As the questions being raised were considered, it became apparent that a series of principles evolved which may be of assistance in responding to further questions.

a. Keep it Simple. The Department has attempted to limit potential problems by minimizing Federal reporting and record keeping requirements by combining PY 1996, title II–A, II–C and III formula funds into a single financial account on the upcoming Notice of Obligation and the Health and Human Services financial payments account. FY 1996 title II–B funds will remain under the PY 1995 grant agreement and the previously assigned accounts. No prior notice will be required when making transfers, but quarterly reporting must reflect any changes made.

b. Identity of Funds. Once the funds are transferred, there is no separate identification; they become part of the total funds available in the receiving title/part. The transferred funds are subject to all of the rules of the receiving title/part, including cost limitations, and eligibility requirements. However for auditing purposes, records must be maintained by title.

c. Funds Authorized for Transfer. Only funds allocated to SDAs/SSAs are authorized for transfer between title II–A and title III, and among titles II–A, II–B and II–C. Title III discretionary NRA and Governors' reserve, as well as title II incentive funds are not authorized for transfer. Only PY 1996 funds may be transferred between titles II–A and III, e.g., no carryover PY 95 funds may be transferred.

d. Reporting. Expenditures associated with transferred funds are not tracked or accounted for separately; they are reported as part of total available funds in the receiving title/part.

e. Services to Participants. Commitments in State and local plans that describe strategies and goals established prior to transfers must be considered when addressing potential transfers. Modification requirements will remain unchanged.

f. Program Performance Requirements. Performance standards apply to titles and the funds expended under those titles.

The above principles are addressed more fully in the questions and answers that are contained in the attachment.

6. *Effective Date.* Upon receipt.

7. *Action Required.* States are requested to:

a. Incorporate the guidance contained in this TEGL in their:

(1) Direction to private industry councils, chief elected officials, title II administrative entities and title III substate grantees; and

(2) Criteria, systems and procedures to permit SDAs and SSAs to transfer funds; and

b. share the information contained in this directive with service delivery areas and substate areas.

8. *Inquiries.* General questions or requests for technical assistance should be directed to the appropriate Regional office. Questions dealing with title III issues on recapture/reallotment and NRA grants should be directed to Zen Choma (202) 219–5577 x127 and Brian Deaton (202) 219–5336 x107 respectively.

9. *Attachments.*

a. Questions and Answers—JTPA Intertitle Fund Transfers (including Sample Quarterly Financial Reports)

b. SDA/SSA Intertitle Transfers Authority Table

Attachment 1—Employment and Training Administration Questions and Answers—JTPA Intertitle Fund Transfers

Question 1:

What is the exact language for the transfer of funds?

Answer:

The language is from four sources:

1. Job Training Partnership Act (JTPA),
2. FY 1995 Rescission Bill (Public Law 104–19),
3. FY 1996 appropriations bill (Public Law 104–134),
4. Appropriations Conference Report (Congressional Record, April 25, 1996, page H 3953).

1. *JTPA*

a. *Section 206 (title II–A):* ''A service delivery area may transfer up to 10 percent of the amounts *allocated* to the service delivery area under section 202(b) to the program under part C if such transfer is—

(1) described in the job training plan, and

(2) approved by the Governor.

Note: Underlining added for emphasis and to clarify that the 10% applies *only* to the amount allocated to the SDA under the formula, and does not apply to other funds that have been transferred into the program from another program.

b. *Section 256 (title II–B):* ''A service delivery area may transfer up to 20 percent of the funds provided under this part to the program under part C if such transfer is approved by the governor.''

c. *Section 266 (title II–C):* ''A service delivery area may transfer up to 10 percent of the amounts *allocated* to the service delivery area under section 262(b) to the program under part A if such transfer is—

(1) Described in the job training plan, and

(2) Approved by the Governor.''

Note: Underlining added for emphasis and to clarify that the 10% applies *only* to the amount allocated to the SDA under the formula, and does not apply to other funds that have been transferred into the program from another program.

2. *FY 1995 Rescission Bill (PL 104–19):* ''* * * Provided further, That service delivery areas may transfer up to 50 percent of the amounts *allocated* for program years 1994 and 1995 between the title II–B and title II–C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor.'' This language overrides the JTPA language regarding transfers for funds appropriated in PY 1994 and PY 1995 for the II–B and II–C programs, i.e., the 50% overrides the 20%, and authorizes for the first time transfers from II–C to II–B.

Note: Underlining added for emphasis and to clarify that the 50% applies *only* to the amount allocated to the SDA under the formula, and does not apply to other funds that have been transferred into the program from another program.

3. *FY 1996 appropriations bill language (Pub. Law 104–134):* ''Provided further, that service delivery areas may transfer funding provided herein under authority of titles II–B and II–C of the Job Training Partnership Act between the programs authorized by those titles of that Act, if such transfer is approved by the Governor: Provided further, that service delivery areas and substate areas may transfer funding provided herein under authority of title II–A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: * * *''

The above language pertains to the funds appropriated under the FY 1996 bill: PY 1996 title II–A, title II–C and title III funds, and FY 1996 II–B funds.

4. *Conference Report:* ''The agreement includes language to permit service delivery areas to transfer funds between titles II–B and II–C of the Job Training Partnership Act, with the approval of the Governor of the State. The House and Senate bills only permitted the transfer to take place from title II–C to title II–B. In addition, the agreement permits the transfer of funds between title II–A and title III of the Act as proposed by the Senate, instead of permitting the transfer of funds between all title II programs and title III as proposed by the House.''

Note: Transfers were not permitted between titles III and II–C.

Attachment 2 shows the intertitle transfers that are authorized among titles II–A, II–B, II–C, and between title II–A and title III.

Question 2:

How will this authority affect service delivery area (SDA)/substate area (SSA) programs?

Answer:

The authorization is to provide States and local communities with the flexibility to design programs and allocate resources to best serve the employment and training needs of dislocated workers and disadvantaged youth and adults. The intent is also to allow greater flexibility as the system moves toward an integrated workforce development approach to consolidate programs and give greater authority to State and local decision makers.

States and SDAs are encouraged to use this new transfer authority to assist them in their development of integrated workforce development systems which incorporate One-Stop Career Centers, School-to-Work systems, and integrated systems for serving disadvantaged and at-risk youth. For further program guidance see TEGL No. 4–95, dated February 21, 1996.

Question 3

What are the beginning and ending dates for spending the funds, and when can transfers be made?

Answer

The beginning and ending dates differ according to different legislative provisions.

Section 161(b)(1) applies to funds appropriated on a program year basis and states: ''Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years * * *'' For clarification purposes the word ''obligated'' in the first line of section 161(b)(1) pertains to the Federal obligation of funds (through a Notice of Obligation) and not to the recipient's obligation of funds.

Thus, the above language applies to program year funds, but does not apply to the FY 1996 II–B funds. (These FY title II–B funds are available for up to five years for expenditure, but it is assumed that they will be expended within the grant period). However, should FY 1996 II–B funds be transferred to the PY 1996 II–C program, those funds can be expended during the life of the PY 1996 II–C funds (6/30/99). On the other hand, should PY 1996 II–C funds be transferred to FY 1996 II–B, the transferred funds retain their PY 1996 II–C life. Only PY 1996 funds may be transferred between title II–A and III; therefore, the transfers could occur any time between July 1, 1996 and June 30, 1999 or until funds are expended, whichever occurs first.

The attached table summarizes the intertitle transfer rules for each year of funds. The year of the funds determines the rule to be followed in transferring the funds. For example, PY 1995 funds available for expenditure in PY 1996 may be transferred based on PY 1995 allocation base and according to PY 1995 rules. (PY 1995 funds expended in PY 1996 cannot be transferred by PY 1996 rules.) The transfers can be made at any time during the life of the funds.

Question 4

What is the Governors' role in approving transfer requests?

Answer

The Governor is responsible for establishing procedures and approval criteria for processing transfer requests, as well as accounting and reporting procedures for tracking these funds. It is expected that the Governor will establish policy on transfers. The procedures should include the State Job Training Coordinating Council pursuant to its advisory responsibilities to the Governor regarding resource allocations. [Sec. 122(b)(2)] These procedures may also include, at the Governor's discretion, modifications to SDA/SSA Job Training Plans and procedures for the timing and frequency of transfers. In considering transfer requests, the Governor should ensure that procedures are in place that will address the employment and training needs of eligible JTPA program participants within the SDAs/SSAs and the State as a whole to assure the maintenance of adequate funding levels.

Approval criteria established by the Governor should include, but are not limited to, such factors as:

1. Policy established by Governors in the Governor's Coordination and Special Services Plan (GCSSP), including the Governor's Statement of Goals and Objectives. [Sec. 121]
2. Impact on GCSSP coordination responsibilities under Sec. 121(b)(1), 205, and 265.
3. Impact on jointly funded employment and training programs. [121(c)(11)]
4. Impact on existing agreements for the delivery and/or coordination of employment and training services.
5. Impact on current State, SDA or SSA employment and training systems.
6. Changes in labor market conditions.
7. The extent to which the proposed transfer improves the delivery of employment and training services.
8. Comments from stakeholders and the public regarding resource utilization, e.g., transferring funds to and from disadvantaged and dislocated workers and to/from youth programs and II–A programs.
9. Impact on the employment and training needs of eligible participants in the SDA, SSA or State from which funds have been transferred.
10. Consistency with local plans.

Question 5

What changes are planned for the 1996 Federal Notice of Obligation and the authorizations maintained in HHS's Payment Management System?

Answer

With the increased latitude to transfer funds between titles and our objective to minimize recordkeeping requirements, the PY 1996 titles II–A, II–C and III formula funds will be combined into one financial key on both the Notice of Obligation (NOO) and in the HHS Payment Management System (PMS). The backup to the NOO will provide the specific amounts for each title.

Because the 1996 Appropriations bill identifies the title II–B funds as FY 1996 funds (instead of PY funds) II–B funds will be accounted for separately and will remain in the PY 1995 grant agreement. These funds will be separately identified in the NOO and in PMS.

Notes:

1. For accounting ease, a State may wish to assume that the funds transferred into PY 1996 II–C from FY 1996 II–B and the funds transferred into FY 1996 II–B from PY 1996 II–C are expended first and corresponding cash is drawn down first. (The life of the transferred funds, however, should be considered in making this decision.)
2. The Administration has requested funding for the 1997 summer program. These funds would be FY 1997 funds (not PY funds) and would be added to the PY 1996 grant agreement and accounted for separately, similarly to how the FY 1996 II–B funds are handled.)

Question 6

What is the identity of transferred funds?

Answer

Transferred funds always retain year of appropriation identity. (For FY 1996 title II–B funds, see answer to Question 3.)

When funds are transferred to another title, they take on the character of that title and are therefore subject to all of the rules and regulations of the receiving title and Part. This includes cost limitations, eligibility requirements and provision of services.

Question 7

How are cost limitations applied to transferred funds?

Answer

Funds are transferred in the total amount and do not take on cost category identity until they are expended. Transferred funds are subject to the rules and regulations of the receiving title/part. Funds are not transferred by cost category. The remaining funds left in a title continue to be expended under requirements of that title.

The FY 1996 Appropriations Bill provides for cost limitation flexibility for PY 1996 title III formula funds. Similar flexibility was provided for PY 1995 funds (see TEGL 12–94, dated May 31, 1995).

Question 8

When transferring funds from one title to another, will the performance standards remain attached to the funds?

Answer

When funds are transferred from one title to another, the performance standards that apply to the titles are not changed. For example, when title III funds are transferred to title II–A, the additional resources should result in an increase in II–A expenditures. The enhanced program will be subject to the performance standards in title II–A.

When individuals (not funds) transfer titles, the performance standards of both titles apply. The program has a choice of either enrolling the participant in both titles or terminating the person from the original title and enrolling the individual in the receiving title. In the latter case, the originating title may incur a negative termination, particularly if the transfer is from II–A to III. When programs choose to co-enroll the person in both titles, the person's outcome is subject to standards in both titles.

Question 9

Should prior notice on transfers be provided to the Federal Grant Officer? How will the Department learn of these transfers?

Answer

No prior notice is required to the Department relative to transfers. However, DOL will require the reporting of transfers that have been made. This will be shown on the quarterly reports submitted to ETA (see Question 19.)

Question 10

What is the base for computing maximum allowable transfers?

Answer

The transfer of funds is limited to funds that have been allocated to the SDAs by the State, i.e., the 77%/82% formula funds and the funds allocated to SSAs by the Governor from the title III formula allotment. The 23 percent in title II–A, 18 percent in title II–C and the formula funds reserved by the Governor in title III are not available for transfer.

Question 11

Can transferred funds be used at the State level to increase set-aside funds (e.g., administration)?

Answer

No. The use of transferred funds is only at the SDA/Sub-State levels, and

not at the State level. Thus, these funds cannot be used for State level costs.

Question 12

Are title III Secretary's Discretionary Funds (National Reserve Grants) available to transfer to title II–A?

Answer

No. Only formula funds allocated to the SSA by the Governor from the State's title III formula allotment are available for transfer.

Question 13

What is the impact of the transfer of title III funds to title II–A on the State's ability to request NRA funds?

Answer

NRA requests are always reviewed in terms of other resources available and systems that can provide the necessary assistance without additional funds. Generally, NRA funds will not be made available to provide services that could have been provided with title III formula funds allotted to a State (including funds that have been transferred to II–A).

ETA will review and evaluate applications for NRA funds in the following manner in SSAs where funds have been transferred from title III to title II–A:

- If not more than 20 percent of the applicable substate formula allocation has been transferred, States may apply for NRA funds without restriction.
- If more than 20 percent of the applicable substate formula allocation has been transferred to title II–A, the State and/or substate area will be required to provide a financial match for any NRA funds awarded. The required match will take into account the level and rate of expenditure of title III funds available for the Program Year, and the amount of title III funds transferred to title II–A at the time an application for NRA funds is submitted.

Exceptions will be considered in certain circumstances such as temporary job creation in response to natural disasters, assistance to workers impacted by BRAC-related closures, mass layoffs and plant closures without notice or in other situations as approved by the Secretary.

- If more than 50 percent of the applicable substate formula allocation has been transferred to title II–A, the State and the substate areas are certifying that there is not an expected need in that substate area to provide assistance to a substantial number of dislocated workers and will not qualify for NRA funds, exclusive of natural disasters or BRAC-related closures, for the PY covered by the formula allocation. Other NRA requests will be considered only when it is demonstrated that the title III funding level for the substate area is at least 50 percent of the initial formula allocation level, e.g., transferred funds may be returned to title III.

Notwithstanding these criteria, the Secretary retains the discretion to obligate NRA funds in a manner that targets resources to areas of most need and that promotes the effective use of funds for eligible dislocated workers.

Question 14

How does this transfer authority affect the title III recapture/reallotment policy (Sec. 303) and the title II–A recapture/reallotment policies?

Answer

The answer to this question is dependent upon which title's funds are involved.

The JTPA, section 303, requires the Secretary to recapture from States unexpended Title III formula funds in excess of 20% of the annual formula allotments to the States. For the purpose of including the inter-title transfer authority, the net allotment for determining funds subject to recapture will be used and calculated as follows:

* The initial title III allotment to the State at the beginning of the program year;
* Plus or minus the increase or decrease in the allotment as a result of recapture/reallotment activity; and
* Plus or minus the net increase or net decrease as a result of inter-title transfers into or out of Title III.

Therefore, maximum amount of carryover from the year of allotment to the next program year is the amount of the allotment, as adjusted for reallotment and fund transfers, (i.e., net transfers from title II–A to title III will increase the funds available and 20 percent of that larger amount can be carried forward without recapture; net transfers from title III to title II–A will decrease the funds available and 20 percent of that smaller amount can be carried forward without recapture). It is expected that a consistent policy for determining excess unexpended funds at the substate level will be followed by the states when applying their own reallocation procedures.

The JTPA, section 109(b) requires the Secretary to reallot to eligible States, Title II–A and II–C *unobligated* funds in excess of 15 percent of each State's allotment. However, since Title II reallotment procedures apply only to unobligated funds and since transfers can only occur at the substate level, there is no impact on Title II reallotment procedures, i.e., funds at the SDA/SSA level have, by definition, been obligated by the State. It is expected that Title II substate reallocation procedures [Sec. 109 (a)] will be affected by the new transfer authority. Therefore, a transfer of funds from title II–A to title III would lower the base against which unobligated funds in excess of 15 percent would be determined. A transfer of funds from title III to title II–A would increase the base against which the determination is made.

Question 15

Will the allocation formula be affected by transfers that have taken place in a previous year?

Answer

No. The same formula will be used, regardless of any transfer action in previous years.

Question 16

What State Level Plan Modifications are required for titles II and III?

Answer

The requirements differ for the two titles.

GCSSP: Section 121(b)(7) of the Act provides that if major changes occur in labor market conditions, funding, or other factors during the two-year period covered by the plan, the State shall submit a modification to the Secretary describing the changes. This is further clarified in the GCSSP planning guidance which includes the OMB approved format for modifications. Specifically, it states that if major changes occur in labor market conditions, funding, or other factors during the period covered by the plan, the State shall submit a modification describing these changes. For the purposes of determining if a modification is necessary, a major change is defined as cumulative change of 20 percent of these factors in the plan.

Title III Biennial Plan: There is no requirement that title III State plans be modified to show increases in allotments or available funds to the States or to the Substates: therefore, no modifications would be required by the Department for any transfers made into or out of title III. That information can be collected from Quarterly reporting discussed elsewhere.

Question 17

When SDAs request State approval to transfer title II funds, are they required to submit modifications to their job training plans?

Answer

Yes, in accordance with instructions established by the State (except in the case of the Single State SDA as noted below).

Section 104(c) of the Act provides that if changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan (including modification of the budget under subsection (b)(6)), which shall be subject to review in accordance with section 105 of the Act.

Further, Section 628.420(e) of the JTPA regulations provides that the (1) any major modification to the SDA job training plan shall be jointly approved and jointly submitted by the PIC and the chief elected official(s) of the SDA to the Governor for approval. (2) For the purposes of this section; the circumstances which constitute a ''major'' modification shall be specified by the Governor.

In the case of Single State SDAs, Section 105(d) of the Act provides that when the SDA is the State, the Governor shall submit the job training plan and any modifications to the Secretary for approval. The State SDA submission requirements are further clarified in Section 628.430 of the JTPA regulations. The Act and the regulations do not make a distinction between major or minor modifications to a Single State SDA's job training plan. This would indicate that all plan modifications must be submitted to the Secretary. However, so as to be consistent with the provisions which apply to major modifications to the GCSSP, States will be required to submit modifications to the Secretary for approval when there is a cumulative change of 20 percent in labor market conditions, funding, or other factors during the period of the plan.

Question 18

When SSAs request State approval to transfer funds, are they required to submit modifications to their substate title III plans?

Answer

Yes. The governor will establish guidelines. However, under Section 313 of the Act, substate plans (or modifications thereto) must be submitted to the Governor describing the manner in which activities will be conducted within the SSA area with the funds obligated to the area. ETA believes a transfer of funds from title III to serve individuals who are not eligible for Title III would constitute how title III funds will be utilized in that SSA. Public review provides appropriate input into such a decision. It is expected that any transfer decision would be based upon an analysis of the local labor market and the needs/availability of individuals who are eligible to receive services under the various titles.

Question 19

What are the rules for reporting transferred funds?

Answer

After funds are transferred, they are expended under the rules and regulations governing the receiving title and/or part. Total available funds are increased and expenditures associated with transferred funds are, therefore, reported against available funds in the receiving title and/or part. The transferred amount should be recorded on both the sending and receiving reporting forms in the appropriate columns and line items as described below and in the attached examples.

Note: The title II and title III financial reports are State summary reports. Since the transfers are made at the SDA/SSA level, the transferred amount shown on the State summary report is a net of the SDA/SSA transfer actions. In addition, the report entries for title II–A can reflect the net of transfers from both title III and from title II–C; and, title II–C can reflect the net of transfers from title II–A and from FY 96 II–B.

Sample quarterly financial reports are attached, showing offsetting entries. Following is further clarification with regard to each of the reporting forms.

1. Title II Job Training Partnership Act (JTPA) Quarterly Financial Report—(JQSR)

a. *Title II–A and II–C.* Follow the reporting instructions issued in TEIN No. 6–93, plus Changes 1 & 2, for reporting transfers within title II. There is no change in the treatment of transfers between II–A and II–C.

b. *Title III.* Transfers to or from title III should be identified in the Remarks Box as a cumulative net amount to reflect a net plus or minus dollar change to available II–A funds. The comment should also identify both the sending PY and title/part and the receiving PY and title/part. (See sample JQSR).

—In addition, the effect of the transfer should be reflected on Line 2 of Column (A).

—Line 18 of Column A must also equal Line 2 of Column A.

c. Title II–B. Transfers to or from FY 1996 title II–B should be identified in the Remarks Box as a cumulative net amount to reflect a net plus or minus dollar change to available II–C funds. The comment should also identify both the sending PY/FY and title/part and the receiving PY/FY and title/part. (See sample JQSR).

—In addition, the effect of the transfer should be reflected on Line 2 of Column (C).

—Line 18 of Column C must also equal Line 2 of Column C.

Note: A separate JQSR is required for reporting FY 1996 II–B transfers. (See TEGL No. 5–95, dated April 12, 1996.) The II–B Column of the PY 1996 JQSR should be left blank.

2. Title III Worker Adjustment Formula Financial Report—(WFFR)

a. Transfers to or from title III should be identified in the Remarks Box as a cumulative net amount to reflect a net plus or minus dollar change to available title III Substate funds. The comment should also identify both the sending PY and title/part and the receiving PY and title/part. (See sample WFFR).

b. The effect of the transfer should be reflected on Line 10 of the PY 1996 Column.

BILLING CODE 4510–30–P

JTPA Title II Quarterly Status Report

U.S. Department of Labor
Employment and Training Administration

OMB No.: 1205-0323
Expires: 06-30-96

a. Recipient's Name and Address	b. Quarterly ____ Final ____	c. Recipient's Grant No.	d. Report Period From:	To:
STATE A		FY96	7/96	9/96

		IIA (A)	IIB (B)	IIC (C)	Title II Total (D)
I. GRANT TOTAL					
1	Allotment (NOO Amount)		1,000,000		
2	Transfers (To II-C)		-200,000		
3	Total State Availability		800,000		
4	Total State Obligations				
5	Total Expenditures				
II. STATE LEVEL					
6	Administration, Management and Auditing				
7	Incentive and Capacity Building/TA				
8	State Education – Coordination				
9	State Education – Services				
10	(a) Direct Training				
11	(b) Training Related and Supportive Services				
12	(c) Administration				
13	Older Individuals				
14	(a) Direct Training				
15	(b) Training Related and Supportive Services				
16	(c) Administration				
III. SDA LEVEL					
17	Initial Allocation		1,000,000		
18	Transfers		-200,000		
19	Total SDA Availability		800,000		
20	Expenditures				
21	(a) Direct Training				
22	(b) Training Related and Supportive Services				
23	(c) Administration				
24	Incentive Funds Expended (Non-Additive)				

Remarks

-200,000 FROM FY96 II-B TO PY96 II-C

Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all costs are for the purposes specified in the JTPA, as amended.

d. Signature and Title | e. Date Signed | f. Telephone No.

ETA 9040

a. State Name and Address	b. Program Years of Funds	OMB No: 1205-0326 Expires: 06/30/96
STATE A	c. ____ Quarterly ____ Final PY	
ALLOTMENT $1,000,000*	d. Report Period Ending: 9/96	

SECTION I: GOVERNOR'S RESERVE FUNDS		Current PY 96	Prior PY 95	Year Before Prior PY 94
1	Total Title III Funds Available	400,000		
2	Total Expenditures			
3	Basic Readjustment Services			
4	Retraining			
5	Needs - Related Payments			
6	Supportive Services			
7	Administration			
8	Rapid Response			
9	Reserved 10% Funds for SSGs in Need	Ø		

SECTION II: SUBSTATE GRANTEE FUNDS		Current PY	Prior PY	Year Before Prior PY
10	Total Title III Funds Available	400,000*		
11	Total Expenditures			
12	Basic Readjustment Services			
13	Retraining			
14	Needs - Related Payments			
15	Supportive Services			
16	Administration			

SECTION III: PROGRAM ACTIVITY		Governor's Reserve	Substate Grantees
17	Total Participants		
18	Total Terminations		
19	W A R N Notices Received		
20	Initial On - Site Rapid Responses		
21	Dislocated Worker Unit Administration		
22	Staffing Costs		

SECTION IV: PROGRAM INCOME; RECIPIENT/SUBRECIPIENT FUNDS EXPENDED FOR JTPA PROGRAMS		Current PY	Prior PY	Year Before Prior PY
23	Program Income Earned			
24	Program Income Expended			
25	Recipient/Subrecipient Funds Expended for JTPA Programs			

Remarks

-200,000 TO PY 96 TITLE II-A FROM PY 96 TITLE III.

Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all costs are for the purposes specified in the JTPA, as amended.

c. Signature and Title	f. Date Signed	g. Telephone Number

Public reporting burden for this collection of information is estimated to average 10 hours 45 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 Office of IRM Policy, Department of Labor, Room N-1301, 200 Constitution Avenue, N.W., Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1205-0326), Washington, D.C. 20503.

DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES ETA 9041 July 1993

· INITIAL ALLOTMENT IS $1,000,000 (LINE 10: $600,000 - 200,000 = $400,000)

Attachment 2

Employment and Training Administration

Job Training Partnership Act

SDA/SSA Intertitle Transfers Authority

Fund Identity	Life of Funds	II-A*	II-B	II-C*	III
PY 1994	7/01/94-6/30/97	10% to II-C (S)	50% to II-C (A)	10% to II-A (S) 50% to II-B (A)	NA
PY 1995	7/01/95-6/30/98	10% to II-C (S)	50% to II-C (A)	10% to II-A (S) 50% to II-B (S)	NA
PY 1996	7/01/96-6/30/99	10% to II-C (S) Up to 100% to III (A) 2/	NA	10% to II-A (S) Up to 100% to FY 96 II-B (A)	Up to 100% to II-A (A)
FY 1996 1/	10/1/95-6/30/98	NA	Up to 100% to PY 96 II-C (A)	NA	NA
PY 1997 3/	7/01/97-6/30/2000	10% to II-C (S) 20% to III (A)	NA	10% to II-A (S) Up to 100% to FY 97 II-B (A)	20% to PY 97 II-A (A)
FY 1997 2/	10/01/96-6/30/99	NA	Up to 100% to PY 97 II-C (A)	NA	NA

Authority: (S) Statutory-denotes JTPA Section #s: 206, 256, 266.

(A) Appropriation-denotes 1996 Omnibus Appropriation Bill, 110 Stat. 1321, DOL, ETA, TES Account, or FY 1995 Rescission Bill, P.L. 104-19.

Summer Youth funds are appropriated on a fiscal year not program year basis, (also proposed for 1997 Budget).

* Transfers apply only to: SDA 77% II-A formula funds; 82% SDA II-C formula funds; portion of Title III allotted funds not reserved by Governor.

1/ The FY 1996 II-B program is part of PY 1995 grant agreement. Same life as PY 1995 programs.

2/ The FY 1997 II-B program will be part of PY 1996 grant agreement. Same life as PY 1996 programs.

3/ Administration is proposing 20% transfer authority between II-A and III in 1997.

FY 96 II-B funds transferred to PY 96 II-C take on life of PY 96 II-C funds; however, PY 96 II-C funds transferred to FY 96 II-B retain life of II-C funds as shown above.

[FR Doc. 96-21632 Filed 8-23-96; 8:45 am]

BILLING CODE 4510-30-C

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–32, 302; Elwell Parker Electric Co., Cleveland, OH

TA–W–32, 513; Wood World, Inc., Marion, VA

TA–W–32, 613; Texberry Container Corp., Houston, TX

TA–W–32, 454; Basic Engineers, Inc., Johnstown, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–32, 515; Westmoreland Plastics, Latrobe, PA

TA–W–32, 520; BP Oil, Inc., Marcus Hook, PA

TA–W–32, 403; Huntsman Chemical Corp., Rome, GA

TA–W–32, 379 & A; Magic Circle Energy Corp., Oklahoma City, OK & Carmen Field Limited Partnership, Carmen, OK

TA–W–32, 388; Snap-On, Inc., Mt. Carmel, IL

TA–W–32, 491; DeLong Sportswear, Inc., Lynchburg, TN

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–32, 378; Kendall Professional Medical Products, Inc., Kendall Co., El Paso, TX

TA–W–32, 414; R. Collard & Co., Inc., New York, NY

TA–W–32, 411; Charter Fabric, Inc., New York, NY

TA–W–32, 581; Arco Corporate, Denver, Co

TA–W–32, 600; J.K. Operating Corp., Kulpmont, PA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–32, 264; United Technologies Automotive Interior Systems Div., Morganfield, KY

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitve with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–32, 432; Amtrol, Inc., Plano, TX

A corporate decision was made to transfer its production of chemical containers from then Plano, TX plant to other existing domestic facilities.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–32, 448; General Electric, GE Motor and Industrial Systems, Erie, PA: May 7, 1995.

TA–W–32, 543; United Technologies/ Pratt & Whitney, Cheshire, CT: June 24, 1995.

TA–W–32, 489; Aquila, Inc., Superior, WI: June 8, 1995.

TA–W–32, 463; Pine River Lumber Co LTD, Maple Lumber Div., Kenton, MI: May 9, 1995.

TA–W–32, 367; Carolina Lace Corp., Robbins, NC: May 9, 1995

TA–W–32, 345; Harvard Sports, Inc., Compton, CA: May 10, 1995.

TA–W–32, 381; NAC Carbon Products, Inc., Punxsutawney, PA: June 13, 1995.

TA–W–32, 477; The Dial Corp., Omaha, NE: June 10, 1995.

TA–W–32, 416; Sulphur City Manufacturing Co., Inc., Red Boiling Springs, TN: May 24, 1995.

TA–W–32, 464; Airshield Corp., Brownsville, TX: June 4, 1995.

TA–W–32, 364; American Steel Foundries, Alliance, OH: May 13, 1995.

TA–W–32,527; Superior Milling, LTD, Watersmeet, MI: May 20, 1995, 13, 1995.

TA–W–32,428; NCC Industries, Inc., Cortland, NY: May 24, 1995.

TA–W–32,472; Eaton Corp., Axle & Brake Div., Glasgow, KY: June 6, 1995.

TA–W–32,450; Texaco Trading & Transportation, Inc., Glendive, MT: May 28, 1995.

TA–W–32,423 & A; Bestform Foundations, Inc., Windber, PA & Johnstown, PA: May 21, 1995.

TA–W–32,407; Nolin Sportswear, Brownsville, KY: May 4, 1995.

TA–W–32,371; Design Apparel By Gale: New York, NY: May 16, 1995.

TA–W–32,567; Robertshaw Controls Co., Columbus Plant Appliance Controls Div., Grove City, OH: June 5, 1995.

TA–W–32,430; Pictsweet Mushroom Farm, Salem, OR: May 30, 1995.

TA–W–32, 465; Keystone Thermometrics, St. Marys, PA: June 5, 1995.

TA–W–32,439; Modern Gloves, Gloversville, NY: May 30, 1995.

TA–W–32,549; Clear Lake Footwear, England, AR: June 26, 1995.

TA–W–32,437 & A; Petrocorp, Inc., Oklahoma City, OK & Houston, TX: May 23, 1995.

TA–W–32,341; Schenley Sportswear, Brooklyn, NY: May 3, 1995.

TA–W–32,542; W & J Rives, Inc., High Point, NC: June 28, 1995.

TA–W–32,324; Lockheed Martin Corp., Meridian, MS: April 25, 1995.

TA–W–32,435; Frank H. Fleer Corp., Philadelphia, PA: May 23, 1995.

TA–W–32,332; Greenfield Research, Inc., Greenfield, OH: May 6, 1995.

TA–W–32,304; Lanz, LLC, Culver City, CA: April 10, 1995.

TA–W–32,316; Pittsburgh Corning Corp., Port Allegany, PA: May 2, 1995.

TA–W–32,533, TA–W–32,534 & A; Pendleton Woolen Mills, Council Bluffs, IA, Nebraska City, NE & Fremont, NE: June 25, 1996.

TA–W–32,553; Sara Lee Knit Products, Eatonton Sewing Div., Eatonton, GA: June 4, 1995.

TA–W–32,510 & A; McCrackin Industries, Inc, Also Known as Complete Concepts Limited; and Spilene of Conley, Conley, GA & Spilene of Ellaville, Ellaville, GA: June 12, 1995.

TA–W–32,496; Custom Wood Products, St. Joseph, MO: June 10, 1995.

TA–W–32,422; IBM Storage Systems Div., (SSD), San Jose, CA: May 29, 1995.

TA–W–32,571; Pellamy Mfg Co., Div of Perry Manufacturing Co., Richlands, NC: July 1, 1995.

TA–W–32,525; Jatco Enterprises, Inc., Shellman, GA: June 18, 1995.

TA–W–32,429; Cone Mills Corp., Greensboro, NC: May 22, 1995.

TA–W–32,445; Rubin Gloves, Inc., Gloversville, NY: May 30, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01088; Boise Cascade, Timber & Wood Products Div., Medford, OR

NAFTA–TAA–01107; Jenn-Air, Div. of Maytag Appliances, Indianapolis, IN

NAFTA–TAA–01057; Jama/Southside Apparel, Petersburg, TN

NAFTA–TAA–01105; BP Oil & Exploration, Inc., Marcus Hook Refinery, Marcus Hook, PA

NAFTA–TAA–01126; Pellamy Manufacturing Co., Div of Perry Manufacturing Co., Richlands, NC

NAFTA–TAA–01039; Huntsman Chemical, Rome, GA

NAFTA–TAA–01111; Lloyd-Smith Co., Inc., Tool Shop Div., Bradford, PA

NAFTA–TAA–01122; Texberry Container Corp., Houston, TX

NAFTA–TAA–01103; International Paper, Veneta, OR

NAFTA–TAA–01115; DeLong Sportswear, Inc., Lynchburg, TN

NAFTA–TAA–01112; McDonnell Douglas, Douglas Aircraft Co., Torrance, CA

NAFTA–TAA–01086; Simpson Paper Co., Pomona, CA

NAFTA–TAA–01120; Northern Engraving, LaCrosse, WI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–01102; Lake County Road Department, Lakeview, OR

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–01143; Palm Springs Golf, Cathedral City, CA: June 25 1995.

NAFTA–TAA–01110; Jolie Handbag, Inc., Hialeah, FL: May 11, 1995.

NAFTA–TAA–01083; Philips Lighting Co., Little Rock, AR: June 12, 1995.

NAFTA–TAA–01063; Midwestern Industries, Inc., Tahlequah, OK: May 30, 1995.

NAFTA–TAA–01158; Tri Tech Tool & Design Co., Inc., South Bound Brook, NJ: July 25, 1995.

NAFTA–TAA–01064; Airshield Corp., Brownsville, TX: June 4, 1996.

NAFTA–TAA–01093; Norco Windows, Inc., A Former Div. of Trust Joist International, Hawkins, WI: June 19, 1995.

NAFTA–TAA–01089; Superior Milling, Limited, Milling Operations, Watersmeet, MI: May 20, 1995.

NAFTA–TAA–01113; DM IV, Inc., Centerville, TN: June 26, 1995.

NAFTA–TAA–01147; Gold, Inc. D/B/A Gold Bug, Sewing Department, Aurora, CO: July 22, 1995.

NAFTA–TAA–01048; American Steel Foundries, Alliance Plant, Alliance, OH: May 13, 1995.

NAFTA–TAA–01109; Fender Musical Instruments, Inc., Lake Oswego, OR: June 26, 1995.

NAFTA–TAA–01153 & A; Connor Forest Industries, Inc., Wakefield, MI and Baraga, MI: July 12, 1995.

NAFTA–TAA–01151; Dive N Surf, Inc., d/b/a Body Glove International, Torrance, CA: July 15, 1995.

NAFTA–TAA–01129; El Paso Apparel Group, Inc., El Paso, TX: July 10, 1995.

NAFTA–TAA–01092; Lucent Technologies, Inc., Lee's Summit, MO: June 19, 1995.

NAFTA–TAA–01117; Lodestar Industrial Contractors, Limited, Colville, WA: July 8, 1995.

NAFTA–TAA–01108; Orbit Industries, Inc., Helen, GA: June 24, 1996.

NAFTA–TAA–01119; Dean Foods Vegetable Co., Norcal Crosetti Foods, Watsonville, CA: June 28, 1995.

I hereby certify that the aforementioned determinations were issued during the month of August, 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 12, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–21641 Filed 8–23–96; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the

Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Draft Regulatory Guide DG–1047, ''Standard Format and Content for Applications to Renew Nuclear Power Plant Operating Licenses,'' is being issued for public comment as part of the implementation of 10 CFR Part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants'' (referred to hereafter as the license renewal rule). This draft regulatory guide is being developed to provide a uniform format and content acceptable to the staff for structuring and presenting the information to be compiled and submitted in an application for renewal of a nuclear power plant operating license. This draft guide proposes to endorse the Nuclear Energy Institute (NEI) guidance document NEI 95–10, ''Industry Guideline for Implementing the Requirements of 10 CFR Part 54—The License Renewal Rule,'' Revision 0, dated March 1, 1996, as an acceptable method for complying with the requirements of the license renewal rule.

This draft regulatory guide supersedes Draft Regulatory Guide DG–1009, ''Standard Format and Content of Technical Information for Applications To Renew Nuclear Power Plant Operating Licenses,'' which was issued for public comment in December 1990. DG–1009 would have provided guidance on implementing the license renewal rule that was adopted by the Commission on December 13, 1991 (56 FR 64943). However, the Commission amended the license renewal rule on May 8, 1995 (60 FR 22461), to revise the requirements an applicant must meet for obtaining a renewed operating license. Therefore, the guidance contained in DG–1009 no longer adequately reflects the current requirements for renewal of operating licenses.

DG–1047 and NEI 95–10 are being developed to provide guidance regarding the contents of an application for license renewal that includes (1) required general information concerning the applicant and the plant, (2) information contained in the integrated plant assessment, (3) evaluation of time-limited aging analyses (TLAAs), (4) a supplement to the Final Safety Analysis Report (FSAR), (5) technical specification changes and their justification, and (6) a supplement to the environmental report. Specifically, guidance is provided for (1) identifying the systems, structures, and components within the scope of the license renewal rule, (2) identifying the intended functions of systems, structures, and components within the scope of the license renewal rule, (3) identifying the structures and components subject to aging management review, (4) assuring that the effects of aging are managed, (5) identifying and evaluating TLAAs, and (6) establishing the format and content of the license renewal application and Final Safety Analysis Report supplement.

The NRC staff is observing an NEI-sponsored program that will demonstrate plant-specific implementation of NEI 95–10. This program will test the ability of participating utilities to understand and use the guidance contained in NEI 95–10. This program is scheduled to be completed in September 1996, and the staff will issue trip reports documenting its observations of each participant's demonstration. At the conclusion of the program, the staff will compile its observations from the program into a lessons-learned report.

During development of the draft guide and NEI 95–10, the NRC staff determined that development of final guidance for certain topics was best deferred until after completion of the demonstration program when additional experience with implementation of the license renewal rule and the existing NEI 95–10 guidance could be obtained. These topics include guidance on (1) the level of detail required for a license renewal application and the level of detail and content of the associated FSAR supplement, (2) the approach for using pre-approved topical reports in an application, and (3) the overall level of detail contained in NEI 95–10. Although preliminary guidance is proposed in the draft guide and NEI 95–10 for these topics, the staff intends to revisit these topics when finalizing the regulatory guide. The NRC staff solicits suggestions in these areas.

The staff will use the experience gained through its observation of the plant-specific demonstrations and any information or comments received from members of the public to determine whether changes might be needed in NEI 95–10 or DG–1047.

This draft guide is being issued to involve the public in the early stages of developing regulatory positions in this area. The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the draft guide and NEI 95–10. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of NEI 95–10 and of comments received may be examined or copied for a fee at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments are requested by November 29, 1996. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FedWorld, consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703–321–3339, or by using Telnet via Internet, fedworld.gov. If using 703–321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using

NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. There is a 15-minute time limit for FTP access.

Although FedWorld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)415–5780; e-mail AXD3@nrc.gov. For more information on this draft regulatory guide, contact S.T. Hoffman at the NRC, telephone (301)415–3245; e-mail STH@nrc.gov.

DG–1047 and NEI 95–10 are available for inspection or copying for a fee at the NRC's Public Document Room, 2120 L Street NW., Washington, DC (the PDR's mailing address is Mail Stop LL–6, Washington, DC 20555; telephone (202)634–3273; fax (202)634–3343). Requests for single copies of DG–1047 (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Distribution and Mail Services Section; or by fax at (301)415–2260. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

A public workshop will be scheduled during the public comment period to allow interested parties to obtain further information on the draft regulatory guide, NEI 95–10, and the staff's observations of the NEI sponsored demonstration program. Details concerning the workshop will be issued in a future Federal Register notice and press release.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 16th day of August 1996.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 96–21725 Filed 8–23–96; 8:45 am]

BILLING CODE 7590–01–P

Federal Emergency Management Agency

Interim-Use and Comment Document: Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (Criteria for Protective Action Recommendations for Severe Accidents)

The Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) have developed the interim-use and comment document entitled: Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (Criteria for Protective Action Recommendations for Severe Accidents). The document has been published as Draft Supplement 3 to NUREG–0654/FEMA–REP–1, Revision 1, and is available for interim use, public review, and comment.

Studies of severe reactor accidents and their consequences since the publication of emergency planning guidance in NUREG–0654/FEMA–REP–1 in 1980 clearly indicate that the preferred initial protective action is to evacuate promptly rather than shelter the population that is near the plant. Although the original guidance in NUREG–0654/FEMA–REP–1 was never intended to imply that the appropriate protective action for severe accidents was to only shelter the population that is near the plant, the guidance was not explicit on this point. Thus, the NRC and FEMA have updated and simplified the guidance for the development of protective action recommendations for severe accidents in Draft Supplement 3 to NUREG–0654/FEMA–REP–1 to emphasize that evacuation is the preferred initial protective action for severe accidents, barring any constraints for evacuation. Nuclear power plant licensees and State and local offsite response organizations may use the updated and simplified guidance in Supplement 3 or, alternately, they may continue to follow the original guidance in NUREG–0654/FEMA–REP–1 to develop the appropriate protective actions for the public for severe reactor accidents utilizing the insights gained as a result of the NRC's severe accident studies.

During the first few hours of an accident at a nuclear power plant, critical decisions may be necessary concerning protective actions for the public. Plant conditions are the major determining factors in developing early protective action recommendations. The licensee is responsible for mitigating the consequences of an accident and for recommending protective actions to offsite officials. State and local officials are responsible for making decisions on the actions necessary to protect the public and for implementing these decisions. The guidance contained in Draft Supplement 3 to NUREG–0654/FEMA–REP–1 applies to the development of protective actions for the public for severe reactor accidents involving actual or projected core damage with the potential for loss of containment integrity.

Comments on Draft Supplement 3 to NUREG–0654/FEMA–REP–1 may be submitted for consideration by the NRC and FEMA staffs. Comments should be submitted within 90 days of the date of this Federal Register notice to: Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D59, Washington, DC 20555–0001.

Comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, between the hours of 7:45 a.m. and 4:15 p.m. on Federal workdays.

For a copy of Draft Supplement 3 to NUREG–0654/FEMA–REP–1, write: Distribution Services, Printing and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. A copy of Draft Supplement 3 to NUREG–0654/FEMA–REP–1 is available for inspection and copying for a fee in the NRC Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC 20555.

For further information contact: Falk Kantor, Division of Reactor Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–2907; or O. Megs Hepler, Director, Exercises Division, Preparedness, Training, and Exercises Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472. Telephone: (202) 646–2867.

Dated at Rockville, Maryland, this 16th day of August 1996.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission.

For the Federal Emergency Management Agency.

Kay C Goss,

Associate Director for Preparedness, Training, and Exercises Federal Emergency Management Agency.

[FR Doc. 96–21726 Filed 8–23–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Rule 15c2–5
SEC File No. 270–195
OMB Control No. 3235–0198

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension on the following rule:

Rule 15c2–5 prohibits a broker-dealer from arranging a loan for a customer to whom a security is sold unless, before the transaction is entered into, the broker-dealer first: (1) Delivers to the customer a written statement setting forth certain information about the specific arrangement being offered to him; (2) obtains from the customer sufficient information concerning his or her financial situation and needs so as to determine that the entire transaction is suitable for the customer; and (3) retains in his or her files a written statement setting forth the basis upon which the broker-dealer made such determination. The information required by the rule is necessary for the execution of the Commission's mandate under the Securities Exchange Act of 1934 (''Exchange Act'') to prevent fraudulent, manipulative, and deceptive acts and practices by broker-dealers.

There are approximately 50 respondents that require an aggregate total of 600 hours to comply with the rule. Each of these approximately 50 registered broker-dealers makes an estimated 6 annual responses, for an aggregate total of 300 responses per year. Each response takes approximately 2 hours to complete. Thus, the total compliance burden per year is 600 burden hours. The approximate cost per hour is $20, resulting in a total cost of compliance for the respondents of $12,000 (600 hours @ $20).

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: August 19, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21605 Filed 8–23–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26555]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

August 16, 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 September 9, 1996, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Cinergy Corp., et al. (70–8881)

Notice of Proposal To Amend Articles of Incorporation and Acquire Stock of Utility Subsidiary Pursuant To Tender Offer; Order Authorizing Solicitation of Proxies

Cinergy Corp., a registered holding company, and its wholly-owned public-utility subsidiary company, The Cincinnati Gas & Electric Company (''CG&E''), both located at 139 East Fourth Street, Cincinnati, Ohio 45202, have filed an application-declaration under sections 6(a), 9(a), 10 and 12(e) of the Act, and rules 51, 52, 54, 62 and 65 thereunder.

CG&E's amended articles of incorporation (''Articles'') currently provide that, without the consent of the holders of not less than a majority of the total number of shares of preferred stock of all series then outstanding, CG&E shall not issue or assume any securities representing unsecured debt (other than for purposes of refunding outstanding unsecured indebtedness or redeeming or otherwise retiring outstanding shares of stock ranking prior to the preferred stock with respect to the payment of dividends or upon the dissolution, liquidation or winding up of CG&E) if, immediately after such issue or assumption, the total outstanding principal amount of all securities representing unsecured debt would exceed 20% of the aggregate of: (1) The total principal amount of all then outstanding secured debt of CG&E; and (2) the capital and surplus of CG&E, as stated on CG&E's books (''20% Limitation''). CG&E has outstanding 89,663,086 shares of common stock, $8.50 par value per share (''Common Stock''), all of which is held by Cinergy. CG&E's outstanding preferred stock, all of which is publicly held, consists of two million shares of cumulative preferred stock, par value $100 per share (''Preferred Stock''), issued in four series (each a ''Series'').[1] The Common Stock and Preferred Stock of each Series are entitled to one vote per share.

[1] The four Series of Preferred Stock consist of a 4% Series, of which 270,000 shares are outstanding, a 4¾% Series, of which 130,000 shares are outstanding; a 7⅜% Series, of which 800,000 shares are outstanding; and a 7⅞% Series, of which 800,000 shares are outstanding.

CG&E proposes to submit to the holders of the outstanding shares of Preferred Stock of all Series, and to Cinergy, as the sole holder of all the outstanding shares of Common Stock, a proposal to amend the Articles to eliminate the 20% Limitation by deleting it in its entirety from the Articles (''Proposed Amendment'').[2] Approval of the Proposed Amendment requires the affirmative vote at a special meeting (in person by ballot or by proxy) of the holders of not less than two-thirds of the total number of shares of Preferred Stock of all four Series, voting together as one class, and two-thirds of the Common Stock. Cinergy has informed CG&E that it will vote in favor of the Proposed Amendment. CG&E proposes to submit the Proposed Amendment for consideration and action at a special meeting of its stockholders to be held on or about September 18, 1996 (''Special Meeting'') and, in connection therewith, proposes to solicit proxies from the holders of its outstanding shares of Preferred Stock and Common Stock for use at the Special Meeting (''Proxy Solicitation'').[3] If the Proposed Amendment is adopted, CG&E will make a special cash payment of $1.00 per share (''Cash Payment'') to each preferred stockholder who voted (in person by ballot or by proxy) his or her shares of Preferred Stock (each a ''Share'') in favor of the Proposed Amendment (except that no Cash Payment will be made with respect to any Share validly tendered pursuant to the concurrent tender offer described below). All Cash Payments will be disbursed out of CG&E's general funds.

Concurrently with the commencement of the Proxy Solicitation by CG&E, and subject to the terms and conditions stated in an Offer to Purchase and Proxy Statement and accompanying Letters of Transmittal and Proxy (collectively ''Offer Documents''), Cinergy proposes to make an offer (''Tender Offer'') to acquire from the holders of the Preferred Stock of each Series any and all shares of that Series at respective cash purchase prices of $64 per Share, in the case of the 4% Series; $80 per Share, in the case of the 4¾% Series; $110 per Share, in the case of the 7⅜% Series; and $116 per Share, in the case of the 7⅞% Series (each, a ''Purchase Price'').[4] The Tender Offer will consist of separate offers for each of the four Series, with the offer for any one Series being independent of the offer for any other Series. Applicants anticipate that the Tender Offer will expire at 5:00 p.m. on the date of the Special Meeting, *i.e.*, on or about September 18, 1996 (''Expiration Date''), but it may be extended or terminated early under certain circumstances.[5] Tenders of Shares made pursuant to the Tender Offer may be withdrawn at any time prior to the Expiration Date. Thereafter, such tenders will be irrevocable, subject to certain exceptions identified in the Offer Documents. The Tender Offer will not be conditioned upon any minimum number of Shares of the applicable Series being tendered. However, Cinergy's obligation to proceed with the Tender Offer and to accept for payment and to pay for any Shares tendered will be subject to various conditions enumerated in the Offer Documents, including the receipt of Commission authorization under the Act to acquire the tendered Shares and the approval and adoption of the Proposed Amendment at the Special Meeting. Shares validly tendered will be held by Cinergy until the Expiration Date (or returned in the event the Tender Offer is terminated). Subject to the terms and conditions of the Offer Documents, as promptly as practicable after the Expiration Date, Cinergy will accept for a payment (and thereby purchase) and pay for the Shares validly tendered and not withdrawn.[6] Cinergy intends to use its general funds and/or funds borrowed pursuant to an existing credit agreement with a group of banks (see HCAR No. 26488, March 12, 1996) to pay for the tendered Shares. Smith Barney, Inc. and Morgan Stanley & Co., Inc. will act as dealer managers for Cinergy in connection with the Tender Offer.[7]

[2] CG&E states that it is seeking to eliminate the 20% Limitation because it impedes CG&E's ability to fully avail itself of the benefits of short-term debt in order to maintain financial flexibility and minimize its financing costs, and thus works to the detriment of CG&E's utility customers and, indirectly, Cinergy's investors. CG&E also states that it will be at a competitive disadvantage if the 20% Limitation is not removed because new competitors in the utility industry (such as power marketers, independent power producers and owners of cogeneration facilities) generally are not subject to similar financing restrictions in their organizational documents. CG&E notes that it recently received authorization from the Public Utilities Commission of Ohio (Order dated May 4, 1995 in Case No. 95–358 GE–AIS) to increase the maximum amount of short-term debt it is permitted to have outstanding at any one time from $200 million to $400 million. Because of the 20% Limitation, CG&E currently has available only approximately $150 million of unsecured debt capacity (short-term or otherwise), based on capitalization as of March 31, 1996. CG&E anticipates that any issuances or sales by it of unsecured debt following adoption of the Proposed Amendment will be exempt from section 9(a) of the Act by virtue of rule 52.

[3] CG&E has engaged MacKenzie Partners, Inc. to act as information agent in connection with the Proxy Solicitation for a fee of approximately $35,000 which includes reimbursement of reasonable out-of-pocket expenses.

[4] The Proxy Solicitation and Tender Offer will be effectuated by means of the same core document: a combined proxy statement and issuer tender offer statement filed under the Securities Exchange Act of 1934 (''Exchange Act'') and the applicable rules and regulations thereunder. Applicants state that they will comply fully will all requirements of the Exchange Act and the rules and regulations thereunder applicable to the Proxy Solicitation and Tender Offer, and acknowledge that any Commission authorization granted under the Act is conditioned upon such compliance. Applicants also state that the Tender Offer will satisfy the requirements of rule 51 under the Act.

[5] The Offer Documents provided that, at any time or from time to time, Cinergy may extend the Expiration Date applicable to any Series, without extending the Expiration Date for any other Series, by giving notice of such extension to the Bank of New York, which will act as depositary (''Depositary''). During any such extension, all Shares of the applicable Series previously tendered will remain subject to the Tender Offer, and may be withdrawn at any time prior to the Expiration Date as extended. Conversely, Cinergy may elect in its sole discretion to terminate the Tender Offer prior to the scheduled Expiration Date and not accept for payment and pay for Shares tendered, subject to applicable provisions of rule 13e–4 under the Exchange Act requiring Cinergy either to pay the consideration offered or to return the tendered Shares promptly after the termination or withdrawal of the Tender Offer, upon the occurrence of any of the conditions of closing enumerated in the Offer Documents, by giving notice of such termination to the Depositary and making a public announcement thereof. Subject to compliance with applicable law, Cinergy also reserves the right in the Offer Documents, in its sole discretion, to amend the Tender Offer in any respect by making a public announcement thereof. If Cinergy materially changes the terms of the Tender Offer or the information concerning the Tender Offer, or if it waives a material condition of the Tender Offer (such as the condition, mentioned below, that the Proposed Amendment be adopted at the Special Meeting), Cinergy will extend the Expiration Date to the extent required by the applicable provisions of rule 13e–4 under the Exchange Act.

[6] With respect to Shares validly tendered and accepted for payment by Cinergy, each tendering preferred stockholder will be entitled to receive as consideration from Cinergy only the applicable Purchase Price (which may reflect a premium over the current market price at the commencement of the Tender Offer). Any such holder will not be entitled to receive additional consideration in the form of a Cash Payment from CG&E with respect to such tendered Shares. The latter payment will be payable by CG&E solely in respect to Shares voted in favor of the Proposed Amendment by preferred stockholders at the Special Meeting, provided that (a) such Shares have not been tendered pursuant to the Tender Offer and (b) the Proposed Amendment is adopted at the Special Meeting. Preferred Stockholders who wish to tender their Shares pursuant to the Tender Offer are not required to vote in favor of the Proposed Amendment; however, the Tender Offer is conditioned upon the Proposed Amendment being adopted at the Special Meeting.

[7] Cinergy has agreed to pay the dealer managers a combined fee of $0.50 per Share for any Shares tendered, accepted for payment and paid for pursuant to the Tender Offer and to reimburse the dealer managers for their reasonable out-of-pocket expenses, including attorney's fees. In addition, Cinergy has agreed to pay soliciting brokers and dealers a separate fee of $1.50 per Share for any Shares tendered, accepted for payment and paid for pursuant to the Tender Offer (except that (a) in the case of transactions involving blocks of 5,000 or more tendered Shares, Cinergy will pay a

If the Proposed Amendment is adopted at the Special Meeting, promptly after consummation of the Tender Offer, Cinergy will make a capital contribution to CG&E of all Shares tendered to and acquired by Cinergy pursuant to the Tender Offer, and CG&E will thereupon retire and cancel such Shares.[8] If the Proposed Amendment is not adopted at the Special Meeting, Cinergy, subject to applicable law, may elect, but is not obligated, to waive adoption of the Proposed amendment as a condition to its obligation to proceed with the Tender Offer. In that case, as promptly as practicable after Cinergy's waiver of such condition and its purchase of the Shares validly tendered pursuant to the Tender Offer, CG&E (after requesting and receiving any additional Commission authorizations required under the Act) anticipates that it would call another special meeting of its common and preferred stockholders to solicit proxies therefrom for the same purpose as the instant proceeding (*i.e.*, to secure the requisite two-thirds affirmative vote of stockholders to amend the Articles to eliminate the 20% Limitation). At that meeting, Cinergy would vote any Shares acquired by it pursuant to the Tender Offer or otherwise[9] (as well as all of its shares of Common Stock) in favor of the Proposed Amendment. If the Proposed Amendment is adopted at that meeting, and in any event within one year of the Expiration Date (including any extension thereof), Cinergy will promptly after such meeting or at the expiration of such one-year period, as applicable, make a capital contribution to CG&E of all Shares held by Cinergy, and CG&E will thereupon retire and cancel such Shares.

It appears that the application-declaration, to the extent that it relates to the proposed Proxy Solicitation, should be granted and permitted to become effective forthwith pursuant to rule 62.

It is ordered, therefore, that the application-declaration, to the extent that it relates to the proposed Proxy Solicitation be, and it hereby is, granted and permitted to become effective forthwith pursuant to rule 62 and subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21608 Filed 8–23–96; 8:45 am]

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solicitation fee of $1.25 per Share, and (b) soliciting brokers and dealers will not be entitled to any solicitation fee with respect to tendered Shares accepted for payment as to which they are the beneficial owners). Cinergy expects to pay the Bank of New York a depositary fee of approximately $22,000.

[8] Applicants state that the contemplated capital contribution by Cinergy to CG&E of Shares acquired by Cinergy pursuant to the Tender Offer would be exempt from the requirements of section 12(b) and rule 45(a) pursuant to rule 45(b)(4).

[9] Following the Expiration Date and the consummation of the purchase of Shares pursuant to the Tender Offer, Cinergy may decide to purchase additional Shares on the open market, in privately negotiated transactions, through one or more tender offers or otherwise. Applicants state that Cinergy will not undertake any such transactions without first receiving any additional Commission authorizations required under the Act.

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 26, 1996.

An open meeting will be held on Wednesday, August 28, 1996, at 10:00 a.m. A closed meeting will be held on Thursday, August 29, 1996, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, of his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, August 28, 1996, at 10:00 a.m., will be:

The Commission will consider whether to approve the proposed Order Execution Obligations Rules published for comment in October 1995. The Order Execution Obligations Rules included proposed amendments to Rule 11Ac1–1 (Quote Rule), proposed Rule 11Ac1–4 (Limit Order Display Rule), and proposed Rule 11Ac1–5 (Price Improvement Rule). These proposed amendments and rules were designed to improve the handling and execution of customer orders, and to publicize prices of customer limit orders and orders entered in electronic communications networks that allow exchange specialists and over-the-counter market makers to trade at prices that are superior to their public quotes. For further information, please contact Gail Marshall, Division of Market Regulation, at (202) 942–7129.

The subject matter of the closed meeting scheduled for Thursday, August 29, 1996, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: August 21, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–21817 Filed 8–22–96; 12:40 pm]

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[Release No. 34–37581; File No. SR–BSE–96–05]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Its Specialist Performance Evaluation Program

August 19, 1996.

I. Introduction

On June 11, 1996, to Boston Stock Exchange, Inc. (''BSE'' 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 Specialist Performance Evaluation Program (''SPEP'').[3] On June

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The SEC initially approved the BSE's SPEP pilot program in Securities Exchange Act Release No. 22993 (March 10, 1986), 51 FR 8298 (March 14, 1986) (File No. SR–BSE–84–04). The SEC subsequently extended the pilot program in Securities Exchange Act Release Nos. 26162 (October 6, 1988), 53 FR 40301 (October 14, 1988) (File No. SR–BSE–87–06); 27656 (January 30, 1990), 55 FR 4296 (February 7, 1990) (File No. SR–BSE–90–01); 28919 (February 26, 1991), 56 FR 9990 (March 8, 1991) (File No. SR–BSE–91–01); and 30401 (February 24, 1992), 57 FR 7413 (March 2, 1992) (File No. SR–BSE–92–01). The BSE was permitted to incorporate objective measures of specialist performance into its pilot program in Securities Exchange Act Release No. 31890 (February 19, 1993), 58 FR 11647 (February 26, 1993) (File No. SR–BSE–92–04); at which point the initial pilot program ceased to exist as a separate program. The current pilot program was

Continued

11, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[4]

The proposed rule change, and Amendment No. 1 thereto, was published for comment in Securities Exchange Act Release No. 37308 (June 12, 1996), 61 FR 31573 (June 20, 1996). No comments were received on the proposal. This order approves the proposed rule change, including Amendment No. 1.

II. Description

A. Background

The BSE's SPEP utilizes the BEACON system [5] to assess how well a specialist handles market and marketable limit orders routed to him or her for execution. For each specialist, a record of all action on these orders is accumulated in a separate file from which four calculations are run.

First, Turnaround Time measures the average number of seconds from the receipt of a guaranteed market or marketable limit order (*i.e.*, for 1299 shares or less) in BEACON until it is executed (in whole or in part), stopped or cancelled. An order that is moved from the auto-ex screen to the manual screen will accumulate time until executed, partially executed, stopped or cancelled.[6]

Second, Holding Orders Without Action measures the number of market and marketable limit orders (all sizes included) [7] that are held without action for greater than 25 seconds. As in the Turnaround Time calculation, a stop, cancellation, execution or partial execution stops the clock. The same exclusions which apply in the Turnaround Time calculation also apply here.

Third, Trading Between the Quote measures the number of market and marketable limit orders that are executed between the best consolidated bid and offer where the spread is greater than one-eighth.

Fourth, Executions in Size Greater Than BBO measures the number of market and marketable limit orders which exceed, and are executed in a size larger than, best consolidated bid or offer size.

For each of these four objective measures, and the Specialist Performance Evaluation Questionnaire, a 10 point scale is applied to a range of scores. Based on the raw score for each measure, the respective specialist receives an associated score between one and 10 points, which is weighted for each measure as follows: Turnaround Time (15%); Holding Orders Without Action (15%); Trading Between the Quote (25%); Executions in Size Greater Than BBO (25%); and Questionnaire (20%).

Any specialist who is deficient [8] in any one of the objective measures for two out of three consecutive review periods will be required to appear before the Performance Improvement Action Committee (''PIAC'') to discuss ways of improving performance. If performance does not improve in the subsequent period, the specialist will appear before the Market Performance Committee (''MPC'') for appropriate action, as described below.[9]

Any specialist who falls below the threshold level for the overall evaluation program for two of three consecutive review periods will be required to appear before the MPC, which will take action to address the deficient performance as provided for in the Supplemental Material to the SPEP.[10] A specialist who is ranked in the bottom 10% of the overall evaluation program but who is above the threshold level for the overall program will be subject to staff review to determine if there is sufficient reason to warrant informing the PIAC of potential performance problems.

Due to the subjectiveness of the questionnaire, a specialist who is deficient on the questionnaire alone will be subject to review by Exchange staff to determine if there is sufficient reason to warrant informing the PIAC of potential performance problems. However, a deficient score on the questionnaire may result in a performance improvement action when it lowers the overall program score below 5.80.

The Exchange has set thresholds at which a specialist will have been deemed to have adequately performed overall, and with regard to each measure, on the SPEP: Overall Evaluation Score—at or above weighted score of 5.80; Turnaround Time—below 21 seconds (8 points); Holding Orders Without Action—below 21% (7 points); Trading Between the Quote—at or above 26.0% (5 points); Executions in Size Greater Than BBO—at or above 76% (6 points); and Questionnaire—at or above weighted score of 50.0 (4 points).[11]

B. Proposed Rule Change

The purpose of the proposed rule change is to modify the threshold levels and weights of the current SPEP measures, as well as the review standards applicable under the SPEP. The Exchange has determined that the following modifications should be made as a result of its continuous monitoring of the current SPEP standards:

(1) The Trading Between the Quote threshold level, currently at 26.0, should be raised to 31.0;

(2) Executions in Size Greater Than BBO threshold level, currently at 76.0, should be raised to 81.0;

(3) The Turnaround Time program weight, currently at 15%, should be increased to 20%;

(4) The Holding Orders Without Action program weight, currently at 15%, should be decreased to 5%;

(5) The Trading Between the Quote program weight, currently at 25%, should be increased to 35%;

(6) The Executions in Size Greater Than BBO program weight, currently at 25%, should be increased to 35%;

(7) The Questionnaire program weight, currently at 20%, should be decreased to 5%;

(8) The standard for PIAC review for substandard performance in any one objective measure, currently set at two out of three consecutive review periods,

subsequently extended in Securities Exchange Act Release Nos. 33341 (December 15, 1993), 58 FR 67875 (December 22, 1993) (File No. SR–BSE–93–16); 35187 (December 30, 1994), 60 FR 2406 (January 9, 1995) (File No. SR–BSE–94–12); and 36668 (January 2, 1996), 61 FR 672 (January 9, 1996) (File No. SR–BSE–95–16) (''January 1996 Approval Order''). SEC approval of the current pilot program expires on Decembesr 31, 1996.

[4] *See* Letter from Karen Aluise, Assistant Vice President, BSE, to Sharon Lawson, Senior Special Counsel, SEC, dated June 11, 1996 (''Amendment No. 1''). Amendment No. 1 corrected typographical errors in the original filing and added a proposal to raise the overall score at which a specialist will be deemed to have adequately performed from 5.80 to 6.70 in order to account for the proposed changes to the threshold levels and weights.

[5] BEACON is the BSE's automated order-routing and execution system. BEACON provides a guarantee of execution for market and marketable limit orders up to and including 1,299 shares. In addition, BEACON can be used to transmit orders not subject to automatic execution. *See* BSE Rules, Ch. XXXIII, ¶¶ 2654–55.

[6] This calculation will not be in effect until the stock has opened on the primary market. Certain situations, such as trading halts and periods where the BEACON system is off auto-ex floorwide, will result in blocks of time being excluded from the calculation.

[7] Unlike Turnaround Time, Holding Orders Without Action is not limited to those orders guaranteed automatic execution through BEACON.

[8] A specialist is deficient in any measure if he or she scores below the minimum adequate performance thresholds set forth below. *See infra* text accompanying note 11.

[9] In the event a specialist's performance does not improve, the Supplemental Material to the SPEP authorizes the MPC to take the following actions: suspending the specialist's trading account privilege, suspending his or her alternate specialist account privilege, or reallocating his or her specialty stocks. *See* BSE Rules, Ch. XV, ¶ 2156.10–2156.60.

[10] *See supra* note 9.

[11] A specialist who receives a score that is below a minimum adequate performance threshold will be deemed to be deficient in that measure. *See supra* note 8.

will be changed to the first instance of substandard performance;

(9) The standard for MPC review for substandard performance in any one objective measure, currently set at three out of four consecutive review periods, will be changed to two out of three consecutive review periods;

(10) The standard for MPC review for substandard performance on the overall program, currently set at two out of three consecutive review periods, will be changed to the first instance of substandard performance; and

(11) The Overall Program score, currently at 5.80, should be increased to 6.70 to account for the proposed changes to the threshold levels and weights.

Under the proposal, the current threshold levels for Turnaround Time, Holding Orders Without Action and the Questionnaire, as well as the staff review standards, will remain unchanged. The Exchange believes that these modifications will enhance the SPEP by providing more appropriate threshold levels when overall performance has improved beyond the current limits, more effective measure weightings which reflect the industry's current market quality focus, and a more realistic approach to committee review in view of the timeframe required to address substandard performance.[12]

III. Discussion

The Commission believes that specialists play a crucial role in providing stability, liquidity, and continuity to the trading of stocks. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules promulgated thereunder, is the maintenance of fair and orderly markets in their designated securities.[13] To ensure that specialists fulfill these obligations, it is important that the Exchange conduct effective oversight of their performance. The BSE's SPEP is critical to this oversight. In addition, the Commission notes that the SPEP weighs heavily in the BSE's stock allocation decisions, and believes that performance based stock allocations help to ensure that stocks are allocated to specialists who will make the best markets.

In its January 1996 Approval Order extending the SPEP pilot for an additional one-year period, until December 31, 1996,[14] the Commission set forth its concerns with the current program. First, the Commission stated that it expected the BSE to evaluate the incorporation of additional objective criteria into the SPEP, so that the Exchange can conduct a thorough analysis of specialist performance.[15] The Commission also requested that the Exchange assess whether each measure is assigned an appropriate weight, and conduct an ongoing examination of its minimum adequate performance levels to insure that performance thresholds are set at appropriate levels. In addition, the Commission advised the Exchange to closely monitor the conditions for committee review and take steps to ensure that all specialists whose performance is deficient or diverges widely from the best units will be subject to meaningful review.[16] The Commission finds that the proposed rule change is a positive step forward with regard to a number of these concerns. Specifically, the proposal modifies the appropriate weights and thresholds to be assigned to each measure and the conditions for committee review for substandard specialist performance.

In connection with the respective weights assigned to each measure, the Commission has recommended that because of the substantial overlap between Turnaround Time and Holding Orders Without Action, the BSE should consider having only one measure in this category (*i.e.*, timeliness of executions), or reduce the weights of the existing measures, which together account for 30% of the current SPEP. The Commission believes that the proposal is a positive step in this direction, as it decreases the weight assigned to these two categories from 30% to 25% of the overall program. Moreover, the decrease in the combined weight of these two categories, as well as the weight of the Questionnaire, has enabled the Exchange to increase the weight of each of the other objective criteria, Trading Between the Quote and Executions in Size Greater Than BBO, from 25% to 35% of the SPEP. The Commission believes that the increase in the weights of these measures is appropriate in the context of the current program, in that these measures have been useful in identifying how well specialists carry out certain aspects (*i.e.*, price improvement and market depth) of their responsibilities as specialists.[17]

In reviewing the BSE's experience with its minimum adequate performance thresholds, the Commission has noted that although it appears that these standards have been helpful in identifying some specialists with potential performance problems, as well as providing an incentive for improved market making performance, the acceptable levels of performance have not been revised since the inception of the pilot. The proposal makes such revisions, in that it increases the threshold level for adequate performance both with regard to the overall program and particular measures. Specifically, the overall threshold program score is being increased from 5.80 to 6.70, while the threshold level of Trading Between the Quote is being increased from 26.0 to 31.0 and Executions in Size Greater Than BBO from 76.0 to 81.0. The Commission believes that these changes are appropriate given that they will provide a higher benchmark for acceptable specialist performance on the Exchange. This, in turn, should benefit the execution of public orders on the BSE and further the protection of investors.

The Commission has also requested that the BSE closely monitor the conditions for review and take steps to ensure that all specialists whose performance is deficient and/or diverges widely from the best units will be subject to meaningful review. The Commission believes that the proposed rule change makes significant progress in this regard, as it tightens the standards for committee review for substandard specialist performance both in the overall program and in individual measures.[18] Under the proposal, the

[12] In its proposed rule change, the Exchange stated that it is currently reviewing additional market quality statistics in an effort to develop other measures of performance for inclusion in the SPEP, and hopes to file for additional modifications to the program in the near future.

[13] Rule 11b–1, 17 CFR 240.11b–1; BSE Rules Ch. XV, ¶ 2155.01.

[14] The Commission notes that while the proposed rule change modifies certain aspects of the current SPEP, the Exchange remains obligated to submit by September 16, 1996 a report describing its experience with the pilot, in addition to any requests to further modify it, to extend its effectiveness or to seek permanent approval for the SPEP. *See* January 1996 Approval Order, *supra* note 3.

[15] For example, the Commission has stated that the BSE could develop additional measures of market depth, such as how often the specialist's quote exceeds 500 shares or how often the BSE quote, in size, is larger than the best consolidated bid or offer (excluding quotes for 100 shares). Another possible objective criteria could measure quote performance (*i.e.*, how often the BSE specialist's quote, in price, is alone at or tied with the BBO).

[16] In this regard, the Commission stated that in its opinion, a meaningful review process would ensure that adequate corrective actions are taken with regard to each deficient specialist.

[17] The Commission continues to believe that objective measures together with a floor broker questionnaire, should generate sufficiently detailed information to enable the Exchange to make accurate assessments of specialist performance.

[18] The Commission continues to believe that relative performance rankings that subject the bottom 10% of all specialist units to mandatory review by an Exchange committee are an important part of an effective evaluation program.

criteria for PIAC review for substandard performance in any one objective measure, currently set at two out of three consecutive review periods, is being reduced to any one review period of substandard performance. The criteria for MPC review of substandard performance in any one objective measure, currently set at three out of four review periods, is being changed to two out of three consecutive review periods of substandard performance, while MPC review for substandard overall performance, currently set at two out of three review periods, is being changed to any one review period of substandard performance. The Commission believes that as the proposal increases the possibility of the institution of a performance improvement action as a result of substandard performance, it should help motivate and provide an incentive for specialists to maintain high levels of market making performance. In addition, the changes should help the Exchange to identify earlier those specialists needing help or guidance in improving their performance either overall or in a particular area.

In conclusion, although the Commission believes that the proposed modifications will increase the effectiveness of the BSE's SPEP, the Exchange should continue to evaluate means to strengthen its performance oversight program, with an emphasis on incorporating additional objective measures and including competing specialist activity into the SPEP.[19]

For the reasons discussed above, the Commission finds that the BSE's proposal to modify its SPEP pilot program is consistent with the requirements of Sections 6 and 11 of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)[20] requirement 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, and, in general, to protect investors and the public interest.

Further, the Commission finds that the proposal is consistent with Section 11(b) of the Act[21] and Rule 11b–1 thereunder which allow securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets and to remove impediments to and perfect the mechanism of a national market system.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–BSE–96–05) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21606 Filed 8–23–96; 8:45 am]

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[19] In this regard, the Commission notes the Exchange's proposed rule change states that it is currently engaged in an effort to develop other measures of performance for inclusion in the SPEP, and hopes to file for additional modifications to the program in the near future. Moreover, in connection with the permanent approval of the BSE's Competing Specialist Initiative, the Exchange represented that it was in the process of revising its SPEP standards to include competing specialist activity as well as other market quality initiatives and planned on submitting rule amendments during the current extension of the SPEP pilot. *See* Letter from John I. Fitzgerald, Executive Vice President, BSE, to Howard Kramer, Associate Director, SEC, dated February 29, 1996.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78k(b).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

[Release No. 34–37582; File No. SR–NSCC–96–14]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding the Use of Letters of Credit as Clearing Fund Collateral

August 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] notice is hereby given that on July 25, 1996, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. 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

With the proposed rule change, NSCC is seeking permanent approval of certain clearing fund contributions requirements.

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On January 31, 1990, the Commission approved on a temporary basis a proposed rule change filed by NSCC which modified the amount of a member's clearing fund required deposit that may be collateralized by letters of credit.[3] Specifically, the rule change increased the minimum cash contribution for those members which use letters of credit to collateralize their open account indebtedness from $50,000 to the greater of $50,000 or 10% of their clearing fund required deposit up to a maximum of $1,000,000. In addition, the rule change provided that only 70% of a member's required deposit may be collateralized with letters of credit. The rule change also added headings to the clearing fund formula section for clarity and made other non substantive drafting changes. The goal of the rule change was to increase the cash liquidity of the clearing fund and to limit NSCC's exposure to any unusual risk from the reliance on letters of credit. When NSCC first filed this change the intent was to improve NSCC's liquidity resources by requiring additional deposits of cash and cash equivalents. Since that time NSCC has obtained additional liquidity resources through a line of credit with three major New York clearing house banks. Currently, NSCC has a four hundred million dollar line of credit

[2] The Commission has modified parts of these statements.

[3] The proposed rule change was originally filed on October 27, 1989, and was approved temporarily through December 31, 1990. Securities Exchange Act Release No. 27664 (January 31, 1990), 55 FR 4297 [File No. SR–NSCC–89–16]. Subsequently, the Commission granted a number of extensions to the temporary approval to allow the Commission and NSCC sufficient time to review and to assess the use of letters of credit as clearing fund collateral. Most recently, the Commission extended temporary approval through September 30, 1996. Securities Exchange Act Release No. 36360 (October 11, 1995), 60 FR 53945 [File No. SR–NSCC–95–12].

that can be used for liquidity purposes, and letters of credit in the NSCC clearing fund are available as collateral for this line of credit. As of June 28, 1996, NSCS's clearing fund had a total value of $769,062,580 and consisted of approximately 39.4% cash, approximately 29.2% qualifying securities, and approximately 31.4% letters of credit. Of NSCC's 379 members with clearing fund deposits, fifty-two members use letters of credit to collateralize a portion of their clearing fund required deposit. Only one member's use of a letter of credit reaches the maximum permissible portion of its clearing fund required deposit. Since NSCC began accepting letters of credit for clearing fund purposes, NSCC has never drawn on a member's letter of credit for any reason. NSCC believes that it has adequate liquidity resources and requests permanent approval of the change limiting letters of credit use to no more than 70% of the member's deposit.

Because the proposed rule change relates to NSCC's capacity to safeguard securities and funds in its custody or control and to protect the public interest, it is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been received since the last filing. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written 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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–96–14 and should be submitted by September 16, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21604 Filed 8–23–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37583; File No. SR–PSE–96–25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Listing and Trading of FLEX Equity Options

August 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 August 16, 1996, the Pacific Stock Exchange, Inc. (''PSE'' 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules respecting the listing and trading of FLEX Equity Options in order to add a provision on the formation of contracts that was inadvertently omitted from the original proposal. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On February 14, 1996, the Commission approved an Exchange proposal to establish rules on the listing and trading of FLEX Equity Options on the Exchange.[3] The Exchange is now proposing to amend those rules in order to add a section on the formation of contracts that was inadvertently omitted from the proposal as filed with the Commission.[4] The Exchange notes that the proposed addition is consistent with Rule 24A.5(c)(iii) of the Chicago Board Options Exchange, Incorporated.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of

[3] *See* Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996) (File No. SR–PSE–95–24).

[4] The Exchange proposes to add the following text to Rule 8.103(c):

''If the Submitting Member has indicated an intention to cross or act as principal with respect to any part of the FLEX trade, acceptance of the displayed BBO shall be automatically delayed until the expiration of the BBO Improvement Interval. Prior to the BBO Improvement Interval, the Submitting Member must indicate at the post the price at which the member expects to trade. In these circumstances, the Submitting Member may participate with all other FLEX-participating members in attempting to improve or match the BBO during the BBO Improvement Interval. At the expiration of the BBO Improvement Interval, the Submitting Member must promptly accept or reject the BBO(s).''

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

The Exchange 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 proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden of competition; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for 30 days from August 16, 1996, the rule change proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposal qualifies as a ''noncontroversial filing'' in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to SR–PSE–96–25 and should be submitted by September 16, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–21607 Filed 8–23–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0566]

Walden Capital Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On April 4, 1994, a ''Track 2'' application was filed by Walden Capital Partners, L.P., at 150 East 58th Street, 34th Floor, New York, New York 10155, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the revised ''Track 1'' application and all other pertinent information, SBA issued License No. 02/72–0566 on Friday, July 26, 1996, to Walden Capital Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 20, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–21619 Filed 8–23–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2880; Amendment #1]

Illinois; Declaration of Disaster Loan Area

In accordance with a notice from the Federal Emergency Management Agency, effective August 8, 1996, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on July 17, 1996 and continuing through August 7, 1996.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 23, 1996, and for loans for economic injury the deadline is April 25, 1997.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: August 16, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–21588 Filed 8–23–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2875; Amendment #3]

North Carolina; Declaration of Disaster Loan Area

In accordance with a notice from the Federal Emergency Management Agency, effective August 14, 1996, the above-numbered Declaration is hereby amended to include Columbus County in the State of North Carolina as a disaster area due to damages caused by severe storms, high wind, flooding, and related effects of Hurricane Bertha which occurred July 10–13, 1996.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Dillon, South Carolina may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 16, 1996, and for loans for economic injury the deadline is April 18, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 16, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–21586 Filed 8–23–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2889]

West Virginia; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on August 14, 1996, I find that Barbour, Braxton, Clay, Cabell, Gilmer, Monongalia, Nicholas, Randolph, Upshur, and Webster Counties in the State of West Virginia

constitute a disaster area due to damages caused by heavy rains, high winds, flooding and slides which occurred July 18–31, 1996. Applications for loans for physical damages may be filed until the close of business on October 12, 1996, and for loans for economic injury until the close of business on May 14, 1997 at the address listed below:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Calhoun, Doddridge, Fayette, Grant, Greenbrier, Harrison, Kanawha, Lewis, Lincoln, Marion, Mason, Pendleton, Pocahontas, Preston, Putnam, Ritchie, Roane, Taylor, Tucker, Wayne, and Wetzel Counties in West Virginia; Gallia and Lawrence Counties in Ohio; and Fayette and Greene Counties in Pennsylvania.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.625
Homeowners Without Credit Available Elsewhere	3.875
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 288906. For economic injury the numbers are 899200 for West Virginia; 899300 for Ohio; and 899400 for Pennsylvania.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 16, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–21587 Filed 8–23–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 8/16/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1643
Date filed: August 14, 1996
Parties: Members of the International Air Transport Association
Subject:
PTC12 Telex Mail Vote 822
Mid Atlantic-Europe Resos
r 1–070r r 2–07w r 3–070x r 4–074aa
PTC12 Telex Mail Vote 823
South Atlantic-Europe Resos
r 5–071y r 6–076w
PTC2 Telex Mail Vote 824
Yemen-Europe Reso
r 7–010y
Intended effective date: September 1/ October 1, 1996

Docket Number: OST–96–1653
Date filed: August 16, 1996
Parties: Members of the International Air Transport Association
Subject:
PTC12 CAN-EUR 0001 dated August 9, 1996
Canada-Europe expedited resos r1–8
Intended effective date: October 1, 1996

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–21739 Filed 8–23–96; 8:45 am]

BILLING CODE 4190–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending August 16, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1642.
Date filed: August 13, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 10, 1996.

Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. Sections 41108 and 41102 and Subpart Q of the Department's Rules of Practice, applies for a certificate of public convenience and necessity authorizing Continental to provide scheduled foreign air transportation of persons, property and mail between Cleveland, Ohio and London, England.

Docket Number: OST–96–1648.
Date filed: August 14, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 11, 1996.

Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. Section 41108 and Subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of persons, property and mail between a point or points in the United States and a point or points in the United Kingdom, excluding London's Heathrow and Gatwick airports. Continental also requests the right to combine service at the points on this route segment with service at other points Continental is authorized to serve by certificates or exemptions, consistent with applicable international agreements.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–21738 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–62–P

Office of the Secretary

[Docket OST–96–1211]

Application of Pan American Airways, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 96–8–25).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Pan American Airways, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than September 4, 1996.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–96–1211 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590 and

should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–2340.

Dated: August 20, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–21643 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD 96–037]

Annual Certification of Prince William Sound Regional Citizens' Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, the Coast Guard may certify, on an annual basis, a voluntary advisory group instead of a Regional Citizens' Advisory Council for Prince William Sound, Alaska. This certification allows the advisory group to monitor the activities of terminal facilities and crude-oil tankers under the Prince William Sound Program established by the statute. The purpose of this notice is to inform the public that the Coast Guard has recertified the alternative voluntary advisory group for Prince William Sound, Alaska.

EFFECTIVE DATE: July 1, 1996, through June 30, 1997.

FOR FURTHER INFORMATION CONTACT: LCDR Peter A. Jensen, Project Manager, Port and Environmentals Management Division (G–MOR–1), (202) 267–6134, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION: As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), 33 U.S.C. 2732, to foster the long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of terminal facilities and crude-oil tankers.

Section 2732(o) permits an alternative voluntary advisory group to represent the communities and interests in the vicinity of the terminal facilities in Prince William Sound, instead of a council of the type specified in subsection 2732(d), if certain conditions are met. The Act requires that the group enter into a contract to ensure annual funding, and that it receive annual certification by the President to the effect that it fosters the general goals and purposes of the Act and is broadly representative of the community and interests in the vicinity of the terminal facilities. Accordingly, in 1991, the President granted certification to the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). The authority to certify alternative advisory groups was subsequently delegated to the Commandant of the Coast Guard, and redelegated to the Chief, Marine Safety and Environmental Protection.

On April 30, 1996, in the Federal Register, the Coast Guard announced the availability of the application for recertification that it received from the RCAC and requested comments (61 FR 19110). Sixteen comments were received.

Discusion of Comments

Although all of the comments received by the Coast Guard supported recertification of the PWSRCAC, three of them provided constructive criticism of PWSRCAC operations. One of the comments questioned the support provided by some Council members to certain parties opposing the Prince William Sound shipper contingency plans which were imposed by the Alaska Department of Environmental Conservation. The commentator emphasized that PWSRCAC's role is that of an advisor speaking with one voice and not individuals advocating their own interests. A second comment expressed the need for PWSRCAC to ensure greater participation by two local Native villages. The final comment objected to an increase in PWSRCAC's budget unless expenditures were more fully justified. It is the Coast Guard's position that those comments can be addressed successfully by PWSRCAC and has forwarded them to PWSRCAC for their review, consideration for what is necessary to resolve the issues, and to provide their response to the commentator and the Coast Guard. Therefore, since none of the comments received opposed the recertification, the Coast Guard has determined that recertification of the RCAC in accordance with the Act is appropriate.

Recertification: By letter dated July 3, 1996, the Chief, Marine Safety and Environmental Protection certified that the RCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on June 30, 1997.

Dated: August 14, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Marine Safety and Environmental Protection.

[FR Doc. 96–21737 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 95–015]

Limited Service Domestic Voyage Load Lines for Certain River Barges on Lake Michigan

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard is amending its policy regarding the limited service domestic voyage load line routes for unmanned, river-service, dry-cargo barges operating on Lake Michigan between Chicago (Calumet Harbor), Illinois and Milwaukee, Wisconsin, and between Chicago and St. Joseph, Michigan. This notice also extends the Chicago/St. Joseph route further north to Muskegon, Michigan. Public comments on this action are solicited.

DATES: The exemption is effective August 26, 1996. Comments must be received on or before November 25, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–015), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this notice (CGD 95–015). Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Jordan, Office of Marine Safety and Environmental Protection (G–MSE–2), U.S. Coast Guard Headquarters, Room 1308. The telephone number is (202) 267–2988.

SUPPLEMENTARY INFORMATION:

Background

Prior to the establishment of limited service domestic voyage load line routes on Lake Michigan, cargoes originating at inland river ports and destined for Lake Michigan ports had to be either transported overland or, if transported

by water, had to be transshipped at Chicago (Calumet Harbor) from river barges to larger vessels with Great Lakes load lines.

In January, 1991, the Port of Milwaukee approached the Coast Guard to explore the feasibility of establishing a relaxed domestic load line that would allow river barges to operate along the western shore of Lake Michigan between Chicago and Milwaukee. Later that year, a barge company made similar request for an eastern Lake Michigan route between Chicago and Muskegon, MI. The motivation for these route requests was economic: river barges offer relatively low coasts per ton-mile to move cargo. These routes would not only allow cargoes to be delivered to the Lake ports less expensively, but could also stimulate more economic activity in the port regions.

However, because river barges are not designed to operate in the severe weather conditions experienced on the Great Lakes, it was recognized that such barges could only operate on Lake Michigan during fair weather periods and only on carefully-selected routes. This entailed a study of weather conditions and available ports of refuge along the proposed routes. The American Bureau of Shipping (ABS), the Coast Guard, and industry worked together on this issue to determine the appropriate operational restrictions and other requirements that would allow river barges to safely venture onto Lake Michigan.

On September 21, 1992, the Coast Guard published a notice in the Federal Register (57 FR 43479) that established a limited service domestic load line route on western Lake Michigan between Chicago, IL (Calumet Harbor) and Milwaukee, WI. River barges operating on the route must have a limited service domestic voyage load line assignment and comply with certain operating restrictions and conditions. Among the restrictions are:

—Only dry, non-hazardous cargoes may be carried;
—Minimum barge freeboards are stipulated;
—The tow is limited to no more than three barges;
—The towing vessel must have adequate power for the tow, but not less than 1,000 horsepower;
—The tow must be within five miles of shore; and
—The voyage can not be undertaken (or must be broken off) if specified weather conditions are exceeded.

The Coast Guard's safety concerns were satisfied in three ways:

(1) the barges are required to have a load line assignment, which subjects them to periodic surveys by ABS. This ensures that they are structurally inspected and maintained in proper condition;

(2) along the route are several ports of refuge where that tow can quickly reach shelter if weather conditions on the Lake should deteriorate; and

(3) the barges can only carry dry, non-hazardous cargoes. This substantially reduces the risk of environmental damage in the event a barge is lost.

On March 31, 1995, the Coast Guard published a second related notice in the Federal Register (60 FR 16693), announcing establishment of another limited service route, this one along the eastern side of Lake Michigan between Chicago (Calumet Harbor) and St. Joseph, MI (Benton Harbor). Because of the prevailing weather patterns on that side of Lake Michigan, the limiting wind conditions for the new eastern route are different from the western (Chicago/Milwaukee) route; otherwise, the requirements are the same for both routes. In addition to establishing the new eastern route, the second notice also imposed a new requirement for both routes: that the lead barge in the tow must be rake-ended (as opposed to box-ended). The notice also allows the initial load line survey of barges less than 10 years old to be conducted afloat, and prohibits cargo movements between ports on the two different routes without first entering the river system at Calumet Harbor.

On September 28, 1995, the Coast Guard published a third related notice in the Federal Register (60 FR 50234) which revoked the rake-ended barge requirement that had been imposed by the second notice.

Extension of the Chicago/St. Joseph Route to Muskegon, MI

Extending the route from St. Joseph to Muskegon required some special considerations, principally because the ports of refuge are further apart. The Coast Guard, ABS and local barge industry representatives have satisfactorily worked out some additional operational requirements to resolve this problem. These are discussed as follows:

Propulsion power requirements: the towing vessel must have a minimum horsepower of 1,500 HP (compared to the 1,000 HP minimum for the other routes). This extra horsepower will provide a margin of speed and barge-handling capability.

Equipment requirements: the towing vessel must be equipped with two communication systems (such as radio and cellular phone). It also must be equipped with emergency towline cutting equipment.

Operational plan: an operational plan must be carried aboard the towing vessel for ready reference by the master. The operational plan must include the operational requirements and restrictions of this notice, the pre-departure inspection and verification requirements, the names and phone numbers of docking/mooring facilities in the ports of refuge, and the names and phone numbers of towing companies that can render assistance to the tow if needed.

Annual Review

The Coast Guard's principal concerns when establishing these special routes have been for the safety of crew and vessel, and protections of the environment. In 3½ years of operation to date, there have been no casualties.

To ensure a continuing safety record, each year the Coast Guard will review the program with the towing industry and ABS to determine if any revisions are necessary.

The Coast Guard may also, at any time, modify, suspend, or even terminate the exemption provisions if warranted by unusual or unexpected circumstances.

Environmental Protection

Protection of the Great Lakes environment from the consequences of a lost barge or its cargo has been an important consideration of the Coast Guard from the beginning of this program. For that reason, cargoes on these barges are limited to dry, non-hazardous materials. Liquid cargoes, even in drums, are not permitted. Therefore, the risk of environmental damage in the event of a lost barge or cargo is substantially reduced.

Comments to Previous Notices

Most comments in response to the previous notices on this action were supportive, principally because of its economic benefits. Several comments also discussed various safety aspects of river barges operating on the Great Lakes (structural adequacy, surveys, effects or cargo shifting, weather conditions, operating in ice conditions, make up of tow, and ports of refuge) and protection of the environment. These comments contributed substantially in shaping the final requirements for the limited service routes.

Changes in this Notice From Previous Notices

In general, this notice incorporates the same requirements established by the earlier notices. Previously, however,

requirements applicable to ABS were mixed in with requirements applicable to towing vessel masters. In this notice, the requirements have been rearranged into more-appropriate groupings. For example, requirements that are specifically applicable to ABS are grouped in Section 2, ''Conditions of Assignment,'' and requirements that are specifically applicable to towing vessel masters are in Section 3, ''General Operating Requirements'' and Section 4, ''Additional Requirements for Tows Between St. Joseph, MI, and Muskegon, MI.''

Also, in some instances language has been added to make certain requirements explicitly clear. For example, the previous notices did not specifically state that the towing vessel master was responsible for compliance with the operational restrictions and requirements. Similarly, the previous notices did not state that the term of the load line certificate is five years, even though this has been the practice all along.

Section 4 presents the new requirements associated with the extended route to Muskegon. These requirements were developed jointly by the Coast Guard, ABS, and towing industry.

Comment Period

The Coast Guard is allowing 90 days for public comment on this present notice, and may amend this exemption based on comments received.

The Coast Guard ultimately plans for these limited service domestic voyage load line routes to be incorporated in 46 CFR part 45, subpart E (after existing § 45.177) once sufficient experience has been gained. To support this future rulemaking action, specific comments are solicited concerning the environmental and economic aspects of these limited service routes.

For the reasons set out above the Coast Guard, under 46 U.S.C. chapter 51 and 46 CFR part 45, amends the exemption announced in the Federal Register notice of March 31, 1995 (60 FR 16693), as amended by the notice of September 28, 1995 (60 FR 50234) as follows:

Notice of Exemption: Limited Service Domestic Voyage Load Line Routes on Lake Michigan; Chicago, IL, to Milwaukee, WI, and Chicago, IL, to Muskegon, MI

Section 1. General

(a) An unmanned river service dry cargo barge operating on certain Lake Michigan routes may be exempted from the Great Lakes load line requirements of 46 CFR part 45 provided instead that it is issued a limited service domestic voyage load line certificate in accordance with the requirements of this notice of exemption.

(b) This notice of exemption supersedes the notice published in the Federal Register on March 31, 1995 (60 FR 16693), as amended by the notice of September 28, 1995 (60 FR 50234).

(c) The American Bureau of Shipping (ABS Americas) is hereby authorized to issue limited service domestic load line certificates to barges meeting the requirements of this notice.

(d) Towing vessel masters are responsible for complying with the operational restrictions and requirements of this notice.

(e) Load line certificates issued under this notice are valid for both the Chicago/Milwaukee and the Chicago/Muskegon routes described herein. Certificates issued under previous notices which only list the Milwaukee and/or St. Joseph route(s) may be amended upon written request to ABS Americas.

Section 2. Conditions of Assignment

A barge that meets the following requirements may be issued a Limited Service Domestic Voyage Load Line Certificate by the American Bureau of Shipping (ABS):

(a) Only unmanned, river service, dry cargo barges may be issued this certificate.

(b) The barge must be built and maintained to the minimum scantlings of the ABS River Rules in effect at the time of construction. ABS must be provided with evidence of compliance with the River Rules.

(c) The certificate must limit barge operations to two routes on Lake Michigan: between Calumet Harbor (Chicago), Illinois and Milwaukee, Wisconsin; and between Calumet Harbor and Muskegon, Michigan.

(d) Except in accordance with paragraph (i)(6) below, the term of the certificate is five years.

(e) The operational restrictions and requirements per Sections 2 and 3 of this notice must appear on the certificate.

(f) The barge length-to-depth ratio cannot exceed 22.

(g) The freeboard assigned to the barge must be at least 24 inches (610 millimeters). For an open hopper barge, the freeboard combined with the height of the cargo box coamings must be at least 54 inches (1,372 millimeters).

(h) An initial load line survey under 46 CFR 42.09–25, and subsequent annual surveys under 46 CFR 42.09–40, are required.

(i) At the request of the barge owner, the initial load line survey may be conducted with the barge afloat if the following conditions are met:

(1) The barge is less than 10 years old.

(2) The draft during the survey does not exceed 15 inches (380 millimeters).

(3) The barge is empty and thoroughly cleaned of all debris, excessive rust, scale, mud, and liquids.

(4) Gaugings are taken to the extent necessary to verify that the scantlings are in accordance with approved drawings.

(5) The bottom and side shell plating below the light waterline are closely examined internally. If the surveyor determines that sufficient cause exists, the surveyor may require that the barge be drydocked or hauled out and further external examination conducted.

(6) When the barge reaches 10 years of age or upon the expiration of its initial load line certificate, whichever occurs first, the barge must be drydocked or hauled out and examined externally.

Section 3. General Operating Requirements

The following operational restrictions and requirements apply to all river barge tows on limited domestic service load line routes on Lake Michigan:

(a) The barges can only be operated on the routes specified on their load line certificates.

(b) Barges may make cargo stops at intermediate ports along a route; however, they may not carry cargo directly from a Lake Michigan port on one route to a Lake Michigan port on the other route without first entering the river system at Calumet Harbor.

(c) Barges cannot be manned.

(d) Only dry cargoes may be carried (no liquid cargoes, not even in drums).

(e) Hazardous materials, as defined in 46 CFR part 148 and 49 CFR chapter 1, subchapter C, may not be carried as cargo.

(f) The maximum number of barges in a tow is three.

(g) The towing vessel must have adequate horsepower to handle the size of the tow, with a minimum of 1,000 HP for tows to Milwaukee and St. Joseph (Benton Harbor), and a minimum of 1,500 HP for tows between St. Joseph and Muskegon.

(h) *Pre-Departure Inspection*: Before beginning each voyage, the towing vessel master shall ensure that each barge of the tow meets the following requirements:

(1) A valid load line certificate is on board.

(2) The barge is not loaded deeper than its load line marks.

(3) The deck and side shell plating are free of visible holes, fractures, or serious indentations, as well as damage that would be considered in excess of normal wear.

(4) The cargo box side and end coamings are watertight.

(5) All manholes are covered and secured watertight.

(6) Precautions have been taken to prevent shifting of cargo.

(i) *Weather limitations*

(1) Prior to departure, the towing vessel master shall determine the weather forecast along the planned route (the Marine Weather Forecast (MAFORS), Lake Weather Broadcasts (LAWEB), or NOAA Weather Radio), and continue to monitor the forecast during the voyage.

(2) If the wind speed and wave heights are expected to exceed the limits below at any time during the planned voyage, then the tow may not leave harbor.

(3) When operating between Chicago and Milwaukee, the limiting conditions are as follows:

Wind direction	Continuous velocity	Wave height
NE, E, SE	15 knots	4 feet (1.2 m).
N, NW, W, SW, S.	20 knots	4 feet (1.2 m).

(4) When operating between Chicago and Muskegon, the limiting conditions are as follows:

Wind direction	Continuous velocity	Wave height
N, NW, W, SW.	15 knots	4 feet (1.2 m).
NE, E, SE, S.	20 knots	4 feet (1.2 m).

(5) While underway, if the wind speed and wave height exceed the limits above, then the tow must proceed immediately to the nearest harbor of safe refuge.

(j) The distance from shore during the course of a voyage may not exceed 5 nautical miles.

(k) Towing is permitted only if ice conditions are such that operation of the vessel is not imperiled.

(l) The operational requirements in this section are in addition to other applicable requirements for operation on the Great Lakes.

Section 4. Additional Requirements for Tows Between St. Joseph, MI, and Muskegon, MI

This section presents additional operational restrictions and requirements that apply to towing vessels moving limited service load line barges on eastern Lake Michigan between St. Joseph and Muskegon.

(a) *Operational Plan:* Aboard the towing vessel must be an operational plan that is available for ready reference by the master. The plan must include the following:

(1) The operational restrictions and requirements per sections 3 and 4 of this notice.

(2) A list of mooring/docking facilities (with phone numbers) in St. Joseph, Holland, Grand Haven, and Muskegon that can accommodate the tow.

(3) A list of towing firms (with phone numbers) that have the capability to render assistance with the tow, if required.

(b) *Towing Vessel Requirements:* The towing vessel must have power and equipment as follows:

(1) Sufficient power to handle the tow, but not less than 1,500 HP.

(2) Two independent voice communication systems in operable condition, such as VHF radio, radiotelephone, cellular phone, etc. At least two persons aboard the vessel must be capable of using the communication systems.

(3) Cutting gear that can quickly cut the towline at the towing vessel, should it became necessary to do so. The cutting gear must be in operable condition, and appropriate for the type of towline being used (wire, poly, nylon, etc.). At least two persons aboard the vessel must be capable of using the cutting gear.

(c) *Pre-Departure Verifications*

(1) Prior to departing port at Chicago on northbound voyages destined for ports beyond St. Joseph, the towing vessel master must contact a mooring/docking facility in St. Joseph, Holland, Grand Rapid, and Muskegon to verify that sufficient space is available to accommodate the tow. Similar confirmation must be made for southbound voyages. The tow cannot venture onto Lake Michigan without confirmed space available.

(2) The towing vessel master must also contact the dock operator at the destination port to get an update on local weather conditions.

(d) *Log Entries:* Prior to getting underway, the towing vessel master must note in the log book the pre-departure barge inspections, verification of mooring/docking space availability, and weather forecast checks were performed.

(e) *Training and Planning:* This plan should form the basis for special training for towing vessel masters and crew, particularly barge handling under adverse weather conditions, use of the towline cutting gear and communications system, and other emergency precedures.

Dated: August 16, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Marine Safety and Environmental Protection.

[FR Doc. 96–21735 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Agency Information Collection Activity for OMB Review

AGENCY: Department of Transportation (DOT), Federal Aviation Administration (FAA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) this notice announces the request for clearance of an information collection activity will be forwarded to the Office of Management and Budget (OMB). This information collection activity is currently part of another approved collection and cleared under OMB number 2120–0033. The request to OMB is to separate this collection out of 2120–0033 and give it its own number.

DATES: Comments should be submitted by October 25, 1996.

ADDRESSES: Comments on this collection may be mailed or delivered in duplicate to the FAA at the following address: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on this collection of information in order to: Evaluate the necessity of the collection; the accuracy of the agency's estimate of the burden; the quality, utility, and clarity of the information to be collected; and possible ways to minimize the burden of the collection. The information collection activities associated with the Representatives of the Administrator, CFR part 183, including Aviation Medical Examiners, are currently cleared under OMB number 2120–0033. For administrative ease, the FAA proposes to separate the Aviation Medical Examiner clearance from the rest of the Representatives of the Administrator. There is no change in the CFR requirements. It is proposed that the Aviation Medical Examiner program be given a separate OMB clearance

number. At this time of request for clearance, the Aviation Medical Examiner Designation Application form, FAA form 8520–2 is being updated to include a few additional boxes to check off. The additional information does not constitute a significant increase in time to complete the form since it would only involve one data element and check marks in the appropriate boxes.

The additional data elements are as follows:

- A box to check off whether the doctor is male or female. (This will be done to provide that information to airmen and women who request a doctor of a specific gender.)
- A space for social security number. (This is a voluntary request.)
- An addition of more specialities in the medical specialty category from which the applicant can choose.
- In the General Information portion of the application, the addition of two questions to check off a yes or no.

Title: 2120–xxxx, Aviation Medical Examiner Program.

Abstract: This information is collected for the purpose of obtaining essential information concerning the applicants' professional and personal qualifications. The FAA uses the information provided to screen and select the designees who serve as aviation medical examiners. The information is also used to make a list of designated aviation medical examiners readily available to the public.

Need: 14 CFR 183 implements the provisions of Title 49 U.S.C., section 44702.

Respondents: The respondents are an estimated 450 individuals applying to become aviation medical examiners.

Frequency: On occasion.

Burden: 225 hours annually.

Issued in Washington, DC., on August 19, 1996.

Steve Hopkins,

Manager, Corporate Information Division, ABC–100.

[FR Doc. 96–21717 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–41]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before September 16, 1996.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Haynes, (202) 267–3939 or Ms. Marisa Mullen, (202) 267–9681, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on August 21, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28660.

Petitioner: Collings Foundation.

Sections of the FAR Affected: 14 CFR 91.315 and 91.319.

Description of Relief Sought: To permit the Collings Foundation to conduct the carriage of passengers on local flights in their limited category B–17 and experimental category B–24 aircraft in support of Collings Foundation fund raising efforts.

[FR Doc. 96–21740 Filed 8–21–96; 3:33 pm]

BILLING CODE 4910–13–M

Federal Interagency Committee on Aircraft Noise Meeting Agenda

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public forum.

SUMMARY: The FAA is issuing this notice to advise the public of a forum sponsored by the Federal Interagency Committee on Aircraft Noise (FICAN) to discuss aircraft noise issues.

DATES: The forum will be held on October 4, 1996.

ADDRESS: The forum will be held at the Jackson Federal Building, 915 Second Ave., Seattle, Washington 98174.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Connor, Manager, Technology Division (AEE–100), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, fax (202) 267–5594.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public forum sponsored by the Federal Interagency Committee on Aircraft Noise (FICAN) to be held on October 4, 1996.

On March 16, 1993, representatives of the agencies that participated on the Federal Interagency Committee on Noise (FICON) met and agreed to establish a standing committee to be known as FICAN. The standing interagency committee will provide a permanent aviation noise research and development (R&D) forum, which will assist agencies in providing adequate forums for discussion of public and private proposals, identify needed research, and encouraging R&D efforts in these areas. FICAN held their last public forum on March 2, 1995 at the Naval Air Station Miramar, San Diego, CA. The public forum consisted of presentations by the FICAN members on current and future aircraft noise research projects, followed by an open comment and discussion period.

The agenda for the meeting will include:

- Presentation of current and future aircraft noise research projects that are funded by the Federal members of FICAN.
- Public concern/discussion and comment period.

Attendance is open to the public, but will be limited to the space available. The public must make arrangements by

September 20, 1996 to present oral statements at the forum. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the forum. Written comments should be addressed to the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Comments must be received on or before October 25, 1996.

Thomas Connor,

Manager Technology Division, Office of Environment and Energy.

[FR Doc. 96–21716 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Joint RTCA Special Committee 180 and EUROCAE Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held September 10–12, 1996, starting at 8:30 a.m. on September 10. (On subsequent days, meeting begins at 8:00 a.m.) The meeting will be held at EUROCAE, rue Hamelin 17, Paris, France.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Leadership Team Meeting Report; (5) Consensus Items; (6) Review Action Items; (7) Review Issue Logs; (8) Issue Teams' Status, Meeting Plans, New Members; (9) Issue Team Working Sessions; (10) Issue Team Reports; (11) New Items for Consensus; (12) Other Business; (13) Establish Agenda for Next Meeting; (14) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 19, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–21593 Filed 8–23–96; 8:45 am]

BILLING CODE 4810–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Craven Regional Airport, New Bern, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Craven Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 25, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Campus Building, 1701 Columbia Ave., Suite 2–260, College Park, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to John Price, Director of the Craven Regional Airport Authority at the following address: John Price, Director, Craven Regional Airport Authority, Craven Regional Airport, 1501 Airport Rd., New Bern, NC 28564.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Craven Regional Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Terry R. Washington, Program Manager, at the following address: Terry R. Washington, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, College Park, GA 30337–2747.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Craven Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 16, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Craven Regional Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 16, 1996.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00.

Proposed charge effective date: Jan. 1, 1997.

Proposed charge expiration date: July, 7, 2022.

Total estimated PFC revenue: $10,733,898.

Application number: 96–01–C–00–EWN.

Brief description of proposed project(s):

1. Land Acquisition—Phase 1 (Impose and use).

2. Terminal Development—Phase I (Impose and use).

3. Runway 2–22 Rehabilitation (Impose and use).

4. Runway 13–31 Rehabilitation (Impose and use).

5. PFC Application Development (Impose and use).

6. Land Acquisition—Phase II (Impose and use).

7. Terminal Development—Phase II (Impose only).

8. Air Carrier Apron (Impose only).

9. Access Road (Impose only).

10. Annual PFC Administration Cost (Impose and use).

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air carriers operating under part 135, on a non-scheduled, whole-plane-charter basis.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Craven Regional Airport.

Issued in Atlanta, Georgia on August 19, 1996.

Dell Jernigan,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 96–21721 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Hector International Airport, Fargo, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hector International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 25, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Bismarck Airports District Office, 2000 University Drive, Bismarck, North Dakota 58504. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Joseph T. Parmer, Executive Director, of the Fargo Municipal Airport Authority at the following address: Hector International Airport, P.O. Box 2845, Fargo, North Dakota 58108. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Fargo Municipal Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Irene R. Porter, Manager, Bismarck Airports District Office, 2000 University Drive, Bismarck, North Dakota 58504, (701) 250–4385. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hector International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR Part 158). On July 10, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Fargo Municipal Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 8, 1996.

The following is a brief overview of the application. PFC application number: 96–01–C–00–FAR.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1996.

Proposed charge expiration date: December 1, 1999.

Total estimated PFC revenue: $1,720,410.00.

Brief description of proposed project(s): Acquire two replacement front end loaders for snow removal; Acquire radio communication system for airfield equipment; Construct hangar taxiway; Improve airport security by installing controlled access system (FAR Part 107.14); Install/Modify runway intersection signs and taxiway signs; Refurbish airport beacon; Construct Runway 8–26; Construct Taxiway C; Relocate and extend security fence; Rehabilitate Runway 17–35; Install runway surface sensor system on Runways 17–35 and 8–26; Remove runway lights and marking from existing Runway 3–21, install MITL's, airport signs and taxiway markings of a portion of the closed runway to convert to Taxiway D; Construct GA apron, connecting taxiways, taxilanes, drainage improvements and vehicle access road; Install security fencing; Rehabilitate Runway 13–31; Rehabilitate Taxiway A bituminous shoulders and reseal joints and cracks on PCC portion of Taxiway A; Construct and improve drainage improvements between Runway 17–35 and Taxiway A and north of Taxiway C; Construct service vehicle access road from Taxiway A to airport electrical vault; PFC Development costs.

Impose Only

Construct and install a box culvert in Cass County Drain 10 and cover with earth, for Runway 8–26 safety area improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators Filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Fargo Municipal Airport Authority offices at the Hector International Airport.

Issued in Des Plaines, Illinois on August 16, 1996.

Benito De Leon,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–21718 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Killeen Municipal Airport, Killeen, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Killeen Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 25, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Don O. Christian, Director of Aviation, City of Killeen, at the following address: Mr. Don O. Christian, Director of Aviation, City of Killeen, 1525 Airport Drive, Box A, Killeen, Texas 76543.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Killeen Municipal Airport under the

provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 14, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 25, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1996.

Proposed charge expiration date: October 31, 1999.

Total estimated PFC revenue: $844,000.00.

PFC application number: 96–03–C–00–ILE.

Brief description of proposed project(s):

Projects To Impose and Use PFC's

3. Land Acquisition;
4. Fencing, Phase 2;
5. PFC Application;
6. ARFF Gear, Phase 1;
12. Repair and Seal Central Ramps and Service Roads;
13. Fencing, Phase 3;
14. Airport Master Plan;
20. Obstruction Removal;
21. Prepare New PFC Application;
22. Extend Taxiway B to the South; and
23. ARFF Gear, Phase 2.

Projects to Impose PFC's

1. Extend Runway 19, Phase 1;
2. Extend Runway 19, Phase 1A;
9. Extend Runway 19, Phase 2;
10. Extend Runway 19, Phase 2A;
11. Extend Runway 19, Phase 2B;
18. Extend Runway 19, Phase 3; and
19. Extend Runway 19, Phase 3A.

Proposed class or classes of air carriers to be exempted from collecting PFC's: FAR Part 135 air charter operators enplaning less than 1% of the total number of passengers enplaned at Killeen Municipal Airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Boulevard, Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Killeen Municipal Airport.

Issued in Fort Worth, Texas on August 14, 1996.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 96–21720 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at MBS International Airport, Saginaw, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at MBS International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 25, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, MI 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Elizabeth Owen, Airport Manager, of the MBS International Airport Commission at the following address: 8500 Garfield Road, P.O. Box P, Freeland, MI 48623.

Air carriers and foreign air carriers may submit copies of written comments previously provided to MBS International Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon B. Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at MBS International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 5, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by MBS International Airport Commission was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 12, 1996.

The following is a brief overview of the application.

PFC Application No.: 96–01–C–100–MBS.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 1997.

Proposed charge expiration date: November 1, 1998.

Total estimated PFC revenue: $1,400,000.00.

Brief description of proposed project(s): TXY ''A''/TERM apron rehabilitation, G.A. apron rehabilitation, security access control system, airport access road site preparation, terminal building ADA improvements, airfield signage, airport access road construction, friction testing van procurement, front end loader SRE procurement, ARFF vehicle procurement, terminal HVAC and stand-by power, terminal roof rehabilitation, SRE sweeper procurement, and terminal building expansion. Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Air taxis and charters.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the MBS International Airport Commission.

Issued in Des Plaines, Illinois, on August 16, 1996.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–21719 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[STB Finance Docket No. 32936]

Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company—Construction and Operation Exemption—Sealy, TX

Burlington Northern Railroad Company (BN) and The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) (collectively BN/Santa Fe) have filed a notice of exemption under 49 CFR 1150.36 to construct a connection in the southwest quadrant of the intersection of the Union Pacific (UP) and Santa Fe lines near Sealy, TX. The proposed connection would allow head-on movement in both directions between BN/Santa Fe's Houston-Temple route and UP's line from Sealy to San Antonio.

Construction is scheduled to begin within 60 days of the effective date of this exemption.

The Board's Section of Environmental Analysis (SEA) initially considered this construction and operation in the environmental documents prepared in Finance Docket No. 32760, involving the proposed merger of the Union Pacific and Southern Pacific Railroads. In analyzing the applicants' environmental filings and the potential environmental impacts of the merger, SEA concluded that construction projects related to the merger that are limited in scope and are proposed over disturbed land within existing railroad rights-of-way should be exempt from environmental review. This is such a project. Accordingly, no additional environmental documentation will be prepared in this proceeding and the Board may make a finding of no significant impact.

This exemption will be effective on November 4, 1996, unless stayed. Petitions to stay the effective date of this notice on any grounds must be filed by September 5, 1996. Petitions for reconsideration must be filed by September 16, 1996.

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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32936, 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: Erika Z. Jones, Esq., Mayer, Brown & Platt, 2000 Pennsylvania Avenue, N.W., Washington, DC 20006.

Decided: August 16, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–21675 Filed 8–23–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Third-Party Disclosure Requirements in IRS Regulations

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 existing regulations, Third-Party Disclosure Requirements in IRS Regulations.

DATES: Written comments should be received on or before October 25, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Third-Party Disclosure Requirements in IRS Regulations.

OMB Number: 1545–1466.

Abstract: These existing regulations contain third-party disclosure requirements that are subject to the Paperwork Reduction Act of 1995.

Current Actions:

1. The burden estimate for § 1.823–6(c)(2)(v) is changed for greater accuracy. The total number of respondents will be 75 and the time per respondent is 150 hours, for a total burden of 11,250 hours. Therefore, the burden is increased by 25 responses and 1,250 hours.

2. Sections 1.1394–1(b)(4) and 1.1394–1(b)(6) were amended and the paperwork burden was eliminated. Therefore, the burden is reduced by 3,640 responses and 4,420 hours.

3. Sections 1.7704–1(f)(2) (iii) and (iv) were amended and the paperwork burden was eliminated. Therefore, the burden is reduced by 5 responses and 500 hours.

4. Section 1.7704–1(f)(2)(vii) was eliminated. Therefore, the burden is reduced by 500 responses and 250 hours.

5. Sections 48.4081–11T(b)(2)(ii) and 48.4082–2T were eliminated. Therefore, the burden is reduced by 50,500 responses and 5,050 hours.

6. Proposed § 301.6109–3 was withdrawn. Therefore, the burden is reduced by 100,000 responses and 16,667 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit institutions, and not-for-profit institutions.

Estimated Number of Respondents: 256,969,408.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 86,968,767.

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: August 20, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–21723 Filed 8–23–96; 8:45 am]

BILLING CODE 4830–01–P

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held September 25 and 26, 1996.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on September 25 and 26, 1996 in room 118, beginning at 9:30 a.m., Aerospace Center Building, 901 D Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS:4 901 D Street, SW., Washington, DC 20024. Telephone (202) 401–4128, (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a closed meeting of the Art Advisory Panel will be held on September 25 and 26, 1996 in room 118 beginning at 9:30 a.m., Aerospace Center Building, 901 D Street, SW., Washington, DC 20024.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

The Commissioner of Internal Revenue has determined that this document is not a significant regulatory action as defined in Executive Order 12866 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–21722 Filed 8–23–96; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 61, No. 166

Monday, August 26, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from the Havasupai Reservation, AZ in the Possession of the Museum of Peoples and Cultures, Brigham Young University, Provo, UT

Correction

In notice document 96–20069 beginning on page 41179 in the issue of Wednesday, August 7, 1996, make the following correction:

On page 41180, in the first column, in the second paragraph, in the fifth and sixth lines from the bottom, ''September 6, 1995'' should read ''September 6, 1996''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 440

[Docket 28635; Notice 96-8]
RIN 2120-AF98

Financial Responsibility Requirements for Licensed Launch Activities

Correction

In propsoed rule document 96–18532 beginning on page 38992 in the issue of Thursday, July 25, 1996, make the following corrections:

1. On page 38993, in the first column, in the second full paragraph, in the third line from the bottom, ''on'' should read ''by''.

2. On page 39000, in the 1st column, in the 1st full paragraph, in the 11th line, ''nearly'' should read ''nearby''.

3. On page 39001, in the second column, in the first full paragraph, in the eighth line, ''or'' should read ''for''.

4. On the same page, in the third column, under *Section 440.1*, in the last line, insert ''license'' after ''launch''.

5. On page 39002, in the 1st column, in the 1st full paragraph, in the 17th line, the 2d ''direct'' should read ''indirect''.

6. On page 39009, in the first column, in the first full paragraph, in the fourth line from the bottom, ''or'' should read ''of''.

7. On page 39010, in the first column, in the first full paragraph, in the fourth line from the bottom, insert ''claims, the insurer would not be relieved of its obligation to protect'' after ''paying''.

§ 440.13 [Corrected]

8. On page 39017, in the third column, in § 440.13:

(a) In paragraph (a)(1), in the last line, ''or'' should read ''of''.

(b) In paragraph (a)(3), in the third line from the bottom, ''the'' should read ''be''.

(c) In paragraph (a)(4), in the fourth line from the bottom, ''of'' should read ''or''.

BILLING CODE 1505–01–D

federal register

Monday
August 26, 1996

Part II

Department of Transportation

Federal Highway Administration

49 CFR Ch. III

Motor Carrier Replacement Information/ Registration System; Proposed Rule; Advance Notice

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Chapter III

[FHWA Docket No. MC9625]

RIN 2125AD91

Motor Carrier Replacement Information/Registration System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: This action is being taken in response to section 103 of the ICC Termination Act of 1995, which, among other things, added a provision requiring the Secretary of Transportation to initiate a rulemaking proceeding to replace the current Department of Transportation identification number system, the single State registration system, the registration/licensing system, and the financial responsibility information system with a single, on-line Federal system. The review and improvement of these information systems will benefit the motor carrier industry, the States, the Federal government, and the public. The FHWA requests public comment from interested persons on this action and, specifically, responses to the questions set forth in this document. Potentially affected persons and entities who may wish to comment include: members of the motor carrier, freight forwarder, and transportation broker industries (and those entities providing financial responsibility to them), shippers, the States, and the public at large.

DATES: Comments must be received on or before October 25, 1996.

ADDRESSES: Submit written signed comments to FHWA Docket No. MC9625, FHWA, Room 4232, Office of Chief Counsel, HCC10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed stamped postcard or envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Dixie E. Horton, Office of Motor Carrier Planning and Customer Liaison, (202) 3664340, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 3660761, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

The Congressional Mandate

The FHWA is initiating this rulemaking in response to a congressional mandate contained in section 103 of the ICC Termination Act of 1995, Pub. L. 10488, 109 Stat. 888, December 29, 1995, (the Act) which added 49 U.S.C. 13908. Section 13908 of title 49, U.S.C., directs the Secretary of Transportation to issue a rulemaking to ''replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter [139], and the financial responsibility information system under section 13906 with a single, on-line, Federal system.'' The registration/licensing system contained in 49 U.S.C. 1390113905 is intended to replace the operating authority requirement for for-hire motor carriers, while also applying to freight forwarders and transportation brokers, under the Interstate Commerce Act, as amended (formerly 49 U.S.C. 10921 *et seq.*).

The rulemaking required under 49 U.S.C. 13908, and a report to Congress on its findings, must be completed before January 1, 1998. According to the Act, the new system is to serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers and freight forwarders, and others required to register with the Department of Transportation. Also, it is to contain information on safety fitness and compliance with the required levels of financial responsibility.

Pre-Act Background

With the passage of the Motor Carrier Act of 1935, Pub. L. 74255, 47 Stat. 543, the Interstate Commerce Commission (ICC) was given regulatory authority over the motor carrier industry. The ICC was responsible for issuing operating authority and permits and administering matters related to insurance, safety, and enforcement as they applied to for-hire common and contract motor carriers. The ICC retained economic oversight over the for-hire segment of the motor carrier industry and jurisdiction over safety for both for-hire and private motor carriers, until 1967 when the Department of Transportation (DOT) was created. Within the FHWA, the Bureau of Motor Carrier Safety (which subsequently became the Office of Motor Carriers) was established for motor carrier safety activities. The FHWA began to require all motor carriers engaged in interstate or foreign commerce (not just for-hire) to obtain a USDOT identification number from the agency for safety purposes (53 FR 18052, May 19, 1988).

The FHWA received authority under the Motor Carrier Act of 1980 (Pub. L. 96–296, 94 Stat. 820) to prescribe minimum levels of financial responsibility for certain motor carrier classifications for safety reasons. The motor carrier classifications include: For-hire interstate motor carriers of property in vehicles with a gross vehicle weight rating (GVWR) in excess of 10,000 lbs.(including ICC-exempt); private and for-hire interstate motor carriers of certain hazardous materials; and intrastate carriers of hazardous materials in bulk. In 1982, the FHWA received authority under the Bus Regulatory Reform Act (Pub. L. 97–261, 96 Stat. 1120) to regulate the levels of financial responsibility covering for-hire motor carriers of passengers operating in interstate or foreign commerce. By these Acts, the number of motor carriers who must meet financial responsibility requirements as part of their safety compliance was expanded. There are approximately 170,320 carriers whose minimum financial responsibility is prescribed by the FHWA, about forty-five percent of which were also regulated by the ICC. Under the FHWA regulations, these carriers are not currently required to provide proof of insurance or other financial responsibility in order to receive a USDOT identification number. Instead, the FHWA verifies financial responsibility compliance as a part of its compliance review process. The actual review of financial responsibility requires that an FHWA safety specialist ensure that there is a valid endorsement (Form MCS–90 or Form MCS–82), or valid authorization to self-insure, at the motor carrier's place of business that indicates that the carrier possesses the required financial responsibility coverage meeting the minimum prescribed limits.

The ICC continued the economic regulation of approximately 74,179 for-hire interstate and foreign motor carriers of property and passengers, which were also regulated by FHWA, by requiring operating authority or permits and by imposing more complex financial responsibility requirements as a precondition to receiving and holding these authorities or permits. The financial responsibility requirements were prescribed at 49 CFR Part 1043 and took the form of certificates of insurance, surety bonds, self-insurance, endorsements, or trust agreements.

Carriers (as well as freight forwarders and transportation brokers) regulated by the ICC had to be in continuous compliance or risk revocation of their operating authority. Their insurance/surety companies and financial institutions had to give the ICC advance notice of any cancellations. The ICC maintained an automated monitoring system of insurance compliance which was updated continuously. In FY 1995, for example, the ICC used its insurance monitoring system to revoke the operating authorities of approximately 4,629 for-hire motor carriers, many of which were reinstated when they later came into compliance.

As a result of the Act, Congress terminated the ICC and transferred to the FHWA the functions concerning the ICC's remaining licensing and financial responsibility requirements. But the Act converted the former operating authority/permit system of the ICC into a registration/licensing system and, essentially, adopted the parameters of the ICC's then current insurance filing and monitoring system into this registration system. The Act also adopted the existing Single State Registration System (SSRS) which is explained below. The savings provision in section 204 of the Act preserved all effective ICC regulations, rules, and decisions until the Secretary finds modification of these documents warranted, thereby preserving the *status quo* for the interim. The FHWA gave public notice of the continued effectiveness of these ICC documents in 61 FR 14372, April 1, 1996. Congress eliminated the ICC's entry regulations in favor of a Federal registration/licensing system. Congress also elected to retain the ICC's proof of insurance system as a condition for obtaining and retaining a registration/license to operate as for-hire motor carriers. Although for-hire, ''regulated'' motor carriers represent only some twenty-three percent of all motor carriers, they transport fully half of all freight moving in interstate commerce. Private motor carriers of nonhazardous property represent about fifty-four percent of all motor carriers, and are not subject to any Federal financial responsibility requirement. The rest of the universe is comprised of private hazardous, ICC-exempt, intrastate hazardous in-bulk, private passenger, mail, and other miscellaneous carriers.

Systems to be Replaced Through the Rulemaking

The following discussion addresses the four current systems that section 13908 requires to be replaced with a single, on-line Federal system.

1. Department of Transportation Identification Number System

Currently, a Form MCS–150, Motor Carrier Identification Report, must be filed by all motor carriers operating in interstate or foreign commerce. Subsequent to filing, a motor carrier receives a USDOT identification number which must be displayed on all of the carrier's self-propelled commercial motor vehicles (CMVs). 49 CFR 390.21. These numbers are used by the FHWA to track the motor carrier's safety performance. The universe of carriers subject to the DOT number identification system includes approximately 320,857 motor carriers, including some 6,600 bus carriers, engaged in interstate or foreign commerce that are subject to the Federal Motor Carrier Safety Regulations. Attached, as Appendices A through C, respectively, are copies of Forms MCS–150, MCS–90, and MCS–82, the required certificate of insurance or surety bond endorsements for covered property carriers, which display the information required by those forms.

2. Single State Registration System Under 49 U.S.C. 14504

In 1965, Congress authorized the States to police unauthorized operations by interstate for-hire motor carriers, and allowed the States to enforce this provision through a multi-State filing system of operating authority registration, the so-called ''bingo stamp'' program. Under the bingo stamp program, participating States were allowed to collect registration fees from motor carriers on a per vehicle basis to administer the program and, through enabling State statutes, to enforce the program by issuing citations for failing to register. Because the bingo stamp program was perceived as too costly, and a regulatory burden on interstate motor carriers (H.R. Conf. Rep. No. 102–404. 102d Cong., 1st sess. 437(1991)), the Congress, in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914), established the SSRS and directed the ICC to implement regulations converting the bingo stamp program to a Base State insurance registration program. The SSRS, under the supervision of the ICC, required ICC-regulated carriers to: File proof of operating authority and insurance with their Base State; pay the Base State filing fees that are subject to allocation among all the participating SSRS States in which the carriers operate; and keep a copy of the receipt issued by their Base State in each of their CMVs. Participation in the SSRS was limited to those 38 States that were collecting fees for a vehicle identification stamp or number as of January 1, 1991. The ISTEA directed that the only fees charged could be those for filing proof of insurance (a pre-condition for interstate operating authority), and that the fees were frozen to the amount a SSRS State charged as of November 15, 1991, but in no case could they be higher than $10 per vehicle (including reciprocal agreements). In 1993, the ICC issued rules for the SSRS States to follow. When challenged, these rules were upheld by the court, with one exception concerning who makes the official copies of the Base State-issued receipt. *Nat'l Ass'n of Regulatory Util. Comm'rs* v. *ICC,* 41 F. 3d 721 (D.C. Cir. 1994). That exception was revised by the ICC to direct the States rather than the carriers to make the copies, although this rule's implementation was delayed at the request of the States. Ex Parte No. MC–100 (Sub-No. 6), *Single State Insurance Registration,* served July 31, 1995. The SSRS States continue to operate under these ICC-issued rules today. 49 CFR 1023.

In 49 U.S.C. 14504, Congress continued the SSRS with essentially the same statutory provisions established in ISTEA, with the exception that it is now under the supervision of the Secretary and administered by the FHWA. The States may require for-hire interstate motor carriers that register under 49 U.S.C. Chapter 139 to: File proof of Federally-required financial responsibility with their Base State; pay their Base State such amounts of fee revenues that will be allocated among all the SSRS States in which the motor carriers operate; and file the names of local agents for service of process. The Secretary is to maintain standards for the SSRS. Because Congress recognized the potential loss of revenues by participating States, as long as the SSRS States follow the prescribed standards, their actions will not be deemed an unreasonable burden on interstate commerce. The savings provision in section 204 of the Act preserves the existing ICC SSRS standards/rules until the Secretary modifies them. Attached, as Appendices D and E, respectively, are copies of SSRS Forms RS–1 and RS–2, which display the information required by those forms.

3. 49 U.S.C. Chapter 139 Registration System

The Act, as stated above, converted the former ICC certificates of operating authority and permits granted to common and contract motor carriers of property and passengers into a simplified Federal registration/licensing

system under Chapter 139 of title 49, U.S.C., where for-hire registrants must demonstrate their willingness and ability to comply with Federal safety, financial responsibility, and other relevant regulations. There were approximately 74,179 for-hire motor carriers that fell under the former ICC's oversight (additionally, 733 freight forwarders, and 9,717 brokers), which are now deemed registered under the new FHWA registration/licensing system, pursuant to a grandfather clause in 49 U.S.C. 13905(a). The Secretary may withhold, revoke, or suspend a registration for noncompliance with safety and financial responsibility regulations. Although the Act eliminated the distinction between common and contract carriage, the Secretary may register such motor carriers separately until the replacement system is implemented. The Chapter 139 Federal registration/licensing system requires domestic and foreign motor carriers of property and passengers, freight forwarders, and transportation brokers to register with the FHWA. While this advance notice of a rulemaking primarily addresses issues relating to motor carriers of property because they comprise the vast majority of registrants under this system, this notice also includes motor carriers of passengers, freight forwarders, and transportation brokers. The effective period of the registration of all registrants is to be determined by the Secretary. Filing proof of adequate financial responsibility coverage is a precondition to registration. Attached, as Appendices F through H, respectively, are copies of Forms OP–1, OP–1P, and OP–1FF which display the information required by those forms in order to register.

4. 49 U.S.C. Section 13906 Financial Responsibility Information System

As part of the Chapter 139 (sections 13901–13905) registration/licensing system, Congress retained the existing ICC financial responsibility requirements, with both statutory (49 U.S.C. 13906) and regulatory (section 204 of the Act) provisions. All for-hire registrants, including domestic and foreign motor carriers, transportation brokers, and freight forwarders, as a precondition to registering, must adhere to financial responsibility provisions. Bonds, trust agreements, and certificates of insurance, as well as self-insurance documentation, are prescribed in ICC forms and regulations. Also, service of process information, under 49 U.S.C. 13304, is required for registration. Congress retained the requirement that notices of cancellations of insurance must be filed in advance with the FHWA and that prompt replacement coverage is required to retain the registration. Procedures for the Secretary in revocation proceedings are set forth in 49 U.S.C. 13905. Attached, as Appendices I through O, respectively, are copies of Forms BMC–91, BMC–91X, BMC–82, BMC–83, BMC–34, BMC–84 and BOC–3, which display information required by 49 U.S.C. 13906 (and section 13304). They currently are being filed on paper or electronically (except the Form BOC–3).

The effect of the Chapter 139 registration/licensing and financial responsibility information systems is the continued monitoring of about twenty-three percent of the motor carrier industry (formerly ICC-regulated, for-hire carriers) for current compliance with the insurance or other financial responsibility requirements. These two systems are updated frequently and are primarily driven by insurance compliance data. The goal is to ensure sufficient financial responsibility coverage to compensate the public for liability arising from personal injury, property damage, cargo loss or damage, and property broker defaults. While the SSRS generally reflects the Federal registration/licensing and insurance systems, there are some differences. For example, unlike the continuous updating required at the Federal level, the SSRS requires only an annual filing of financial responsibility information with the Base State; the motor carrier is under no duty to update that information during the year. Lastly, the Federal registration/licensing and financial responsibility requirements for the formerly ICC regulated, for-hire motor carriers are obviously more stringent than for the private and exempt motor carriers who simply file a Form MCS–150.

49 U.S.C. 13908 Rulemaking

In requiring the replacement of these four information/registration systems, Congress directed the Secretary to consider, at a minimum, the following items:

1. Whether to integrate the requirements of 49 U.S.C. 13304 (service of process information) into the new system;
2. Funding for State enforcement of motor carrier safety regulations;
3. Whether the existing SSRS is duplicative and burdensome;
4. The justification and need for collecting the statutory fee for such system under 49 U.S.C. 14504(c)(2)(B)(iv) (the fee system established by the SSRS States);
5. The public safety;
6. The efficient delivery of transportation services; and
7. How, and under what conditions, to extend the registration system to private motor carriers and to motor carriers exempt under 49 U.S.C. 13502, 13503, and 13506 (exempt transportation between Alaska and other States, exempt motor vehicle transportation in terminal areas, and miscellaneous motor carrier transportation exemptions, respectively).

Under 49 U.S.C. 13908, the Secretary may also establish a fee system for the registration/licensing and filing of evidence of financial responsibility under the new replacement system. If the fee system is put in place, the fees collected must cover the costs of operating and upgrading the registration system, including all personnel costs associated with the system. The fees collected for this system may be credited to the DOT appropriations account for the purposes for which such fees are collected, and will be available until they are expended.

If the Secretary finds that the SSRS should not continue, the Secretary may prevent a State from imposing any financial responsibility filing requirements or fees that are for the same purpose as filings or fees the Secretary requires under the new replacement system. However, the Secretary may not take this action unless, through collected fees, he can provide the States with at least as much revenue as they received in Fiscal Year 1995 under the SSRS that was in effect on the day before the effective date of the Act. In addition, all States must receive a minimum apportionment.

The Secretary must complete the rulemaking by January 1, 1998, two years after the effective date of the Act. The Secretary may implement such changes as are considered appropriate and in the public interest. Finally, the Secretary must transmit to Congress a report on any findings of the rulemaking and the changes the DOT decides to implement, together with recommendations for any proposed legislative changes.

Request for Comments

The purpose of this ANPRM is to gather information from a broad spectrum of comments. One approach to solicit comments is to focus on the systems themselves, i.e., the four-named systems to be replaced by a single system. See Section I, Specific Questions for Comments, below. By carefully examining each of these systems, components that should be retained, modified, or eliminated in the

replacement system can be identified. The replacement system may have to fit into a very complicated set of existing or pending systems.

Crucial to this undertaking will be the number of practical suggestions, valid data, and constructive comments that are received. Therefore, a second approach to soliciting comments is offered here which is much more general in nature and not bound by details and specifics of the information systems themselves. Rather, its focus is on advisable policies and appropriate programs within the context of this rulemaking. See Section II, Specific Questions for Comments, below. How should motor carriers be treated regarding matters of registration and financial responsibility? Are registration/licensing and financial responsibility coverage necessary? Does it depend upon the type of motor carrier? What are the roles for the Federal and State governments, as well as private industry, in these matters? What is best for the public? What is the bare essential information needed from motor carriers? How can this essential information be solicited in a cost effective manner? Once policies and needs are identified, programs and requirements will follow. Afterwards, an information system can be designed to accommodate them. Commenters may respond to either approach or simply submit other information relevant to this task.

Specific Questions for Comment

I. Four Existing Systems—Replacement System

A. The US DOT Identification Number System

1. Should the FHWA retain the US DOT identification number system as is? Who should be included as contributors to and users of this system? How could the system be improved? Should Forms MCS–150, MCS–90 and MCS–82 (See Appendices A through C) be retained as is, modified, or eliminated? Do they capture only the necessary information? Do they capture enough information? Should the information in Form MCS–150 be updated periodically? If so, at what intervals?

2. Should all interstate motor carriers use the US DOT identification number system and should the separate registration system for for-hire carriers be eliminated?

3. Should all interstate motor carriers using the US DOT identification number system pay a filing fee for maintaining a current register?

4. Do random compliance reviews alone constitute sufficient monitoring of financial responsibility compliance? Should the reviews alone replace the continuous financial responsibility monitoring system in 49 U.S.C. 13906? Is there a valid relationship between safety and financial responsibility coverage? Is there credible evidence that underfunded motor carriers and repeated financial responsibility coverage violations by motor carriers indicate problem carriers? Please submit such examples and examples to the contrary and, if possible, documentation.

5. Is it feasible to have the States or the private sector, as contractors of the Federal government, operate the US DOT identification number system? Please comment on how this could work on a national scale.

6. Are there existing information systems—private or government— into which the US DOT identification number system could be integrated?

B. 49 U.S.C. Sections 13901–13905 Registration System

1. How does this registration system improve upon the former ICC system of operating authority? How can it be developed to assure improvement? Who should be required to register and why? Should Form OP–1 (See Appendix F) be retained as it is? What changes, if any, should be made? Does it capture only the necessary information? Does it require too much information? Does it require enough information? Please explain.

2. Should all interstate motor carriers be required to register in this system? Should this include private and exempt motor carriers? Would this inclusion be practical and cost efficient?

3. Is it feasible for the States or the private sector to operate this registration system as contractors of the Federal government? Assume all registrants would be issued a USDOT identification number, could the States or the private sector do this and how could it work?

4. Should both the USDOT identification number system for private and exempt motor carriers and the for-hire registration system operate separately in the replacement system? How could they be combined?

5. Should transportation brokers and freight forwarders still be required to register? Should their registration forms (See Appendices F and H, respectively) be changed and why?

6. Should motor carriers of passengers be treated differently from motor carriers of property for registration purposes and why? Should their registration form (See Appendix G) be changed and why?

7. What circumstances should cause the FHWA to exercise authority to suspend registration, for what duration, and what process should apply?

C. 49 U.S.C. Section 13906 Financial Responsibility System

1. Should the FHWA continue this system as is? Who should be included in this system and why? Should the FHWA include private and exempt motor carriers? What requirements should apply? How could the system be improved? How could these financial responsibility and service of process information forms (See Appendices I through O) be improved? Do they capture only the necessary information? Do they ask for unnecessary information? Do they ask for enough information?

2. Should self-insurance continue to be offered? How could it be improved? Should service of process agent information continue to be required? Should this requirement be expanded to private and exempt motor carriers?

3. Do insurance companies or other entities use the information on the financial responsibility forms? For what reasons is this information useful? Is there another source for this information?

4. Should financial reponsibility information be contained on bills of lading and the financial responsibility requirements for registration be eliminated? Would this work?

5. Is continuous insurance monitoring of for-hire carriers cost effective? Is it in the public interest? Should all insurance information be required to be filed electronically? Should all motor carriers be required to offer proof of financial responsibility compliance when registering? Should they only be required to update their status annually? Is continuous monitoring needed for all motor carriers or just for for-hire carriers?

6. Should freight forwarders and transportation brokers continue to be required to follow financial responsibility requirements?

7. Are private and exempt motor carriers subject to any financial responsibility requirements (compulsory insurance) at the State level? If so, is compliance assured? Is this requirement sufficient to protect against the potential consequences of motor carrier accidents? Is compliance tied to State registration?

8. Should motor carriers of passengers be required to be treated differently from motor carriers of property for financial responsibility purposes? Why?

D. Single State Registration System (SSRS)

1. Should SSRS continue as is? If States have access to financial responsibility and registration information for interstate for-hire carriers, is SSRS needed? How could it be improved? Should Forms RS–1 and 2 (See Appendices D and E) be retained, modified, or eliminated? Should a new SSRS system be expanded to all States?

2. Who uses SSRS information and for what purposes? Are there other sources for this information? Is this information necessary? How do the SSRS States use this SSRS information?

3. How useful is Federal financial responsibility coverage filing information for State enforcement purposes, especially where there is no immediate updating required even when there is a change in the coverage status of a motor carrier? Do SSRS States follow-up to see if the copy of the financial responsibility form filed at the ICC or FWHA, and sent to the Base State, was actually accepted by that Federal agency and not later rejected for cause? How important is real-time data to State enforcement?

4. Would SSRS States be willing to leave the SSRS if their revenues from it were matched or exceeded but they had to operate the replacement system as contractors of the Federal government?

5. What was the SSRS fee revenue for FY1995 for each SSRS State? What is the annual SSRS fee revenue for each year since SSRS was established? In each SSRS State, was this SSRS revenue earmarked for safety enforcement each year? What percentage of the annual SSRS fee revenue went to areas not related to financial responsibility coverage or safety? For each SSRS State, what are the annual figures for the number of uninsured motor carriers detected in that State and were those carriers detected with SSRS information or by other means? If detected by other means, how was the information provided and who provided it? For each SSRS State, give the annual number of vehicles registered in that State under SSRS and the annual SSRS vehicle fee amount since the SSRS was established.

6. The Motor Carrier Safety Assistance Program has Federal performance standards for the States to follow. If the replacement system is operated by the States, what kinds of Federal standards should the States be required to follow and why?

7. If the SSRS were eliminated or preempted, what would be the net revenue loss to each SSRS State? Assuming no Federal funding, how would the States replace that revenue or funding programs supported by that revenue? Alternatively, what programs would be cut if the SSRS revenues were not replaced?

E. Conceptual Design Suggestions

1. Given the large amount of change within the motor carrier industry due to recently passed legislation, and the transitional stages of various programs such as the International Registration Plan, the International Fuel Tax Agreement, the Commercial Vehicle Information System, among others, is it advisable at this stage to combine the four existing systems, eliminating the overlap and unnecessarily required information for the replacement system? Should the replacement system be designed independently of the components of the four existing systems that are to be replaced?

2. Is a combined, national replacement system run by the States with Federal standards and access feasible or advisable? What if the private sector operates it? Is there a preference between a ''National'' (nationwide but not necessarily Federally-run) or a ''Federal'' (centralized, Federally-run) system?

3. Should the replacement system be responsive to daily changes in a motor carrier's financial responsibility status, or be updated annually? Are there other suggestions?

4. Can a single standard filing instrument be designed to cover all four existing systems, and still assure insurance companies that they will not be liable for any operations of a motor carrier not under their policies? How could this be achieved?

5. Is ''one-stop shopping'' for the motor carrier industry a feasible goal? For all motor carriers or just for the for-hire motor carriers? Can and should it be done in phases? Is one national identification number for each motor carrier desirable and feasible?

6. What role, now or in the future, should the International Registration Plan, the Commercial Vehicle Information System Network, the Motor Carrier Management Information System, the SAFETYNET, and the Safety and Fitness Electronic Records System, play in the replacement system's design or operation? Are there other current Federal, State, or private information systems which could or should be utilized to construct or expand the replacement system? If there are, please explain what role such a system or systems should have. Should the replacement system designed now be adaptable for future integration and coordination with other systems?

7. Please submit a conceptual design for the replacement system which adheres to 49 U.S.C. 13908. Can a replacement system (and fee system) be constructed that will cover operating costs and match SSRS revenues for FY1995, and not be an unreasonable burden on interstate commerce?

8. Does the universe of motor carriers affect the capacity and effectiveness of the replacement system? If so, how can a system be designed to handle the appropriate number of motor carriers for the public good rather than be driven only by its capacity limitations? If the statute is interpreted to require inclusion of private and exempt motor carriers in the replacement system to some degree, what degree should that be? Should they have fewer requirements than the for-hire motor carriers? Could they be treated as a subsystem for the larger system? Or should it be the reverse?

9. What features should the replacement system have? Should the capability of being able to revoke a registration for noncompliance with financial responsibility requirements be retained? Why and for whom? How would this capability affect the feasibility of the system?

10. Who should have access to this data and how should they have access? Should there be a fee for access?

11. Is privatization of the replacement system a better option than a federally or State run system? Should registration/financial responsibility compliance be a function for Federal oversight?

12. Please comment on the following concept as an optional approach: a self-registration system where the Federal government and the States would determine who would be required to file and what information must be filed. Information requirements may vary depending on the type of carrier. Each regulated entity would be required to provide information to a central data bank, either directly or through a State agency. New entrants would be assigned a reference number which could act as the registration or file number for all purposes. The computer could generate the form required based on the information required, as well as cross-check several sources of information on the registrant, if appropriate. Investigations and inspections would use this data, and if the motor carrier did not submit all of the required information, there would be a penalty for the violation. This system would be self-generating and self-maintaining. Please offer suggestions on whether and how financial responsibility

requirements could fit into this concept, as well as other comments.

F. Fees

1. Could a fee system be designed to cover operating costs and match SSRS revenues and still be feasible?

2. If all motor carriers paid a fee, the average cost of registration, per for-hire motor carrier, would go down. Would the inclusion of all motor carriers in a required registration fee program, and the availability of that revenue, enable a system to be designed and operated in an effective and efficient manner?

3. Is the different treatment of the for-hire (once ICC-regulated) motor carriers from the private and formerly ICC-exempt motor carriers regarding registration/licensing and financial responsibility warranted? Should this difference be addressed?

G. Legislative Suggestions

1. Please provide suggested any legislative changes which may be required to implement your suggested replacement system and explain why they are necessary.

2. Please provide other suggested legislative changes you may think necessary and explain why they are necessary.

H. Miscellaneous

1. What necessary attributes should an effective clearinghouse and depository have? Does the volume of information affect the efficiency of the clearinghouse? What is the best way to address this? What information should the clearinghouse handle? Is a national clearinghouse for all motor carriers feasible?

2. Section 13908(a) of 49 U.S.C. states that the clearinghouse will handle information on safety fitness and compliance with required levels of financial responsibility coverage. Exactly what information on these two subjects should be included and why?

II. Policies, Programs and Requirements—Registration and Financial Responsibility

A. Strategic Vision for this Rulemaking

1. What other options are available beside the current registration and financial responsibility programs? What should be the goals of these optional programs, such as self-certification, a totally centralized program at the Federal level or a totally decentralized program at the State level?

2. What should be the policies to follow or advance in these programs and why?

3. What are the technical, political and organizational issues related to each optional program?

4. What would be the major functions of each optional program?

5. What are the estimates of the major costs and benefits for each option?

6. What should be the roles of the FHWA, the motor carrier industry (of property and of passengers), the freight forwarder and broker industries, the States, the public, and others in matters of registration and financial responsibility? What are the proper roles to be played by the public sector? By the private sector?

7. What are the roles of the for-hire carrier and the private carrier in the marketplace? How should they be treated regarding registration and financial responsibility matters and why? How do we balance the public's need to know with the right to operate without unnecessary regulatory burdens?

8. What place does insurance or other financial responsibility coverage have in the marketplace? At what price should it be pursued? If there is compliance at the State level, is there a need for compliance at the Federal level compliance as well, or vice versa?

B. Needs and Demands—Registration and Financial Responsibility

1. Who should be the customers or users of this gathered information? What are the customers' and users' needs? How should they be met? By whom?

2. How important are: Accessibility; real time delivery; integration; uniformity; roadside delivery; accuracy; balance of needs; ability to update; and ability to crossreference? What price are users willing to pay?

3. What registration and financial responsibility information about motor carriers is needed by whom and when? How valuable is this information? How is this information used now? Are there other sources?

C. Requirements—Registration and Financial Responsibility

1. How do revenues or funding affect what society can demand from business or government in terms of the costs of registration and insurance?

2. What should be required from motor carriers in these matters and why?

3. Who should enforce these registration and financial responsibility requirements and what is the best way to do so? Who can do this better and why?

4. Can these registration and financial responsibility requirements be fulfilled periodically or annually, or must they be continually updated? Must they be monitored? Please explain your answer.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing due date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The action being considered by the FHWA in this document would replace four existing motor carrier registration/information systems. The FHWA has determined that the agency's response to the congressional mandate to replace these systems would be a significant regulatory action under Executive Order 12866 and a significant regulation under the regulatory policies and procedures of the Department of Transportation because of the substantial public interest anticipated in this action. The potential economic impact of this proposed rulemaking is not known at this time. Therefore, a full regulatory evaluation has not yet been prepared. The FHWA intends to evaluate the economic and other issues attendant to this regulatory action. The agency intends to use the information collected from commenters to this docket in the development of that evaluation.

Regulatory Flexibility Act

Due to the preliminary nature of this document and lack of necessary information on costs, the FHWA is unable at this time to evaluate the effects of the potential regulatory changes on small entities. The FHWA solicits comments, information, and data on these potential impacts.

Executive Order 12612 (Federalism Assessment)

This action will be analyzed in accordance with the principles and criteria contained in Executive Order 12612 to determine whether it has sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action, if taken beyond the ANPRM stage would, in all likelihood, impact existing collection of information requirements for the purposes of the Paperwork Reduction Act of 1995 (49 U.S.C. 3501–3520). Because of the potential changes, existing Office of Management and Budget (OMB) approvals would be required.

National Environment Policy Act

The agency will analyze this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to determine whether this action will have any effect on the quality of the environment.

Regulation Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the United Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Chapter III

Motor carriers, Commercial motor vehicles, Motor vehicle safety, Registration, Financial responsibility, Reporting and recordkeeping requirements, Safety, Transportation.

Issued on: August 14, 1996.

Rodney E. Slater,

Federal Highway Administrator.

BILLING CODE 4910–22–P

Appendix A to Preamble Form MCS–150, Motor Carrier Identification Report

OMB No 2125-0544

U.S. Department of Transportation
Federal Highway Administration

MOTOR CARRIER IDENTIFICATION REPORT

IF THE ABOVE LOCATION IS BLANK, INCORRECT, OR IS A DIVISION OR BRANCH, PLEASE IDENTIFY YOUR COMPANY'S PRINCIPAL OFFICE IN THE SPACE BELOW.

1. NAME OF MOTOR CARRIER/HM SHIPPER	2. DOING BUSINESS AS (DBA) NAME
3. PHYSICAL STREET ADDRESS/ROUTE NUMBER	4. MAILING P.O. BOX

5. CITY	6. MEXICAN NEIGHBORHOOD	7. CITY	8. MEXICAN NEIGHBORHOOD

9. COUNTY	10. STATE/PROVINCE	11. ZIP CODE +4	12. COUNTY	13. STATE/PROVINCE	14. ZIP CODE +4

15. PRINCIPAL PHONE NUMBER ( )	16. US DOT NO.	17. ICC NO.	18. IRS/TAX ID NO. EIN # SSN #

19. CARRIER OPERATION *(Circle One)*

A. Interstate B. Intrastate Only (Hazardous Materials) C. Intrastate Only (Non-Hazardous Materials)

20. SHIPPER OPERATION *(Circle One)* A. Interstate B. Intrastate	21. CARRIER MILEAGE (Last Calendar Year)

22. OPERATION CLASSIFICATION

A. Authorized For-Hire
B. Exempt For-Hire
C. Private (Property)
D. Private Passengers (Business)
E. Private Passengers (Non-Business)
F. Migrant
G. U.S. Mail
H. Federal Government
I. State Government
J. Local Government
K. Indian Tribe
L. Other _____

23. CARGO CLASSIFICATIONS *(Please Circle **All** that Apply.)*

A. GENERAL FREIGHT
B. HOUSEHOLD GOODS
C. METAL: SHEETS, COILS, ROLLS
D. MOTOR VEHICLES
E. DRIVEAWAY/TOWAWAY
F. LOGS, POLES BEAMS, LUMBER
G. BUILDING MATERIALS
H. MOBILE HOMES
I. MACHINERY, LARGE OBJECTS
J. FRESH PRODUCE
K. LIQUIDS/GASES
L. INTERMODAL CONT.
M. PASSENGERS
N. OILFIELD EQUIPMENT
O. LIVESTOCK
P. GRAIN, FEED, HAY
Q. COAL/COKE
R. MEAT
S. GARBAGE, REFUSE, TRASH
T. U.S. MAIL
U. CHEMICALS
V. COMMODITIES DRY BULK
W REFRIGERATED FOOD
X. BEVERAGES
Y. PAPER PRODUCTS
Z. OTHER *(Specify)* _____

24. HAZARDOUS MATERIALS CARRIED/SHIPPED *(Please Circle **All** that Apply.)*. **T**–IN CARGO TANKS **P**–IN PACKAGES

C	S	A. DIVISION 1.1	T	P	C	S	J. CLASS 3	T	P	C	S	T. CLASS 7 (No Placards)	T	P
C	S	B. DIVISION 1.2	T	P	C	S	K. DIVISION 4.1	T	P	C	S	U. CLASS 8	T	P
C	S	C. DIVISION 1.3	T	P	C	S	L. DIVISION 4.2	T	P	C	S	V. CLASS 9	T	P
C	S	D. DIVISION 1.4	T	P	C	S	M. DIVISION 4.3	T	P	C	S	W. P.I.H.	T	P
C	S	E. DIVISION 1.5	T	P	C	S	N. DIVISION 5.1	T	P	C	S	X. COMBUSTIBLE LIQUID	T	P
C	S	F. DIVISION 1.6	T	P	C	S	O. DIVISION 5.2	T	P	C	S	Y. HAZARDOUS SUB. (RQ)	T	P
C	S	G. DIVISION 2.1	T	P	C	S	P. DIVISION 6.1 (Liq.)	T	P	C	S	Z. HAZARDOUS WASTE	T	P
C	S	H. DIVISION 2.2	T	P	C	S	Q. DIVISION 6.1 (Solid)	T	P	C	S	AA. ORM-D	T	P
C	S	I. DIVISION 2.3	T	P	C	S	R. DIVISION 6.2	T	P	C	S	BB. ELEVATED TEMP. MAT.	T	P
					C	S	S. CLASS 7 (Placards)	T	P	C	S	CC. MARINE POLLUTANTS	T	P

25. EQUIPMENT	*Straight Trucks*	*Truck Tractors*	*Trailers*	*HazMat Cargo Tank Trailers*	*HazMat Cargo Tank Trucks*	*PASSENGERS* *MotorCoach*	*School Bus*	*Mini-bus/Van*	*Limousine*
OWNED									
TERM LEASED									
TRIP LEASED									

26. DRIVERS SUBJECT TO FMCSR: INTERSTATE INTRASTATE

100-Mile Radius _____ 100-Mile Radius _____ TOTAL DRIVERS _____

Beyond 100-Mile Radius _____ Beyond 100-Mile Radius _____ TOTAL CDL DRIVERS _____

27. CERTIFICATION STATEMENT (to be completed by an authorized official)

I, _____ *(Please print Name)*, certify that I am familiar with the Federal Motor Carrier Safety Regulations and/or the Federal Hazardous Materials Regulations. Under penalties of perjury, I declare that the information entered on this report is, to the best of my knowledge and belief, true, correct, and complete.

Signature _____ Date _____ Title _____

Form MCS-150 (Rev. 10-94) MCS-150–Form Disk

NOTICE

The Form MCS-150, Motor Carrier Identification Report, must be filed by all motor carriers operating in interstate or foreign commerce. A new motor carrier must file Form MCS-150 within 90 days after beginning operations. Exception: A motor carrier that has received written notification of a safety rating from the Federal Highway Administration (FHWA) need not file the report. To mail, fold the completed report so that the self-addressed postage paid panel is on the outside. This report is required by 49 CFR Part 385 and authorized by 49 U.S.C. 504 (1982 & Supp. III 1985).

The public reporting burden for this collection of information on the Form MCS-150 is estimated by the FHWA to average 20 minutes. If you wish to comment on the accuracy of the estimate or make suggestions for reducing this burden, please direct your comments to the Office of Management and Budget and the FHWA at the following addresses:

Office of Management and Budget Paperwork Reduction Project Washington, DC 20503	*and*	Federal Highway Administration OMC Field Operations, HFO-10 400 7th Street, SW Washington, DC 20590

INSTRUCTIONS FOR COMPLETING THE MOTOR CARRIER IDENTIFICATION REPORT (MCS-150)

*(Please **Print** or **Type** All Information)*

1. Enter the legal name of the business entity (i.e., corporation, partnership, or individual) that owns/controls the motor carrier/shipper operation.
2. If the business entity is operating under a name other than that in Block 1, (i.e., "trade name") enter that name. Otherwise, leave blank.
3. Enter the principal place of business street address (where all safety records are maintained).
4. Enter mailing address if different from the physical address, otherwise leave blank. Also, applies to #7, #8, #12–#14.
5. Enter the city where the principal place of business is located.
6. If a Mexican motor carrier or shipper, enter the Mexican neighborhood or barrio where the principal place of business is located.
7. Enter the city corresponding with the mailing address.
8. If a Mexican motor carrier or shipper, enter the Mexican neighborhood or barrio corresponding with the mailing address.
9. Enter the name of the county in which the principal place of business is located.
10. Enter the two-letter postal abbreviation for the State, or the name of the Canadian Province or Mexican State, in which the principal place of business is located.
11. Enter the zip code number corresponding with the street address.
12. Enter the name of the county corresponding with the mailing address.
13. Enter the two-letter postal abbreviation for the State, or the name of the Canadian Province or Mexican State, corresponding with the mailing address.
14. Enter the ZIP code number corresponding with the mailing address.
15. Enter the telephone number, including area code, of the principal place of business.
16. Enter the identification number assigned to your motor carrier operation by the U.S. Department of Transportation, if known. Otherwise, enter "N/A."
17. Enter the motor carrier "MC" or "MX" number under which the Interstate Commerce Commission (ICC) issued your operating authority, if appropriate. Otherwise, enter "N/A."
18. Enter the employer identification number (EIN #) or social security number (SSN #) assigned to your motor carrier operation by the Internal Revenue Service.
19. Circle the appropriate type of **carrier** operation.

    A. Interstate

    B. Intrastate, transporting hazardous materials (49 CFR 100-180).

    C. Intrastate, NOT transporting hazardous materials.

    Interstate—transportation of persons or property across State lines, including international boundaries, or wholly within one State as part of a through movement that originates or terminates in another State or country.

    Intrastate—transportation of persons or property wholly within one State.

20. Circle the appropriate type of **shipper** operation.

A. Interstate

B. Intrastate

Interstate & Intrastate–See #19 above.

21. Enter the carrier's total mileage for the past calendar year.

22. Circle appropriate classification. Circle **all** that apply. If "L. Other" is circled, enter the type of operation in the space provided.

A. Authorized For Hire	D. Private Passengers (Business)	G. U.S. Mail	J. Local Government
B. Exempt For Hire	E. Private Passengers (Non-Business)	H. Federal Government	K. Indian Tribe
C. Private (Property)	F. Migrant	I. State Government	L. Other

Authorized For Hire—transportation for compensation as a common or contract carrier of property, owned by others, or passengers under the provisions of the ICC.

Exempt For Hire—transportation for compensation of property or passengers exempt from the economic regulation by the ICC.

Private (Property)—means a person who provides transportation of property by commercial motor vehicle and is not a for-hire motor carrier.

Private Passengers (Business)—a private motor carrier engaged in the interstate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large (e.g., bands).

Private Passengers (Non-Business)—a private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business) (e.g., church buses).

Migrant—interstate transportation, including a contract carrier, but not a common carrier of 3 or more migrant workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon.

U.S. Mail—transportation of U.S. Mail under contract with the U.S. Postal Service.

Federal Government—transportation of property or passengers by a U.S. Federal Government agency.

State Government—transportation of property or passengers by a U.S. State Government agency.

Local Government—transportation of property or passengers by a local municipality.

Indian Tribe—transportation of property or passengers by a Indian tribal government.

Other—transportation of property or passengers by some other operation classification not described by any of the above.

23. Circle *all* the letters of the types of cargo you usually transport. If "Z. Other" is circled, enter the name of the commodity in the space provided.

24. Circle **all** the letters of the types of hazardous materials (HM) you transport/ship. In the columns before the HM types, either circle C for carrier of HM or S for a shipper of HM. In the columns following the HM types, either circle T if the HM is transported in cargo tanks or P if the HM is transported in other packages (49 CFR 173.2).

25. Enter the total number of vehicles owned, term leased and trip leased, that are, or can be, operational the day this form is completed.

Motorcoach—a vehicle designed for long distance transportation of passengers, usually equipped with storage racks above the seats and a baggage hold beneath the cabin.

School Bus—a vehicle designed and/or equipped mainly to carry primary and secondary students to and from school, usually built on a medium or large truck chassis.

Mini-bus\Van—a multi-purpose passenger vehicle with a capacity of 10-24 people, typically built on a small truck chassis.

Limousine—a passenger vehicle usually built on a lengthened automobile chassis.

26. Enter the number of interstate/intrastate drivers used on an average work day. Part-time, casual, term leased, trip leased and company drivers are to be included. Also, enter the total number of drivers and the total number of drivers who have a Commercial Drivers License (CDL).

Interstate—driver transports people or property across State lines, including international boundaries, or wholly within one State as part of a through movement that originates or terminates in another State or country.

Intrastate—driver transports people or property wholly within one State.

100-mile radius driver—driver operates only within a *100 air-mile radius* of the normal work reporting location.

27. Print or type the name, in the space provided, of the individual authorized to sign documents on behalf of the entity listed in Block 1. That individual must sign, date, and show his or her title in the spaces provided (Certification Statement, see 49 CFR 385.21 and 385.23).

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U.S. Department
of Transportation

Federal Highway Administration

Official Business
Penalty for Private Use $300

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL

FIRST CLASS PERMIT NO. 12946 WASHINGTON, D.C.

POSTAGE WILL BE PAID BY FEDERAL HIGHWAY ADMINISTRATION

Federal Highway Administration
Office of Motor Carriers
Information Management, HIA-10
400 Seventh Street, S.W.
Washington, D.C. 20590

FOLD HERE AND TAPE SHUT FOR MAILING

Appendix B to Preamble Form MSC–90, Endorsement for Motor Carrier Policies of Insurance for Public Liability Under Sections 29 and 30 of the Motor Carrier Act of 1980

ENDORSEMENT FOR
MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY
UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

Form Approved
OMB No. 2125-0074

Issued to _____ of _____

Dated at _____ this _____ day of _____, 19 _____

Amending Policy No. _____ Effective Date _____

Name of Insurance Company _____

Telephone Number (_____) _____. Countersigned by _____
Authorized Company Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "☒", for the limits shown:

☐ This insurance is primary and the company shall not be liable for amounts in excess of $ _____ for each accident.

☐ This insurance is excess and the company shall not be liable for amounts in excess of $ _____ for each accident in excess of the underlying limit of $ _____ for each accident.

Whenever required by the Federal Highway Administration (FHWA) or the Interstate Commerce Commission (ICC), the company agrees to furnish the FHWA or the ICC a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FHWA or the ICC, to verify that the policy is in force as of a particular date. The telephone number to call is:_____.

Cancellation of this endorsement may be effected by the company or the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the ICC's jurisdiction, by providing thirty (30) days notice to the ICC (said 30 days notice to commence from the date the notice is received by the ICC at its office in Washington, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

ACCIDENT includes continuous or repeated exposure to conditions which results in bodily injury, property damage, or environmental damage which the insured neither expected nor intended.

MOTOR VEHICLE means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

BODILY INJURY means injury to the body, sickness, or disease to any person, including death resulting from any of these.

ENVIRONMENTAL RESTORATION means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

PROPERTY DAMAGE means damage to or loss of use of tangible property.

PUBLIC LIABILITY means liability for bodily injury, property damage, and environmental restoration.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Highway Administration (FHWA) and the Interstate Commerce Commission (ICC).

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately, to each accident, and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

The Motor Carrier Act of 1980 requires limits of financial responsibility according to the type of carriage and commodity transported by the motor carrier. It is the MOTOR CARRIER'S obligation to obtain the required limits of financial responsibility.
THE SCHEDULE OF LIMITS SHOWN ON THE REVERSE SIDE DOES NOT PROVIDE COVERAGE.
The limits shown in the schedule are for information purposes only.

Form MCS-90 **(Over)**

SCHEDULE OF LIMITS
Public Liability

Type of Carriage	Commodity Transported	Minimum Insurance
[1] (1) For-hire (in interstate or foreign commerce).	Property (nonhazardous).	$ 750,000
(2) For-hire and Private (in interstate, foreign, or intrastate commerce).	Hazardous substances transported in cargo tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A or B explosives, poison gas (Poison A), liquefied compressed gas or compressed gas; or highway route controlled quantity radioactive materials.	5,000,000
(3) For-hire and Private (in interstate or foreign commerce: in any quantity) or (in intrastate commerce: in bulk only).	Oil listed in 49 CFR 172.101, hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	1,000,000
(4) For-hire and Private (in interstate or foreign commerce).	Any quantity of Class A or B explosives, any quantity of poison gas (Poison A), or highway route controlled quantity radioactive materials.	5,000,000

Note: The type of carriage listed under (1), (2), and (3) apply to vehicles with a gross vehicle weight rateing of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles with gross vehicle weight rating of less than 10,000 pounds.

SCHEDULE OF LIMITS
Public Liability
For-hire motor carriers of passengers operating in interstate or foreign commerce

Vehicle Seating Capacity	Minimum Insurance
(1) Any vehicle with a seating capacity of 16 passengers or more.	$ 5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less.	1,500,000

Appendix C to Preamble Form MCS–82, Motor Carrier Liability Surety Bond Under Sections 29 and 30 of the Motor Carrier Act of 1980

Form Approved
OMB No. 2125-0075

US Department of Transportation

Federal Highway Administration

MOTOR CARRIER PUBLIC LIABILITY SURETY BOND UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

PARTIES

Surety Company and Principal Place of Business Address	Motor Carrier Principal, ICC Docket No., and Principal Place of Business Address
_____	_____
_____	_____
_____	_____
_____	_____

PURPOSE

This is an agreement between the Surety and the Principal under which the Surety, its successors and assignees, agree to be responsible for the payment of any final judgment or judgments against the Principal for public liability and property damage, and environmental restoration liability claims in the sums prescribed herein, subject to the governing provisions and following conditions.

GOVERNING PROVISIONS

(1) Sections 29 and 30 of the Motor Carrier Act of 1980 (49 U.S.C. 10927 note)
(2) Rules and Regulations of the Federal Highway Administration (FHWA)
(3) Rules and regulations of the Interstate Commerce Commission (ICC)

CONDITIONS

The Principal is or intends to become a motor carrier of property subject to the applicable governing provisions relating to financial responsibility for the protection of the public.

This bond assures compliance by the Principal with the applicable governing provisions, and shall inure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for public liability, property damage, or environmental restoration liability claims (excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the Principal, and the cargo transported by the Principal). If every final judgment shall be paid for such claims resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to the applicable governing provisions, then this obligation shall be void, otherwise it will remain in full effect.

Within the limits described herein, the Surety extends to such losses regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

The liability of the Surety on each motor vehicle subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 for each accident shall not exceed $ _____ and shall be a continuing one notwithstanding any recovery thereunder.

The Surety agrees, upon telephone request by an authorized representative of the FHWA or ICC, to verify that the surety bond is in full force as of a particular date. The telephone number to call is: (_____) _____.

This bond is effective from _____ (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as described herein. The Principal or the Surety may at any time terminate this bond by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof or notice), and (2) if the Principal is subject to the ICC's jurisdiction, by providing thirty (30) days notice to the ICC (said 30 days notice to commence from the date notice is received by the ICC at its office in Washington, D.C.). The Surety shall not be liable for the payment of any judgment or judgments against the Principal for public liability or property damage claims resulting from accidents which occur after the termination of this bond as described herein, but such termination shall not affect the liability of the Surety from the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

_____
Date

(AFFIX CORPORATE SEAL)

_____
Surety

_____, _____
City *State*

By _____

ACKNOWLEDGMENT OF SURETY

STATE OF _____ COUNTY OF _____

On this _____ day of _____, 19 _____, before me personally came _____, who, being by me duly sworn, did depose and say that he resides in _____; that he is the _____ of the _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; that he signed his name thereto by like order, and he duly acknowledged to me that he executed the same for and on behalf of said corporation.

_____

(OFFICIAL SEAL)

_____
Title of official administering oath
Surety Company File No. _____

Form MCS-82
(11-83)

Appendix D to Preamble Form RS–1, Uniform Application for Single State Registration for Motor Carriers Operating Under the Authority Issued by the Interstate Commerce Commission

1997 Form RS-1
Uniform Application for Single State Registration
for Motor Carriers operating under authority
issued by the Interstate Commerce Commission

MOTOR CARRIER IDENTIFICATION NUMBERS:
ICC MC No : US DOT No : _____ FEIN : _____
Phone : Fax # : _____

APPLICANT (Identical to name on ICC order):
and **PRINCIPAL PLACE OF BUSINESS ADDRESS:**
Name :
D/B/A :
Street :
City :

MAILING ADDRESS (If different from Business Address above):
Street : _____
City : _____ State : __ Zip Code : _____

TYPE OF REGISTRATION:
[ ] New Carrier Registration - The motor carrier has not previously registered.
[ ] Annual Registration - The motor carrier is renewing its annual registration.
[ ] New Registration State Selection - The motor carrier has changed its principal program. The prior registration state was _____.

TYPE OF MOTOR CARRIER: (Check one)
[ ] Individual [ ] Partnership [ ] Corporation
If corporation, give state in which incorporated : _____
List name of partners or officers:
Name : _____ Title : _____
Name : _____ Title : _____
Name : _____ Title : _____

TYPE OF ICC REGISTERED AUTHORITY:
[ ] Permanent Certificate or Permit [ ] Temporary Authority (TA)
[ ] Emergency Temporary Authority (ETA)

TYPE OF MOTOR CARRIER OPERATION: (Check one)
[ ] Transporter of PROPERTY - Using freight vehicles with a gross vehicle weight rating of 10,000 pounds or more.
[ ] Transporter of PROPERTY - Using only freight vehicles with a gross vehicle weight rating of less than 10,000 pounds.
[ ] Transporter of PASSENGERS - Using vehicles with a seating capacity of 16 passengers or more.
[ ] Transporter of PASSENGERS - Using only vehicles with a seating capacity of 15 passengers or less.

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* A principal place of business is a single location that serves as a motor carrier's headquarters and where it maintains its operational records.

Form RS-1

Uniform Application for Single State Registration
Page 2

ICC CERTIFICATE(S) OR PERMIT(S):

[ ] ICC Authority Order(s) attached for first year registration.
[ ] ICC Authority Order(s) attached for additional authority received.
[ ] No change from prior year registration.

PROOF OF PUBLIC LIABILITY (PL/PD) SECURITY: (Check only one block)

[ ] The applicant or its insurance company will file a copy of its proof public liability security to the registered state.
[ ] The applicant or its insurance company has filed a copy of its proof public liability security to the registered state and the insurance coverage as stated on that form remains in effect.
[ ] The applicant has an approved self-insurance plan or other security in full force and effect and the carrier is in full compliance with the conditions imposed by the ICC order. A copy of the ICC insurance order is attached or has previously been filed with the registration state.

HAZARDOUS MATERIALS: (Check One)

[ ] The applicant will NOT haul hazardous materials in any quantity.
[ ] The applicant will haul hazardous materials requiring $1 million in Public Liability and Property Damage Insurance in accordance with Title 49 CFR 1043.2.
[ ] The applicant will haul hazardous materials requiring $5 million in Public Liability and Property Damage Insurance in accordance with Title 49 CFR 1043.2.

PROCESS AGENT:

[ ] ICC Form No. BOC-3 or blanket designation attached for new registration.
[ ] ICC Form No. BOC-3 or blanket designation attached reflecting changes of designation of process agent.
[ ] No change from prior year registration.

CERTIFICATION:

I, the undersigned, under penalty for false statement, certify that the above information is true and correct and that I am authorized to execute and file this document on behalf applicant. (Penalty provisions subject to the laws of the registration state.)

Name (Printed) _____

Signature _____ Title _____

Telephone Number (_____) _____ - _____ Date _____

Form RS-1

Appendix E to Preamble Form RS–2, Registration Receipt Order Form

REGISTRATION RECEIPT ORDER FORM (FORM RS-2)

Name:

ICC No: _____ Principal place of business: Illinois

Transporting: [ ] Property [ ] **Passenger - Reg. Route** [ ] Passenger - Charter

Receipts ordered are for: [ ] Current year (1995) [X] Next year (1996)

(A) State Name	(B) Vehicles	(C) Fee	(D) Total Fees (BxC)
Alabama	AL _____	6.00	_____
Arkansas	AR _____	5.00	_____
California	CA _____	0.00	_____
Colorado	CO _____	5.00	_____
Connecticut	CT _____	0.00	_____
Georgia	GA _____	5.00	_____
Idaho	ID _____	1.00	_____
Illinois	IL _____	7.00	_____
Indiana	IN _____	0.00	_____
Iowa	IA _____	1.00	_____
Kansas	KS _____	10.00	_____
Kentucky	KY _____	10.00	_____
Louisiana	LA _____	10.00	_____
Maine	ME _____	0.00	_____
Massachusetts	MA _____	0.00	_____
Michigan	MI _____	0.00	_____
Minnesota	MN _____	0.45	_____
Mississippi	MS _____	10.00	_____
Missouri	MO _____	0.00	_____
Montana	MT _____	5.00	_____
Nebraska	NE _____	0.00	_____
New Hampshire	NH _____	10.00	_____
New Mexico	NM _____	10.00	_____
New York	NY _____	10.00	_____
North Carolina	NC _____	1.00	_____
North Dakota	ND _____	10.00	_____
Ohio	OH _____	0.00	_____
Oklahoma	OK _____	7.00	_____
Rhode Island	RI _____	8.00	_____
South Carolina	SC _____	5.00	_____
South Dakota	SD _____	5.00	_____
Tennessee	TN _____	8.00	_____
Texas	TX _____	0.00	_____
Utah	UT _____	6.00	_____
Virginia	VA _____	3.00	_____
Washington	WA _____	0.00	_____
West Virginia	WV _____	3.00	_____
Wisconsin	WI _____	5.00	_____
TOTAL OF ALL STATES FEES			_____

CERTIFYING STATEMENT AND SIGNATURE: I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the above applicant. Signature below authorizes the Illinois Commerce Commission to lower the amount of the check if fees submitted exceed the correct amount.

Signature _____

Title _____ Date ___/___/___

Phone (___) ___ - _____ Fax (___) ___ - _____

Appendix F to Preamble Form OP–1, Application for Motor Property Carrier and Broker Authority

FEDERAL HIGHWAY ADMINISTRATION
FORM OP-1
APPLICATION FOR MOTOR PROPERTY CARRIER AND BROKER AUTHORITY

Approved by OMB
3120-0047
Expires 12/97

This application is for all individuals and businesses requesting authority to operate as motor property common or contract carriers or property brokers.

FOR FHWA USE ONLY

Docket No. MC-_____

Filed _____

Fee No._____

CC Approval No._____

SECTION I

Applicant Information

Do you now have authority from or an application being processed by the former ICC or FHWA?
☐ NO ☐ YES If yes, identify the lead docket number(s)_____

LEGAL BUSINESS NAME

DOING BUSINESS AS NAME

BUSINESS ADDRESS

_____ (____)_____
Street Name and Number City State Zip Code Telephone Number

MAILING ADDRESS (If different from above)

_____
Street Name and Number City State Zip Code

REPRESENTATIVE (Person who can respond to inquiries)

_____
Name and title, position, or relationship to applicant

_____
Street Name and Number City State Zip Code
Telephone Number (_____)_____ FAX Number (_____)_____

U.S. DOT Number (If available; if not, see Instructions.)_____

FORM OF BUSINESS (Check only one.)
☐ Corporation State of Incorporation _____
☐ Sole Proprietorship Name of Individual _____
☐ Partnership Identify Partners _____
_____

SECTION II

Type of Authority

You must submit a filing fee for each type of authority requested (for each box checked).

☐ MOTOR COMMON CARRIER OF PROPERTY (except HOUSEHOLD GOODS)
☐ MOTOR CONTRACT CARRIER OF PROPERTY (except HOUSEHOLD GOODS)
☐ MOTOR COMMON CARRIER OF HOUSEHOLD GOODS
☐ MOTOR CONTRACT CARRIER OF HOUSEHOLD GOODS
☐ BROKER OF PROPERTY (except HOUSEHOLD GOODS)
☐ BROKER OF HOUSEHOLD GOODS

5/95

APPLICATION FOR MOTOR PROPERTY CARRIER AND BROKER AUTHORITY - OP-1 (cont.)

SECTION III

Insurance Information

This section must be completed by ALL motor property carrier applicants. The dollar amounts in parentheses represent the minimum amount of bodily injury and property damage (liability) insurance coverage you must maintain and have on file with the FHWA.

NOTE: Refer to the instructions for information on cargo insurance filing requirements for motor common carriers and surety bond/trust fund agreement filings for property brokers.

☐ Will operate vehicles having Gross Vehicle Weight Ratings (GVWR) of 10,000 pounds or more to transport:
- ☐ Non-hazardous commodities ($750,000).
- ☐ Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 1043.2(b)(2)(c) ($1,000,000).
- ☐ Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 1043.2(b)(2)(b) ($5,000,000).

☐ Will operate only vehicles having Gross Vehicle Weight Ratings (GVWR) under 10,000 pounds to transport:
- ☐ Any quantity of Class A or B explosives, any quantity of poison gas (Poison A), or highway route controlled quantity of radioactive materials ($5,000,000).
- ☐ Commodities other than those listed above ($300,000).

SECTION IV

Safety Certification (Motor Carrier Applicants Only)

APPLICANTS SUBJECT TO FEDERAL MOTOR CARRIER SAFETY REGULATIONS - If you will operate vehicles of more than 10,000 pounds GVWR and are, thus, subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter 3, Subchapter B (Parts 350-399), you must certify as follows:

Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

(1) Has in place a system and an individual responsible for ensuring overall compliance with Federal Motor Carrier Safety Regulations;
(2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;
(3) Has in place a driver safety training/orientation program;
(4) Has prepared and maintains an accident register (49 CFR 390.15);
(5) Is familiar with DOT regulations governing driver qualifications and has in place a system for overseeing driver qualification requirements (49 CFR Part 391);
(6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396);
(7) Is familiar with and will have in place on the appropriate effective date, a system for complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 382 and 49 CFR Part 40).

☐ YES

EXEMPT APPLICANTS - If you will operate only small vehicles (GVWR under 10,000 pounds) and will not transport hazardous materials, you are exempt from Federal Motor Carrier Safety Regulations, and must certify as follows:
Applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

☐ YES

APPLICATION FOR MOTOR PROPERTY CARRIER AND BROKER AUTHORITY - OP-1 (cont.)

SECTION V

Affiliations

AFFILIATION WITH OTHER FORMER ICC, NOW FHWA-LICENSED ENTITIES. Disclose any relationship you have or have had with any other FHWA-regulated entity within the past 3 years. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC-number, DOT number, and that company's latest U.S. DOT safety rating. (If you require more space, attach the information to this application form.)

_____

_____

_____

SECTION VI

Household Goods Certifications

HOUSEHOLD GOODS MOTOR COMMON CARRIER APPLICANTS must certify as follows:
Applicant is fit, willing, and able to provide the specialized services necessary to transport household goods. This assessment of fitness includes applicant's general familiarity with former ICC, now FHWA regulations for household goods movements and also requires an assurance that applicant has or is willing to acquire the protective equipment and trained operators necessary to perform household goods movements. The proposed operations will serve a useful public purpose responsive to a public demand or need.

☐ YES

HOUSEHOLD GOODS MOTOR CONTRACT CARRIER APPLICANTS must certify as follows:
Applicant is fit, willing, and able to provide the specialized services necessary to transport household goods. This assessment of fitness includes applicant's general familiarity with former ICC, now FHWA regulations for household goods movements and also requires an assurance that applicant has or is willing to acquire the protective equipment and trained operators necessary to perform household goods movements. The proposed service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101.

☐ YES

HOUSEHOLD GOODS BROKER APPLICANTS must certify as follows:
Applicant is fit, willing, and able to provide household goods brokerage operations and to comply with all pertinent statutory and regulatory requirements. The involved services will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101.

☐ YES

NOTE: Applicant may attach a supporting statement to this application to provide additional information about any of the above certifications. This evidence is optional.

APPLICATION FOR MOTOR PROPERTY CARRIER AND BROKER AUTHORITY - OP-1 (cont.)

SECTION VII

Applicants for Contract Carriage of Household Goods

SCOPE OF OPERATING AUTHORITY. Complete one or both box(es) below, as applicable.

☐ Contracting shippers have one or more of the distinct needs delineated in *Interstate Van Lines, Inc., Extension - Household Goods*, 5 I.C.C.2d 168 (1988).
Describe briefly the distinct need(s):

_____

_____

_____

☐ Contracts provide for assignment of one or more vehicles for the exclusive use of each shipper in the manner specified in *Interstate Van Lines, Inc., Extension - Household Goods*, 5 I.C.C.2d 168 (1988).

SECTION VIII

Applicant's Oath

This oath applies to all supplemental filings to this application. The signature must be that of applicant, not legal representative.

I, _____, verify under penalty of
Name and title

perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to $10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to $2,000 or imprisonment up to 5 years for each offense.

I further certify under penalty of perjury, under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, under 21 U.S.C. 853a.

Finally, I certify that applicant is not domiciled in Mexico or owned or controlled by persons of that country.

Signature _____ Date _____

APPLICATION FOR MOTOR PROPERTY CARRIER AND BROKER AUTHORITY - OP-1 (cont.)

Filing Fee Information

All applicants must submit a filing fee for each type of authority requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in *Section II*. Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in *Section II*: _____ x filing fee $_____ = $_____

INDICATE AMOUNT $_____ AND METHOD OF PAYMENT

☐ CHECK or ☐ MONEY ORDER, payable to: Federal Highway Administration

☐ VISA ☐ MASTERCARD

Credit Card Number _____ Expiration Date _____

Signature _____ Date _____

Fee Policy

- Filing fees must be payable to the **Federal Highway Administration**, by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or by approved credit card.
- Separate fees are required for each **type of authority** requested. If applicant requests multiple types of permanent authority on one application form (for example, common and contract carrier authority) or if applicant submits more than one form in the OP-1 Series in a single filing, multiple fees are required. The applicant may submit a single payment for the sum of the applicable fees.
- Filing fees must be sent, along with the original and one copy of the application, to Federal Highway Administration, Section of Licensing, 1201 Constitution Avenue, N.W., Washington, DC 20423-0001.
- After an application is received, the filing fee is not refundable.
- The FHWA reserves the right to discontinue processing any application for which a check is returned because of insufficient funds. The application will not be processed until the fee is paid in full.

PAPERWORK BURDEN. It is estimated that an average of 2.5 burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to both the Federal Highway Administration, Section of Licensing, Room 2227, 1201 Constitution Avenue, N.W., Washington, DC 20423-0001, and to the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB No. 3120-0047), Washington, DC 20403.

Appendix G to Preamble Form OP–1(P), Application for Motor Passenger Carrier Authority

FEDERAL HIGHWAY ADMINISTRATION
FORM OP-1(P)
APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY

Approved by OMB
3120-0047
Expires 12/97

This application is for all individuals and businesses requesting authority to operate as motor passenger common or contract carriers.

FOR FHWA USE ONLY

Docket No. MC-_____

Filed _____

Fee No._____

CC Approval No._____

SECTION I

Applicant Information

Do you now have authority from or an application being processed by the former ICC, now FHWA.
☐ NO ☐ YES If yes, identify the lead docket number(s)_____

LEGAL BUSINESS NAME

DOING BUSINESS AS NAME

BUSINESS ADDRESS

_____ (____)_____
Street Name and Number City State Zip Code Telephone Number

MAILING ADDRESS (If different from above)

_____
Street Name and Number City State Zip Code

REPRESENTATIVE (Person who can respond to inquiries)

_____
Name and title, position, or relationship to applicant

_____
Street Name and Number City State Zip Code
Telephone Number (_____)_____ FAX Number (____)_____

U.S. DOT Number (If available;if not, see Instructions.)_____

FORM OF BUSINESS (Check only one.)
☐ Corporation State of Incorporation _____
☐ Sole Proprietorship Name of Individual _____
☐ Partnership Identify Partners _____
_____

SECTION II

Type of Authority

You must submit a filing fee for each type of authority requested (for each box checked).

☐ MOTOR PASSENGER COMMON CARRIER
☐ MOTOR PASSENGER CONTRACT CARRIER

5/95

APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY - FORM OP-1(P) (cont.)

SECTION III

Insurance Information

All motor passenger carrier applicants must maintain public liability insurance. The amounts in parentheses represent the minimum amount of coverage required.

Applicant will use vehicles with seating capacities of (check only one box):

☐ 16 passengers or more ($5,000,000)
☐ 15 passengers or fewer only ($1,500,000)

SECTION IV

Safety Certification

APPLICANTS SUBJECT TO FEDERAL MOTOR CARRIER SAFETY REGULATIONS - If you are subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter 3, Subchapter B (Parts 350-399), you must certify as follows:
Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

(1) Has in place a system and an individual responsible for ensuring overall compliance with Federal motor carrier safety regulations;
(2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;
(3) Has in place a driver safety training/orientation program;
(4) Has prepared and maintains an accident register (49 CFR 390.15);
(5) Is familiar with DOT regulations governing driver qualifications and has in place a system for overseeing driver qualification requirements (49 CFR Part 391);
(6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396);
(7) Is familiar with and has in place a system for complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 390.5).

☐ YES

EXEMPT APPLICANTS - If you are exempt from Federal Motor Carrier Safety Regulations, you must certify as follows:

Applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

☐ YES

APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY - FORM OP-1(P) (cont.)

SECTION V

Compliance Certification

ALL MOTOR PASSENGER CARRIER APPLICANTS must certify as follows:
Applicant is fit, willing, and able to provide the proposed operations and to comply with all pertinent statutory and regulatory requirements.

☐ YES

SECTION VI

Government Funding Status

Specify the nature of governmental financial assistance you receive, if any, by checking the appropriate box below. (Check only one box.)

☐ Public recipient - Applicant is any of the following: any state; any municipality or other political subdivision of a state; any public agency or instrumentality of such entities of one or more state(s); an Indian tribe; and any corporation, board or other person owned or controlled by such entities or owned by, controlled by, or under common control with such a corporation, board, or person which is receiving or has ever received governmental financial assistance for the purchase or operation of any bus.

☐ Private recipient - Applicant is not a public recipient but is receiving, or has received in the past, governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

☐ Non-recipient - Applicant is not receiving, or using equipment acquired with, governmental financial assistance.

Public Interest Criteria: Regular route applicants and private recipient applicants may introduce supplemental evidence describing how the proposed service will respond to existing transportation needs or is otherwise consistent with the public interest. Filing this evidence with the application is optional, but it may be needed later, if the application is protested.

Public Recipient Applicants: All public recipient applicants for charter or special transportation must submit evidence to demonstrate either that:

(1) No motor common carrier of passengers (other than a motor common carrier of passengers that is a public recipient of governmental assistance) is providing, or is willing and able to provide, the transportation to be authorized by the certificate; or

(2) The transportation to be authorized by the certificate is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

Supplemental evidence should be provided on a separate sheet of paper attached to this application.

Fitness Only Criteria: No additional evidence is needed from non-recipient applicants for charter and special transportation and applicants for contract carrier operations.

APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY - FORM OP-1(P) (cont.)

SECTION VII

Scope of Operating Authority

(1) ☐ **Charter and special** transportation, in interstate or foreign commerce, between points in the United States.

(2) ☐ Service as a common carrier over **regular routes.** (Regular route passenger carrier authority to perform regularly scheduled service only over named roads or highways.) Regular route passenger service includes authority to transport newspapers, baggage of passengers, express packages, and mail in the same motor vehicle with passengers, or baggage of passengers in a separate motor vehicle.

Applicants requesting authority to operate over regular routes - On a separate sheet of paper attached to the application, describe the specific routes over which you intend to provide regularly scheduled service. You must also furnish a map clearly identifying each regular route involved in your passenger carrier service description(s).

(3) ☐ **Intrastate authority**

(a) Are you also requesting **intrastate authority** to provide the service described in item 2?

☐ YES ☐ NO

(b) Do you already hold **interstate authority** to provide the service described above?

☐ YES ☐ NO

(c) If you responded "YES" to 3(b) (*i.e.*, if you already hold interstate authority to provide this service), was the authority issued on or before November 19, 1982?

☐ YES ☐ NO

If you responded "YES" to 3(c), you must attach to your application a copy of the interstate authority or authorities issued on before November 19, 1982, authorizing the transportation of passengers on the routes over which you request intrastate authority. You must mark the envelope and the application in the upper right corner of the front page "90-Day Intrastate Passenger Application."

NOTE: The FHWA has no jurisdiction to grant intrastate authority independently of interstate authority on the same routes. Also, no carrier may conduct operations under a certificate authorizing intrastate regular route service unless it actually is conducting substantial operations in interstate commerce over the same route.

APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY - FORM OP-1(P) (cont.)

SECTION VII

Scope of Operating Authority (cont.)

(4) ☐ Service as a **contract carrier** between points in the United States, under continuing contract(s) with persons or organizations requiring passenger transportation service;

or

☐ Service as a **contract carrier** between points in the United States, under continuing contract(s) with:

_____

Contracting persons or organizations

As a contract carrier, I will: (Check the box(es) indicating how you will meet the statutory requirements for contract carriage.)

(a) ☐ Furnish the transportation service through the assignment of motor vehicles for a continuing period of time for the exclusive use of each group or organization served;

(b) ☐ Furnish the transportation service designed to meet the distinct needs of each group, organization, or class of groups or organizations. Describe briefly the distinct need(s) below and/or introduce supplemental supporting evidence to identify service needs corresponding to the operations proposed.

_____

_____

_____

_____

(5) ☐ Alternative Service Descriptions

If you request authority that is not covered by items 1-4 above, (*i.e.*, authority to operate in specific territories not identified in the service options previously set forth), describe in the space below.

_____

_____

_____

This service description takes into account the applicant's operational capacity, is responsive to applicant's present and prospective service interest, is not unduly restrictive, and is consistent with the purposes of the Interstate Commerce Act. Certify by checking:

☐ YES

APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY - FORM OP-1(P) (cont.)

SECTION VIII

Affiliations

AFFILIATION WITH OTHER FORMER ICC, NOW FHWA-LICENSED ENTITIES. Disclose any relationship you have or have had with any other former ICC, now FHWA-licensed entity within the past 3 years. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC-number, DOT number, and that company's latest U.S. DOT safety rating. (If you require more space, attach the information to this application form.)

_____

_____

_____

SECTION IX

Applicant's Oath

This oath applies to all supplemental filings to this application. The signature must be that of applicant, not legal representative.

I, _____, verify under penalty of
Name and title

perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to $10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to $2,000 or imprisonment up to 5 years for each offense.

I further certify under penalty of perjury, under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, under 21 U.S.C. 853a.

Finally, I certify that applicant is not domiciled in Mexico or owned or controlled by persons of that country. (Note: This portion of Applicant's Oath does not pertain to Mexican passenger carriers seeking to provide charter and tour bus service across the United States - Mexico international border.)

Signature _____ Date _____

APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY - FORM OP-1(P) (cont.)

Filing Fee Information

All applicants must submit a filing fee for each type of authority requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in ***Section II***. Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in ***Section II***: _____ x filing fee $_____ = $_____

INDICATE AMOUNT $_____ AND METHOD OF PAYMENT

☐ CHECK or ☐ MONEY ORDER, payable to: **Federal Highway Administration**

☐ VISA ☐ MASTERCARD

Credit Card Number _____ Expiration Date _____

Signature _____ Date _____

Fee Policy

- Filing fees must be payable to the **Federal Highway Administration**, by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or by approved credit card.
- Separate fees are required for each **type of authority** requested. If applicant requests multiple types of permanent authority on one application form (for example, common and contract carrier authority) or if applicant submits more than one form in the OP-1 Series in a single filing, multiple fees are required. The applicant may submit a single payment for the sum of the applicable fees.
- Filing fees must be sent, along with the original and one copy of the application, to Federal Highway Administration, Section of Licensing, 1201 Constitution Avenue, N.W., Washington, DC 20423-0001.
- After an application is received, the filing fee is not refundable.
- The FHWA reserves the right to discontinue processing any application for which a check is returned because of insufficient funds. The application will not be processed until the fee is paid in full.

PAPERWORK BURDEN. It is estimated that an average of 2.5 burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to both the Federal Highway Administration, Section of Licensing, 1201 Constitution Avenue, N.W., Washington, DC 20423-0001, and to the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB No. 3120-0047), Washington, DC 20403.

Appendix H to Preamble Form OP–1(FF), Application for Freight Forwarder Authority

FEDERAL HIGHWAY ADMINISTRATION
FORM OP-1(FF)
APPLICATION FOR FREIGHT FORWARDER AUTHORITY

Approved by OMB
3120-0047
Expires 12/97

This application is for all individuals and businesses requesting authority to operate as freight forwarders in interstate or foreign commerce. Freight forwarders are involved in the arrangement, assembly, and/or consolidation for transportation where the actual movement is performed by FHWA-licensed carriers. Forwarders arrange with the carriers for the actual line-haul transportation; they do not do it themselves. (Freight forwarders may provide local pickup and delivery services directly or by using a carrier under their control.) Freight forwarders issue bills of lading to shippers and are responsible for loss of or damage to the goods.

FOR FHWA USE ONLY

Docket No. FF-_____

Filed _____

Fee No._____

CC Approval No._____

SECTION I

Applicant Information

Do you now have authority from or an application being processed by the former ICC or FHWA?
☐ NO ☐ YES If yes, identify the lead docket number(s)_____

LEGAL BUSINESS NAME

DOING BUSINESS AS NAME

BUSINESS ADDRESS

_____ (_____)_____
Street Name and Number City State Zip Code Telephone Number

MAILING ADDRESS (If different from above)

_____
Street Name and Number City State Zip Code

REPRESENTATIVE (Person who can respond to inquiries)

_____
Name and title, position, or relationship to applicant

_____
Street Name and Number City State Zip Code
Telephone Number (_____)_____ FAX Number (_____)_____

U.S. DOT Number (If available; if not, see Instructions.)_____

FORM OF BUSINESS (Check only one.):
☐ Corporation State of Incorporation _____
☐ Sole Proprietorship Name of Individual _____
☐ Partnership Identify Partners _____
_____

SECTION II
Type of Authority

☐ HOUSEHOLD GOODS FREIGHT FORWARDER
☐ FREIGHT FORWARDER OF PROPERTY (EXCEPT HOUSEHOLD GOODS)

1/96

APPLICATION FOR FREIGHT FORWARDER AUTHORITY - OP-1(FF) (cont'd)

SECTION III

Insurance Information

Freight forwarders that perform transfer, collection, and delivery service must have on file evidence of appropriate levels of bodily injury and property damage (BI&PD) insurance and environmental restoration coverage. The dollar amounts in parentheses represent the minimum amount of bodily injury and property damage (liability) insurance coverage you must maintain and have on file with the FHWA.

NOTE: All freight forwarder applicants should refer to the instructions for information on cargo insurance filing requirements.

☐ Will operate vehicles having Gross Vehicle Weight Ratings (GVWR) of 10,000 pounds or more to transport:

- ☐ Non-hazardous commodities ($750,000)
- ☐ Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 1043.2(b)(2)(c) ($1,000,000).
- ☐ Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 1043.2(b)(2)(b) ($5,000,000).

☐ Will operate only vehicles having Gross Vehicle Weight Ratings (GVWR) under 10,000 pounds to transport:

- ☐ Any quantity of Class A or B explosives, any quantity of poison gas (Poison A), or highway route controlled quantity of radioactive materials ($5,000,000).
- ☐ Commodities other than those listed above ($300,000).

☐ Applicant seeks a waiver of liability (BI&PD) insurance requirements and certifies that in its forwarding operations it:

(1) will not own or operate any motor vehicles upon the highways in the transportation of property;
(2) Will not perform transfer, collection, or delivery services; and
(3) Will not have motor vehicles operated under its direction and control in the performance of transfer collection, or delivery services.

SECTION IV

Certification Household Goods

ALL HOUSEHOLD FREIGHT FORWARDER APPLICANTS must certify as follows:
Applicant is fit, willing, and able to provide household goods freight forwarding operations and to comply with all pertinent statutory and regulatory requirements. The proposed operations will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101.

☐ YES

NOTE: Applicant may attach a supporting statement to this application to provide additional information about the above certification. This evidence is optional.

APPLICATION FOR FREIGHT FORWARDER AUTHORITY - OP-1(FF) (cont'd)

SECTION V

Safety Certification (Vehicle Operating Freight Forwarder Applicants Only)

APPLICANTS SUBJECT TO FEDERAL MOTOR CARRIER SAFETY REGULATIONS - If you will operate vehicles of more than 10,000 pounds GVWR and are, thus, subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter 3, Subchapter B (Parts 350-399), you must certify as follows:
Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

(1) Has in place a system and an individual responsible for ensuring overall compliance with Federal motor carrier safety regulations;
(2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;
(3) Has in place a driver safety training/orientation program;
(4) Has prepared and maintains an accident register (49 CFR 390.15);
(5) Is familiar with DOT regulations governing driver qualifications and has in place a system for overseeing driver qualification requirements (49 CFR Part 391);
(6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396);
(7) Is familiar with and will have in place on the appropriate effective date, a system for complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 382 and 49 CFR Part 40).

☐ YES

EXEMPT APPLICANTS - If you will operate only small vehicles (GVWR under 10,000 pounds), and will not transport hazardous materials, you are, exempt from Federal Motor Carrier Safety Regulations, and must certify as follows:
Applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

☐ YES

SECTION VI

Control Relationships

Applicant is engaged principally in the business of manufacturing, buying, or selling articles and commodities, or is in control of, controlled by, or under common control with any such entity.

☐ YES ☐ NO

If yes, describe the relationship and indicate to what extent the involved entity engaged in manufacturing, buying, or selling commodities uses the services of freight forwarders. If applicant itself is engaged in manufacturing, buying, or selling as described above, indicate to what extent it performs its own forwarding operations in conjunction with the assembly, consolidation, and shipment of the commodities it manufactures, buys, or sells.

_____

_____

_____

APPLICATION FOR FREIGHT FORWARDER AUTHORITY - OP-1(FF) (cont'd)

SECTION VII

Affiliations

AFFILIATION WITH OTHER FORMER ICC, NOW FHWA-LICENSED ENTITIES. Disclose any relationship you have or have had with any other FHWA-licensed entity within the past 3 years. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC-number, DOT number, and that company's latest U.S. DOT safety rating. (If you require more space, attach the information to this application form.)

_____

_____

_____

SECTION VIII

Applicant's Oath

This oath applies to all supplemental filings to this application. The signature must be that of applicant, not legal representative.

I, _____, verify under penalty of
Name and title

perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to $10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to $2,000 or imprisonment up to 5 years for each offense.

I further certify under penalty of perjury, under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, under 21 U.S.C. 853a.

Signature _____ Date_____

APPLICATION FOR FREIGHT FORWARDER AUTHORITY - OP-1(FF) (cont'd)

Fee Policy

- Filing fees must be payable to the **Federal Highway Administration**, by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or by approved credit card.
- Separate fees are required for each **type of authority** requested. If applicant requests multiple types of permanent authority on one application form (for example, common and contract carrier authority) or if applicant submits more than one form in the OP-1 Series in a single filing, multiple fees are required. The applicant may submit a single payment for the sum of the applicable fees.
- Filing fees must be sent, along with the original and one copy of the application, to Federal Highway Administration, Section of Licensing HMT-20, 1201 Constitution Avenue, N.W., Washington, DC 20423-0001.
- After an application is received, the filing fee is not refundable.
- The FHWA reserves the right to discontinue processing any application for which a check is returned because of insufficient funds. The application will not be processed until the fee is paid in full.

Filing Fee Information

All applicants must submit a filing fee for each type of authority requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in ***Section II***. Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in ***Section II***: _____ x filing fee $_____ = $_____

INDICATE AMOUNT $_____ AND METHOD OF PAYMENT

☐ CHECK or ☐ MONEY ORDER, payable to: Federal Highway Administration

☐ VISA ☐ MASTERCARD

Credit Card Number _____ Expiration Date _____

Signature _____ Date _____

PAPERWORK BURDEN. It is estimated that an average of 2.5 burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to both the Federal Highway Administration, Section of Licensing, 1201 Constitution Avenue, N.W., Washington, DC 20423-0001, and to the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB No. 3120-0047), Washington, DC 20403.

Federal Highway Administration OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE DESIGNATION OF AGENTS - MOTOR CARRIERS AND BROKERS	DOCKET NO. MC- DATE

FULL AND CORRECT NAME OF CARRIER OR BROKER AND ADDRESS, INCLUDING ZIP CODE

TITLE OF AUTHORIZED PERSON	SIGNATURE

INSTRUCTIONS: Regulations governing the designation of persons upon whom court process may be served are prescribed in 49 C.F.R. 1044, as amended. An agent must be designated for each state in or through which the carrier or broker operates; each person, association or corporation designated must reside in the state for which designated; a carrier or broker may designate himself/herself for the state in which he/she resides; and, state officials may be designated only if such official's agreement to so act is furnished with this designation.

NOTE: A Post Office Box is NOT ACCEPTABLE as an agent's address.

FILE THE ORIGINAL signed copy with the Insurance Branch, Federal Highway Administration, Washington, DC 20423. *One signed copy should be filed with the Board of each state in or through which the operation is conducted; and one copy must be retained by the carrier or broker.*

CHANGES in designation may be made only by filing with the FHWA, *Insurance Branch, a new Form BOC-3 with the ICC which must be completed for all states for which designations are necessary. Copies of new designations need to be sent only to those states affected by the change of new filing. Either* INDIVIDUAL *or* BLANKET *designations may be made.*

INDIVIDUAL DESIGNATIONS

Pursuant to Section 10330(b) of the Interstate Commerce Act and rules and regulations, the carrier or broker named above hereby designates the following named persons upon whom process issued by any court in any action against the carrier may be served in the state named. *Show agent's name, address (P. O. Box NOT acceptable), City, and Zip Code for each state in which operations can be conducted.*

ALABAMA	HAWAII
ALASKA	IDAHO
ARIZONA	ILLINOIS
ARKANSAS	INDIANA
CALIFORNIA	IOWA
COLORADO	KANSAS
CONNECTICUT	KENTUCKY
DELAWARE	LOUISIANA
DISTRICT OF COLUMBIA	MAINE
FLORIDA	MARYLAND
GEORGIA	MASSACHUSETTS

Approved by OMB No. 3120-0008
Exp 08/30/96

(Continued on Reverse Side)

Form BOC-3

Appendix I to Preamble Form B.M.C. 91, Motor Carrier Automobile Bodily Injury and Property Damage Liability Certificate of Insurance

It is estimated that an average of 1/4 burden hour per response is required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission and the Office of Information and Regulatory Affairs, Office of Management and Budget.

MOTOR CARRIER AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE

Received:
Date _____

filed (in Triplicate) with:
INTERSTATE COMMERCE
COMMISSION
INSURANCE BRANCH
WASHINGTON, D.C. 20423

ICC DOCKET NO.
MC _____
(or FF _____)

Approved by OMB
3120-0081
Through 10-31-95

This is to certify that the _____
Name of Company

(hereinafter called Company) of _____
Home Office Address of Company

has issued to _____
Name of Motor Carrier

of _____
Address of Motor Carrier

insurance under terms described on the back of this form to provide coverage for the FULL SECURITY LIMITS required under Section 1043.2(b)(1) or Section 1043.2(b)(2) of Title 49 of the Code of Federal Regulations.

Effective from _____(12:01 a.m., standard time at the address of the Insured as stated in said policy or policies) and continuing until cancelled as provided in the rules and regulations under Section 10927 of Title 49 of the United States Code.

Signed at _____ _____ _____ Date _____
Street *City* *State*

_____
ISSUING OFFICE–FULL NAME OF AGENCY OR BRANCH

Insurance Company Policy No. _____

_____
SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

Form B.M.C.91

The receipt of this certificate by the Commission certifies that a policy or policies of Public Liability (or Automobile Bodily Injury and Property Damage Liability) insurance has been issued by the company identified on the face of this form, that the company is qualified to make this filing under Section 1043.8 or Section 1084.6 of Title 49 of the Code of Federal Regulations, and that by the attachment of endorsement BMC 90, prescribed by the Interstate Commerce Commission and/or an endorsement prescribed by the U.S. Department of Transportation (its MCS 90 or a form of similar import), is amended to provide the coverage or security for the protection of the public required under Section 1043.2 of Title 49 of the Code of Federal Regulations. The amendment governs the operation, maintenance, or use of motor vehicles under certificate of public convenience and necessity or permit issued to the Insured by the Commission or otherwise in transportation subject to Subchapter II of Chapter 105 of Title 49, United States Code, and the pertinent rules and regulations of the Commission, regardless of whether or not such motor vehicles are specifically described in the policy or policies. The liability of the Company extends to all losses, damages, injuries, or deaths occurring within the authority granted to the Insured by this Commission or elsewhere.

The endorsement(s) described may not be cancelled or withdrawn until thirty (30) days after written notice has been submitted to the Commission at its offices in Washington, D.C., on the prescribed Form BMC-35, Notice of Cancellation Motor Carrier Policies of Insurance under 49 U.S.C. 10927, said thirty (30) days notice to commence to run from the date the notice is actually received at the Office of the Commission.

Falsification of this document can result in criminal penalties prescribed under 18 U.S.C. 1001.

* U.S. GOVERNMENT PRINTING OFFICE : 1993 O - 338-543

Appendix J to Preamble Form B.M.C. 91X, Motor Carrier Automobile Bodily Injury and Property Damage Liability Certificate of Insurance

It is estimated that an average of 1/4 burden hour per response is required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission and the Office of Information and Regulatory Affairs, Office of Management and Budget.

MOTOR CARRIER AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE

Received:
Date _____

filed (in Triplicate) with:
INTERSTATE COMMERCE
COMMISSION
INSURANCE BRANCH
WASHINGTON, D.C. 20423

ICC DOCKET NO.
MC _____
(or FF _____)

Approved by OMB
3120-0081
Expires 10-31-95

This is to certify that the _____
Name of Company

(hereinafter called Company) of _____
Home Office Address of Company

has issued to _____
Name of Motor Carrier

of _____
Address of Motor Carrier

insurance under terms described on the back of this form to provide coverage as follows: CHECK AS APPLICABLE:

Full Security Limits Required in Title 49 of the Code of Federal Regulations: ☐ Under Section 1043.2(b)(1) ☐ Under Section 1043.2(b)(2)

Security Limits Required under Section 1043.2(b)(1) or 1043.2(b)(2) of the same Title as follows:

☐ This insurance is primary and the company shall not be liable for amounts in excess of $ _____ for each accident.

☐ This insurance is excess and the company shall not be liable for amounts in excess of $ _____ for each accident in excess of the underlying limit of $ _____ for each accident.

Effective from _____ (12:01 a.m., standard time at the address of the Insured as stated in said policy or policies) and continuing until cancelled as provided in the rules and regulations under Section 10927 of Title 49 of the United States Code.

Signed at _____ _____ _____ Date _____
Street *City* *State*

_____
ISSUING OFFICE–FULL NAME OF AGENCY OR BRANCH

Insurance Company Policy No. _____

_____
SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

Form B.M.C.91X

The receipt of this certificate by the Commission certifies that a policy or policies of Public Liability (or Automobile Bodily Injury and Property Damage Liability) insurance has been issued by the company identified on the face of this form, that the company is qualified to make this filing under Section 1043.8 or Section 1084.6 of Title 49 of the Code of Federal Regulations, and that by the attachment of endorsement BMC 90, prescribed by the Interstate Commerce Commission and/or an endorsement prescribed by the U.S. Department of Transportation (its MCS 90 or a form of similar import), is amended to provide the coverage or security for the protection of the public required under Section 1043.2 of Title 49 of the Code of Federal Regulations. The amendment governs the operation, maintenance, or use of motor vehicles under certificate of public convenience and necessity or permit issued to the Insured by the Commission or otherwise in transportation subject to Subchapter II of Chapter 105 of Title 49, United States Code, and the pertinent rules and regulations of the Commission, regardless of whether or not such motor vehicles are specifically described in the policy or policies or not. The liability of the Company extends to all losses, damages, injuries, or deaths occurring within the authority granted to the Insured by this Commission or elsewhere.

The endorsement(s) described may not be cancelled or withdrawn until thirty (30) days after written notice has been submitted to the Commission at its offices in Washington, D.C., on the prescribed Form BMC-35, Notice of Cancellation Motor Carrier Policies of Insurance under 49 U.S.C. 10927. Said thirty (30) days notice to commence to run from the date the notice is actually received at the Office of the Commission.

Falsification of this document can result in criminal penalties prescribed under 18 U.S.C. 1001.

Appendix K to Preamble Form B.M.C. 82, Motor Carrier Bodily Injury Liability and Property Damage Liability Surety Bond Under 49 U.S.C. 10927

It is estimated that an average of ¼ burden hour per response is required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission and the Office of Information and Regulatory Affairs, Office of Management and Budget.

FORM B.M.C. 82

Insurance Branch
WASHINGTON, D.C. 20423

Received:

DATE _____

MOTOR CARRIER BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY SURETY BOND UNDER 49 U.S.C. 10927

(Executed in Triplicate)

Approved by OMB
3120–0081
Expires by 12/31/95

INTERSTATE COMMERCE COMMISSION
DOCKET NO. MC _____

KNOW ALL MEN BY THESE PRESENTS, That _____

a corporation created and existing under the laws of the State of _____

with principal office at _____

(hereinafter called Surety), as Surety for _____
(Name of motor carrier principal)

of _____
(City) *(State)*

(hereinafter called Principal), is held and firmly bound unto the United States of America in the sum or sums hereinafter provided for which payment, well and truly to be made, said Surety hereby binds itself, its successors and assigns, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Principal is or intends to become a motor carrier subject to the provisions of Title 49 of the United States Code and the rules and regulations of the Interstate Commerce Commission relating to insurance or other security for the protection of the public, and has elected to file with the Commission a surety bond conditioned as hereinafter set forth; and

WHEREAS, this bond is written to assure compliance by the Principal as a motor carrier of passengers or property with 49 U.S.C. 10927 and the rules and regulations of the Interstate Commerce Commission relating to insurance or other security for the protection of the public, and shall insure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for any of the damages herein described.

NOW, THEREFORE, if every final judgments recovered against the Principal for bodily injury to or the death of any person or loss of or damage to the property of others, sustained while this bond is in effect, and resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to Title 49 of the United States Code (but excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the Principal and property transported by the Principal designated as cargo), shall be paid, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety for the limits provided shall be a continuing one notwithstanding any recovery hereunder, and extends to such losses, damages, injuries, or deaths regardless of whether the motor vehicles, terminals, warehouses, and other facilities used in connection with the transportation service of the Principal are specifically described herein, and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere. This bond is effective from _____(12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until cancelled.

The Principal or the Surety may at any time cancel this bond by written notice to the Interstate Commerce Commission at its office in Washington, D. C., such termination to become effective thirty (30) days after actual receipt of said notice by the Commission on the prescribed Form BMC 36, Notice of Cancellation Motor Carrier and Broker Surety Bonds. The Surety shall not be liable hereunder for the payment of any judgement or any judgements against the Principal for bodily injury to or the death of any person or persons or loss of or damage to property resulting from accidents which occur after the cancellation of this bond as herein provided, but such cancellation shall not affect the liability of the Surety hereunder for the payment of any such judgement or judgements resulting from accidents which occur during the time the bond is in effect.

The receipt of this BI&PD liability surety bond by the Commission certifies that the company is qualified to make thisfiling under 49 C.F.R. 1043.8 or 49 C.F.R. 1084.6.

Falsification of this document can result in criminal penalties prescribed under 18 U.S.C. 1001.

IN WITNESS WHEREOF, the said Surety has executed this instrument on the _____ day of _____ 19 _____.

[AFFIX CORPORATE SEAL] _____
(Surety)

_____ _____ By _____
(City) *(State)*

ACKNOWLEDGEMENT OF SURETY: STATE OF _____ COUNTY OF _____

On this _____ day of _____, 19 _____, before me personally came _____, who, being by me duly sworn, did depose and say that he resides in _____, that he is the _____ of the _____, the corporation described in and which executed the foregoing instruments; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; that he signed his name thereto by like order, and he duly acknowledged to me that he executed the same for and on behalf of said corporation.

[OFFICIAL SEAL] _____
(Title of official administering oath)

Surety Company File No. _____

Appendix L to Preamble—Form B.M.C. 83, Motor Common Carrier Cargo Liability Surety Bond Under 49 U.S.C. 10927

Form not published in the Federal Register. An original Form B.M.C. 83 can be found in FHWA Docket No. MC–96–25, FHWA, Room 4232, Office of Chief Counsel, HCL–10, 400 Seventh Street, SW., Washington, DC 20590.

It is estimated that an average of 1/4 burden hour per response is required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Section of Administrative Services, Interstate Commerce Commission and the Office of Information and Regulatory Affairs, Office of Management and Budget.

Form B.M.C. 34

To be sent to–
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423

Received:

Date_____

MOTOR CARRIER CARGO LIABILITY
CERTIFICATE OF INSURANCE
filed with
INTERSTATE COMMERCE COMMISSION
Insurance Branch
Washington, D.C. 20423
(Executed in Triplicate)

Approved by OMB
3120–0081
Expires 10-31-95

Interstate Commerce Commission Docket No.

MC_____

This is to certify, that the_____ (NAME OF COMPANY)_____

(hereinafter called Company) of_____(HOME OFFICE ADDRESS OF COMPANY)_____

_____ has issued to _____

(NAME OF MOTOR CARRIER)_____ of_____

(ADDRESS OF MOTOR CARRIER)_____

a policy or policies of Cargo Insurance under terms described on the back of this form.

Effective from_____ (12:01 a.m., standard time at the address of the Insured as stated in said policy or policies) and continuing until cancelled as provided in the rules and regulations under Section 10927 of Title 49 of the United States Code.

Countersigned at_____Date_____
Street Address *City* *State*

Insurance Company Policy No._____ _____
(POLICY NUMBER) *(ISSUING OFFICE - FULL NAME OF AGENCY OR BRANCH)*

_____
(SIGNATURE OF AUTHORIZED REPRESENTATIVE)

The receipt of this certificate by the Commission certifies that a policy or policies of cargo liability insurance has been issued by the company identified on the face of this form, that the company is qualified to make this filing under Section 1043.8 or Section 1084.6 of Title 49 of the Code of Federal Regulations, and that by the attachment of endorsement BMC 32 prescribed by the Interstate Commerce Commission, is amended to provide compensation for loss of or damage to all property belonging to shippers or consignees and coming into the possession of the insured in connection with its transportation service under certificate of public convenience and necessity issued to the insured by the Interstate Commerce Commission or otherwise under Part II of the Interstate Commerce Act, and the pertinent rules and regulations of the Interstate Commerce Commission, regardless of whether or not the motor vehicles, terminals, warehouses, and other facilities used in connection with the transportation of such property are specifically described in the policy or policies. The liability of the Company extends to such losses or damages whether occurring on the route or in the territory authorized to be served by the insured or elsewhere.

Whenever requested by the Commission, the Company agrees to furnish to the Commission a duplicate original of said policy or policies and all endorsements thereon.

The endorsement described herein may not be cancelled without cancellation of the policy (or policies) to which it is attached. Such cancellation may be effected by the Company or the Insured giving thirty (30) days' notice in writing to the Interstate Commerce Commission at its offices in Washington, DC, on the prescribed Form BMC–35, Notice of Cancellation Motor Carrier Policies of Insurance under 49 U.S.C. 10927, said thirty (30) days' notice to commence to run from the date notice is actually received at the office of said Commission.

Falsification of this document can result in criminal penalties prescribed under 18 U.S.C. 1001.

Appendix N to Preamble—Form B.M.C. 84, Property Broker's Surety Bond Under 49 U.S.C. 10927

B.M.C. 84

Approved by OMB
3120-0081
Expires 9/30/98

FILER ICC
ACCOUNT NO. _____

License No.

MC-_____

PROPERTY BROKER'S SURETY BOND UNDER 49 U.S.C. 10927
(EXECUTED IN DUPLICATE)

KNOW ALL MEN BY THESE PRESENTS, THAT we _____,
(Name of Property Broker)

of _____ as PRINCIPAL (hereinafter called Principal),
(City) *(State)*

and _____, a corporation, or a Risk Retention
(Name of Surety)

Group established under the Liability Risk Retention Act of 1986, Public Law 99-563, created and existing under the laws of the State of _____ as SURETY
(State)

(hereinafter called Surety) are held and firmly bound unto the United States of America in the sum of $10,000, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal is or intends to become a Broker pursuant to the provisions of the Interstate Commerce Act, and the rules and regulations of the Interstate Commerce Commission relating to insurance or other security for the protection of motor carriers and shippers, and has elected to file with the Interstate Commerce Commission such a bond as will ensure financial responsibility and the supplying of transportation subject to said Act in accordance with contracts, agreements, or arrangements therefor, and

WHEREAS, this bond is written to assure compliance by the Principal as a licensed Property Broker of Transportation by motor vehicle with 49 U.S.C.10927(b), and the rules and regulations of the Interstate Commerce Commission, relating to insurance or other security for the protection of motor carriers and shippers, and shall inure to the benefit of any and all motor carriers or shippers to whom the Principal may be legally liable for any of the damages herein described.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall pay or cause to be paid to motor carriers or shippers by motor vehicle any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by the Principal while this bond is in effect for the supplying of transportation subject to the Interstate Commerce Act under license issued to the Principal by the Interstate Commerce Commission, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond, but in no event shall the Surety's obligation hereunder exceed the amount of said penalty. The Surety agrees to furnish written notice to the Interstate Commerce Commission forthwith of all suits filed, judgements rendered, and payments made by said Surety under this bond.

This bond is effective the _____ day of _____, 19 _____, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time cancel this bond by written notice to the Interstate Commerce Commission at its office in Washington, D.C., such cancellation to become effective thirty (30) days after actual receipt of said notice by the Commission on the prescribed Form BMC-36, Notice of Cancellation Motor Carrier and Broker Surety Bond. The Surety shall not be liable hereunder for the payment of any damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements made by the Principal for the supplying of transportation after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements made by the Principal for the supplying of transportation prior to the date such termination becomes effective.

The receipt of this filing by the Commission certifies that a Broker Surety Bond has been issued by the company identified on the face of this form, and that such company is qualified to make this filing under Section 1043.8 of Title 49 of the Code of Federal Regulations.

Falsification of this document can result in criminal penalties prescribed under 18 U.S.C. 1001.

IN WITNESS WHEREOF, the said Principal and Surety have executed this instrument on the _____ day of _____, 19_____.

PRINCIPAL	SURETY
Name _____	Name _____ [SEAL]
By _____ *(Signature and Title)*	By _____ *(Signature and Title)*
Witness _____	Witness _____

Appendix O to Preamble—Form BOC–3, Designation of Agents—Motor Carriers and Brokers

Federal Highway Administration OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE DESIGNATION OF AGENTS - MOTOR CARRIERS AND BROKERS	DOCKET NO. MC- DATE
FULL AND CORRECT NAME OF CARRIER OR BROKER AND ADDRESS, INCLUDING ZIP CODE	
TITLE OF AUTHORIZED PERSON	SIGNATURE

INSTRUCTIONS: Regulations governing the designation of persons upon whom court process may be served are prescribed in 49 C.F.R. 1044, as amended. An agent must be designated for each state in or through which the carrier or broker operates; each person, association or corporation designated must reside in the state for which designated; a carrier or broker may designate himself/herself for the state in which he/she resides; and, state officials may be designated only if such official's agreement to so act is furnished with this designation.

NOTE: A Post Office Box is NOT ACCEPTABLE as an agent's address.

FILE THE ORIGINAL signed copy with the Insurance Branch, Federal Highway Administration, Washington, DC 20423. *One signed copy should be filed with the Board of each state in or through which the operation is conducted; and one copy must be retained by the carrier or broker.*

CHANGES in designation may be made only by filing with the FHWA, *Insurance Branch, a new Form BOC-3 with the ICC which must be completed for all states for which designations are necessary. Copies of new designations need to be sent only to those states affected by the change of new filing. Either* INDIVIDUAL *or* BLANKET *designations may be made.*

INDIVIDUAL DESIGNATIONS

Pursuant to Section 10330(b) of the Interstate Commerce Act and rules and regulations, the carrier or broker named above hereby designates the following named persons upon whom process issued by any court in any action against the carrier may be served in the state named. *Show agent's name, address (P. O. Box NOT acceptable), City, and Zip Code for each state in which operations can be conducted.*

ALABAMA	HAWAII
ALASKA	IDAHO
ARIZONA	ILLINOIS
ARKANSAS	INDIANA
CALIFORNIA	IOWA
COLORADO	KANSAS
CONNECTICUT	KENTUCKY
DELAWARE	LOUISIANA
DISTRICT OF COLUMBIA	MAINE
FLORIDA	MARYLAND
GEORGIA	MASSACHUSETTS

Approved by OMB No. 3120-0008
(Exp 09/30/98

(Continued on Reverse Side)

Form BOC-3

INDIVIDUAL *(Continued)*	
MICHIGAN	OKLAHOMA
MINNESOTA	OREGON
MISSISSIPPI	PENNSYLVANIA
MISSOURI	RHODE ISLAND
MONTANA	SOUTH CAROLINA
NEBRASKA	SOUTH DAKOTA
NEVADA	TENNESSEE
NEW HAMPSHIRE	TEXAS
NEW JERSEY	UTAH
NEW MEXICO	VERMONT
NEW YORK	VIRGINIA
NORTH CAROLINA	WASHINGTON
NORTH DAKOTA	WEST VIRGINIA
OHIO	WISCONSIN
	WYOMING

BLANKET

If you have made arrangements with an association or corporation to use the blanket designations on file with the Federal Highway Administration , insert the association or corporation name in the following paragraph:

Pursuant to Section 10330(b) of the Interstate Commerce Act, the carrier named on the reverse hereby designates those persons named in the list of process agents on file with the Federal Highway Administration, *by*

and any subsequently filed revisions thereof, for the states in which this carrier is or may be authorized to operate, including states traversed in the course of such operations, except those states for which individual designations are named.

Form BOC-3

*U.S. GPO: 1993-342-461/71826

[FR Doc. 96–21351 Filed 8–23–96; 8:45 am]

BILLING CODE 4910–22–C

federal register

Monday
August 26, 1996

Part III

Department of Defense

Office of the Secretary

32 CFR Part 21, et al.

Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and DoD Grant and Agreement Regulations; Notice and Proposed Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of applicability of OMB Circular A–110.

SUMMARY: The Office of Management and Budget (OMB) published a revised OMB Circular A–110, ''Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' on November 29, 1993 (58 FR 62992). The Department of Defense (DoD) is issuing a proposed rule to incorporate the revised provisions at 32 CFR Part 32 (see proposed rule elsewhere in this separate part of the Federal Register). Until that rulemaking is completed, DoD will apply the uniform Federal administrative requirements in the November 1993 revision of OMB Circular A–110, by incorporating terms and conditions in grants and agreements with universities and other nonprofit organizations.

FOR FURTHER INFORMATION CONTACT: Dr. M. Herbst, 704–614–0205. Before calling, see proposed rule elsewhere in this separate part of the Federal Register.

Dated: August 13, 1996.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–21075 Filed 8–23–96; 8:45 am]

BILLING CODE 5000–04–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 21, 22, 28, 32, 33, and 34

RIN 0790–AG28

DoD Grant and Agreement Regulations

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of Defense is taking the next step toward establishing the DoD Grant and Agreement Regulations. They are being established to satisfy a need for uniform policies and procedures for DoD Components' award and administration of grants and cooperative agreements.

The Department of Defense proposes to add four new parts and to make minor amendments that update two of the four existing parts of the DoD Grant and Agreement Regulations. The four proposed new parts: address DoD Components' overall management of grant and agreement functions; set forth DoD Components' and grants officers' responsibilities related to the award and administration of grants and agreements; implement administrative requirements in OMB Circular A–110 for grants and agreements awarded to institutions of higher education and other nonprofit organizations; and establish administrative requirements for awards to commercial organizations. The proposed minor amendments to two existing parts: provide DoD-specific procedures related to Governmentwide restrictions on lobbying; and update administrative requirements for awards to State and local governments, to conform with recent changes in statutes and statutory implementation.

DATES: Comments are due on or before October 25, 1996.

ADDRESSES: Forward comments to ODDR&E(R), ATTN: Mark Herbst, 3080 Defense Pentagon, Washington, DC 20301–3080.

FOR FURTHER INFORMATION CONTACT: Mark Herbst, (703) 614–0205.

SUPPLEMENTARY INFORMATION:

Steps Taken to Date To Establish the DoD Grant and Agreement Regulations

In 1992, the Department of Defense (DoD) took the first step toward establishing the DoD Grant and Agreement Regulations. At that time (see 57 FR 6199, February 21, 1992), DoD redesignated into Subchapter B of Chapter I of Title 32 of the Code of Federal Regulations three Governmentwide rules: debarment, suspension, and drug-free workplace requirements, now at 32 CFR Part 25; lobbying restrictions, now at 32 CFR Part 28; and administrative requirements for grants and cooperative agreements to State and local governments, now at 32 CFR Part 33.

The Department of Defense now takes the second step toward establishing the regulations. In this second step, the Department proposes to make minor amendments to update the existing parts 28 and 33 in Subchapter B of Chapter I, and to adopt the new parts 21, 22, 32, and 34.

Additional Information About Proposed Amendments to Parts 28 and 33

The proposed amendments to part 28, ''New Restrictions on Lobbying,'' would implement the DoD-specific statutory authority to waive certain restrictions. The proposed amendments to part 33, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' are needed to implement the Resource Conservation and Recovery Act (42 U.S.C. 6962) and statutory changes made by the Federal Acquisition Streamlining Act of 1994.

Additional Information About Proposed Parts 21 and 22

Parts 21 and 22 primarily establish internal DoD policies and procedures. Part 21 addresses DoD Components' overall management of grant and cooperative agreement functions. Part 22 outlines grants officers' and DoD Components' responsibilities related to the award and administration of grants and cooperative agreements.

In addition to establishing internal policies and procedures, the proposed parts 21 and 22 implement several statutes that apply to DoD grants and agreements, including: requirements in 31 U.S.C. 6101, et seq., to report data on assistance awards and programs (implemented in subpart C, part 21); provisions of 31 U.S.C. 6301, et seq., concerning the appropriate use of grants and cooperative agreements (implemented in subpart B, part 22); and statutes concerning the use of competitive procedures, such as 10 U.S.C. 2374 (implemented in subpart C, part 22), which was enacted by the Federal Acquisition Streamlining Act of 1994.

To reduce burdens on recipients, section 22.510 of the proposed part 22 allows a streamlined certification method that reduces the paperwork associated with obtaining required certifications. This is consistent with the National Performance Review's recommendation that the Government explore methods for eliminating needless paperwork by simplifying the compliance certification process, a recommendation that the Department of Defense heartily supports. The Department expects that initiatives to increase the use of electronic commerce in agency announcements of programs, recipients' submission of proposals, and transmission of award documents, ultimately will enable even less burdensome means for obtaining required certifications than the method proposed in part 22.

One section within subpart E of the proposed part 22 is reserved, because DoD intends to redesignate an existing rule into that section when part 22 is finalized. That rule, currently codified at 32 CFR Part 23, implements a law concerning military recruiters' access to university campuses.

Additional Information About Proposed Part 32

The proposed part 32 specifies administrative requirements for grants and cooperative agreements with universities and other non-profit organizations. It thereby implements the Governmentwide guidance in the updated, OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.''

During the comment period on the proposed part 32, and until DoD adopts a final version as its implementation of the November, 1993, version of OMB Circular A–110 [58 FR 62992], DoD Components will incorporate terms and conditions in grants and cooperative agreements to universities and other nonprofit entities that provide for recipients' administration of those awards in accordance with that updated version of the Circular. Most DoD Components' awards already do so, an interim practice that was authorized in February, 1994. By standardizing this interim practice within the remaining DoD Components, DoD will provide uniform requirements that parallel those of other Federal agencies, thereby alleviating unnecessary burdens on recipients. Award terms and conditions will provide for compliance with part 32 when it is finalized, superseding the interim practice.

The proposed part 32 adopts the language of the updated OMB Circular, except for clarifying changes and a few changes to reduce paperwork requirements and conform the rule to recent changes in regulation and statute. None of the clarifying changes are intended to deviate from the substance

in the Circular. The few other changes are as follows:

• In keeping with the spirit of the National Performance Review and the Circular, the proposed section 32.44 would reduce reporting and record keeping burdens on small entities. It provides that recipients that receive less than $10 million annually in contract and grant funding will not be required to have written procurement procedures. With this change, the requirements of part 32 will be more comparable to those applicable to contractors under the Federal Acquisition Regulations.

• The proposed part 32 deletes provisions of the Circular concerning the Cash Management Improvement Act (CMIA). The Circular language was based on the Department of Treasury's original implementation of CMIA, which applied the Act's provisions to some state universities. Subsequent to OMB's issuance of the Circular, however, the Department of Treasury amended its regulations implementing CMIA, to exclude state universities from the coverage.

• The proposed part 32 updates references to the small purchase threshold (previously $25,000) fixed at 41 U.S.C. 403(11), to reflect the simplified acquisition threshold (currently $100,000) established at 41 U.S.C. 403(11) by the Federal Acquisition Streamlining Act of 1994.

• The proposed section 32.25 deletes Circular language that authorizes a Federal agency to waive the requirement for recipients to obtain the agency's approval before initiating a one-time, no-cost extension of an award for a 12-month period. The language is deleted because DoD incremental funding policies are to use a given fiscal year's appropriations to support programmatic effort for specified periods (e.g., research funds usually are for effort only through the first three months of the next fiscal year). DoD Components therefore must scrutinize requests for no-cost extensions, when those extensions could lengthen by a year the period during which a given fiscal year's appropriations would be used.

Additional Information About Proposed Part 34

The proposed part 34 specifies administrative requirements for grants and for most cooperative agreements with commercial organizations. Consistent with the updated OMB Circular A–110, which states that ''Federal agencies may apply the provisions of this Circular to commercial organizations . . . ,'' the proposed part 34 uses the Circular as its basis. It necessarily differs from Circular A–110 in areas (e.g., exempt property) where the Circular's provisions are specifically written for educational and nonprofit organizations. In some other areas, such as procurement standards, the proposed part 34 lessens requirements and reduces administrative burdens that otherwise would be applied to commercial organizations.

Remaining Step To Establish the DoD Grant and Agreement Regulations

The final major step in establishing the DoD Grant and Agreement Regulations will be to adopt one additional part on selected research agreements with commercial organizations. That part, which currently is being prepared, is intended to provide more flexible administrative requirements than those in the proposed part 34. The greater flexibility would be available for a certain class of research agreements that is designed to help integrate the defense and non-defense portions of the U.S. technology and industrial bases.

Executive Order 12866

The proposed part 32 was determined to be a ''significant regulatory action,'' as defined by Executive Order 12866, by the Administrator of OMB's Office of Information and Regulatory Affairs. The Department of Defense believes that none of the proposed rules will: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act of 1980 [5 U.S.C. 605(b)]

These regulatory actions will not have a significant adverse impact on a substantial number of small entities.

Paperwork Reduction Act of 1995 (44 U.S.C. 3500 et seq.)

These regulatory actions will not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act. Reporting and recordkeeping requirements in the proposed parts 32 and 34 are those promulgated by the updated OMB Circular A–110, which the Office of Mangement and Budget proposed in August, 1992 [57 FR 39018], asking for public comments, and finalized in November, 1993 [58 FR 62992].

List of Subjects

32 CFR Part 21

Grant programs, Grants administration.

32 CFR Part 22

Accounting, Grant programs, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements.

32 CFR Part 28

Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

32 CFR Part 32

Accounting, Colleges and universities, Grant programs, Grants administration, Hospitals, Nonprofit organizations, Reporting and recordkeeping requirements.

32 CFR Part 33

Accounting, Grant programs, Grants administration, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

32 CFR Part 34

Accounting, Business and industry, Grant programs, Grants administration, Reporting and recordkeeping requirements.

Accordingly, Title 32 of the Code of Federal Regulations, Chapter I, Subchapter B, is proposed to be amended as follows.

1. The heading of Subchapter B is proposed to be revised to read as follows:

SUBCHAPTER B—DoD GRANT AND AGREEMENT REGULATIONS

2. Part 21 is proposed to be added to read as follows:

PART 21—DoD GRANTS AND AGREEMENTS—GENERAL MATTERS

Subpart A—Defense Grant and Agreement Regulatory System

Sec.

21.100 Scope.
21.105 Authority, purpose, and issuance.
21.110 Applicability and relationship to acquisition regulations.
21.115 Compliance and implementation.
21.120 Publication and maintenance.
21.125 Deviations.
21.130 Definitions.

Subpart B—Authorities and Responsibilities

21.200 Purpose.
21.205 DoD Components' authorities.
21.210 Vesting and delegation of authority.
21.215 Contracting activities.
21.220 Grants officers.

Subpart C—Grants Information

21.300 Purpose.
21.305 Defense Assistance Awards Data System.
21.310 Catalog of Federal Domestic Assistance.
21.315 Uniform grants and agreements numbering system.

Authority: 5 U.S.C. 301 and 10 U.S.C. 113.

Subpart A—Defense Grant and Agreement Regulatory System

§ 21.100 Scope.

The purposes of this part, which is one portion of the DoD Grant and Agreement Regulations (DoDGARs), are to:

(a) Provide general information about the DoDGARs.

(b) Set forth general policies and procedures related to DoD Components' overall management of functions related to grants and cooperative agreements.

§ 21.105 Authority, purpose, and issuance.

(a) DoD Directive 3210.6 [1] established the Defense Grant and Agreement Regulatory System (DGARS). The directive authorized publication of policies and procedures comprising the DGARS in the DoD Grant and Agreement Regulations (DoDGARs), in DoD instructions, and in other DoD publications, as appropriate. Thus, the DoDGARs are one element of the DGARS.

(b) The purposes of the DoDGARs, in conjunction with other elements of the DGARS, are to provide uniform policies and procedures for grants and cooperative agreements awarded by DoD Components, in order to meet DoD needs for:

(1) Efficient program execution, effective program oversight, and proper stewardship of Federal funds.

(2) Compliance with relevant statutes; Executive orders; and applicable guidance, such as Office of Management and Budget (OMB) circulars.

(3) Collection from DoD Components, retention, and dissemination of management and fiscal data related to grants and agreements.

(c) The Director of Defense Research and Engineering, or his or her designee:

(1) Develops and implements DGARS policies and procedures.

(2) Issues and maintains the DoD Grant and Agreement Regulations and other DoD publications that comprise the DGARS.

§ 21.110 Applicability and relationship to acquisition regulations.

(a) *Applicability to grants and cooperative agreements.* The DoD Grant and Agreement Regulations (DoDGARs) apply to all DoD grants and cooperative agreements.

(b) *Applicability to other nonprocurement instruments.* (1) In accordance with DoD Directive 3210.6, the DoDGARs may include rules that apply to other nonprocurement instruments, when specifically required in order to implement a statute, Executive order, or Governmentwide rule that applies to other nonprocurement instruments, as well as to grants and cooperative agreements. For example, the rule on nonprocurement debarment and suspension in 32 CFR part 25, subparts A through E, applies to all nonprocurement transactions, including grants, cooperative agreements, contracts of assistance, loans and loan guarantees (see definition of ''primary covered transaction'' at 32 CFR 25.110(a)(1)(i)).

(2) The following is a list of DoDGARs rules that apply not only to grants and cooperative agreements, but also to other types of nonprocurement instruments:

(i) Requirements for reporting to the Defense Assistance Award Data System, in subpart C of this part.

(ii) The rule on nonprocurement debarment and suspension in 32 CFR part 25, subparts A through E.

(iii) Drug-free workplace requirements in 32 CFR part 25, subpart F.

(iv) Restrictions on lobbying in 32 CFR part 28.

(v) Administrative requirements for grants, cooperative agreements, and other financial assistance to:

(A) Universities and other nonprofit organizations, in 32 CFR part 32.

(B) State and local governments, in 32 CFR part 33.

(3) Grants officers should be aware that each rule that applies to other types of nonprocurement instruments (i.e., other than grants and cooperative agreements) states its applicability to such instruments. However, grants officers must exercise caution when determining the applicability of some Governmentwide rules that are included in the DoDGARs, because a term may be defined differently in a Governmentwide rule than it is defined elsewhere in the DoDGARs. For example, the Governmentwide implementation of the Drug-Free Workplace Act of 1988 (32 CFR part 25, subpart F) states that it applies to grants, but defines ''grants'' to include cooperative agreements and other forms of financial assistance.

(c) *Relationship to acquisition regulations.* The Federal Acquisition Regulation (FAR) (48 CFR parts 1–53), the Defense Federal Acquisition Regulation Supplement (DFARS) (48 CFR parts 201–270), and DoD Component supplements to the FAR and DFARS apply to DoD Components' procurement contracts used to acquire goods and services for the direct benefit or use of the Federal Government. Policies and procedures in the FAR and DFARS do not apply to grants, cooperative agreements, or other nonprocurement transactions unless the DoDGARs specify that they apply.

§ 21.115 Compliance and implementation.

The Head of each DoD Component that awards or administers grants and cooperative agreements, or his or her designee:

(a) Is responsible for ensuring compliance with the DoDGARs within that DoD Component.

(b) May authorize the issuance of regulations, procedures, or instructions that are necessary to implement DGARS policies and procedures within the DoD Component, or to supplement the DoDGARs to satisfy needs that are specific to the DoD Component, as long as such regulations, procedures, or instructions do not impose additional costs or administrative burdens on recipients or potential recipients. Heads of DoD Components or their designees shall establish policies and procedures in areas where uniform policies and procedures throughout the DoD Component are required, such as for:

(1) Requesting class deviations from the DoDGARs (see § 21.125) or exemptions from the provisions of 31 U.S.C. 6301 et seq., that govern the appropriate use of contracts, grants, and cooperative agreements (see 32 CFR 22.220).

(2) Designating one or more Grant Appeal Authorities to resolve claims, disputes, and appeals (see 32 CFR 22.815).

(3) Reporting data on assistance awards and programs, as required by 31 U.S.C. chapter 61 (see subpart C of this part).

(4) Prescribing requirements for use and disposition of real property acquired under awards, if the DoD

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Authorized users may also obtain copies from the Defense Technical Information Center, 8725 John J. Kingman Rd., Suite 0944, Fort Belvoir, VA 22060–6218.

Component makes any awards to institutions of higher education or to other nonprofit organizations under which real property is acquired in whole or in part with Federal funds (see 32 CFR 32.32).

§ 21.120 Publication and maintenance.

(a) The DoDGARs are published as Chapter I, Subchapter B, Title 32 of the Code of Federal Regulations (CFR) and in a separate loose-leaf edition. The loose-leaf edition is divided into parts, subparts, and sections, to parallel the CFR publication. Cross-references within the DoDGARs are stated as CFR citations (e.g., a reference to section 21.115 in part 21 would be to 32 CFR 21.115).

(b) Updates to the DoDGARs are published in the Federal Register. When finalized, updates also are published as Defense Grant and Agreement Circulars, with revised pages for the separate, loose-leaf edition.

(c) Revisions to the DoDGARs are recommended to the Director of Defense Research and Engineering (DDR&E) by a standing working group. The DDR&E, Director of Defense Procurement, and each Military Department shall be represented on the working group. Other DoD Components that use grants or cooperative agreements may also nominate representatives. The working group meets when necessary.

§ 21.125 Deviations.

(a) The Head of the DoD Component or his or her designee may authorize individual deviations from the DoDGARs, which are deviations that affect only one grant or agreement, if such deviations are not prohibited by statute, executive order or regulation.

(b) Class deviations that affect more than one grant or agreement must be approved in advance by the Director, Defense Research and Engineering (DDR&E) or his or her designee. Note that OMB concurrence also is required for deviations from two parts of the DoDGARs, 32 CFR parts 32 and 33, in accordance with 32 CFR 32.4 and 33.6, respectively.

(c) Copies of justifications and agency approvals for individual deviations and written requests for class deviations shall be submitted to:Deputy Director, Defense Research and Engineering, ATTN: Research, 3080 Defense Pentagon, Washington D.C. 20301–3080.

(d) Copies of requests and approvals for individual and class deviations shall be maintained in award files.

§ 21.130 Definitions.

Acquisition. The acquiring (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government (see more detailed definition at 48 CFR 2.101). In accordance with 31 U.S.C. 6303, procurement contracts are the appropriate legal instruments for acquiring such property or services.

Assistance. The transfer of a thing of value to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States (see 31 U.S.C. 6101(3)). Grants and cooperative agreements are examples of legal instruments used to provide assistance.

Contract. See the definition for *procurement contract* in this section.

Contracting activity. An activity to which the Head of a DoD Component has delegated broad authority regarding acquisition functions, pursuant to 48 CFR 1.601.

Contracting officer. A person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. A more detailed definition of the term appears at 48 CFR 2.101.

Cooperative agreement. A legal instrument which, consistent with 31 U.S.C. 6305, is used to enter into the same kind of relationship as a grant (see definition ''grant''), except that substantial involvement is expected between the Department of Defense and the recipient when carrying out the activity contemplated by the cooperative agreement. The term does not include ''cooperative research and development agreements'' as defined in 15 U.S.C. 3710a.

Deviation. The issuance or use of a policy or procedure that is inconsistent with the DoDGARs.

DoD Components. The Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and DoD Field Activities.

Grant. A legal instrument which, consistent with 31 U.S.C. 6304, is used to enter into a relationship:

(1) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Department of Defense's direct benefit or use.

(2) In which substantial involvement is not expected between the Department of Defense and the recipient when carrying out the activity contemplated by the grant.

Grants officer. An official with the authority to enter into, administer, and/or terminate grants or cooperative agreements.

Nonprocurement instrument. A legal instrument other than a procurement contract. Examples include instruments of financial assistance, such as grants or cooperative agreements, and those of technical assistance, which provide services in lieu of money.

Procurement contract. A legal instrument which, consistent with 31 U.S.C. 6303, reflects a relationship between the Federal Government and a State, a local government, or other person when the principal purpose of the instrument is to acquire property or services for the direct benefit or use of the Federal Government. See the more detailed definition for contract at 48 CFR 2.101.

Recipient. An organization or other entity receiving a grant or cooperative agreement from a DoD Component.

Subpart B—Authorities and Responsibilities

§ 21.200 Purpose.

This subpart describes the sources and flow of authority to use grants and cooperative agreements, and assigns the broad responsibilities associated with DoD Components' use of such instruments.

§ 21.205 DoD Components' authorities.

(a) In accordance with 31 U.S.C. 6301 et seq., DoD Components shall use grants and cooperative agreements as legal instruments reflecting assistance relationships between the United States Government and recipients.

(b) Unlike the use of procurement contracts (for which Federal agencies have inherent, Constitutional authority), use of grants or cooperative agreements requires specific statutory authority. DoD Components may award grants and cooperative agreements under a number of statutory authorities that fall into three categories:

(1) *Authorities that statutes provide to the Secretary of Defense.* These authorities generally are delegated by the Secretary of Defense to Heads of DoD Components, usually through DoD directives, instructions, or policy memoranda that are not part of the Defense Grant and Agreement Regulatory System. Examples of statutory authorities in this category are:

(i) Authority under 10 U.S.C. 2391 to make grants or conclude cooperative agreements to assist State and local governments in planning and carrying out community adjustments and economic diversification required by changes in military installations or in DoD contracts or spending that may have a direct and significant adverse

consequence on the affected community.

(ii) Authority under 10 U.S.C. 2413 to enter into cooperative agreements with entities that furnish procurement technical assistance to businesses.

(2) *Authorities that statutes may provide directly to Heads of DoD Components.* For example, 10 U.S.C. 2358 authorizes the Secretaries of the Military Departments, in addition to the Secretary of Defense, to perform research and development projects through grants and cooperative agreements. A Military Department's use of the authority of 10 U.S.C. 2358 therefore requires no delegation by the Secretary of Defense.

(3) *Authorities that arise indirectly as the result of statute.* For example, authority to use a grant or cooperative agreement may result from:

(i) A federal statute authorizing a program that is consistent with an assistance relationship (i.e., the support or stimulation of a public purpose, rather than the acquisition of a good or service for the direct benefit of the Department of Defense). In accordance with 31 U.S.C. chapter 63, such a program would appropriately be carried out through the use of grants or cooperative agreements.

(ii) Exemptions requested by the Department of Defense and granted by the Office of Management and Budget under 31 U.S.C. 6307, as described in 32 CFR 22.220.

§ 21.210 Vesting and delegation of authority.

(a) The authority and responsibility for awarding grants and cooperative agreements is vested in the Head of each DoD Component that has such authority.

(b) The Head of each such DoD Component, or his or her designee, may delegate to the heads of contracting activities (HCAs) within that Component, authority to award grants or cooperative agreements, to appoint grants officers (see § 21.220(c)), and to broadly manage the DoD Component's functions related to grants and agreements. An HCA is the same official (or officials) designated as the head of the contracting activity for procurement contracts, as defined at 48 CFR 2.101—the intent is that overall management responsibilities for a DoD Component's functions related to nonprocurement instruments be assigned only to officials that have similar responsibilities for procurement contracts.

§ 21.215 Contracting activities.

When designated by the Head of the DoD Component or his or her designee (see 32 CFR 22.210(b)), the HCA is responsible for the grants and cooperative agreements made by or assigned to that activity. He or she shall supervise and establish internal policies and procedures for that activity's assistance awards.

§ 21.220 Grants officers.

(a) *Authority.* Only grants officers are authorized to sign grants or cooperative agreements, or to administer or terminate such legal instruments on behalf of the Department of Defense. Grants officers may bind the Government only to the extent of the authority delegated to them.

(b) *Responsibilities.* Grants officers should be allowed wide latitude to exercise judgment in performing their responsibilities. Grants officers are responsible for ensuring that:

(1) Individual grants and cooperative agreements are used effectively in the execution of DoD programs, and are awarded and administered in accordance with applicable laws, Executive orders, regulations, and DoD policies.

(2) Sufficient funds are available for obligation.

(3) Recipients of grants and cooperative agreements receive impartial, fair, and equitable treatment.

(c) *Selection, appointment and termination of appointment of grants officers.* Each DoD Component that awards grants or enters into cooperative agreements shall have a formal process (see § 21.210(b)) to select and appoint grants officers and terminate their appointments. DoD Components are not required to maintain a selection process for grants officers separate from the selection process for contracting officers, and written statements of appointment or termination for grants officers may be integrated into the necessary documentation for contracting officers, as appropriate.

(1) *Selection.* In selecting grants officers, appointing officials shall consider the complexity and dollar value of the grants and agreements to be assigned and judge whether candidates possess the necessary experience, training, education, business acumen, judgment, and knowledge of contracts and assistance instruments to function effectively as grants officers.

(2) *Appointment.* Statements of appointment shall be in writing and shall clearly state the limits of grants officers' authority, other than limits contained in applicable laws or regulations. Information on the limits of a grants officer's authority shall be readily available to the public and agency personnel.

(3) *Termination.* Written statements of termination are required, unless the written statement of appointment provides for automatic termination. No termination shall be retroactive.

Subpart C—Grants Information

§ 21.300 Purpose.

This subpart prescribes policies and procedures for compiling and reporting data related to grants, cooperative agreements, and other nonprocurement instruments subject to information reporting requirements of 31 U.S.C. chapter 61.

§ 21.305 Defense Assistance Awards Data System.

(a) *Purposes of the system.* Data from the Defense Assistance Awards Data System (DAADS) are used to provide:

(1) DoD inputs to meet statutory requirements for Federal Governmentwide reporting of data related to obligations of funds by grant, cooperative agreement, or other nonprocurement instrument.

(2) A basis for meeting Governmentwide requirements to report to the Federal Assistance Awards Data System maintained by the Department of Commerce and for preparing other recurring and special reports to the President, the Congress, the General Accounting Office, and the public.

(3) Information to support policy formulation and implementation and to meet management oversight requirements related to the use of grants, cooperative agreements, and other nonprocurement instruments.

(b) *Responsibilities.* (1) The Deputy Director, Defense Research and Engineering (DDDR&E), or his or her designee, shall issue the manual described in paragraph (b)(2)(ii) of this section.

(2) The Director for Information Operations and Reports, Washington Headquarters Services (DIOR, WHS) shall, consistent with guidance issued by the DDDR&E:

(i) Process DAADS information on a quarterly basis and prepare recurring and special reports using such information.

(ii) Prepare, update, and disseminate ''Department of Defense Assistance Awards Data System,'' an instruction manual for reporting information to DAADS. The manual, which shall be issued by the office of the DDR&E, shall specify procedures, formats, and editing processes to be used by DoD Components, including magnetic tape layout and error correction schedules.

(3) The following offices shall serve as central points for collecting DAADS

information from contracting activities within the DoD Components:

(i) For the Army: As directed by the U.S. Army Contracting Support Agency.

(ii) For the Navy: As directed by the Office of Naval Research.

(iii) For the Air Force: As directed by SAF/AQCP.

(iv) For the Office of the Secretary of Defense, Defense Agencies, and DoD Field Activities: Each Defense Agency shall identify a central point for collecting and reporting DAADS information to the DIOR, WHS, at the address given in paragraph (c)(2) of this section. DIOR, WHS shall serve as the central point for offices and activities within the Office of the Secretary of Defense and for DoD Field Activities.

(4) The office that serves, in accordance with paragraph (b)(3) of this section, as the central point for collecting DAADS information from contracting activities within each DoD Component shall:

(i) Establish internal procedures to ensure reporting by contracting activities that use grants, cooperative agreements or other nonprocurement instruments subject to 31 U.S.C. chapter 61.

(ii Collect information required by DD Form 2566, ''DoD Assistance Award Action Report,'' from those contracting activities, and report it to DIOR, WHS, in accordance with paragraph (d) of this section.

(iii) Submit to the DDDR&E, at the address given in § 21.125(c), any recommended changes to the DAADS or to the instruction manual described in paragraph (b)(2)(ii) of this section.

(c) *Reporting procedures.* The data required by the DD Form 2566 shall be:

(1) Collected for each individual grant, cooperative agreement, or other nonprocurement action that is subject to 31 U.S.C. chapter 61 and involves the obligation or deobligation of Federal funds. Each action is reported as an obligation under a specific program listed in the Catalog of Federal Domestic Assistance (CFDA, see § 21.310). The program to be shown is the one that provided the funds being obligated (i.e., if a grants officer in one DoD Component obligates appropriations of another DoD Component's program, the grants officer would show the CFDA program of the second DoD Component on the DD Form 2566).

(2) Reported on a quarterly basis to DIOR, WHS by the offices that are designated pursuant to paragraph (b)(3) of this section. For the first three quarters of the Federal fiscal year, the data are due by close-of-business (COB) on the 15th day after the end of the quarter (i.e., first-quarter data are due by COB on January 15th, second-quarter data by COB April 15th, and third-quarter data by COB July 15th). Fourth-quarter data are due by COB October 25th, the 25th day after the end of the quarter. If any due date falls on a weekend or holiday, the data are due on the next regular workday. The mailing address for DIOR, WHS is 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

(3) Reported on a computer tape, floppy diskette or by other means permitted by the instruction manual described in paragraph (b)(2)(ii) of this section. The data shall be reported in the format specified in the instruction manual.

(d) *Report control symbol.* DoD Components' reporting of DAADS data is used by DoD to satisfy Governmentwide requirements to report to the Federal Assistance Awards Data System, which is assigned Interagency Report Control Number 0252–DOC–QU.

§ 21.310 Catalog of Federal Domestic Assistance.

(a) *Purpose and scope of the reporting requirement.* (1) Under the Federal Program Information Act (31 U.S.C. 6101 et seq.), as implemented through OMB Circular A–89,[2] the Department of Defense is required to provide certain information about its domestic assistance programs to OMB and the General Services Administration (GSA). GSA makes this information available to the public by publishing it in the Catalog of Federal Domestic Assistance (CFDA) and maintaining the Federal Assistance Programs Retrieval System, a computerized data base of the information.

(2) The CFDA covers all domestic assistance programs and activities, regardless of the number of awards made under the program, the total dollar value of assistance provided, or the duration. In addition to programs using grants and cooperative agreements, covered programs include those providing assistance in other forms, such as payments in lieu of taxes or indirect assistance resulting from Federal operations.

(b) *Responsibilities.* (1) Each DoD Component that provides domestic financial assistance shall:

(i) Report to the Director for Information Operations and Reports, Washington Headquarters Services (DIOR, WHS) all new programs and changes as they occur, or as DIOR, WHS requests annual updates to existing CFDA information.

(ii) Identify to the DIOR, WHS a point-of-contact who will be responsible for reporting such program information and for responding to inquiries related to it.

(2) The DIOR, WHS shall act as the Department of Defense's single office for collecting, compiling and reporting such program information to OMB and GSA.

§ 21.315 Uniform grants and agreements numbering system.

DoD Components shall assign identifying numbers to all nonprocurement instruments subject to this subpart, including grants and cooperative agreements. The numbering system parallels the procurement instrument identification (PII) numbering system specified in 48 CFR 204.70 (in the ''Defense Federal Acquisition Regulation Supplement''), as follows:

(a) The first six alphanumeric characters of the assigned number shall be identical to those specified by 48 CFR 204.7003(a)(1) to identify the DoD Component and contracting activity.

(b) The seventh and eighth positions shall be the last two digits of the fiscal year in which the number is assigned to the grant, cooperative agreement, or other nonprocurement instrument.

(c) The 9th position shall be a number: ''1'' for grants; ''2'' for cooperative agreements; and ''3'' for other nonprocurement instruments.

(d) The 10th through 13th positions shall be the serial number of the instrument. DoD Components and contracting activities need not follow any specific pattern in assigning these numbers and may create multiple series of letters and numbers to meet internal needs for distinguishing between various sets of awards.

3. Part 22 is proposed to be added to read as follows:

PART 22—DoD GRANTS AND AGREEMENTS—AWARD AND ADMINISTRATION

Subpart A—General

Sec.
22.100 Purpose, relation to other parts, and organization.
22.105 Definitions.

Subpart B—Selecting the Appropriate Instrument

22.200 Purpose.
22.205 Distinguishing assistance from procurement.
22.210 Authority for providing assistance.
22.215 Distinguishing grants and cooperative agreements.
22.220 Exemptions.

Subpart C—Competition

22.300 Purpose.
22.305 General policy and requirement for competition.

[2] Contact the Office of Management and Budget, EOP Publications, 725 17th St. N.W., New Executive Office Building, Washington, D.C. 20503.

22.310 Statutes concerning certain research, development, and facilities construction grants.
22.315 Merit-based, competitive procedures.
22.320 Special competitions.

Subpart D—Recipient Qualification Matters—General Policies and Procedures

22.400 Purpose.
22.405 Policy.
22.410 Grants officers' responsibilities.
22.415 Standards.
22.420 Pre-award procedures.

Subpart E—National Policy Matters

22.505 Purpose.
22.510 Certifications, representations, and assurances.
22.515 Provisions of annual appropriations acts.
22.520 Military recruiting on campus. [Reserved]
22.525 Paperwork Reduction Act.
22.530 Metric system of measurement.

Subpart F—Award

22.600 Purpose.
22.605 Grants officers' responsibilities.
22.610 Award instruments.

Subpart G—Field Administration

22.700 Purpose.
22.705 Policy.
22.710 Assignment of grants administration offices.
22.715 Grants administration office functions.

Subpart H—Post-Award Administration

22.800 Purpose and relation to other parts.
22.805 Post-award requirements in other parts.
22.810 Payments.
22.815 Claims, disputes, and appeals.
22.820 Debt collection.
22.825 Closeout audits.

Appendix A to Part 22—Suggested Proposal Provision for Required Certifications

Appendix B to Part 22—Suggested Award Provisions for National Policy Requirements That Often Apply

Appendix C to Part 22—Administrative Requirements and Issues To Be Addressed in Award Terms and Conditions

Authority: 5 U.S.C. 301 and 10 U.S.C. 113.

Subpart A—General

§ 22.100 Purpose, relation to other parts, and organization.

(a) This part outlines grants officers' and DoD Components' responsibilities related to the award and administration of grants and cooperative agreements.

(b) In doing so, it also supplements other parts of the DoD Grant and Agreement Regulations (DoDGARs) that are either Governmentwide rules or DoD implementation of Governmentwide guidance in Office of Management and Budget (OMB) Circulars. Those other parts of the DoDGARs, which are referenced as appropriate in this part, are:

(1) Governmentwide rules on debarment, suspension and drug-free workplace requirements, in 32 CFR part 25.

(2) The Governmentwide rule on lobbying restrictions, in 32 CFR part 28.

(3) Administrative requirements for grants and agreements awarded to specific types of recipients:

(i) For State and local governmental organizations, in the Governmentwide rule at 32 CFR part 33.

(ii) For institutions of higher education and other nonprofit organizations, at 32 CFR part 32.

(iii) For commercial organizations, at 32 CFR part 34.

(c)The organization of this part parallels the award and administration process, from pre-award through post-award matters. It therefore is organized in the same manner as the parts of the DoDGARs (32 CFR parts 32, 33, and 34) that prescribe administrative requirements for specific types of recipients.

§ 22.105 Definitions.

Other than the terms defined in this section, terms used in this part are defined in 32 CFR 21.130.

Administrative offset. An action whereby money payable by the United States Government to, or held by the Government for, a recipient is withheld to satisfy a delinquent debt the recipient owes the Government.

Advanced research. Advanced technology development that creates new technology or demonstrates the viability of applying existing technology to new products and processes in a general way. Advanced research is most closely analogous to precompetitive technology development in the commercial sector (i.e., early phases of research and development on which commercial competitors are willing to collaborate, because the work is not so coupled to specific products and processes that the results of the work must be proprietary). It does not include development of military systems and hardware where specific requirements have been defined. It is typically funded in Budget Activity 3 (6.3, Advanced Development, which formerly was category ''6.3A,'' Advanced Technology Development), within Research, Development, Test and Evaluation (RDT&E).

Applied research. Efforts that attempt to determine and exploit the potential of scientific discoveries or improvements in technology such as new materials, devices, methods and processes. It typically is funded within Budget Activity 2 (6.2, Exploratory Development) within Research, Development, Test and Evaluation (RDT&E). Applied research normally follows basic research but may not be fully distinguishable from the related basic research. The term does not include efforts whose principal aim is the design, development, or testing of specific products, systems or processes to be considered for sale or acquisition; these efforts are within the definition of ''development.''

Basic research. Efforts directed toward increasing knowledge and understanding in science and engineering, rather than the practical application of that knowledge and understanding. It typically is funded within Budget Activity 1 (6.1, Basic Research) within Research, Development, Test and Evaluation (RDT&E). For the purposes of this part, basic research includes:

(1) Research-related, science and engineering education, including graduate fellowships and research traineeships.

(2) Research instrumentation and other activities designed to enhance the infrastructure for science and engineering research.

Claim. A written demand or written assertion by one of the parties to a grant or cooperative agreement seeking as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of award terms, or other relief arising under or relating to a grant or cooperative agreement. A routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by written notice to the grants officer if it is disputed either as to liability or amount, or is not acted upon in a reasonable time.

Debt. Any amount of money or any property owed to a Federal Agency by any person, organization, or entity except another United States Federal agency. Debts include any amounts due from insured or guaranteed loans, fees, leases, rents, royalties, services, sales of real or personal property, or overpayments, penalties, damages, interest, fines and forfeitures, and all other claims and similar sources. Amounts due a nonappropriated fund instrumentality are not debts owed the United States, for the purposes of this subchapter.

Delinquent debt. A debt:

(1) That the debtor fails to pay by the date specified in the initial written notice from the agency owed the debt, normally within 30 days, unless the debtor makes satisfactory payment

arrangements with the agency by that date; and

(2) With respect to which the debtor has elected not to exercise any available appeals or has exhausted all agency appeal processes.

Development. The systematic use of scientific and technical knowledge in the design, development, testing, or evaluation of potential new products, processes, or services to meet specific performance requirements or objectives. It includes the functions of design engineering, prototyping, and engineering testing.

Electronic commerce. A wide range of functions related to grants and cooperative agreements which are performed using data communications techniques.

Electronic data interchange. The exchange of standardized information communicated electronically between business partners, typically between computers. It is DoD policy that DoD Component EDI applications conform to the American National Standards Institute (ANSI), Accredited Standards Committee (ASC) X–12 standard.[1]

Electronic funds transfer. A system that provides the authority to debit or credit accounts in financial institutions by electronic means rather than source documents (e.g., paper checks). Processing typically occurs through the Federal Reserve System and/or the Automated Clearing House (ACH) computer network. It is DoD policy that DoD Component EFT transmissions conform to the American National Standards Institute (ANSI), Accredited Standards Committee (ASC) X–12 standard.

Historically Black colleges and universities. Institutions of higher education determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. Each DoD Component's contracting activities and grants officers may obtain a list of historically Black colleges and universities from that DoD Component's Small and Disadvantaged Business Utilization office.

Institution of higher education. An educational institution that meets the criteria in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

Minority institutions. Institutions of higher education that meet the criteria for *minority institutions* specified in 10 U.S.C. 2323. Each DoD Component's contracting activities and grants officers may obtain copies of a current list of institutions that qualify as *minority institutions* under 10 U.S.C. 2323 from that DoD Component's Small and Disadvantaged Business Utilization office (the list of *minority institutions* changes periodically, based on Department of Education data on institutions' enrollments of minority students).

Research. Basic, applied, and advanced research, as defined in this section.

Subaward. An award of financial assistance in the form of money, or property in lieu of money, made under a DoD grant or cooperative agreement by a recipient to an eligible subrecipient. The term includes financial assistance for substantive program performance by the subrecipient of a portion of the program for which the DoD grant or cooperative agreement was made. It does not include the recipient's procurement of goods and services needed to carry out the program.

Subpart B—Selecting the Appropriate Instrument

§ 22.200 Purpose.

This subpart provides the bases for determining the appropriate type of instrument in a given situation.

§ 22.205 Distinguishing assistance from procurement.

Before using a grant or cooperative agreement, the grants officer shall make a positive judgment that an assistance instrument, rather than a procurement contract, is the appropriate instrument, based on the following:

(a) *Purpose.* (1) The grants officer must judge that the principal purpose of the activity to be carried out under the instrument is to stimulate or support a public purpose (i.e., to provide assistance), rather than acquisition (i.e., to acquire goods and services for the direct benefit of the United States Government). If the principal purpose is acquisition, then the grants officer shall judge that a procurement contract is the appropriate instrument, in accordance with 31 U.S.C. chapter 63 (''Using Procurement Contracts and Grant and Cooperative Agreements''). Assistance instruments shall not be used in such situations, except:

(i) When a statute specifically provides otherwise; or

(ii) When an exemption is granted, in accordance with § 22.220.

(2) For research and development, the appropriate use of grants and cooperative agreements therefore is almost exclusively limited to the performance of selected basic, applied, and advanced research projects. Development projects nearly always shall be performed by contract because their principal purpose is the acquisition of specific deliverable items (e.g., prototypes or other hardware) for the benefit of the Department of Defense.

(b) *Fee or profit.* Payment of fee or profit is consistent with an activity whose principal purpose is the acquisition of goods and services for the direct benefit or use of the United States Government, rather than an activity whose principal purpose is assistance. Therefore, the grants officer shall use a procurement contract, rather than an assistance instrument, in all cases where:

(1) Fee or profit is to be paid to the recipient of the instrument; or

(2) The instrument is to be used to carry out a program where fee or profit is necessary to achieving program objectives.

§ 22.210 Authority for providing assistance.

(a) Before a grant or cooperative agreement may be used, the grants officer must:

(1) Identify the program statute, the statute that authorizes the DoD Component to carry out the activity the principal purpose of which is assistance (see 32 CFR 21.205(b)).

(2) Review the program statute to determine if it contains requirements that affect the:

(i) Solicitation, selection, and award processes. For example, program statutes may authorize assistance to be provided only to certain types of recipients; may require that recipients meet certain other criteria to be eligible to receive assistance; or require that a specific process shall be used to review recipients' proposals.

(ii) Terms and conditions of the award. For example, some program statutes require a specific level of cost sharing or matching.

(b) The grants officer shall ensure that the award of any grant or cooperative agreement for a research project complies with the requirements of 10 U.S.C. 2358, DoD's broad authority to carry out research, even if the research project is authorized under a statutory authority other than 10 U.S.C. 2358. This broadening of the applicability of 10 U.S.C. 2358 to all research awards is a matter of DoD policy. The requirements of 10 U.S.C. 2358 are that, in the opinion of the Head of the DoD Component or his or her designee, the projects must be:

(1) Necessary to the responsibilities of the DoD Component.

[1] Available from Accredited Standards Committee, X–12 Secretariat, Data Interchange Standards Association, 1800 Diagonal Road, Suite 355, Alexandria, VA 22314–2852; Attention: Manager Maintenance and Publications.

(2) Related to weapons systems and other military needs or of potential interest to the DoD Component.

§ 22.215 Distinguishing grants and cooperative agreements.

(a) Once a grants officer judges, in accordance with §§ 22.205 and 22.210, that either a grant or cooperative agreement is the appropriate instrument, the grants officer shall distinguish between the two instruments as follows:

(1) Grants shall be used when the grants officer judges that substantial involvement is not expected between the Department of Defense and the recipient when carrying out the activity contemplated in the agreement.

(2) Cooperative agreements shall be used when the grants officer judges that substantial involvement is expected. Under no circumstances are cooperative agreements to be used solely to obtain the stricter controls typical of a contract. The grants officer should document the nature of the substantial involvement that led to selection of a cooperative agreement.

(b) In judging whether substantial involvement is expected, grants officers should recognize that ''substantial involvement'' is a relative, rather than an absolute, concept, and that it is primarily based on programmatic factors, rather than requirements for grant or agreement award or administration. For example, substantial involvement may include collaboration, participation, or intervention in the program or activity to be performed under the award.

§ 22.220 Exemptions.

Under 31 U.S.C. 6307, the Director of the OMB is authorized to exempt an agency transaction or program from the requirements of 31 U.S.C. chapter 63. Grants officers shall request such exemptions only in exceptional circumstances. Each request shall specify for which individual transaction or program the exemption is sought; the reasons for requesting an exemption; the anticipated consequences if the exemption is not granted; and the implications for other transactions and programs if the exemption is granted. The procedures for requesting exemptions shall be:

(a) In cases where 31 U.S.C. chapter 63 would require use of a contract and an exemption from that requirement is desired:

(1) The grants officer shall submit a request for exemption, through appropriate channels established by his or her DoD Component (see 32 CFR 21.115(b)(1)), to the Director of Defense Procurement (DDP).

(2) The DDP, after coordination with the Director of Defense Research and Engineering (DDR&E), shall transmit the request to OMB or notify the DoD Component that the request has been disapproved.

(b) In other cases, the DoD Component shall submit a request for the exemption through appropriate channels to the DDR&E. The DDR&E shall transmit the request to OMB or notify the DoD Component that the request has been disapproved.

(c) Where an exemption is granted, documentation of the approval shall be maintained in the award file.

Subpart C—Competition

§ 22.300 Purpose.

This subpart establishes DoD policy and implements statutes related to the use of competitive procedures in the award of grants and cooperative agreements.

§ 22.305 General policy and requirement for competition.

(a) It is DoD policy to maximize use of competition in the award of grants and cooperative agreements. This also conforms with:

(1) 31 U.S.C. 6301(3), which encourages the use of competition in awarding all grants and cooperative agreements.

(2) 10 U.S.C. 2374(a), which sets out Congressional policy that any new grant for research, development, test, or evaluation be awarded through merit-based selection procedures.

(b) Grants officers shall use merit-based, competitive procedures (as defined by § 22.315) to award grants and cooperative agreements:

(1) In every case where required by statute (e.g., 10 U.S.C. 2361, as implemented in § 22.310, for certain grants to institutions of higher education).

(2) To the maximum extent practicable in all cases where not required by statute.

§ 22.310 Statutes concerning certain research, development, and facilities construction grants.

(a) *Definitions specific to this section.* For the purposes of implementing the requirements of 10 U.S.C. 2374 in this section, the following terms are defined:

(1) *Follow-on grant.* A grant that provides for continuation of research and development performed by a recipient under a preceding grant. Note that follow-on grants are distinct from incremental funding actions during the period of execution of a multi-year award.

(2) *New grant.* A grant that is not a follow-on grant.

(b) *Statutory requirement to use competitive procedures.* (1) A grants officer shall not award a grant by other than merit-based, competitive procedures (as defined by § 22.315) to an institution of higher education for the performance of research and development or for the construction of research or other facilities, unless:

(i) In the case of a new grant for research and development, there is a statute meeting the criteria in paragraph (c)(1) of this section;

(ii) In the case of a follow-on grant for research and development, or of a grant for the construction of research or other facilities, there is a statute meeting the criteria in paragraph (c)(2) of this section; and

(iii) The Secretary of Defense submits to Congress a written notice of intent to make the grant. The grant may not be awarded until 180 days have elapsed after the date on which Congress received the notice of intent. Contracting activities must submit a draft notice of intent with supporting documentation through channels to the Deputy Director, Defense Research and Engineering.

(2) Because subsequently enacted statutes may, by their terms, impose different requirements than set out in paragraph (b)(1) of this section, grants officers shall consult legal counsel on a case-by-case basis, when grants for the performance of research and development or for the construction of research or other facilities are to be awarded to institutions of higher education by other than merit-based competitive procedures.

(c) *Subsequent statutes.* In accordance with 10 U.S.C. 2361 and 10 U.S.C. 2374, a provision of law may not be construed as requiring the award of a grant through other than the merit-based, competitive procedures described in § 22.315, unless:

(1) *Institutions of higher education—new grants for research and development.* In the case of a new grant for research and development to an institution of higher education, such provision of law specifically:

(i) Identifies the particular institution of higher education involved;

(ii) States that such provision of law modifies or supersedes the provisions of 10 U.S.C. 2361 (a requirement that applies only if the statute authorizing or requiring award by other than competitive procedures was enacted after September 30, 1989); and

(iii) States that the award to the institution of higher education involved is required by such provision of law to be made in contravention of the policy set forth in 10 U.S.C. 2374(a).

(2) *Institutions of higher education—follow-on grants for research and development and grants for the construction of any research or other facility.* In the case of any such grant to an institution of higher education, such provision of law specifically:

(i) Identifies the particular institution of higher education involved; and

(ii) States that such provision of law modifies or supersedes the provisions of 10 U.S.C. 2361 (a requirement that applies only if the statute authorizing or requiring award by other than competitive procedures was enacted after September 30, 1989).

(3) *Other entities—new grants for research and development*—(i) *General.* In the case of a new grant for research and development to an entity other than an institution of higher education, such provision of law specifically:

(A) Identifies the particular entity involved;

(B) States that the award to that entity is required by such provision of law to be made in contravention of the policy set forth in 10 U.S.C. 2374(a).

(ii) *Exception.* The requirement of paragraph (c)(3)(i) of this section does not apply to any grant that calls upon the National Academy of Sciences to:

(A) Investigate, examine, or experiment upon any subject of science or art of significance to the Department of Defense or any Military Department; and

(B) Report on such matters to the Congress or any agency of the Federal Government.

§ 22.315 Merit-based, competitive procedures.

Competitive procedures are methods that encourage participation in DoD programs by a broad base of the most highly qualified performers. These procedures are characterized by competition among as many eligible proposers as possible, with a published or widely disseminated notice. Competitive procedures include, as a minimum:

(a) Notice to prospective proposers. The notice may be a notice of funding availability or Broad Agency Announcement published in the Federal Register or Commerce Business Daily, respectively, or a notice that is made available broadly by electronic means. Alternatively, it may take the form of a specific notice that is distributed to eligible proposers (a specific notice must be distributed to at least two eligible proposers to be considered as part of a competitive procedure). Notices must include, as a minimum, the following information:

(1) Programmatic area(s) of interest, in which proposals or applications are sought.

(2) Eligibility criteria for potential recipients (see subpart D of this part).

(3) Criteria that will be used to select the applications or proposals that will be funded, and the method for conducting the evaluation.

(4) The type(s) of funding instruments (e.g., grants, cooperative agreements, other assistance instruments, or procurement contracts) that are anticipated to be awarded pursuant to the announcement.

(5) Instructions for preparation and submission of a proposal or application, including the time by which it must be submitted.

(b) At least two eligible, prospective proposers.

(c) Impartial review of the merits of applications or proposals received in response to the notice, using the evaluation method and selection criteria described in the notice. For research and development awards, in order to be considered as part of a competitive procedure, the two principal selection criteria, unless statute provides otherwise, must be the:

(1) Technical merits of the proposed research and development; and

(2) Potential relationship of the proposed research and development to Department of Defense missions.

§ 22.320 Special competitions.

(a) *General.* Some programs may be competed for programmatic or policy reasons among specific classes of potential recipients. An example would be a program to enhance U.S. capabilities for academic research and research-coupled graduate education in defense-critical, science and engineering disciplines, a program that would be competed specifically among institutions of higher education. All such special competitions shall be consistent with program representations in the President's budget submission to Congress and with subsequent Congressional authorizations and appropriations for the programs.

(b) *Historically Black colleges and universities (HBCUs) and other minority institutions (MIs).* Increasing the ability of HBCUs and MIs to participate in federally funded, university programs is an objective of Executive Order 12876 (3 CFR, 1993 Comp., p. 671) and 10 U.S.C. 2323. Whenever practicable, grants officers shall reserve appropriate programmatic areas for exclusive competition among HBCUs and MIs when preparing Broad Agency Announcements or other announcements as notices for programs in which grants or cooperative agreements are to be awarded to institutions of higher education.

Subpart D—Recipient Qualification Matters—General Policies and Procedures

§ 22.400 Purpose.

The purpose of this subpart is to specify policies and procedures for grants officers' determination of recipient qualifications prior to award.

§ 22.405 Policy.

(a) *General.* Grants officers normally shall award grants or cooperative agreements only to qualified recipients that meet the standards in § 22.415. This practice conforms with the Governmentwide policy, stated at 32 CFR 25.115(a), to do business only with responsible persons.

(b) *Exception.* In exceptional circumstances, grants officers may make awards to recipients that do not fully meet the standards in § 22.415 and include special award conditions that are appropriate to the particular situation, in accordance with 32 CFR 32.14, 33.12, or 34.4.

§ 22.410 Grants officers' responsibilities.

The grants officer is responsible for determining a recipient's qualification prior to award. The grants officer's signature on the award document shall signify his or her determination that either:

(a) The potential recipient meets the standards in § 22.415 and is qualified to receive the grant or cooperative agreement; or

(b) An award is justified to a recipient that does not fully meet the standards, pursuant to § 22.405(b). In such cases, grants officers shall document in the award file the rationale for making an award to a recipient that does not fully meet the standards.

§ 22.415 Standards.

To be qualified, a potential recipient must:

(a) Have the management capability and adequate financial and technical resources, given those that would be made available through the grant or cooperative agreement, to execute the program of activities envisioned under the grant or cooperative agreement.

(b) Have a satisfactory record of executing such programs or activities.

(c) Have a satisfactory record of integrity and business ethics.

(d) Be otherwise qualified and eligible to receive a grant or cooperative agreement under applicable laws and regulations (see § 22.420(c)).

§ 22.420 Pre-award procedures.

(a) The appropriate method to be used and amount of effort to be expended in deciding the qualification of a potential recipient will vary. In deciding on the method and level of effort, the grants officer should consider factors such as:

(1) DoD's past experience with the recipient;

(2) Whether the recipient has previously received cost-type contracts, grants, or cooperative agreements from the Federal Government; and

(3) The amount of the prospective award and complexity of the project to be carried out under the award.

(b) There is no DoD-wide requirement to obtain a pre-award credit report, audit, or any other specific piece of information. On a case-by-case basis, the grants officer will decide whether there is a need to obtain any such information to assist in deciding whether the recipient meets the standards in § 22.415(a), (b), and (c).

(1) Should the grants officer in a particular case decide that a pre-award credit report, audit, or survey is needed, he or she should consult first with the appropriate grants administration office (identified in § 22.710), and decide whether pre-existing surveys or audits of the recipient, such as those of the recipient's internal control systems under OMB Circular A–133 [2] or A–128 [3] will satisfy the need (see § 22.715(a)(1)).

(2) If, after consulting with the grants administration office, the grants officer decides to obtain a credit report, audit, or other information, and the report or other information discloses that a potential recipient is delinquent on a debt to an agency of the United States Government, then:

(i) The grants officer shall take such information into account when determining whether the potential recipient is qualified with respect to the grant or cooperative agreement; and

(ii) If the grants officer decides to make the award to the recipient, unless there are compelling reasons to do otherwise, the grants officer shall delay the award of the grant or cooperative agreement until payment is made or satisfactory arrangements are made to repay the debt.

(c) In deciding whether a recipient is otherwise qualified and eligible in accordance with the standard in § 22.415(d), the grants officer shall ensure that the potential recipient:

(1) Is not identified on the Governmentwide ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs'' as being debarred, suspended, or otherwise ineligible to receive the award. The grants officer shall check the list of such parties for:

(i) Potential recipients of prime awards, as described at 32 CFR 25.505(d);

(ii) A recipient's principals (e.g., officers, directors, or other key employees, as defined at 32 CFR 25.105); and

(iii) Potential recipients of subawards, where DoD Component approval of such principals or lower-tier recipients is required under the terms of the award (see 32 CFR 25.505(e)).

(2) Has provided all certifications and assurances required by Federal statute, Executive order, or codified regulation, unless they are to be addressed in award terms and conditions at the time of award (see § 22.510).

(3) Meets any eligibility criteria that may be specified in the statute authorizing the specific program under which the award is being made (see § 22.210(a)(2)).

(d) Grants officers shall obtain recipients' Taxpayer Identification Numbers (these may be Social Security Numbers for individuals and Employer Identification Numbers for businesses or non-profit entities) to facilitate later collection of delinquent debts, if necessary.

Subpart E—National Policy Matters

§ 22.505 Purpose.

The purpose of this subpart is to supplement other regulations that implement national policy requirements, to the extent that it is necessary to provide additional guidance to DoD grants officers. The other regulations that implement national policy requirements include:

(a) The other parts of the DoDGARs (32 CFR parts 32, 33, and 34) that implement the Governmentwide guidance in OMB Circulars A–102 [4] and A–110 [5] on administrative requirements for grants and cooperative agreements. Those parts address some national policy matters that appear in the OMB Circulars.

(b) DoD regulations other than the DoDGARs.

(c) Other Federal agencies' regulations.

§ 22.510 Certifications, representations, and assurances.

(a) *Certifications*—(1) *Policy*. Certifications of compliance with national policy requirements are to be obtained from recipients only for those national policies where a statute, Executive order, or codified regulation specifically states that a certification is required. Other national policy requirements may be addressed by obtaining representations or assurances (see paragraph (b) of this section). Grants officers should utilize methods for obtaining certifications, in accordance with Executive Order 12866 (3 CFR, 1993 Comp., p. 638), that minimize administration and paperwork.

(2) *Procedures.* (i) When necessary, grants officers may obtain individual, written certifications.

(ii) Whenever possible, however, grants officers should identify the certifications that are required for the particular type of recipient and program, and consolidate them into a single certification provision that cites them by reference.

(A) Appendix A to this part lists the common certifications and cites their applicability. Because some certifications (e.g., the certification on lobbying in Appendix A to this part) are required by law to be submitted at the time of proposal, rather than at the time of award, Appendix A to this part includes suggested language for incorporating common certifications by reference into a proposal.

(B) If a grants officer elects to have proposers incorporate certifications by reference into their proposals, the solicitation either must include the full text of the certifications that proposers are to provide by reference, or must inform the proposers where the full text may be found (e.g., in documents or computer network sites that are readily available to the public) and offer to provide it to proposers upon request.

(C) Grants officers may incorporate certifications by reference in award documents when doing so is consistent with statute and codified regulation. Note that a statute requires submission of the lobbying certification in Appendix A to this part at the time of proposal. Grants officers may incorporate the other certifications listed in Appendix A to this part in award documents, notwithstanding the regulatory requirement stated in 32 CFR 25.510(a) for obtaining certifications regarding debarment and suspension at the time of proposal submission. The provision that a grants officer would use to incorporate certifications in award documents would be similar to the

[2] Contact the Office of Management and Budget, EOP Publications, 725 17th St. N.W., New Executive Office Building, Washington, D.C. 20503.

[3] See footnote 2 to paragraph (b)(1) of this section.

[4] *See* footnote 2 to § 22.420(b)(1).

[5] *See* footnote 2 to § 22.420(b)(1).

suggested provision in Appendix A to this part, except that it would be modified to state that the recipient is providing the required certifications by signing the award document or by accepting funds under the award.

(b) *Representations and assurances.* Many national policies, either in statute or in regulation, require recipients of grants and cooperative agreements to make representations or provide assurances (rather than certifications) that they are in compliance with the policies. As discussed in § 22.610(b), Appendix B to this part suggests award terms and conditions that may be used to address several of the more commonly applicable national policy requirements. These terms and conditions may be used to obtain required assurances and representations, if the grants officer wishes to do so at the time of award, rather than through the use of the standard application form (SF–424) or other means at the time of proposal.

§ 22.515 Provisions of annual appropriations acts.

An annual appropriations act can include general provisions stating national policy requirements that apply to the use of funds (e.g., obligation through a grant or cooperative agreement) appropriated by the act. Because these requirements are of limited duration (the period during which a given year's appropriations are available for obligation), and because they can vary from year to year and from one agency's appropriations act to another agency's, the grants officer must know the agency(ies) and fiscal year(s) of the appropriations being obligated by a given grant or cooperative agreement, and may need to consult legal counsel if he or she does not know the requirements applicable to those appropriations.

§ 22.520 Military recruiting on campus. [Reserved]

§ 22.525 Paperwork Reduction Act.

Grants officers shall include appropriate award terms or conditions, if a recipient's activities under an award will be subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3500, et seq.):

(a) Generally, the Act only applies to Federal agencies—it requires agencies to obtain clearance from the Office of Management and Budget before collecting information using forms, schedules, questionnaires, or other methods calling either for answers to:

(1) Identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States.

(2) Questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest.

(b) The Act applies to similar collections of information by recipients of grants or cooperative agreements only when:

(1) A recipient collects information at the specific request of the awarding Federal agency; or

(2) The terms and conditions of the award require specific approval by the agency of the information collection or the collection procedures.

§ 22.530 Metric system of measurement.

(a) *Statutory requirement.* The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205) and implemented by Executive Order 12770 (3 CFR, 1991 Comp., p. 343), states that:

(1) The metric system is the preferred measurement system for U.S. trade and commerce.

(2) The metric system of measurement will be used, to the extent economically feasible, in federal agencies' procurements, grants, and other business-related activities.

(3) Metric implementation shall not be required to the extent that such use is likely to cause significant inefficiencies or loss of markets to United States firms.

(b) *Responsibilities.* DoD Components shall ensure that the metric system is used, to the maximum extent practicable, in measurement-sensitive activities supported by programs that use grants and cooperative agreements, and in measurement-sensitive outputs of such programs.

Subpart F—Award

§ 22.600 Purpose.

This subpart sets forth grants officers' responsibilities relating to the award document and other actions at the time of award.

§ 22.605 Grants officers' responsibilities.

At the time of award, the grants officer is responsible for ensuring that:

(a) The award instrument contains the appropriate terms and conditions, in accordance with § 22.610.

(b) Information about the award is provided to the office responsible for preparing reports for the Defense Assistance Award Data System (DAADS), to ensure timely and accurate reporting of data required by 31 U.S.C. 6101–6106 (see 32 CFR part 21, subpart C).

(c) In addition to the copy of the award document provided to the recipient, a copy is forwarded to the office designated to administer the grant or cooperative agreement, and another copy is forwarded to the finance and accounting office designated to make the payments to the recipient.

§ 22.610 Award instruments.

(a) Each award document shall include terms and conditions that:

(1) Address programmatic requirements (e.g., a statement of work or other appropriate terms or conditions that describe the specific goals and objectives of the project). The grants officer shall develop such terms and conditions in coordination with program officials.

(2) Provide for the recipient's compliance with:

(i) Pertinent Federal statutes or Executive orders that apply broadly to Federal or DoD assistance awards.

(ii) Any program-specific requirements that are prescribed in the program statute (see § 22.210(a)(2)), or appropriation-specific requirements that are stated in the pertinent Congressional appropriations (see § 22.515).

(iii) Pertinent portions of the DoDGARs or other Federal regulations, including those that implement the Federal statutes or Executive orders described in paragraphs (a)(2) (i) and (ii) of this section.

(3) Specify the grants officer's instructions for post-award administration, for any matter where the post-award administration provisions in 32 CFR part 32, 33, or 34 give the grants officer options for handling the matter. For example, under 32 CFR 32.24(b), the grants officers must choose among possible methods for the recipient's disposition of program income. It is essential that the grants officer identify the option selected in each case, to provide clear instructions to the recipient and the grants officer responsible for post-award administration of the grant or cooperative agreement.

(b) To assist grants officers:

(1) Appendix B to this part provides model clauses to implement certain Federal statutes, Executive orders, and regulations (see paragraph (a)(2)(i) of this section) that frequently apply to DoD grants and cooperative agreements. Grants officers may incorporate the model clauses into award terms and conditions, as appropriate. It should be noted that Appendix B to this part is an aid, and not an exhaustive list of all requirements that apply in all cases.

Depending on the circumstances of a given award, other statutes, Executive orders, or codified regulations also may apply (e.g., Appendix B to this part does not list program-specific requirements described in paragraph (a)(2)(ii) of this section).

(2) Appendix C to this part is a list of administrative requirements that apply to awards to different types of recipients. It also identifies post-award administration issues that the grants officer must address in the award terms and conditions.

Subpart G—Field Administration

§ 22.700 Purpose.

This subpart prescribes policies and procedures for administering grants and cooperative agreements. It does so in conjunction with 32 CFR parts 32, 33, and 34, which prescribe administrative requirements for particular types of recipients.

§ 22.705 Policy.

(a) DoD policy is to have each recipient deal with a single office, to the maximum extent practicable, for post-award administration of its grants and agreements. This reduces burdens on recipients that can result when multiple DoD offices separately administer grants and agreements they award to a given recipient. It also minimizes unnecessary duplication of field administration services.

(b) To further reduce burdens on recipients, the office responsible for performing field administration services for grants and agreements to a particular recipient shall be the same office that is assigned responsibility for performing field administration services for contracts awarded to that recipient.

(c) Contracting activities and grants officers therefore shall use cross-servicing arrangements whenever practicable and, to the maximum extent possible, delegate responsibility for post-award administration to the cognizant grants administration offices identified in § 22.710.

§ 22.710 Assignment of grants administration offices.

In accordance with the policy stated in § 22.705(b), the DoD offices (referred to in this part as ''grants administration offices'') that are assigned responsibility for performing field administration services for grants and agreements are (see the ''DoD Directory of Contract Administration Services Components,'' DLAH 4105.4,[6] for specific addresses of administration offices):

(a) Regional offices of the Office of Naval Research, for grants and agreements with:

(1) Institutions of higher education and laboratories affiliated with such institutions, to the extent that such organizations are subject to the university cost principles in OMB Circular A–21.[7]

(2) Nonprofit organizations that are subject to the cost principles in OMB Circular A–122,[8] if their principal business with the Department of Defense is research and development.

(b) Field offices of the Defense Contract Management Command, for grants and agreements with all other entities, including:

(1) Commercial organizations.

(2) Nonprofit organizations identified in Attachment C of OMB Circular A–122 that are subject to commercial cost principles in 48 CFR part 31.

(3) Nonprofit organizations subject to the cost principles in OMB Circular A–122, if their principal business with the Department of Defense is other than research and development.

(4) State and local governments.

§ 22.715 Grants administration office functions.

The primary responsibility of cognizant grants administration offices shall be to advise and assist grants officers and recipients prior to and after award, and to help ensure that recipients fulfill all requirements in law, regulation, and award terms and conditions. Specific functions include:

(a) Conducting reviews and coordinating reviews, audits, and audit requests. This includes:

(1) Advising grants officers on the extent to which audits by independent auditors (i.e., public accountants or Federal auditors) have provided the information needed to carry out their responsibilities. If a recipient has had an independent audit in accordance with OMB Circular A–128 or OMB Circular A–133, and the audit report disclosed no material weaknesses in the recipient's financial management and other management and control systems, additional preaward or closeout audits usually will not be needed (see §§ 22.420(b) and 22.825(b)).

(2) Performing pre-award surveys, when requested by a grants officer, after providing advice described in paragraph (a)(1) of this section.

(3) Reviewing recipients' systems and compliance with Federal requirements, in coordination with any reviews and compliance audits performed by independent auditors under OMB Circular A–128 or A–133. This includes:

(i) Reviewing recipients' financial management, property management, and purchasing systems, to determine the adequacy of such systems.

(ii) Determining that recipients have drug-free workplace programs, as required under 32 CFR part 25.

(4) Notifying the Office of the Assistant Inspector General for Audit Policy and Oversight (OAIG(APO)), 400 Army-Navy Drive, Arlington, VA 22202, if either of the following is not available within a reasonable period of time (e.g., six months) after the date on which a recipient of DoD grants and agreements was to have submitted its audit report under OMB Circular A–128 or A–133 to the OAIG(APO):

(i) The recipient's audit report under OMB Circular A–128 or A–133.

(ii) The OAIG(APO)'s desk review of the recipient's audit report, or a letter stating that the OAIG(APO) has decided not to conduct a desk review.

(b) Performing property administration services for Government-owned property, and for any property acquired by a recipient, with respect to which the recipient has further obligations to the Government.

(c) Ensuring timely submission of required reports.

(d) Executing administrative closeout procedures.

(e) Establishing recipients' indirect cost rates, where the Department of Defense is the cognizant or oversight Federal agency with the responsibility for doing so.

(f) Performing other administration functions (e.g., receiving recipients' payment requests and transmitting approved payment authorizations to payment offices) as delegated by applicable cross-servicing agreements or letters of delegation.

Subpart H—Post-Award Administration

§ 22.800 Purpose and relation to other parts.

This subpart sets forth grants officers' and DoD Components' responsibilities for post-award administration, by providing DoD-specific requirements on payments; debt collection; claims, disputes and appeals; and closeout audits.

§ 22.805 Post-award requirements in other parts.

Grants officers responsible for post-award administration of grants and cooperative agreements shall administer such awards in accordance with the

[6] Copies may be obtained from the Defense Logistics Agency, Publications Distribution Division (DASC-WDM), 8725 John J. Kingman Rd., Suite 0119, Fort Belvoir, VA 22060–6220.

[7] See footnote 2 to § 22.420(b)(1).

[8] See footnote 2 to § 22.420(b)(1).

following parts of the DoDGARs, as supplemented by this subpart:

(a) *Awards to domestic recipients.* Standard administrative requirements for grants and cooperative agreements with domestic recipients are specified in other parts of the DoDGARs, as follows:

(1) For awards to domestic institutions of higher education and other nonprofit organizations, requirements are specified in 32 CFR part 32, which is the DoD implementation of OMB Circular A–110.

(2) For awards to State and local governments, specifies requirements are specified in 32 CFR part 33, which is the DoD codification of the Governmentwide common rule to implement OMB Circular A–102.

(3) For awards to domestic commercial organizations, requirements are specified in 32 CFR part 34, which is modeled on the requirements in OMB Circular A–110.

(b) *Awards to foreign recipients.* DoD Components shall use the administrative requirements specified in paragraph (a) of this section, to the maximum extent practicable, for grants and cooperative agreements to foreign recipients.

§ 22.810 Payments.

(a) *Purpose.* This section prescribes policies and grants officers' post-award responsibilities, with respect to payments to recipients of grants and cooperative agreements.

(b) *Policy.* It is Governmentwide policy to minimize the time elapsing between any payment of funds to a recipient and the recipient's disbursement of the funds for program purposes (see 32 CFR 32.22(a) and 33.21(b), and the implementation of the Cash Management Improvement Act at 31 CFR part 205). Expanding on the Governmentwide policy, DoD policy is to:

(1) Use electronic commerce, to the maximum extent practicable, in the payment process for grants and cooperative agreements, to improve timeliness and accuracy of payments.

(2) Make authorized payments expeditiously.

(i) When grants or agreements provide for payments, either advances or reimbursements, to be made in response to recipients' requests, authorized payments shall be made as soon as possible after receipt of the requests. Authorized payments normally shall not be made more than:

(A) Seven days after receipt of recipients' requests, whenever grants officers, payment offices, and recipients are able to use electronic commerce (i.e., electronic data interchange (EDI) to request and authorize payments and electronic funds transfer (EFT) to make payments).

(B) Thirty days after receipt of recipients' requests, when it is not possible to use electronic commerce and offices must process paper to receive recipients' requests, or to authorize and make payments (note, however, that Governmentwide guidance implemented at 32 CFR 32.22(e)(1) makes payment within 30 days a firm requirement, not just the norm, for payments to institutions of higher education and other nonprofit organizations, when the reimbursement method of payment is used). Payments shall be made as expeditiously as processing of paper transactions allows—this policy is intended neither to delay payments nor to make them as close as possible to the 30th day.

(ii) When payments are authorized in advance, based on a predetermined schedule, the payment office should make each payment within 7 days of the date specified, if the schedule was provided to the payment office at least 30 days in advance of the date of the scheduled payment.

(c) *Post-award responsibilities.* The administrative grants officer designated to handle payments for a grant or cooperative agreement is responsible for:

(1) Maintaining a close working relationship with the personnel in the finance and accounting office responsible for making the payments. A good working relationship is necessary, to ensure timely and accurate handling of financial transactions for grants and agreements. Administrative grants officers should be generally familiar with policies and procedures for disbursing officers that are contained in Chapter 19 of Volume 10 of the DoD Financial Management Regulation (DoD 7000.14–R [9]).

(2) Handling recipients' requests for payments in accordance with DoD implementation of Governmentwide guidance (see 32 CFR 32.22, 33.21, or 34.12, as applicable).

(3) Reviewing each payment request to ensure that:

(i) The request complies with the award terms.

(ii) Available funds are adequate to pay the request.

(iii) The recipient will not have excess cash on hand, based on expenditure patterns.

(4) Forwarding authorizations to the designated payment office expeditiously, so that payments may be made in accordance with the timely payment goals in paragraph (b)(2) of this section. Authorizations generally should be forwarded to the payment office at least 3 working days before the end of the period specified in paragraph (b)(2)(i) (A) or (B) of this section.

§ 22.815 Claims, disputes, and appeals.

(a) *Award terms.* Grants officers shall include in grants and cooperative agreements a term or condition that incorporates the procedures of this section for:

(1) Processing recipient claims and disputes.

(2) Deciding appeals of grants officers' decisions.

(b) *Submission of claims*—(1) *Recipient claims.* Recipients shall submit claims arising out of or relating to a grant or cooperative agreement to the grants officer for decision. Claims shall be in writing, shall specify the nature and basis for the relief requested, and shall include all data that supports the claim.

(2) *DoD Component claims.* Claims by a DoD Component shall be the subject of a written decision by a grants officer.

(c) *Alternative Dispute Resolution (ADR)*—(1) *Policy.* DoD policy is to try to resolve all issues concerning grants and cooperative agreements by mutual agreement at the grants officer's level. DoD Components therefore are encouraged to use ADR procedures to the maximum extent practicable. ADR procedures are any voluntary means (e.g., mini-trials or mediation) used to resolve issues in controversy without resorting to formal administrative appeals (see paragraph (e) of this section) or to litigation.

(2) *Procedures.* (i) The ADR procedures or techniques to be used may either be agreed upon by the Government and the recipient in advance (e.g., when agreeing on the terms and conditions of the grant or cooperative agreement), or may be agreed upon at the time the parties determine to use ADR procedures.

(ii) If a grants officer and a recipient are not able to resolve an issue through unassisted negotiations, the grants officer shall encourage the recipient to enter into ADR procedures. ADR procedures may be used prior to submission of a recipient's claim or at any time prior to the Grant Appeal Authority's decision on a recipient's

[9] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Authorized users may also obtain copies from the Defense Technical Information Center, 8725 John J. Kingman Rd., Suite 0944, Fort Belvoir, VA 22060–6218.

appeal (see paragraph (e)(3)(iii) of this section).

(d) *Grants officer decisions.* (1) Within 60 days of receipt of a written claim, the grants officer shall either:

(i) Prepare a written decision, which shall include the reasons for the decision; shall identify all relevant data on which the decision is based; shall identify the cognizant Grant Appeal Authority and give his or her mailing address; and shall be included in the award file; or

(ii) Notify the recipient of a specific date when he or she will render a written decision, if more time is required to do so. The notice shall inform the recipient of the reason for delaying the decision (e.g., the complexity of the claim, a need for more time to complete ADR procedures, or a need for the recipient to provide additional information to support the claim).

(2) The decision of the grants officer shall be final. If a recipient decides to appeal a grants officer's decision, the grants officer shall encourage the recipient to enter into ADR procedures, as described in paragraph (c) of this section.

(e) *Formal administrative appeals*—(1) *Grant Appeal Authorities.* Each DoD Component that awards grants or cooperative agreements shall establish one or more Grant Appeal Authorities to decide formal, administrative appeals in accordance with paragraph (e)(3) of this section. Each Grant Appeal Authority shall be either:

(i) An individual at a grade level in the Senior Executive Service, if civilian, or at the rank of Flag or General Officer, if military; or

(ii) A board chaired by such an individual.

(2) *Right of appeal.* A recipient has the right to appeal a grants officer's decision to the Grant Appeal Authority (but note that ADR procedures, as described in paragraph (c) of this section, are the preferred means for resolving any appeal).

(3) *Appeal procedures*—(i) *Notice of appeal.* A recipient may appeal a decision of the grants officer within 90 days of receiving that decision, by filing a written notice of appeal to the Grant Appeal Authority and to the grants officer. If a recipient elects to use an ADR procedure, the recipient is permitted an additional 60 days to file the written notice of appeal to the Grant Appeal Authority and grants officer.

(ii) *Appeal file.* Within 30 days of receiving the notice of appeal, the grants officer shall forward to the Grant Appeal Authority and the recipient the appeal file, which shall include copies of all documents relevant to the appeal. The recipient may supplement the file with additional documents it deems relevant. Either the grants officer or the recipient may supplement the file with a memorandum in support of its position. The Grant Appeal Authority may request additional information from either the grants officer or the recipient.

(iii) *Decision.* The appeal shall be decided solely on the basis of the written record, unless the Grant Appeal Authority decides to conduct fact-finding procedures or an oral hearing on the appeal. Any fact-finding or hearing shall be conducted using procedures that the Grant Appeal Authority deems appropriate.

(f) *Representation.* A recipient may be represented by counsel or any other designated representative in any claim, appeal, or ADR proceeding brought pursuant to this section, as long as the representative is not otherwise prohibited by law or regulation from appearing before the DoD Component concerned.

(g) *Non-exclusivity of remedies.* Nothing in this section is intended to limit a recipient's right to any remedy under the law.

§ 22.820 Debt collection.

(a) *Purpose.* This section prescribes procedures for establishing debts owed by recipients of grants and cooperative agreements, and transferring them to payment offices for collection.

(b) *Resolution of indebtedness.* The grants officer shall attempt to resolve by mutual agreement any claim of a recipient's indebtedness to the United States arising out of a grant or cooperative agreement (e.g., by a finding that a recipient was paid funds in excess of the amount to which the recipient was entitled under the terms and conditions of the award).

(c) *Grants officer's decision.* In the absence of such mutual agreement, any claim of a recipient's indebtedness shall be the subject of a grants officer decision, in accordance with § 22.815(b)(2). The grants officer shall prepare and transmit to the recipient a written notice that:

(1) Describes the debt, including the amount, the name and address of the official who determined the debt (e.g., the grants officer under § 22.815(d), and a copy of that determination.

(2) Informs the recipient that:

(i) Within 30 days of the grants officer's decision, the recipient shall either pay the amount owed or inform the grants officer of the recipient's intention to appeal the decision.

(ii) If the recipient elects not to appeal, any amounts not paid within 30 days of the grants officer's decision will be a delinquent debt.

(iii) If the recipient elects to appeal the grants officer's decision the recipient has 90 days, or 150 days if ADR procedures are used, after receipt of the grants officer's decision to file the appeal, in accordance with § 22.815(e)(3)(i).

(iv) The debt will bear interest, and may include penalties and other administrative costs. No interest will be charged if the recipient pays the amount owed within 30 days of the grants officer's decision. Interest will be charged for the entire period from the date the decision was mailed, if the recipient pays the amount owed after 30 days.

(d) *Follow-up.* Depending upon the response from the recipient, the grants officer shall proceed as follows:

(1) If the recipient pays the amount owed within 30 days to the grants officer, the grants officer shall forward the payment to the responsible payment office.

(2) If within 30 days the recipient has neither paid the amount due nor provided notice of intent to file an appeal of the grants officer's decision, the grants officer shall send a demand letter to the recipient, with a copy to the payment office that will be responsible for collecting the delinquent debt. The payment office will be responsible for any further debt collection activity, including issuance of additional demand letters (see Chapter 19 of volume 10 of the DoD Financial Management Regulation, DoD 7000.14–R. The grants officer's demand letter shall:

(i) Describe the debt, including the amount, the name and address of the official that determined the debt (e.g., the grants officer under § 22.815(d)), and a copy of that determination.

(ii) Notify the recipient that the debt is a delinquent debt that bears interest from the date of the grants officer's decision, and that penalties and other administrative costs may be assessed.

(iii) Identify the payment office that is responsible for the collection of the debt, and notify the recipient that it may submit a proposal to that payment office to defer collection, if immediate payment is not practicable.

(3) If the recipient elects to appeal the grants officer's decision, further action to collect the debt is deferred, pending the outcome of the appeal. If the final result of the appeal is a determination that the recipient owes a debt to the Federal Government, the grants officer shall send a demand letter to the recipient and transfer responsibility for further debt collection to a payment

office, as described in paragraph (d)(2) of this section.

(e) *Administrative offset.* In carrying out the responsibility for collecting delinquent debts, a disbursing officer may need to consult grants officers, to determine whether administrative offset against payments to a recipient owing a delinquent debt would interfere with execution of projects being carried out under grants or cooperative agreements. Disbursing officers may also ask grants officers whether it is feasible to convert payment methods under grants or agreements from advance payments to reimbursements, to facilitate use of administrative offset. Grants officers therefore should be familiar with guidelines for disbursing officers, in Chapter 19 of Volume 10 of the Financial Management Regulation (DoD 7000.14–R), concerning withholding and administrative offset to recover delinquent debts.

§ 22.825 Closeout audits.

(a) *Purpose.* This section establishes DoD policy for obtaining audits at closeout of individual grants and cooperative agreements. It thereby supplements the closeout procedures specified in:

(1) 32 CFR 32.71 and 32.72, for awards to institutions of higher education and other nonprofit organizations.

(2) 32 CFR 33.50 and 33.51, for awards to State and local governments.

(3) 32 CFR 34.61 and 34.62, for awards to commercial entities.

(b) *Policy.* Grants officers shall use their judgment on a case-by-case basis, in deciding whether to obtain an audit prior to closing out a grant or cooperative agreement (i.e., there is no specific DoD requirement to obtain an audit prior to doing so). Factors to be considered include:

(1) The amount of the award.

(2) DoD's past experience with the recipient, including the presence or lack of findings of material deficiencies in recent:

(i) Audits of individual awards; or

(ii) Systems-wide financial audits and audits of the compliance of the recipient's systems with Federal requirements, under OMB Circular A–128 or A–133, where those Circulars are applicable. (See § 22.715(a)(1)).

APPENDIX A TO PART 22.—SUGGESTED PROPOSAL PROVISION FOR REQUIRED CERTIFICATIONS

Suggested provision in proposal (or, suitably modified, in award)	Used for			Source of requirement
	Type of award	Type of recipient	Specific situation	
By signing and submitting this proposal, the recipient is providing the:				
(1) Certification at Appendix A to 32 CFR Part 25 regarding debarment, suspension, and other responsibility matters.	Any nonprocurement transaction [see ''primary covered transaction,'' defined at 32 CFR 25.110(a)(1)(i)].	All but foreign governments, foreign governmental entities, and others excluded from ''person,'' as defined at 32 CFR 25.105.	Any	Subparts A through E of 32 CFR 25, which implement E.O. 12549 [3 CFR, 1986 Comp., p. 189]; E.O. 12689 [3 CFR, 1989 Comp., p. 235]; and Sec. 2455 of Federal Acquisition and Streamlining Act of 1994 (Pub. L. 103–355).
(2) Certification at Appendix C to 32 CFR Part 25 regarding drug-free workplace requirements.	Any financial assistance, including any grant or cooperative agreement [see ''grant,'' as broadly defined at 32 CFR 25.605(b)(7)].	Any	Any, except where inconsistent with international obligations of the U.S. or the laws or regulations of a foreign government [see 32 CFR 25.610(b)].	Subpart F of 32 CFR 25, which implements sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).
(3) Certification at Appendix A to 32 CFR Part 28 regarding lobbying.	Any financial assistance [see 32 CFR 28.105(b) and definitions of ''Federal grant,'' ''Federal cooperative agreement,'' and ''Federal loan'' in 32 CFR 28.105 (c), (d), and (e)].	All but Indian tribe or tribal organization with respect to expenditures specifically permitted by other Federal law [see 32 CFR 28.105(l)].	Any	32 CFR 28, which implements 31 U.S.C. 1352.

APPENDIX B TO PART 22.—SUGGESTED AWARD PROVISIONS FOR NATIONAL POLICY REQUIREMENTS THAT OFTEN APPLY

Suggested award provision	Used for			Some requirement(s) the grants officer should note
	Type of award	Type of recipient	Specific situation	
Nondiscrimination				
By signing this agreement or accepting funds under this agreement, the recipient assures that it will comply with applicable provisions of the following national policies prohibiting discrimination:				

APPENDIX B TO PART 22.—SUGGESTED AWARD PROVISIONS FOR NATIONAL POLICY REQUIREMENTS THAT OFTEN APPLY—Continued

Suggested award provision	Used for			Some requirement(s) the grants officer should note
	Type of award	Type of recipient	Specific situation	
a. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by DoD regulations at 32 CFR part 195.	Grants, cooperative agreements, and other financial assistance included at 32 CFR 195.2(d).	Any	Any	32 CFR part 195.6 requires grants officer to obtain recipient's assurance of compliance. It also requires recipient to flow down requirements to subrecipients.
b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964–1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR part 60.	Grants, cooperative agreements, and other prime awards included by ''Federally assisted construction contract'' definition at 40 CFR 60–1.3.	Any	Awards under which construction work is to be done.	Recipients must include clause prescribed by 41 CFR 60–1.4(b) in federally assisted construction awards and subawards [41 CFR 60–1.4(d) allows incorporation by reference]. This requirement also is at 32 CFR 33.36(l)(3) and at paragraphs 1. of Appendices A to 32 CFR part 32 and 32 CFR part 34.
c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.).	Grants, cooperative agreements, and other financial assistance included at 16 U.S.C. 1682.	Educational institution [for sex discrimination, excepts any institution controlled by religious organization, when inconsistent with the organization's religious tenets].	Any educational program or activity receiving Federal financial assistance.	
d. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.	Grants, cooperative agreements, and other awards included in ''Federal financial assistance'' definition at 45 CFR 90.4.	Any	Any	45 CFR 90.4 requires that recipient flow down requirements to subrecipients [definition of ''recipient'' at 45 CFR 90.4 includes entities to which assistance is extended indirectly, through another recipient].
e. On the basis of handicap, in:				
1. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.	Grants, cooperative agreements, and other awards included in ''Federal financial assistance'' definition at 32 CFR 56.3(b).	Any	Any	32 CFR 56.9(b) requires grants officer to obtain recipient's written assurance of compliance and specifies what the assurance includes. Note that requirements flow down to subawards [''recipient,'' defined at 32 CFR 56.3(g), includes entities receiving assistance indirectly through other recipients].
2. The Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq.).	Grant or loan	Any	Construction or alteration of buildings or facilities which will require public accessibility.	
Officials Not to Benefit				
No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.	Grants, cooperative agreements, and other ''agreements''.	Any	Any.	
Live Organisms				
By signing this agreement or accepting funds under this agreement, the recipient assures that it will comply with applicable provisions of the following national policies concerning live organisms:				

APPENDIX B TO PART 22.—SUGGESTED AWARD PROVISIONS FOR NATIONAL POLICY REQUIREMENTS THAT OFTEN APPLY—Continued

Suggested award provision	Used for			Some requirement(s) the grants officer should note
	Type of award	Type of recipient	Specific situation	
a. For human subjects, the Common Federal Policy for the Protection of Human Subjects, codified by the Department of Health and Human Services at 45 CFR part 46 and implemented by the Department of Defense at 32 CFR part 219.	Any	Any	Research, development, test, or evaluation involving live, human subjects, with some exceptions [see 32 CFR part 219].	32 CFR 219.103 requires each recipient to have a Federally approved, written assurance of compliance [it may be HHS-approved, on file with HHS; DoD-approved, on file with a DoD Component; or may need to be obtained by the grants officer for the specific award].
b. For animals:				
1. Rules concerning animal acquisition, transport, care, handling, and use in: (i) 9 CFR parts 1–4, Department of Agriculture regulations that implement the Laboratory Animal Welfare Act of 1966 (7 U.S.C. 2131–2156); and (ii) the ''Guide for the Care and Use of Laboratory Animals,'' National Institutes of Health Publication No. 86–23.	Any	Any	Research, experimentation, or testing involving the use of animals.	Prior to making an award under which animal-based research, testing, or training is to be performed, DoD Directive 3216.1 [1] requires administrative review of the proposal by a DoD veterinarian trained or experienced in laboratory animal science and medicine, as well as a review by the recipient's Institutional Animal Care and Use Committee.
2. Prohibitions on the purchase or use of dogs or cats for certain medical training purposes, in Section 8019 (10 U.S.C. 2241 note) of the Department of Defense Appropriations Act, 1991 (Pub. Law 101–511).	Any	Any	Use of DoD appropriations for training on treatment of wounds.	
3. Regulations of the Departments of the Interior (50 CFR parts 10–24) and Commerce (50 CFR parts 217–227) that implement statutes and conventions on the taking, possession, transport, sale, purchase, export, or import of wildlife and plants, including the: Endangered Species Act of 1973 (16 U.S.C. 1531–1543); Marine Mammal Protection Act (16 U.S.C. 1361–1384); Lacey Act (18 U.S.C. 42); and Convention on International Trade in Endangered Species of Wild Fauna and Flora.	Any	Any	Activities which may involve or impact wildlife and plants.	
Military Recruiters				
[Grants Officers shall include the exact award provision specified at 32 CFR part 23.].	Grants and cooperative agreements.	Domestic institution of higher education (see 32 CFR part 23).	Any.	

APPENDIX B TO PART 22.—SUGGESTED AWARD PROVISIONS FOR NATIONAL POLICY REQUIREMENTS THAT OFTEN APPLY—Continued

Suggested award provision	Used for			Some requirement(s) the grants officer should note
	Type of award	Type of recipient	Specific situation	
Cargo Preference				
The recipient agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulations at 46 CFR 381.7, which require that at least 50 percent of equipment, materials or commodities procured or otherwise obtained with U.S. Government funds under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned U.S.-flag commercial vessels, if available.	Grants, cooperative agreements, and other awards included in 46 CFR 381.7.	Any	Any award where possibility exists for ocean transport of items procured or obtained by or on behalf of the recipient, or any of the recipient's contractors or subcontractors.	46 CFR 381.7 requires grants officers to include appropriate clauses in award documents. It also requires recipients to include appropriate clauses in contracts using U.S. Government funds under agreements, where ocean transport of procured goods is possible [e.g., see clause at 46 CFR 381.7(b)].
Preference for U.S.-Flag Carriers				
Travel supported by U.S. Government funds under this agreement shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.	Any	Any	Any agreement under which international air travel may be supported by U.S. Government funds.	
Relocation and Real Property Acquisition				
The recipient assures that it will comply with 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.) and provides for fair and equitable treatment of persons displaced by Federally assisted programs or persons whose property is acquired as a result of such programs.	Grants, cooperative agreements, and other ''Federal financial assistance'' [see 49 CFR 24.2(j)].	''State agency'' as defined in 49 CFR part 24 to include persons with authority to acquire property by eminent domain under State law.	Any project that may result in real property acquisition or displacement where State agency hasn't opted to certify to Dept. of Transportation in lieu of providing assurance.	42 U.S.C. 4630 and 49 CFR 24.4, as implemented by DoD at 32 CFR part 259, requires grants officers to obtain recipients' assurance of compliance.
Hatch Act				
The recipient agrees to comply with the Hatch Act (5 U.S.C. 1501–1508 and 7324–7328), as implemented by the Office of Personnel Management at 5 CFR part 151, which limits political activity of employees or officers of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.	Grants or loans	State and local governments.	All but employees of educational or research institutions supported by State; political subdivision thereof; or religious, philanthropic, or cultural organization.	
Environmental Standards				
By signing this agreement or accepting funds under this agreement, the recipient assures that it will:				

APPENDIX B TO PART 22.—SUGGESTED AWARD PROVISIONS FOR NATIONAL POLICY REQUIREMENTS THAT OFTEN APPLY—Continued

Suggested award provision	Used for			Some requirement(s) the grants officer should note
	Type of award	Type of recipient	Specific situation	
a. Comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 [3 CFR, 1971–1975 Comp., p. 799] and Environmental Protection Agency (EPA) regulations at 40 CFR part 15. In accordance with the EPA regulations, the recipient further agrees that it will:	Grants, cooperative agreements, and other awards included in definitions of ''grant'' and ''loan'' in 40 CFR part 15.	Any	Any, for Clean Air Act, Clean Water Act, and Executive Order 11738. 40 CFR 15.5 makes awards of less than $100,000, and certain other awards, exempt from the EPA regulations.	40 CFR 15.31 requires the assurances in the suggested award provision. It also requires that recipients flow down requirements to subawards (''grant'' as defined at 40 CFR 15.4 includes subagreements). Executive Order 11738 establishes additional responsibilities for grants officers.
Not use any facility on the EPA's List of Violating Facilities in performing any award that is nonexempt under 40 CFR 15.5, as long as the facility remains on the list				
Notify the awarding agency if it intends to use a facility in performing this award that is on the List of Violating Facilities or that the recipient knows has been recommended to be placed on the List of Violating Facilities				
b. Identify to the awarding agency any impact this award may have on:				
1. The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and to prepare Environmental Impact Statements or other required environmental documentation. The recipient agrees, in such cases, to take no action that will have an adverse environmental impact (e.g., any physical disturbance of a site such as breaking of ground) until the grants officer provides written notification of compliance with the environmental impact analysis process.	Any	Any	Any actions that may affect the environment.	The Council on Environmental Quality's regulations for implementing NEPA are at 40 CFR parts 1500–1508. Executive Order 11514 [3 CFR, 1966–1970 Comp., p. 902], as amended by Executive Order 11991, sets policies and procedures for considering actions in the U.S. Executive Orders 11988 [3 CFR, 1977 Comp., p. 117] and 11990 [3 CFR, 1977 Comp., p. 121] specify additional considerations, when actions involve floodplains or wetlands, respectively.
2. Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for Federally assisted construction or acquisition in flood-prone areas.	Grants, cooperative agreements, and other ''financial assistance'' (see 42 U.S.C. 4003).	Any	Awards involving construction, land acquisition or development, with some exceptions [see 42 U.S.C. 4001, et seq.].	42 U.S.C. 4012a prohibits awards for acquisition or construction in flood-prone areas (Federal Emergency Management Agency publishes lists of such areas in the **Federal Register**), unless recipient has required insurance. If action is in a floodplain, Executive Order 11988 [3 CFR, 1977 Comp., p. 117] specifies additional pre-award procedures for Federal agencies. Recipients are to apply requirements to subawards (''financial assistance,'' defined at 42 U.S.C. 4003, includes indirect Federal assistance.

APPENDIX B TO PART 22.—SUGGESTED AWARD PROVISIONS FOR NATIONAL POLICY REQUIREMENTS THAT OFTEN APPLY—Continued

Suggested award provision	Used for			Some requirement(s) the grants officer should note
	Type of award	Type of recipient	Specific situation	
3. Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.	Grants, cooperative agreements, and other ''Federal assistance'' [see 16 U.S.C. 1456(d)].	State and local governments, interstate and other regional agencies.	Awards that may affect the coastal zone.	16 U.S.C. 1456(d) prohibits approval of projects inconsistent with a coastal State's approved management program for the coastal zone.
4. Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501, et seq.), concerning preservation of barrier resources.	Grants, cooperative agreements, and other ''financial assistance'' (see 16 U.S.C. 3502).	Any	Awards that may affect barriers along the Atlantic and Gulf coasts and Great Lakes' shores.	16 U.S.C. 3504–3505 prohibit new awards for actions within Coastal Barrier System, except for certain purposes. Requirements flow to subawards (16 U.S.C. 3502 includes indirect assistance as ''financial assistance'').
5. Any existing or proposed component of the National Wild and Scenic Rivers system, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271, et seq.).	Any	Any	Awards that may affect existing or proposed element of National Wild and Scenic Rivers system.	
6. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C. 300h–3).	Any	Any	Construction in any area with aquifer that the EPA finds would create public health hazard, if contaminated.	42 U.S.C. 300h–3(e) precludes awards of Federal financial assistance for any project that the EPA administrator determines may contaminate a sole-source aquifer so as to threaten public health.
National Historic Preservation				
The recipient agrees to identify to the awarding agency any property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and to provide any help the awarding agency may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.), as implemented by the Advisory Council on Historic Preservation regulations at 36 CFR part 800 and Executive Order 11593 [3 CFR, 1971–1975 Comp., p. 559].	Any	Any	Any construction, acquisition, modernization, or other activity that may impact a historic property.	36 CFR part 800 requires grants officers to get comments from the Advisory Council on Historic Preservation before proceeding with Federally assisted projects that may affect properties listed on or eligible for listing on the National Register of Historic Places.

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Authorized users may also obtain copies from the Defense Technical Information Center, 8725 John J. Kingman Rd., Suite 0944, Fort Belvoir, VA 22060–6218.

APPENDIX C TO PART 22.—ADMINISTRATIVE REQUIREMENTS AND ISSUES TO BE ADDRESSED IN AWARD TERMS AND CONDITIONS

Requirement, in brief	Source of requirement for each type of recipient (where details may be found)			Issues to be address in award terms/conditions
	University or other nonprofit	Governmental entity	Commercial entity	
Standards for Financial Management Systems. Recipients' systems to comply with.	32 CFR 32.21	32 CFR 33.20	32 CFR 34.11	For university, nonprofit, or commercial entity, specify if want: • Bonding and insurance [32 CFR 32.21(c) or 32 CFR 34.11(b)]. • Fidelity bond [32 CFR 32.21(d) or 32 CFR 34.11(c)].

APPENDIX C TO PART 22.—ADMINISTRATIVE REQUIREMENTS AND ISSUES TO BE ADDRESSED IN AWARD TERMS AND CONDITIONS—Continued

Requirement, in brief	Source of requirement for each type of recipient (where details may be found)			Issues to be address in award terms/conditions
	University or other nonprofit	Governmental entity	Commercial entity	
Payment. Recipients request payments and handle advances and interest in compliance with.	32 CFR 32.22	32 CFR 33.21, 33.41 (d) and (e).	32 CFR 34.12	Specify: • Payment method (e.g., advance, reimbursement, working capital advance). Note: if predetermined payment schedule is used, must specify means to ensure that recipients don't develop large cash balances well in advance of needs for such funds (e.g., recipient submits SF–269 or SF–270 forms at regular intervals, for grants officer to review recipients' cash on hand). • SF–270, SF–271, or other form to request payment. • Name/address of office to which recipient sends payment requests and office that will make payments. • How frequently recipient may submit payment requests.
Allowable costs. Allowability of costs to be in accordance with.	32 CFR 32.37 and 32.28.	32 CFR 33.22 and 33.23.	32 CFR 34.17.	
Fee/profit. None allowed	.....	.....	32 CFR 34.18.	
Cost share or match. If cost share or match is required, allowability and valuation are governed by.	32 CFR 32.23	32 CFR 33.24	32 CFR 34.13	Specify if want to allow inclusion of certain types of items as cost share or allow them to be valued in certain ways [32 CFR 32.23 (b), (c), and (g); 32 CFR 33.24 (b)(4), (b)(5), and (e)(2); 32 CFR 34.13 (a)(7), (b)(1), and (b)(4)(ii)].
Program income. Recipients account for program income in accordance with.	32 CFR 32.24	32 CFR 33.25	32 CFR 34.14	Specify: • Method for disposition [32 CFR 32.24 (b), (c), and (d); 32 CFR 33.25(g); 32 CFR 34.14 (d), (e), and (f)]. • If want recipient to have obligation to Government for certain types of income or for income earned after end of project period [32 CFR 32.24 (e) and (h), 32 CFR 33.25 (a), (d), (e), and (h); 32 CFR 34.14(b)]. • If want to allow recipient to deduct costs of generating income [32 CFR 32.24(f); 32 CFR 33.25(c); 32 CFR 34.14(c)].
Revision of budget/program plans. Recipients request prior approval for plan changes, in accordance with.	32 CFR 32.25	32 CFR 33.30	32 CFR 34.15	Specify: • If wish to waive some prior approvals that are optional, but are in effect unless specifically waived [32 CFR 33.30 (b), (c)(1), (d)(3); 32 CFR 34.15(c)(2)]. • If wish to require some prior approvals that are optional, but are only in effect if specifically stated [32 CFR 32.25 (d), (e), (h); 32 CFR 34.15(c)(3)].
Audit. Recipients periodically to have independent, financial and compliance audit and report to DoD, subject to provisions of.	32 CFR 32.26	32 CFR 33.26	32 CFR 34.16	Require all but commercial entities to submit copy of OMB Circular A–133 or A–128 audit reports to IG, DoD. Require commercial entities to submit audit reports to whichever office(s) the DoD Component wishes audit reports to be sent.
Property. Recipients manage in accordance with.	32 CFR 32.30 through 32.37.	32 CFR 33.31 through 33.34.	32 CFR 34.20 through 34.25.	Specify if want: • To allow commercial entities to acquire real property under awards [32 CFR 34.21(a)]. • University or other nonprofit to have any further obligation to Government for exempt property [32 CFR 32.33(b)]. • To retain right to transfer title [32 CFR 32.34(h); 32 CFR 33.32(g)]. • To allow recipients to use equipment for certain purposes [32 CFR 32.34 (d) and (e); 32 CFR 33.32(c)(4); 32 CFR 34.21(d)]. • To waive data rights [32 CFR 32.36(c); 32 CFR 34.24(b)(1)(ii)]. • To require recipients to record liens [32 CFR 32.37]. For research awards to certain recipients, include patents clause required by 37 CFR 401 [32 CFR 32.36(b); 32 CFR 34.24(a)].
Procurement. Recipients systems for acquiring goods and services under awards are to comply with.	32 CFR 32.40 through 32.49.	32 CFR 33.36	32 CFR 34.30 through 34.31.	Specify if want to require recipient to make certain preaward documents available for DoD Component's review [32 CFR 32.44(e); 32 CFR 33.36(g); 32 CFR 34.31(b)].
Subawards. Recipients flow down requirements to subawards in accordance with.	32 CFR 32.5, 32 CFR 33.37, and 32 CFR 34.1(b)(2)			

APPENDIX C TO PART 22.—ADMINISTRATIVE REQUIREMENTS AND ISSUES TO BE ADDRESSED IN AWARD TERMS AND CONDITIONS—Continued

Requirement, in brief	Source of requirement for each type of recipient (where details may be found)			Issues to be address in award terms/conditions
	University or other nonprofit	Governmental entity	Commercial entity	
Reports. Requirements are specified in.	32 CFR 32.51 and 32.52.	32 CFR 33.40 and 33.41.	32 CFR 34.41	Specify: • When recipients are to submit periodic and final performance reports [32 CFR 32.51 (b) and (c); 32 CFR 33.40 (b), (c), and (f); 32 CFR 34.41]. • Frequency of financial status and cash transactions reports [32 CFR 32.52 (a)(1)(iii) and (a)(2)(iv); 32 CFR 33.41 (b)(3) and (c); 32 CFR 34.41], or if wish to exercise right to waive them under certain conditions [32 CFR 32.52 (a)(1)(i) and (a)(2)(v); 32 CFR 33.41(a)(6); 32 CFR 34.41]. • Whether want reports on cash or accrual basis [32 CFR 32.52(a)(1)(ii); 32 CFR 33.41(b)(2); 32 CFR 34.41].
Records. Retention and access requirements specified in.	32 CFR 32.53	32 CFR 33.42	32 CFR 34.42.	
Termination and enforcement. Award is subject for.	32 CFR 32.61 and 32.62.	32 CFR 33.43 and 33.44.	32 CFR 34.51 and 34.52.	
Disputes, claims, and appeals. Procedures are specified in.	32 CFR 22.815			
After-the-award requirements. Closeout, subsequent adjustments, continuing responsibilities, and collection of amounts due are subject to requirements in.	32 CFR 32.71 through 32.73.	32 CFR 33.50 through 33.52.	32 CFR 34.61 through 34.63.	

PART 28—[AMENDED]

4. Part 28 is proposed to be amended as follows:

a. The authority citation for part 28 continues to read as follows:

Authority: Section 319, Public Law 102–121 (31 U.S.C. 1352); 5 U.S.C. section 301; 10 U.S.C. 113.

b. Section 28.500 is proposed to be revised to read as follows:

§ 28.500 Secretary of Defense.

(a) *Exemption authority.* The Secretary of Defense may exempt, on a case-by-case basis, a covered Federal action from the prohibition whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such a determination.

(b) *Policy.* It is the policy of the Department of Defense that exemptions under paragraph (a) of this section shall be requested only rarely and in exceptional circumstances.

(c) *Procedures.* Each DoD Component that awards or administers Federal grants, Federal cooperative agreements, or Federal loans subject to this part shall establish procedures whereby:

(1) A grants officer wishing to request an exemption for a grant, cooperative agreement, or loan shall transmit such request through appropriate channels to: Director for Research, ODDR&E(R), 3080 Defense Pentagon, Washington, D.C. 20301–3080.

(2) Each such request shall explain why an exemption is in the national interest, a justification that must be transmitted to Congress for each exemption that is approved.

5. Part 32 is proposed to be added to read as follows:

PART 32—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

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32.21 Standards for financial management systems.
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32.50 Purpose of reports and records.
32.51 Monitoring and reporting program performance.
32.52 Financial reporting.
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Termination and Enforcement

32.60 Purpose of termination and enforcement.
32.61 Termination.
32.62 Enforcement.

Subpart D—After-the-Award Requirements

32.70 Purpose.
32.71 Closeout procedures.
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Appendix A to Part 32—Contract Provisions

Authority: 5 U.S.C. 301 and 10 U.S.C. 113.

Subpart A—General

§ 32.1 Purpose.

(a) *General.* This part implements OMB Circular A–110 [1] and establishes uniform administrative requirements for grants, agreements, and subawards awarded to institutions of higher education, hospitals, and other non-governmental, non-profit organizations.

(b) *Prime awards.* DoD Components shall apply the provisions of this part to grants and agreements with recipients that are institutions of higher education, hospitals, and other non-profit organizations. DoD Components shall not impose additional or inconsistent requirements, except as provided in §§ 32.4 and 32.14, or unless specifically required by Federal statute or executive order.

(c) *Subawards.* Any legal entity that receives a grant or agreement from a DoD Component shall apply the provisions of this part to subawards with institutions of higher education, hospitals, and other non-profit organizations. Thus, a governmental or commercial organization, whose prime award from a DoD Component is subject to 32 CFR part 33 or part 34, respectively, applies this part to subawards with institutions of higher education, hospitals, or other non-profit organizations. It should be noted that subawards are for the performance of substantive work under grants and agreements, and are distinct from contracts for procuring goods and services. It should be further noted that non-profit organizations that implement Federal programs for the States are also subject to State requirements.

[1] For copies of the Circular, contact the Office of Management and Budget, EOP Publications, 725 17th St. N.W., New Executive Office Building, Washington, D.C. 20503.

§ 32.2 Definitions.

The following are definitions of terms used in this part. Grants officers are cautioned that terms may be defined differently in this part than they are in other parts of the DoD Grant and Agreement Regulations, because this part implements OMB Circular A–110 and uses definitions as stated in that Circular. In such cases, the definition given in this section applies to the term as it is used in this part, and the definition given in other parts applies to the term as it is used in those parts. For example, ''recipient'' is defined in this section to be specific types of organizations that are subject to this part, but is defined at 32 CFR 21.130 to be any type of organization that receives a grant or cooperative agreement (since that part applies to awards to any type of organization).

Accrued expenditures. The charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subrecipients, and other payees; and

(3) Other amounts becoming owed under programs for which no current services or performance is required.

Accrued income. The sum of:

(1) Earnings during a given period from:

(i) Services performed by the recipient; and

(ii) Goods and other tangible property delivered to purchasers.

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

Acquisition cost of equipment. The net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

Advance. A payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

Award. Financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

Cash contributions. The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout. The process by which the grants officer administering an award made by a DoD Component determines that all applicable administrative actions and all required work of the award have been completed by the recipient and DoD Component.

Contract. A procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

Cost sharing or matching. That portion of project or program costs not borne by the Federal Government.

Date of completion. The date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which Federal sponsorship ends.

Disallowed costs. Those charges to an award that the grants officer administering an award made by a DoD Component determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

DoD Component. A Military Department, Defense Agency, DoD field activity, or organization within the Office of the Secretary of Defense that provides or administers an award to a recipient.

Equipment. Tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Excess property. Property under the control of any DoD Component that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

Exempt property. Tangible personal property acquired in whole or in part with Federal funds, where the DoD Component has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property

authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

Federal funds authorized. The total amount of Federal funds obligated by a DoD Component for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

Federal share (of real property, equipment, or supplies). That percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

Funding period. The period of time when Federal funding is available for obligation by the recipient.

Intangible property and debt instruments. Property that includes, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

Obligations. The amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

Outlays or *expenditures.* Charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

Personal property. Property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

Prior approval. Written approval by an authorized official evidencing prior consent.

Program income. Gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in § 32.24(e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in program regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs. All allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

Project period. The period established in the award document during which Federal sponsorship begins and ends.

Property. Real property and personal property (equipment, supplies, intangible property and debt instruments), unless stated otherwise.

Real property. Land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

Recipient. An organization receiving financial assistance directly from DoD Components to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term also includes consortia comprised of any combination of universities, other nonprofit organizations, governmental organizations, commercial organizations, and other entities, to the extent that the consortia are legally incorporated as nonprofit organizations. The term does not include Government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are Government-owned or controlled, or are designated as federally-funded research and development centers.

Research and development. All research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. ''Research'' is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. ''Development'' is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

Small award. A grant or agreement not exceeding the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently $100,000).

Subaward. An award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of ''award'' in this section.

Subrecipient. The legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided.

Supplies. All personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (''subject inventions''), as defined in 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.''

Suspension. An action by a DoD Component that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the DoD Component. Suspension of an award is a separate action from suspension of a recipient under 32 CFR part 25.

Termination. The cancellation of an award, in whole or in part, at any time prior to the date of completion.

Third party in-kind contributions. The value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Unliquidated obligations. The amount of obligations incurred by the recipient:

(1) That have not been paid, if financial reports are prepared on a cash basis.

(2) For which an outlay has not been recorded, if reports are prepared on an accrued expenditure basis.

Unobligated balance. The portion of the funds authorized by a DoD Component that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Unrecovered indirect cost. The difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

Working capital advance. A procedure where by funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 32.3 Effect on other issuances.

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 32.4.

§ 32.4 Deviations.

(a) *Individual deviations.* Individual deviations affecting only one award may be approved by DoD Components in accordance with procedures stated in 32 CFR 21.125(a) and (c).

(b) *Small awards.* DoD Components may apply less restrictive requirements than the provisions of this part when awarding small awards, except for those requirements which are statutory.

(c) *Other class deviations.* For classes of awards other than small awards, the Director of Defense Research and Engineering, or his or her designee, with the concurrence of the Office of Management and Budget (OMB), may grant exceptions from the requirements of this part when exceptions are not prohibited by statute. DoD Components shall request approval for such deviations in accordance with 32 CFR 21.125 (b) and(c). However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances.

§ 32.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of 32 CFR part 33. Subrecipients that are commercial organizations are subject to 32 CFR part 34.

Subpart B—Pre-Award Requirements

§ 32.10 Purpose.

Sections 32.11 through 32.17 prescribe application forms and instructions and other pre-award matters.

§ 32.11 Pre-award policies.

(a) *Use of grants, cooperative agreements, and contracts.* (1) OMB Circular A–110 states that:

(i) In each instance, the Federal awarding agency shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract).

(ii) The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–6308) governs the use of grants, cooperative agreements, and contracts. Under that Act:

(A) A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute.

(B) Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(C) The statutory criterion for choosing between grants and cooperative agreements is that for the latter, ''substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.''

(2) In selecting the appropriate award instruments, DoD Components' grants officers shall comply with the DoD implementation of the Federal Grant and Cooperative Agreement Act at 32 CFR 21.205(a) and 32 CFR part 22, subpart B.

(b) *Public notice and priority setting.* As a matter of Governmentwide policy, Federal awarding agencies shall notify the public of intended funding priorities for programs that use discretionary grants or agreements, unless funding priorities are established by Federal statute. For DoD Components, compliance with competition policies and statutory requirements implemented in 32 CFR part 22, subpart C, shall constitute compliance with this Governmentwide policy.

§ 32.12 Forms for applying for Federal assistance.

(a) DoD Components shall comply with the applicable report clearance requirements of 5 CFR part 1320, ''Controlling Paperwork Burdens on the Public,'' with regard to all forms used in place of or as a supplement to the Standard Form 424[2] (SF–424) series.

(b) Applicants shall use the SF–424 series or those forms and instructions prescribed by DoD Components.

(c) For Federal programs covered by E.O. 12372 (3 CFR, 1982 Comp., p. 197), ''Intergovernmental Review of Federal Programs,'' the applicant shall complete the appropriate sections of the SF–424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the DoD Component or the *Catalog of Federal Domestic Assistance.* The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) DoD Components that do not use the SF–424 form should indicate whether the application is subject to review by the State under E.O. 12372.

§ 32.13 Debarment and suspension.

DoD Components and recipients shall comply with the nonprocurement debarment and suspension common rule at 32 CFR part 25. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

[2] For copies of Standard Forms listed in this part, contact regional grants administration offices of the Office of Naval Research. Addresses for the offices are listed in the ''DoD Directory of Contract Administration Services Components,'' DLAH 4105.4, which can be obtained from: Defense Logistics Agency, Publications Distribution Division (DASC–WDM), 8725 John J. Kingman Rd., Suite 0119, Fort Belvoir, VA 22060–6220.

§ 32.14 Special award conditions.

(a) DoD Components may impose additional requirements as needed, over and above those provided in this part, if an applicant or recipient:

(1) Has a history of poor performance;

(2) Is not financially stable;

(3) Has a management system that does not meet the standards prescribed in this part;

(4) Has not conformed to the terms and conditions of a previous award; or

(5) Is not otherwise responsible.

(b) Before imposing additional requirements, DoD Components shall notify the applicant or recipient in writing as to:

(1) The nature of the additional requirements;

(2) The reason why the additional requirements are being imposed;

(3) The nature of the corrective action needed;

(4) The time allowed for completing the corrective actions; and

(5) The method for requesting reconsideration of the additional requirements imposed.

(c) Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

(d) Grants officers:

(1) Should coordinate the imposition and removal of special award conditions with the cognizant grants administration office identified in 32 CFR 22.710.

(2) Shall include in the award file the written notification to the recipient, described in paragraph (b) of this section, and the documentation required by 32 CFR 22.410(b).

§ 32.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce, and for Federal agencies' procurements, grants, and other business-related activities. DoD grants officers shall comply with requirements concerning the use of the metric system at 32 CFR 22.530.

§ 32.16 Resource Conservation and Recovery Act.

Recipients' procurements shall comply with applicable requirements of the Resource Conservation and Recovery Act (RCRA), as described at § 32.49.

§ 32.17 Certifications and representations.

(a) OMB Circular A–110 authorizes and encourages each Federal agency, unless prohibited by statute or codified regulation, to allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency.

(b) DoD grants officers shall comply with the provisions concerning certifications and representations at 32 CFR 22.510. Those provisions ease burdens on recipients to the extent possible, given current statutory impediments to obtaining all certifications on an annual basis. The provisions thereby also comply with the intent of OMB Circular A–110, to use less burdensome methods for obtaining certifications and representations, as such methods become feasible.

Subpart C—Post-Award Requirements

Financial and Program Management

§ 32.20 Purpose of financial and program management.

Sections 32.21 through 32.28 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 32.21 Standards for financial management systems.

(a) DoD Components shall require recipients to relate financial data to performance data and develop unit cost information whenever practical. For awards that support research, it should be noted that it is generally not appropriate to develop unit cost information.

(b) Recipients' financial management systems shall provide for the following.

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in § 32.52. If a DoD Component requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data. As discussed in paragraph (a) of this section, unit cost data is generally not appropriate for awards that support research.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient.

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles (see § 32.27) and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the DoD Component, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) The DoD Component may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

§ 32.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State agreements under the Cash Management Improvement Act (CMIA) (31 U.S.C. 3335 and 6503) or default procedures in 31 CFR part 205.

(b) Recipients are to be paid in advance, provided they maintain or

demonstrate the willingness to maintain:

(1) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and

(2) Financial management systems that meet the standards for fund control and accountability as established in § 32.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the DoD Component to the recipient.

(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on SF–270,[3] ''Request for Advance or Reimbursement,'' or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if inconsistent with DoD procedures for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. DoD Components may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, the responsible DoD payment office shall make payment within 30 days after receipt of the billing, unless the billing is improper (see also 32 CFR 22.810(b)(2)).

(2) Recipients shall be authorized to submit requests for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and the grants officer, in consultation with the program manager, has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, the award may provide for cash on a working capital advance basis. Under this procedure, the award shall provide for advancing cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, the award shall provide for reimbursing the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, grants officers shall not withhold payments for proper charges made by recipients at any time during the project period unless:

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements; or

(2) The recipient or subrecipient is delinquent in a debt to the United States (see definitions of ''debt'' and ''delinquent debt,'' at 32 CFR 22.105). Under such conditions, the grants officer may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated (also see 32 CFR 22.420(b)(2) and 22.820).

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows:

(1) Except for situations described in paragraph (i)(2) of this section, DoD Components shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless:

(1) The recipient receives less than $120,000 in Federal awards per year;

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances; or

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) Interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. In keeping with Electronic Funds Transfer rules (31 CFR part 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIR Deposit System. Recipients that do not have this capability should use a check. Interest amounts up to $250 per year may be retained by the recipient for administrative expense.

(m) Except as noted elsewhere in this part, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. DoD Components shall not require more than an original and two copies of these forms.

(1) SF–270, Request for Advance or Reimbursement. Each DoD Component shall adopt the SF–270 as a standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. DoD Components, however, have the option of using this form for construction programs in lieu of the SF–271,[4] ''Outlay Report and Request for Reimbursement for Construction Programs.''

(2) SF–271, Outlay Report and Request for Reimbursement for Construction Programs. Each DoD Component shall adopt the SF–271 as the standard form to be used for requesting reimbursement for

[3] See footnote 2 to § 32.12(a).

[4] See footnote 2 to § 32.12(a).

construction programs. However, a DoD Component may substitute the SF–270 when the DoD Component determines that it provides adequate information to meet Federal needs.

§ 32.23 Cost sharing or matching.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria:

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget when required by the DoD Component.

(7) Conform to other provisions of this part, as applicable.

(b) Unrecovered indirect costs (see definition in § 32.2) may be included as part of cost sharing or matching only with the prior approval of the grants officer.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If a DoD Component authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of:

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation; or

(2) The current fair market value. However, when there is sufficient justification, the DoD Component may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if the purpose of the award is to:

(1) Assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching; or

(2) Support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the DoD Component has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(i) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties:

(1) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(2) The basis for determining the valuation for personal service and property shall be documented.

§ 32.24 Program income.

(a) DoD Components shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with the terms and conditions of the award, shall be used in one or more of the following ways:

(1) Added to funds committed to the project by the DoD Component and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When a program regulation or award authorizes the disposition of program income as described in paragraphs (b)(1) or (b)(2) of this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) In the event that program regulations or the terms and conditions of the award do not specify how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless the terms and conditions specify another alternative or the recipient is subject to special award conditions, as indicated in § 32.14.

(e) Unless program regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by program regulations or the terms and conditions

of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (see §§ 32.30 through 32.37).

(h) Unless program regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. Note that the Patent and Trademark Amendments (35 U.S.C. chapter 18) apply to inventions made under an experimental, developmental, or research award.

§ 32.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the sum of the Federal and non-Federal shares, or only the Federal share, depending upon DoD Component requirements. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from the cognizant grants officer for one or more of the following program or budget related reasons.

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The inclusion, unless waived by the DoD Component, of costs that require prior approval in accordance with OMB Circular A–21,[5] ''Cost Principles for Institutions of Higher Education,'' OMB Circular A–122,[6] ''Cost Principles for Non-Profit Organizations,'' or Appendix E to 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals,'' or 48 CFR part 31, ''Contract Cost Principles and Procedures,'' as applicable. However, it should be noted that many of the prior approvals in these cost principles are appropriately waived only after consultation with the cognizant federal agency responsible for negotiating the recipient's indirect costs.

(6) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(7) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) (1) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this section, OMB Circular A–110 authorizes DoD Components, at their option, to waive cost-related and administrative prior written approvals required by this part and OMB Circulars A–21 and A–122 (but see cautionary note at end of paragraph (c)(5) of this section).

(2) The two prior approvals listed in paragraphs (d)(2) (i) and (ii) of this section are automatically waived unless the award document states otherwise. DoD Components should not override this automatic waiver and require the prior approvals, especially for research awards, unless there are compelling reasons for doing so in a given circumstance. Absent an override in the award terms and conditions, recipients need not obtain prior approvals before:

(i) Incurring pre-award costs 90 calendar days prior to award (incurring pre-award costs more than 90 calendar days prior to award would still require the prior approval of the DoD Component). All pre-award costs are incurred at the recipient's risk (i.e., the DoD Component is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(ii) Carrying forward unobligated balances to subsequent funding periods.

(e) The DoD Component may, at its option, restrict the transfer of funds among direct cost categories, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the DoD Component. No DoD Component shall permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(f) For construction awards, recipients shall request prior written approval promptly from grants officers for budget revisions whenever:

(1) The revision results from changes in the scope or the objective of the project or program;

(2) The need arises for additional Federal funds to complete the project; or

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in § 32.27.

(g) When a DoD Component makes an award that provides support for both construction and nonconstruction work, the DoD Component may require the recipient to request prior approval from the grants officer before making any fund or budget transfers between the two types of work supported.

(h) No other prior approval requirements for specific items may be imposed unless a deviation has been approved, in accordance with the deviation procedures in § 32.4(c).

(i) For both construction and nonconstruction awards, DoD Components shall require recipients to notify the grants officer in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(j) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the grants officer indicates a letter of request suffices.

(k) Within 30 calendar days from the date of receipt of the request for budget revisions, the grants officer shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the grants officer shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 32.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations shall be subject to the audit requirements contained in OMB Circular A–133,[7]

[5] See footnote 1 to § 32.1(a).

[6] See footnote 1 to § 32.1(a).

[7] See footnote 1 to § 32.1(a).

''Audits of Institutions of Higher Education and Other Non-Profit Institutions.''

(b) State and local governments that are subrecipients shall be subject to the audit requirements contained in the Single Audit Act (31 U.S.C. 7501–7) and regulations at 32 CFR part 266 implementing OMB Circular A–128,[8] ''Audits of State and Local Governments.''

(c) Hospitals that are subrecipients and are not covered by the audit provisions of OMB Circular A–133 shall be subject to the audit requirements specified in award terms and conditions.

(d) Commercial organizations that are subrecipients shall be subject to the audit requirements specified in 32 CFR 34.16.

§ 32.27 Allowable costs.

(a) *General.* For each kind of recipient or subrecipient of a cost-type assistance award, or each contractor receiving a. cost-type contract under an assistance award, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs.

(b) *Governmental organizations.* Allowability of costs incurred by State, local or federally-recognized Indian tribal governments that may be subrecipients or contractors under awards subject to this part is determined in accordance with the provisions of OMB Circular A–87,[9] ''Cost Principles for State and Local Governments.''

(c) *Non-profit organizations.* The allowability of costs incurred by non-profit organizations that may be recipients or subrecipients of awards subject to this part, or contractors under such awards, is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.''

(d) *Higher educational institutions.* The allowability of costs incurred by institutions of higher education that may be recipients, subrecipients, or contractors is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.''

(e) *Hospitals.* The allowability of costs incurred by hospitals that are recipients, subrecipients, or contractors is determined in accordance with the provisions of Appendix E to 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.''

(f) *Commercial organizations.* The allowability of costs incurred by subrecipients or contractors that are either commercial organizations or non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

§ 32.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period and any pre-award costs (see § 32.25(d)(2)(i)) authorized by the DoD Component.

Property Standards

§ 32.30 Purpose of property standards.

Sections 32.31 through 32.37 set forth uniform standards governing management and disposition of property furnished by the Federal Government and property whose cost was charged to a project supported by a Federal award. DoD Components shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of §§ 32.31 through 32.37.

§ 32.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 32.32 Real property.

Each DoD Component that makes awards under which real property is acquired in whole or in part with Federal funds shall prescribe requirements for recipients concerning the use and disposition of such property. Unless otherwise provided by statute, such requirements, at a minimum, shall contain the following:

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the DoD Component.

(b) The recipient shall obtain written approval by the grants officer for the use of real property in other federally sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the DoD Component.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from the DoD Component or its successor Federal agency. The responsible Federal agency shall observe one or more of the following disposition instructions:

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by the DoD Component and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 32.33 Federally-owned and exempt property.

(a) *Federally-owned property.* (1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the DoD Component that made the award. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the DoD Component for further Federal agency utilization.

(2) If the DoD Component that made the award has no further need for the property, it shall be declared excess and either:

[8] See footnote 1 to § 32.1(a).

[9] See footnote 1 to § 32.1(a).

(i) Reported to the General Services Administration, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)), as implemented by General Services Administration regulations at 41 CFR 101–47.202; or

(ii) Disposed of by alternative methods pursuant to other specific statutory authority (e.g., DoD Components are authorized by the Federal Technology Transfer Act (15 U.S.C. 3710(i)), to donate research equipment to educational and non-profit organizations for the conduct of technical and scientific education and research activities. Donations under this Act shall be in accordance with the DoD implementation of E.O. 12821 (3 CFR, 1993 Comp., p. 323), ''Improving Mathematics and Science Education in Support of the National Education Goals''. Appropriate instructions shall be issued to the recipient by the DoD Component.

(b) *Exempt property.* (1) When statutory authority exists, a DoD Component may vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions the DoD Component considers appropriate. For example, under 31 U.S.C. 6306, DoD Components may so vest title to tangible personal property under a grant or cooperative agreement for basic or applied research in a nonprofit institution of higher education or a nonprofit organization whose primary purpose is conducting scientific research. Such property is ''exempt property.''

(2) As a matter of policy, DoD Components shall make maximum use of the authority of 31 U.S.C. 6306 to vest title to exempt property in institutions of higher education, without further obligation to the Government, to enhance the university infrastructure for future performance of defense research and related science and engineering education.

(3) DoD Components may establish conditions, in regulation or in award terms and conditions, for vesting title to exempt property. Should a DoD Component not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

§ 32.34 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of the DoD Component that made the award. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(1) First, activities sponsored by the DoD Component that funded the original project.

(2) Second, activities sponsored by other DoD Components.

(3) Then, activities sponsored by other Federal agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the DoD Component that financed the equipment; second preference shall be given to projects or programs sponsored by other DoD Components; and third preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the DoD Component that financed the property. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the DoD Component that financed the equipment.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned property shall include all of the following:

(1) Records for equipment and federally-owned property shall be maintained accurately and shall include the following information:

(i) A description of the equipment or federally-owned property.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment or federally-owned property, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to property furnished by the Federal Government).

(vii) Location and condition of the equipment or federally-owned property and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the DoD Component that made the award for its share.

(2) Property owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment and federally-owned property shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment or federally-owned property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment or federally-owned property. Any loss, damage, or theft of equipment or federally-owned property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify the DoD Component.

(5) Adequate maintenance procedures shall be implemented to keep the equipment or federally-owned property in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards.

(1) For equipment with a current per unit fair market value of $5,000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the DoD Component that originally made the award or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment.

(2) If the recipient has no need for the equipment, the recipient shall request disposition instructions from the DoD Component. The DoD Component shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern:

(i) The grants officer, in consultation with the program manager, shall judge whether the age and nature of the equipment warrant a screening procedure to determine whether the equipment is useful to a DoD Component or other Federal agency. If a screening procedure is warranted:

(A) The DoD Component shall determine whether the equipment can be used to meet DoD requirements.

(B) If no DoD requirement exists, the availability of the equipment shall be reported to the General Services Administration by the DoD Component to determine whether a requirement for the equipment exists in other Federal agencies.

(ii) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse the DoD Component that made the award an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(iii) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(iv) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by the DoD Component that made the award for such costs incurred in its disposition.

(h) The DoD Component may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(1) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing. For exempt property, in accordance with § 32.33(b)(3), note that this identification must occur by the time of award, or title to the property vests in the recipient without further obligation to the Government.

(2) The DoD Component shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with award funds and federally-owned property. If the DoD Component fails to issue disposition instructions for equipment within the 120 calendar day period, the recipient shall apply the standards of paragraph (g)(1) of this section.

(3) When the DoD Component exercises its right to take title, the equipment shall be subject to the provisions for federally-owned property.

§ 32.35 Supplies.

(a) Title to supplies shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

§ 32.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. DoD Components reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including Governmentwide regulations issued by the Department of Commerce at 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

(c) Unless waived by the DoD Component making the award, the Federal Government has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award.

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d) Title to intangible property and debt instruments acquired under an award or subaward (rather than developed or produced under the award or subaward) vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of the DoD Component that made the award. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of § 32.34(g).

§ 32.37 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. DoD Components may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

§ 32.40 Purpose of procurement standards.

Sections 32.41 through 32.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and

in compliance with the provisions of applicable Federal statutes and executive orders.

§ 32.41 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to the DoD Component that made the award, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 32.42 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 32.43 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

§ 32.44 Procurement procedures.

(a) To comply with this part, which is DoD's implementation of OMB Circular A–110, all recipients that received at least $10 million in Federal funding in the previous fiscal year (through contracts and subcontracts, as well as assistance awards and subawards) shall have written procurement procedures. Note, however, that a recipient that received awards from other Federal agencies, in addition to awards from DoD Components, must also comply with the other agencies' implementation of OMB Circular A–110 (which may require written procurement procedures, even if the recipient received less than $10 million in Federal funding). All recipients, whether or not their procurement procedures must be maintained in writing, shall have procedures that provide, at a minimum, that:

(1) Recipients avoid purchasing unnecessary items;

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement; and

(3) Solicitations for goods and services provide for all of the following:

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of ''brand name or equal'' descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal:

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The ''cost-plus-a-percentage-of-cost'' or ''percentage of construction cost'' methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain

circumstances, contracts with certain parties are restricted by the DoD implementation, in 32 CFR part 25, of E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), ''Debarment and Suspension.''

(e) Recipients shall, on request, make available for the DoD Component's pre-award review, procurement documents such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in this part.

(2) The procurement is expected to exceed the simplified acquisition threshold fixed at 41 U.S.C. 403 (11) (currently $100,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a ''brand name'' product.

(4) The proposed award over the simplified acquisition threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the simplified acquisition threshold.

§ 32.45 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 32.46 Procurement records.

Procurement records and files for purchases in excess of the simplified acquisition threshold shall include the following at a minimum:

(a) Basis for contractor selection;

(b) Justification for lack of competition when competitive bids or offers are not obtained; and

(c) Basis for award cost or price.

§ 32.47 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 32.48 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts:

(a) Contracts in excess of the simplified acquisition threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the simplified acquisition threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, the DoD Component may accept the bonding policy and requirements of the recipient, provided the grants officer has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ''bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A ''performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A ''payment bond'' is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described in §§ 32.40 through 32.49, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

(d) All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by recipients shall include a provision to the effect that the recipient, the Department of Defense, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including those for amounts less than the simplified acquisition threshold, by recipients and their contractors shall contain the procurement provisions of Appendix A to this part, as applicable.

§ 32.49 Resource Conservation and Recovery Act.

Under the Resource Conservation and Recovery Act (RCRA) (section 6002, Public Law 94–580, 42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247–254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

Reports and Records

§ 32.50 Purpose of reports and records.

Sections 32.51 through 32.53 set forth the procedures for monitoring and reporting on the recipient's financial

and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 32.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 32.26.

(b) The award terms and conditions shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph (f) of this section, performance reports shall not be required more frequently than quarterly or less frequently than annually. Annual reports shall be due 90 calendar days after the award year; quarterly or semi-annual reports shall be due 30 days after the reporting period. DoD Components may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following:

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs. However, unit costs are generally inappropriate for research (see §§ 32.21 (a) and (b)(4)).

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify the grants officer of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) DoD Components' representatives may make site visits, as needed.

(h) DoD Components shall comply with applicable clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

§ 32.52 Financial reporting.

(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients:

(1) *SF–269* [10] *or SF–269A,*[11] *Financial Status Report.* (i) DoD Components shall require recipients to use the SF–269 or SF–269A to report the status of funds for all nonconstruction projects or programs. A DoD Component may, however, have the option of not requiring the SF–269 or SF–269A when the SF–270, Request for Advance or Reimbursement, or SF–272,[12] Report of Federal Cash Transactions, is determined to provide adequate information to meet agency needs, except that a final SF–269 or SF–269A shall be required at the completion of the project when the SF–270 is used only for advances.

(ii) The DoD Component shall prescribe whether the report shall be on a cash or accrual basis. If the award requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) The DoD Component shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) The DoD Component shall require recipients to submit the SF–269 or SF–269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by the grants officer upon request of the recipient.

(2) *SF–272, Report of Federal Cash Transactions.* (i) When funds are advanced to recipients the DoD Component shall require each recipient to submit the SF–272 and, when necessary, its continuation sheet, SF–272a.[13] The grants officer shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) DoD Components may require forecasts of Federal cash requirements in the ''Remarks'' section of the report.

(iii) When practical and deemed necessary, DoD Components may require recipients to report in the ''Remarks'' section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF–272 15 calendar days following the end of each quarter. DoD Components may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(v) DoD Components may waive the requirement for submission of the SF–272 for any one of the following reasons:

(A) When monthly advances do not exceed $25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in the grants officer's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or

(C) When electronic payment mechanisms or SF–270 forms provide adequate data.

(b) When the DoD Component needs additional information or more frequent reports, the following shall be observed:

(1) When additional information is needed to comply with legislative requirements, grants officers shall issue instructions to require recipients to submit such information under the ''Remarks'' section of the reports.

(2) When a grants officer, after consultation with the Federal agency assigned cognizance for a recipient's audit and audit resolution, determines that the recipient's accounting system does not meet the standards in § 32.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. The grants officer, in obtaining this information, shall comply with applicable report clearance requirements of 5 CFR part 1320.

[10] See footnote 2 to § 32.12(a).

[11] See footnote 2 to § 32.12(a).

[12] See footnote 2 to § 32.12(a).

[13] See footnote 2 to § 32.12(a).

(3) Grants officers are encouraged to shade out any line item on any report if not necessary.

(4) DoD Components are encouraged to accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) DoD Components may provide computer or electronic outputs to recipients when it expedites or contributes to the accuracy of reporting.

§ 32.53 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. DoD Components shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by the DoD Component that made the award, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, and related records, for which retention requirements are specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by the grants officer.

(d) The grants officer shall request that recipients transfer certain records to DoD Component custody when he or she determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, a grants officer may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) DoD Components, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, no DoD Component shall place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when the DoD Component can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the DoD Component making the award.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation*. If the recipient submits an indirect-cost proposal, plan, or other computation to the Federal agency responsible for negotiating the recipient's indirect cost rate, as the basis for negotiation of the rate, or the subrecipient submits such a proposal, plan, or computation to the recipient, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation*. If the recipient is not required to submit to the cognizant Federal agency or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Termination and Enforcement

§ 32.60 Purpose of termination and enforcement.

Sections 32.61 and 32.62 set forth uniform suspension, termination and enforcement procedures.

§ 32.61 Termination.

(a) Awards may be terminated in whole or in part only as follows:

(1) By the grants officer, if a recipient materially fails to comply with the terms and conditions of an award;

(2) By the grants officer with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(3) By the recipient upon sending to the grants officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. The recipient must provide such notice at least 30 days prior to the effective date of the termination. However, if the grants officer determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, he or she may terminate the award in its entirety.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 32.71, including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 32.62 Enforcement.

(a) *Remedies for noncompliance*. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the grants officer may, in addition to imposing any of the special conditions outlined in § 32.14, take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the grants officer and DoD Component.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) *Hearings and appeals*. In taking an enforcement action, the DoD Component shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under

any statute or regulation applicable to the action involved (see 32 CFR 22.815).

(c) *Effects of suspension and termination*. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless the grants officer expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if the costs:

(1) Result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable; and

(2) Would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension*. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under 32 CFR part 25.

Subpart D—After-the-Award Requirements

§ 32.70 Purpose.

Sections 32.71 through 32.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 32.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports required by the terms and conditions of the award. The grants officer may approve extensions when requested by the recipient.

(b) Unless the grants officer authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) The responsible grants officer and payment office shall expedite completion of steps needed to close out awards and make prompt, final payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that the DoD Component has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 [14] governs unreturned amounts that become delinquent debts (see 32 CFR 22.820).

(e) When authorized by the terms and conditions of the award, the grants officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 32.31 through 32.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, the DoD Component shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 32.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following:

(1) The right of the Department of Defense to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 32.26.

(4) Property management requirements in §§ 32.31 through 32.37.

(5) Records retention as required in § 32.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the grants officer and the recipient, provided the responsibilities of the recipient referred to in § 32.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 32.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government.

(b) OMB Circular A–110 informs each Federal agency that:

(1) If a debt is not paid within a reasonable period after the demand for payment, the Federal agency may reduce the debt by:

(i) Making administrative offset against other requests for reimbursement.

(ii) Withholding advance payments otherwise due to the recipient.

(iii) Taking other action permitted by statute.

(2) Except as otherwise provided by law, the Federal awarding agency shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, ''Federal Claims Collection Standards.''

(c) DoD grants officers shall follow the procedures in 32 CFR 22.820 for issuing demands for payment and transferring debts to DoD payment offices for collection.

Appendix A to Part 32—Contract Provisions

All contracts awarded by a recipient, including those for amounts less than the simplified acquisition threshold, shall contain the following provisions as applicable:

1. *Equal Employment Opportunity*—All contracts shall contain a provision requiring compliance with E.O. 11246 (3 CFR, 1964–1965 Comp., p. 339), ''Equal Employment Opportunity,'' as amended by E.O. 11375 (3 CFR, 1966–1970 Comp., p. 684), ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR chapter 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. *Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)*—All contracts and subawards in excess of $2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the responsible DoD Component.

3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a–7)*—This Act applies to procurements under awards only when the Federal program legislation specifically makes it apply (i.e., Davis-Bacon does not by itself apply to procurements under awards). In cases where another statute does make the Davis-Bacon Act apply, all construction contracts awarded by the recipients and subrecipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR part 5, ''Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted

[14] See footnote 1 to § 32.1(a).

Construction''). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)*—Where applicable, all contracts awarded by recipients in excess of $100,000 for construction or other purposes that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

6. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and subawards of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the responsible DoD Component and the Regional Office of the Environmental Protection Agency (EPA).

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. *Debarment and Suspension (E.O.s 12549 and 12689)*—Contract awards that exceed the simplified acquisition threshold and certain other contract awards shall not be made to parties listed on the General Services Administration's Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs in accordance with E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding its exclusion status and that of its principals.

PART 33—[AMENDED]

6. Part 33 is proposed to be amended as follows:

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

Authority: 5 U.S.C. 301; 10 U.S.C. 113.

b. Section 33.36 is proposed to be amended by revising paragraph (i)(6) and by adding paragraph (j) to read as follows:

§ 33.36 Procurement.

* * * * *

(i) * * *

(6) Compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330, as amended), as supplemented by Department of Labor regulations (29 CFR Part 5). (Contracts awarded by grantees and subgrantees in excess of $100,000 for construction or other purposes that involve the employment of mechanics or laborers).

* * * * *

(j) *Resource Conservation and Recovery Act (RCRA).* Any State agency or agency of a political subdivision of a State must comply with RCRA (Public Law 94–580), with respect to its procurements using appropriated Federal funds. Section 6002 of RCRA (42 U.S.C. 6962) requires that entities qualifying as ''procuring agencies'' give preference in procurement programs to the purchase of specific products containing recycled materials identified in guidelines (40 CFR parts 247–254) developed by the Environmental Protection Agency (EPA).

7. Part 34 is proposed to be added to read as follows:

PART 34—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH COMMERCIAL ORGANIZATIONS

Subpart A—General

Sec.
34.1 Purpose.
34.2 Definitions.
34.3 Deviations.
34.4 Special award conditions.

Subpart B—Post-Award Requirements

Financial and Program Management

34.10 Purpose of financial and program management.
34.11 Standards for financial management systems.
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34.13 Cost sharing or matching.
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34.17 Allowable costs.
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Property Standards

34.20 Purpose of property standards.
34.21 Real property and equipment.
34.22 Federally owned property.
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34.30 Purpose of procurement standards.
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34.40 Purpose of reports and records.
34.41 Monitoring and reporting program and financial performance.
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Termination and Enforcement

34.50 Purpose of termination and enforcement.
34.51 Termination.
34.52 Enforcement.
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Subpart C—After-the-Award Requirements

34.60 Purpose.
34.61 Closeout procedures.
34.62 Subsequent adjustments and continuing responsibilities.
34.63 Collection of amounts due.

Appendix A to Part 34—Contract Provisions

Authority: 5 U.S.C. 301 and 10 U.S.C. 113.

Subpart A—General

§ 34.1 Purpose.

(a) This part prescribes administrative requirements for grants and cooperative

agreements to commercial organizations.

(b) Applicability to prime awards and subawards is as follows:

(1) *Prime awards.* DoD Components shall apply the provisions of this part to awards to commercial organizations. DoD Components shall not impose requirements that are in addition to, or inconsistent with, the requirements provided in this part, except:

(i) In accordance with the deviation procedures or special award conditions in § 34.3 or § 34.4, respectively; or

(ii) As required by Federal statute, Executive order, or Federal regulation implementing a statute or Executive order.

(2) *Subawards.* (i) Any legal entity (including any State, local government, university or other nonprofit organization, as well as any commercial entity) that receives an award from a DoD Component shall apply the provisions of this part to subawards with commercial organizations. It should be noted that subawards (see definition in § 34.2) are financial assistance for substantive programmatic performance and do not include recipients' procurement of goods and services.

(ii) Commercial organizations that receive prime awards covered by this part shall apply to each subaward the administrative requirements that are applicable to the particular type of subrecipient (e.g., 32 CFR part 33 specifies requirements for subrecipients that are States or local governments, and 32 CFR part 32 contains requirements for universities or other nonprofit organizations).

§ 34.2 Definitions.

The following are definitions of terms as used in this part. Grants officers are cautioned that terms may be defined differently in this part than they are in other parts of the DoD Grant and Agreement Regulations (DoD GARS).

Advance. A payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

Award. A grant or cooperative agreement.

Cash contributions. The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout. The process by which the grants officer administering an award made by a DoD Component determines that all applicable administrative actions and all required work of the award have been completed by the recipient and DoD Component.

Contract. A procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

Cost sharing or matching. That portion of project or program costs not borne by the Federal Government.

Disallowed costs. Those charges to an award that the grants officer administering an award made by a DoD Component determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

DoD Component. A Military Department, Defense Agency, DoD Field Activity, or organization within the Office of the Secretary of Defense that provides or administers an award to a recipient.

Equipment. Tangible nonexpendable personal property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. That definition applies for the purposes of the Federal administrative requirements in this part. However, the recipient's policy may be to use a lower dollar value for defining ''equipment,'' and nothing in this part should be construed as requiring the recipient to establish a higher limit for purposes other than the administrative requirements in this part.

Excess property. Property under the control of any DoD Component that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

Expenditures. See the definition for outlays in this section.

Federally owned property. Property in the possession of, or directly acquired by, the Government and subsequently made available to the recipient.

Funding period. The period of time when Federal funding is available for obligation by the recipient.

Intellectual property. Intangible personal property such as patents and patent applications, trademarks, copyrights, technical data, and software rights.

Obligations. The amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

Outlays or *expenditures.* Charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

Personal property. Property of any kind except real property. It may be:

(1) Tangible, having physical existence (i.e., equipment and supplies); or

(2) Intangible, having no physical existence, such as patents, copyrights, data and software.

Prior approval. Written or electronic approval by an authorized official evidencing prior consent.

Program income. Gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in program regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs. All allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

Project period. The period established in the award document during which Federal sponsorship begins and ends.

Property. Real property and personal property (equipment, supplies, and intellectual property), unless stated otherwise.

Real property. Land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

Recipient. A commercial organization receiving an award directly from a DoD Component to carry out a project or program.

Research. Basic, applied, and advanced research activities. ''Basic research'' is defined as efforts directed toward increasing knowledge or understanding in science and engineering. ''Applied research'' is defined as efforts that attempt to determine and exploit the potential of scientific discoveries or improvements in technology, such as new materials, devices, methods, and processes. ''Advanced research,'' advanced technology development that creates new technology or demonstrates the viability of applying existing technology to new products and processes in a general way, is most closely analogous to precommercialization or precompetitive technology development in the commercial sector (it does not include development of military systems and hardware where specific requirements have been defined).

Small award. An award not exceeding the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently $100,000).

Small business concern. A concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it has applied for an award, and qualified as a small business under the criteria and size standards in 13 CFR part 121. For more details, grants officers should see 48 CFR part 19 in the ''Federal Acquisition Regulation.''

Subaward. Financial assistance in the form of money, or property in lieu of money, provided under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but the term includes neither procurement of goods and services nor any form of assistance which is excluded from the definition of ''award'' in this section.

Subrecipient. The legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided.

Supplies. Tangible expendable personal property that is charged directly to the award and that has a useful life of less than one year or an acquisition cost of less than $5000 per unit.

Suspension. An action by a DoD Component that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the DoD Component. Suspension of an award is a separate action from suspension of a recipient under 32 CFR part 25.

Termination. The cancellation of an award, in whole or in part, under an agreement at any time prior to either:

(1) The date on which all work under an award is completed; or

(2) The date on which Federal sponsorship ends, as given on the award document or any supplement or amendment thereto.

Third party in-kind contributions. The value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Unobligated balance. The portion of the funds authorized by a DoD Component that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

§ 34.3 Deviations.

(a) *Individual deviations.* Individual deviations affecting only one award may be approved by DoD Components in accordance with procedures stated in 32 CFR 21.125(a).

(b) *Small awards.* DoD Components may apply less restrictive requirements than the provisions of this part when awarding small awards, except for those requirements which are statutory.

(c) *Other class deviations.* For classes of awards other than small awards, the Director, Defense Research and Engineering, or his or her designee, may grant exceptions from the requirements of this part when exceptions are not prohibited by statute. DoD Components shall request approval for such deviations in accordance with 32 CFR 21.125 (b) and (c).

§ 34.4 Special award conditions.

(a) Grants officers may impose additional requirements as needed, over and above those provided in this part, if an applicant or recipient:

(1) Has a history of poor performance;

(2) Is not financially stable;

(3) Has a management system that does not meet the standards prescribed in this part;

(4) Has not conformed to the terms and conditions of a previous award; or

(5) Is not otherwise responsible.

(b) Before imposing additional requirements, DoD Components shall notify the applicant or recipient in writing as to:

(1) The nature of the additional requirements;

(2) The reason why the additional requirements are being imposed;

(3) The nature of the corrective action needed;

(4) The time allowed for completing the corrective actions; and

(5) The method for requesting reconsideration of the additional requirements imposed.

(c) Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

(d) Grants officers:

(1) Should coordinate the imposition and removal of special award conditions with the cognizant grants administration office identified in 32 CFR 22.710.

(2) Shall include in the award file the written notification to the recipient, described in paragraph (b) of this section, and the documentation required by 32 CFR 22.410(b).

Subpart B—Post-award Requirements

Financial and Program Management

§ 34.10 Purpose of financial and program management.

Sections 34.11 through 34.17 prescribe standards for financial management systems; methods for making payments; and rules for cost sharing and matching, program income, revisions to budgets and program plans, audits, allowable costs, and fee and profit.

§ 34.11 Standards for financial management systems.

(a) Recipients shall be allowed and encouraged to use existing financial management systems established for doing business in the commercial marketplace, to the extent that the systems comply with Generally Accepted Accounting Principles (GAAP) and the minimum standards in this section. As a minimum, a recipient's financial management system shall provide:

(1) Effective control of all funds. Control systems must be adequate to ensure that costs charged to Federal funds and those counted as the recipient's cost share or match are consistent with requirements for cost reasonableness, allowability, and allocability in the applicable cost principles (see § 34.17) and in the terms and conditions of the award.

(2) Accurate, current and complete records that document for each project funded wholly or in part with Federal funds the source and application of the Federal funds and the recipient's

required cost share or match. These records shall:

(i) Contain information about receipts, authorizations, assets, expenditures, program income, and interest.

(ii) Be adequate to make comparisons of outlays with budgeted amounts for each award (as required for programmatic and financial reporting under § 34.41. Where appropriate, financial information should be related to performance and unit cost data. Note that unit cost data are generally not appropriate for awards that support research.

(3) To the extent that advance payments are authorized under § 34.12, procedures that minimize the time elapsing between the transfer of funds to the recipient from the Government and the recipient's disbursement of the funds for program purposes.

(4) The recipient shall have a system to support charges to Federal awards for salaries and wages, whether treated as direct or indirect costs. Where employees work on multiple activities or cost objectives, a distribution of their salaries and wages will be supported by personnel activity reports which must:

(i) Reflect an after the fact distribution of the actual activity of each employee.

(ii) Account for the total activity for which each employee is compensated.

(iii) Be prepared at least monthly, and coincide with one or more pay periods.

(b) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the DoD Component, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(c) The DoD Component may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(d) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

§ 34.12 Payment.

(a) *Methods available.* Payment methods for agreements with commercial organizations are:

(1) *Reimbursement.* Under this method, the recipient requests reimbursement for costs incurred during a time period. After approval of the request by the grants officer designated to do so, the DoD payment office reimburses the recipient by electronic funds transfer or check.

(2) *Advance payments.* Under this method, a DoD Component makes a payment to a recipient before the recipient disburses cash. The payment generally is made upon the recipient's request, although predetermined payment schedules may be used when the timing of the recipient's needs to disburse funds can be predicted in advance with sufficient accuracy to ensure compliance with paragraph (b)(2)(iii) of this section.

(b) *Selecting a method.* (1) The preferred payment method is the reimbursement method, as described in paragraph (a)(1) of this section.

(2) Advance payments, as described in paragraph (a)(2) of this section, may be used in exceptional circumstances, subject to the following conditions:

(i) The grants officer, in consultation with the program official, must judge that advance payments are necessary or will materially contribute to the probability of success of the project contemplated under the agreement (e.g., as startup funds for a project performed by a newly formed company). The rationale for the judgment shall be documented in the award file.

(ii) Cash advances shall be limited to the minimum amounts needed to carry out the program.

(iii) Recipients and the DoD Component shall maintain procedures to ensure that the timing of cash advances is as close as is administratively feasible to the recipients' disbursements of the funds for program purposes, including direct program or project costs and the proportionate share of any allowable indirect costs.

(iv) Recipients shall maintain advance payments of Federal funds in interest-bearing accounts, and remit annually the interest earned to the DoD Component (for return to the Department of Treasury's miscellaneous receipts account), unless one of the following applies:

(A) The recipient receives less than $120,000 in Federal awards per year.

(B) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(C) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(c) *Frequency of payments.* For either reimbursements or advance payments, recipients shall be authorized to submit requests for payment at least monthly.

(d) *Forms for requesting payment.* DoD Components may authorize recipients to use the SF–270,[1] ''Request for Advance or Reimbursement;'' the SF–271,[2] ''Outlay Report and Request for Reimbursement for Construction Programs;'' or prescribe other forms or formats as necessary.

(e) *Timeliness of payments.* Payments normally will be made within 30 days of a recipient's request for reimbursement or advance, in accordance with 32 CFR 22.810.

(f) *Precedence of other available funds.* Recipients shall disburse funds available from program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(g) *Withholding of payments.* Unless otherwise required by statute, grants officers shall not withhold payments for proper charges made by recipients during the project period for reasons other than the following:

(1) A recipient has failed to comply with project objectives, the terms and conditions of the award, or Federal reporting requirements, in which case the grants officer may suspend payments in accordance with § 34.52.

(2) The recipient is delinquent on a debt to the United States (see definitions of ''debt'' and ''delinquent debt'' in 32 CFR 22.105). In that case, the grants officer may, upon reasonable notice, withhold payments for obligations incurred after a specified date, until the debt is resolved.

§ 34.13 Cost sharing or matching.

(a) *Acceptable contributions.* All contributions, including cash contributions and third party in-kind contributions, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria:

(1) They are verifiable from the recipient's records.

(2) They are not included as contributions for any other federally-assisted project or program.

(3) They are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) They are allowable under § 34.17.

(5) They are not paid by the Federal Government under another award, except where authorized by Federal

[1] For copies of Standard Forms listed in this part, contact regional grants administration offices of the Office of Naval Research. Addresses for the offices are listed in the ''DoD Directory of Contract Administration Services Components,'' DLAH 4105.4, which can be obtained from: Defense Logistics Agency, Publications Distribution Division (DASC-WDM), 8725 John J. Kingman Rd., Suite 0119, Fort Belvoir, VA 22060–6220.

[2] See footnote 1 to this paragraph (d).

statute to be used for cost sharing or matching.

(6) They are provided for in the approved budget, when approval of the budget is required by the DoD Component.

(7) If they are real property or equipment, whether purchased with recipient's funds or donated by third parties, they must have the grants officer's prior approval if the contributions' value is to exceed depreciation or use charges during the project period (paragraphs (b)(1) and (b)(4)(ii) of this section discuss the limited circumstances under which a grants officer may approve higher values). If a DoD Component requires approval of a recipient's budget (see paragraph (a)(6) of this section), the grants officer's approval of the budget satisfies this prior approval requirement, for real property or equipment items listed in the budget.

(8) They conform to other provisions of this part, as applicable.

(b) *Valuing and documenting contributions*—(1) *Valuing recipient's property or services of recipient's employees.* Values shall be established in accordance with the applicable cost principles in § 34.17, which means that amounts chargeable to the project are determined on the basis of costs incurred. For real property or equipment used on the project, the cost principles authorize depreciation or use charges. The full value of the item may be applied when the item will be consumed in the performance of the agreement or fully depreciated by the end of the agreement. In cases where the full value of a donated capital asset is to be applied as cost sharing or matching, that full value shall be the lesser of the following:

(i) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation; or

(ii) The current fair market value. However, when there is sufficient justification, the grants officer may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(2) *Valuing services of others' employees.* When an employer other than the recipient furnishes the services of an employee, those services shall be valued at the employee's regular rate of pay plus an amount of fringe benefits and overhead (at an overhead rate appropriate for the location where the services are performed) provided these services are in the same skill for which the employee is normally paid.

(3) *Valuing volunteer services.* Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(4) *Valuing property donated by third parties.* (i) Donated supplies may include such items as office supplies or laboratory supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(ii) Normally only depreciation or use charges for equipment and buildings may be applied. However, the fair rental charges for land and the full value of equipment or other capital assets may be allowed, when they will be consumed in the performance of the agreement or fully depreciated by the end of the agreement, provided that the grants officer has approved the charges. When use charges are applied, values shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications:

(A) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(B) The value of loaned equipment shall not exceed its fair rental value.

(5) *Documentation.* The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties:

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal services and property shall be documented.

§ 34.14 Program income.

(a) DoD Components shall apply the standards in this section to the disposition of program income from projects financed in whole or in part with Federal funds.

(b) Recipients shall have no obligation to the Government, unless the terms and conditions of the award provide otherwise, for program income earned:

(1) From license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. Note, however, that the Patent and Trademark Amendments (35 U.S.C. Chapter 18), as implemented in § 34.24, apply to inventions made under a research award.

(2) After the end of the project period. If a grants officer anticipates that an award is likely to generate program income after the end of the project period, the grants officer should indicate in the award document whether the recipient will have any obligation to the Federal Government with respect to such income.

(c) If authorized by the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(d) Other than any program income excluded pursuant to paragraphs (b) and (c) of this section, program income earned during the project period shall be retained by the recipient and used in one or more of the following ways, as specified in program regulations or the terms and conditions of the award:

(1) Added to funds committed to the project by the DoD Component and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(e) If the terms and conditions of an award authorize the disposition of program income as described in paragraph (d)(1) or (d)(2) of this section, and stipulate a limit on the amounts that may be used in those ways, program income in excess of the stipulated limits shall be used in accordance with paragraph (d)(3) of this section.

(f) In the event that the terms and conditions of the award do not specify how program income is to be used, paragraph (d)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (d)(1) of this section shall apply automatically unless the terms and conditions specify another alternative or the recipient is

subject to special award conditions, as indicated in § 34.4.

(g) Proceeds from the sale of property that is acquired, rather than fabricated, under an award are not program income and shall be handled in accordance with the requirements of the Property Standards (see §§ 34.20 through 34.25).

§ 34.15 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the sum of the Federal and non-Federal shares, or only the Federal share, depending upon DoD Component requirements. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) Recipients shall immediately request, in writing, prior approval from the cognizant grants officer when there is reason to believe that within the next seven days a programmatic or budgetary revision will be necessary for certain reasons, as follows:

(1) The recipient always must obtain the grants officer's prior approval when a revision is necessary for either of the following two reasons (i.e., these two requirements for prior approval may never be waived):

(i) A change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(ii) A need for additional Federal funding.

(2) The recipient must obtain the grants officer's prior approval when a revision is necessary for any of the following six reasons, unless the requirement for prior approval is waived in the terms and conditions of the award (i.e., if the award document is silent, these prior approvals are required):

(i) A change in a key person specified in the application or award document.

(ii) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(iii) The inclusion of any additional costs that require prior approval in accordance with applicable cost principles for Federal funds and recipients' cost share or match, in § 34.17 and § 34.13, respectively.

(iv) The inclusion of pre-award costs. All such costs are incurred at the recipient's risk (i.e., the DoD Component is under no obligation to reimburse such costs if for any reason the recipient does not receive an award, or if the award is less than anticipated and inadequate to cover such costs).

(v) A ''no-cost'' extension of the project period that does not require additional Federal funds and does not change the approved objectives or scope of the project.

(vi) Any subaward, transfer or contracting out of substantive program performance under an award, unless described in the application and funded in the approved awards. This provision does not apply to the purchase of supplies, material, or general support services, except that procurement of equipment or other capital items of property always is subject to the grants officer's prior approval under § 34.21(a), if it is to be purchased with Federal funds, or § 34.13(a)(7), if it is to be used as cost sharing or matching.

(3) The recipient also must obtain the grants officer's prior approval when a revision is necessary for either of the following reasons, if specifically required in the terms and conditions of the award document (i.e., if the award document is silent, these prior approvals are not required):

(i) The transfer of funds among direct cost categories, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the DoD Component. No DoD Component shall permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(ii) For awards that provide support for both construction and nonconstruction work, any fund or budget transfers between the two types of work supported.

(d) Within 30 calendar days from the date of receipt of the recipient's request for budget revisions, the grants officer shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the grants officer shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 34.16 Audits.

(a) Any recipient that expends $300,000 or more in a year under Federal awards shall have an audit made for that year by an independent auditor, in accordance with paragraph (b) of this section. The audit generally should be made a part of the regularly scheduled, annual audit of the recipient's financial statements. However, it may be more economical in some cases to have the Federal awards separately audited, and a recipient may elect to do so, unless that option is precluded by award terms and conditions, or by Federal laws or regulations applicable to the program(s) under which the awards were made.

(b) The auditor shall determine and report on whether:

(1) The recipient has an internal control structure that provides reasonable assurance that it is managing Federal awards in compliance with Federal laws and regulations, and with the terms and conditions of the awards.

(2) Based on a sampling of Federal award expenditures, the recipient has complied with laws, regulations, and award terms that may have a direct and material effect on Federal awards.

(c) The recipient shall make the auditor's report available to DoD Components whose awards are affected.

(d) The requirement for an annual independent audit is intended to ascertain the adequacy of the recipient's internal financial management systems and to curtail the unnecessary duplication and overlap that usually results when Federal agencies request audits of individual awards on a routine basis. Therefore, a grants officer:

(1) Shall consider whether the independent audit satisfies his or her requirements, before requesting any additional audits; and

(2) When requesting an additional audit, shall:

(i) Limit the scope of such additional audit to areas not adequately addressed by the independent audit.

(ii) Coordinate the audit request with the Federal agency with the predominant fiscal interest in the recipient, as the agency responsible for the scheduling and distribution of audits. If DoD has the predominant fiscal interest in the recipient, the Defense Contract Management Command (DCMC) is responsible for monitoring audits, ensuring resolution of audit findings, and distributing audit reports. When an additional audit is requested and DoD has the predominant fiscal interest in the recipient, DCMC shall, to the extent practicable, ensure that the additional audit builds upon the independent audit or other audits performed in accordance with this section.

(e) There may be instances in which Federal auditors have recently performed audits, are performing audits,

or are planning to perform audits, of a recipient. In these cases, the recipient and its Federal cognizant agency should seek to have the non-Federal, independent auditors work with the Federal auditors to develop a coordinated audit approach, to minimize duplication of audit work.

§ 34.17 Allowable costs.

Allowability of costs shall be determined in accordance with the cost principles applicable to the type of entity incurring the costs, as follows:

(a) *Commercial organizations.* Allowability of costs incurred by commercial organizations that are recipients of prime awards from DoD Components, and those that are subrecipients under prime awards to other organizations, is to be determined in accordance with 48 CFR parts 31 and 231 (in the Federal Acquisition Regulation, or FAR, and the Defense Federal Acquisition Regulation Supplement, or DFARS, respectively).

(b) *Other types of organizations.* Allowability of costs incurred by other types of organizations that may be subrecipients under a prime award to a commercial organization is determined as follows:

(1) *Institutions of higher education.* Allowability is determined in accordance with OMB Circular A–21,[3] ''Cost Principles for Educational Institutions.''

(2) *Other nonprofit organizations.* Allowability is determined in accordance with OMB Circular A–122,[4] ''Cost Principles for Non-Profit Organizations.'' Note that Attachment C of the Circular identifies selected nonprofit organizations for whom cost allowability is determined in accordance with the FAR cost principles for commercial organizations.

(3) *Hospitals.* Allowability is determined in accordance with the provisions of 45 CFR part 74, Appendix E, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.''

(4) *Governmental organizations.* Allowability for State, local, or federally recognized Indian tribal governments is determined in accordance with OMB Circular A–87,[5] ''Cost Principles for State and Local Governments.''

[3] For copies of the Circular, contact the Office of Management and Budget, EOP Publications, 725 17th St. N.W., New Executive Office Building, Washington, D.C. 20503.

[4] See footnote 3 to paragraph (b)(1) of this section.

[5] See footnote 3 to paragraph (b)(1) of this section.

§ 34.18 Fee and profit.

In accordance with 32 CFR 22.205(b), grants and cooperative agreements shall not:

(a) Provide for the payment of fee or profit to the recipient.

(b) Be used to carry out programs where fee or profit is necessary to achieving program objectives.

Property Standards

§ 34.20 Purpose of property standards.

Sections 34.21 through 34.25 set forth uniform standards for management, use, and disposition of property. DoD Components shall encourage recipients to use existing property-management systems, to the extent that the systems meet these minimum requirements.

§ 34.21 Real property and equipment.

(a) *Prior approval for acquisition with Federal funds.* Recipients may purchase real property or equipment in whole or in part with Federal funds under a grant or cooperative agreement only with the prior approval of the grants officer.

(b) *Title.* Title to such real property or equipment shall vest in the recipient upon acquisition. Unless a statute specifically authorizes a DoD Component to vest title in the recipient without further obligation to the Government, and the DoD Component elects to do so, the title shall be a conditional title. Title shall vest in the recipient subject to the conditions that the recipient:

(1) Use the real property or equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.

(2) Not encumber the property without approval of the grants officer.

(3) Use and dispose of the property in accordance with paragraphs (d) and (e) of this section.

(c) *Federal interest in real property or equipment offered as cost-share.* A recipient may offer real property or equipment that is purchased with recipient's funds or that is donated by a third party to meet a portion of any required cost sharing or matching, subject to the prior approval requirement in § 34.13(a)(7). If a recipient does so, the Government has a financial interest in the property, a share of the property value attributable to the Federal participation in the project. The property therefore shall be considered as if it had been acquired in part with Federal funds, and shall be subject to the provisions of paragraphs (b)(1), (b)(2) and (b)(3) of this section, and to the provisions of § 34.23.

(d) *Use.* If real property or equipment is acquired in whole or in part with Federal funds under an award, and the award provides that title vests conditionally in the recipient, the real property or equipment is subject to the following:

(1) During the time that the real property or equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs, if such other use will not interfere with the work on the project or program for which the real property or equipment was originally acquired. Use of the real property or equipment on other projects will be in the following order of priority:

(i) Activities sponsored by DoD Components' grants, cooperative agreements, or other assistance awards;

(ii) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(iii) Activities under Federal procurement contracts, or activities not sponsored by any Federal agency. If so used, use charges shall be assessed to those activities. For real property or equipment, the use charges shall be at rates equivalent to those for which comparable real property or equipment may be leased. The use charges shall be treated as program income.

(2) After Federal funding for the project ceases, or when the real property or equipment is no longer needed for the purposes of the project, the recipient may use the real property or equipment for other projects, insofar as:

(i) There are Federally sponsored projects for which the real property or equipment may be used. If the only use for the real property or equipment is for projects that have no Federal sponsorship, the recipient shall proceed with disposition of the real property or equipment, in accordance with paragraph (e) of this section.

(ii) The recipient obtains written approval from the grants officer to do so. The grants officer shall ensure that there is a formal change of accountability for the real property or equipment to a currently funded, Federal award.

(iii) The recipient's use of the real property or equipment for other projects is in the same order of priority as described in paragraph (d)(1) of this section.

(e) *Disposition.* (1) When an item of real property or equipment is no longer needed for Federally sponsored projects, the recipient shall proceed as follows:

(i) If the property that is no longer needed is equipment (rather than real property), the recipient may wish to replace it with an item that is needed currently for the project. In that case, the recipient may use the original

equipment as trade-in or sell it and use the proceeds to offset the costs of the replacement equipment, subject to the approval of the responsible agency (i.e., the DoD Component or the Federal agency to which the DoD Component delegated responsibility for administering the equipment).

(ii) The recipient may elect to retain title, without further obligation to the Federal Government, by compensating the Federal Government for that percentage of the current fair market value of the real property or equipment that is attributable to the Federal participation in the project.

(iii) If the recipient does not elect to retain title to real property or equipment (see paragraph (e)(1)(ii) of this section), or request approval to use equipment as trade-in or offset for replacement equipment (see paragraph (e)(1)(i) of this section), the recipient shall request disposition instructions from the responsible agency.

(2) If a recipient requests disposition instructions, in accordance with paragraph (e)(1)(iii) of this section, the responsible grants officer shall:

(i) For equipment (but not real property), consult with the Federal program manager and judge whether the age and nature of the equipment warrant a screening procedure, to determine whether the equipment is useful to a DoD Component or other Federal agency. If a screening procedure is warranted, the responsible agency shall determine whether the equipment can be used to meet a DoD Component's requirement. If no DoD requirement is found, the responsible agency shall report the availability of the equipment to the General Services Administration, to determine whether a requirement for the equipment exists in other Federal agencies.

(ii) For either real property or equipment, issue instructions to the recipient for disposition of the property no later than 120 calendar days after the recipient's request. The grants officer's options for disposition are to direct the recipient to:

(A) Transfer title to the real property or equipment to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the real property or equipment, plus any reasonable shipping or interim storage costs incurred. If title is transferred to the Federal Government, it shall be subject thereafter to provisions for Federally owned property in § 34.22.

(B) Sell the real property or equipment and pay the Federal Government for that percentage of the current fair market value of the property that is attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sale proceeds). When the recipient is authorized or required to sell the real property or equipment, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) If the responsible agency fails to issue disposition instructions within 120 days of the recipient's request, as described in paragraph (e)(2)(ii) of this section, the recipient shall dispose of the real property or equipment through the option described in paragraph (e)(2)(ii)(B) of this section.

§ 34.22 Federally owned property.

(a) *Annual inventory.* Recipients shall submit annually an inventory listing of all Federally owned property in their custody (property furnished by the Federal Government, rather than acquired by the recipient with Federal funds under the award), to the DoD Component or other Federal agency responsible for administering the property under the award.

(b) *Use on other activities.* (1) Use of federally owned property on other activities is permissible, if authorized by the DoD Component responsible for administering the award to which the property currently is charged.

(2) Use on other activities will be in the following order of priority:

(i) Activities sponsored by DoD Components' grants, cooperative agreements, or other assistance awards;

(ii) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(iii) Activities under Federal procurement contracts, or activities not sponsored by any Federal agency. If so used, use charges shall be assessed to those activities. For real property or equipment, the use charges shall be at rates equivalent to those for which comparable real property or equipment may be leased. The use charges shall be treated as program income.

(c) *Disposition of property.* Upon completion of the award, the recipient shall report the property to the responsible agency. The agency may:

(1) Use the property to meet another Federal Government need (e.g, by transferring accountability for the property to another Federal award to the same recipient, or by directing the recipient to transfer the property to a Federal agency that needs the property, or to another recipient with a currently funded award).

(2) Declare the property to be excess property and either:

(i) Report the property to the General Services Administration, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)), as implemented by General Services Administration regulations at 41 CFR 101–47.202; or

(ii) Dispose of the property by alternative methods, if there is statutory authority to do so (e.g., DoD Components are authorized by 15 U.S.C. 3710(i), the Federal Technology Transfer Act, to donate research equipment to educational and nonprofit organizations for the conduct of technical and scientific education and research activities. Such donations shall be in accordance with the DoD implementation of Executive Order 12821 (3 CFR, 1993 Comp., p. 323), ''Improving Mathematics and Science Education in Support of the National Education Goals.'') Appropriate instructions shall be issued to the recipient by the responsible agency.

§ 34.23 Property management system.

The recipient's property management system shall include the following, for property that is Federally owned, and for equipment that is acquired in whole or in part with Federal funds, or that is used as matching share:

(a) Property records shall be maintained, to include the following information:

(1) A description of the property.

(2) Manufacturer's serial number, model number, Federal stock number, national stock number, or any other identification number.

(3) Source of the property, including the award number.

(4) Whether title vests in the recipient or the Federal Government.

(5) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(6) Information from which one can calculate the percentage of Federal participation in the cost of the property (not applicable to property furnished by the Federal Government).

(7) The location and condition of the property and the date the information was reported.

(8) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal Government for its share.

(b) Federally owned equipment shall be marked, to indicate Federal ownership.

(c) A physical inventory shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(d) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify the Federal agency responsible for administering the property.

(e) Adequate maintenance procedures shall be implemented to keep the property in good condition.

§ 34.24 Supplies.

(a) Title shall vest in the recipient upon acquisition for supplies acquired with Federal funds under an award.

(b) Upon termination or completion of the project or program, the recipient shall retain any unused supplies. If the inventory of unused supplies exceeds $5,000 in total aggregate value and the items are not needed for any other Federally sponsored project or program, the recipient shall retain the items for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share.

§ 34.25 Intellectual property developed or produced under awards.

(a) *Patents.* Grants and cooperative agreements with:

(1) Small business concerns shall comply with 35 U.S.C. Chapter 18, as implemented by 37 CFR part 401, which applies to inventions made under grants and cooperative agreements with small business concerns for research and development. 37 CFR 401.14 provides a standard clause that is required in such cooperative agreements in most cases, 37 CFR 401.3 specifies when the clause shall be included, and 37 CFR 401.5 specifies how the clause may be modified and tailored.

(2) Commercial organizations other than small business concerns shall comply with 35 U.S.C. 210(c) and Executive Order 12591 (3 CFR, 1987 Comp., p. 220) (which codifies a Presidential Memorandum on Government Patent Policy, dated February 18, 1983).

(i) The Executive order states that, as a matter of policy, grants and cooperative agreements should grant to all commercial organizations, regardless of size, title to patents made in whole or in part with Federal funds, in exchange for royalty-free use by or on behalf of the Government (i.e., it extends the applicability of 35 U.S.C. Chapter 18, to the extent permitted by law, to commercial organizations other than small business concerns).

(ii) 35 U.S.C. 210(c) states that 35 U.S.C. Chapter 18 is not intended to limit agencies' authority to agree to the disposition of rights in inventions in accordance with the Presidential memorandum codified by the Executive order. It also states that such grants and agreements shall provide for Government license rights required by 35 U.S.C. 202(c)(4) and march-in rights required by 35 U.S.C. 203.

(b) *Copyright, data and software rights.* Requirements concerning data and software rights are as follows:

(1) The recipient may copyright any work that is subject to copyright and was developed under an award. DoD Components reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(2) Unless waived by the DoD Component making the award, the Federal Government has the right to:

(i) Obtain, reproduce, publish or otherwise use the data first produced under an award.

(ii) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

Procurement Standards

§ 34.30 Purpose of procurement standards.

Section 34.31 sets forth requirements necessary to ensure:

(a) Compliance of recipients' procurements that use Federal funds with applicable Federal statutes and executive orders.

(b) Proper stewardship of Federal funds used in recipients' procurements.

§ 34.31 Requirements.

The following requirements pertain to recipients' procurements funded in whole or in part with Federal funds or with recipients' cost-share or match:

(a) *Reasonable cost.* Recipients procurement procedures shall make maximum practicable use of competition, or shall use other means that ensure reasonable cost for procured goods and services.

(b) *Pre-award review of certain procurements.* Prior to awarding a procurement contract under a grant or cooperative agreement, a recipient may be required to provide the grants officer administering the grant or cooperative agreement with pre-award documents (e.g., requests for proposals, invitations for bids, or independent cost estimates) related to the procurement. Recipients will only be required to provide such documents for the grants officer's pre-award review in cases where the grants officer judges that there is a compelling need to do so. In such cases, the grants officer must include a provision in the grant or cooperative agreement that states the requirement.

(c) *Contract provisions.* (1) Contracts in excess of the simplified acquisition threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of the simplified acquisition threshold shall contain suitable provisions for termination for default by the recipient or for termination due to circumstances beyond the control of the contractor.

(3) All negotiated contracts in excess of the simplified acquisition threshold shall include a provision permitting access of the Department of Defense, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the contractor that are directly pertinent to a specific program, for the purpose of making audits, examinations, excerpts, and transcriptions.

(4) All contracts, including those for amounts less than the simplified acquisition threshold, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this part, as applicable.

Reports and Records

§ 34.40 Purpose of reports and records.

Sections 34.41 and 34.42 prescribe requirements for monitoring and reporting financial and program performance and for records retention.

§ 34.41 Monitoring and reporting program and financial performance.

Grants officers may use the provisions of 32 CFR 32.51 and 32.52 for awards to commercial organizations, or may include equivalent technical and financial reporting requirements that ensure reasonable oversight of the expenditure of appropriated funds. As a minimum, equivalent requirements must include:

(a) Periodic reports (at least annually, and no more frequently than quarterly) addressing both program status and business status, as follows:

(1) The program portions of the reports must address progress toward achieving program performance goals, including current issues, problems, or developments.

(2) The business portions of the reports shall provide summarized details on the status of resources (federal funds and non-federal cost sharing or matching), including an accounting of expenditures for the period covered by the report. The report should compare the resource status with any payment and expenditure schedules or plans provided in the original grant or agreement; explain any major deviations from those schedules; and discuss actions that will be taken to address the deviations.

(3) When grants officers previously authorized advance payments, pursuant to § 34.12(a)(2), they should consult with the program official and consider whether program progress reported in the periodic report, in relation to reported expenditures, is sufficient to justify continued authorization of advance payments.

(b) Unless inappropriate, a final performance report that addresses all major accomplishments under the agreement.

§ 34.42 Retention and access requirements for records.

(a) This section sets forth requirements for records retention and access to records for awards to recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by the DoD Component that made the award, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, and related records, for which retention requirements are specified in § 34.42(g).

(c) Copies of original records may be substituted for the original records if authorized by the grants officer.

(d) The grants officer shall request that recipients transfer certain records to DoD Component custody when he or she determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, a grants officer may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) DoD Components, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, no DoD Component shall place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when the DoD Component can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the DoD Component making the award.

(g) Indirect cost proposals, cost allocation plans, and other cost accounting documents (such as documents related to computer usage chargeback rates), along with their supporting records, shall be retained for a 3-year period, as follows:

(1) If a recipient is required to submit an indirect-cost proposal, cost allocation plan, or other computation to the cognizant Federal agency, for purposes of negotiating an indirect cost rate or other rates, the 3-year retention period starts on the date of the submission. This retention requirement also applies to subrecipients submitting similar documents for negotiation to the recipient.

(2) If the recipient or the subrecipient is not required to submit the documents or supporting records for negotiating an indirect cost rate or other rates, the 3-year retention period for the documents and records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Termination and Enforcement

§ 34.50 Purpose of termination and enforcement.

Sections 34.51 through 34.53 set forth uniform procedures for suspension, termination, enforcement, and disputes.

§ 34.51 Termination.

(a) Awards may be terminated in whole or in part only in accordance with one of the following:

(1) By the grants officer, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By the grants officer with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to the grants officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. The recipient must provide such notice at least 30 days prior to the effective date of the termination. However, if the grants officer determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, he or she may terminate the award in its entirety.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 34.61(b), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 34.52 Enforcement.

(a) *Remedies for noncompliance.* If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the grants officer may, in addition to imposing any of the special conditions outlined in § 34.4, take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the grants officer and DoD Component.

(2) Disallow (that is, deny both use of funds and any applicable matching

credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) *Hearings and appeals.* In taking an enforcement action, the grants officer and DoD Component shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved (see § 34.53 and 32 CFR 22.815).

(c) *Effects of suspension and termination.* Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless the grants officer expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if the costs:

(1) Result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable; and

(2) Would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under 32 CFR part 25.

§ 34.53 Disputes and appeals.

Recipients have the right to appeal certain decisions by grants officers. In resolving such issues, DoD policy is to use Alternative Dispute Resolution (ADR) techniques, to the maximum practicable extent. See 32 CFR 22.815 for standards for DoD Components' dispute resolution and formal, administrative appeal procedures.

Subpart C—After-the-Award Requirements

§ 34.60 Purpose.

Sections 34.61 through 34.63 contain procedures for closeout and for subsequent disallowances and adjustments.

§ 34.61 Closeout procedures.

(a) The cognizant grants officer shall, at least six months prior to the expiration date of the award, contact the recipient to establish:

(1) All steps needed to close out the award, including submission of financial and performance reports, liquidation of obligations, and decisions on property disposition.

(2) A schedule for completing those steps.

(b) The following provisions shall apply to the closeout:

(1) The responsible grants officer and payment office shall expedite completion of steps needed to close out awards and make prompt, final payments to a recipient for allowable reimbursable costs under the award being closed out.

(2) The recipient shall promptly refund any unobligated balances of cash that the DoD Component has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. For unreturned amounts that become delinquent debts, see 32 CFR 22.820.

(3) When authorized by the terms and conditions of the award, the grants officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(4) The recipient shall account for any real property and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 34.21 through 34.25.

(5) In the event a final audit has not been performed prior to the closeout of an award, the DoD Component shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 34.62 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following:

(1) The right of the Department of Defense to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 34.16.

(4) Property management requirements in §§ 34.21 through 34.25.

(5) Records retention as required in § 34.42.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the grants officer and the recipient, provided the responsibilities of the recipient referred to in § 34.61(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 34.63 Collection of amounts due.

Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. Procedures for issuing the demand for payment and pursuing administrative offset and other remedies are described in 32 CFR 22.820.

Appendix A to Part 34—Contract Provisions

All contracts awarded by a recipient, including those for amounts less than the simplified acquisition threshold, shall contain the following provisions as applicable:

1. *Equal Employment Opportunity*—All contracts shall contain a provision requiring compliance with E.O. 11246 (3 CFR, 1964–1965 Comp., p. 339), ''Equal Employment Opportunity,'' as amended by E.O. 11375 (3 CFR, 1966–1970 Comp., p. 684), ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR chapter 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. *Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)*—All contracts and subawards in excess of $2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the responsible DoD Component.

3. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)*—Where applicable, all contracts awarded by recipients in excess of $100,000 for construction and other purposes that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is

compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. *Rights to Inventions Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

5. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and subawards of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the responsible DoD Component and the Regional Office of the Environmental Protection Agency (EPA).

6. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

7. *Debarment and Suspension (E.O.s 12549 and 12689)*—Contract awards that exceed the simplified acquisition threshold and certain other contract awards shall not be made to parties listed on nonprocurement portion of the General Services Administration's Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs in accordance with E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principals.

Dated: August 9, 1996.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

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Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Protective Breathing Requirement; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 27219; Amendment No. 121–261]

RIN 2120–AD74

Protective Breathing Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing portable protective breathing equipment (PBE) required for crewmembers' use in combating in-flight fires. It is intended to codify exemptions currently in place, clarify ambiguities in the existing regulations, and allow air carriers added flexibility with compliance while maintaining or increasing safety.

EFFECTIVE DATE: September 25, 1996.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Project Development Branch, AFS–240, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8096.

SUPPLEMENTARY INFORMATION:

Background

The PBE requirements that specifically apply to part 121 certificate holders are found in § 121.337 of the regulations. The current form of this regulation was established by Amendment No. 121–193 (52 FR 20950; June 3, 1987) and Amendment No. 121–212 (55 FR 5548; February 15, 1990).

The PBE required by § 121.337 fall into two categories. The first category consists of PBE for use by flight crewmembers (i.e., pilots, flight engineers, and flight navigators) at their assigned duty stations on the flight deck. See § 121.337(b)(8).

These units may be either fixed or portable; they must be easily accessible for immediate use by the flight crewmembers at their duty stations. This type of PBE must be approved. Technical Standards Orders (TSO) C–99 and TSO C–116 provide standards that may be used to produce approved PBEs, as applicable.

The second category of required PBE, the subject of this final rule, consists of portable PBE units that are intended for use by all crewmembers (i.e., not just pilots, flight engineers, and flight navigators, but flight attendants also) when they investigate and combat fires throughout the aircraft.

See § 121.337(b)(9). This type of PBE must be portable and must be approved. TSO C–116 provide standards that may be used to produce such PBEs.

This final rule deals with both cargo-only operations and passenger-carrying operations. In regard to cargo-only operations, the regulation will not require a PBE unit in Class A, B, or E compartments.

As for passenger-carrying operations, the FAA has determined that it is not necessary to locate a portable PBE in Class A, B, or E cargo compartments. The rule will require one PBE for every hand fire extinguisher required under § 121.309.

Cargo-Only Compartments

Section 121.337(b)(9)(i) requires that one PBE unit with a portable breathing gas supply be easily accessible and conveniently located for immediate use in each Class A, B, and E cargo compartment that is accessible to crewmembers in the compartment during flight. Class E cargo compartments are defined by § 25.857 as compartments on airplanes used only for the carriage of cargo, and can only be found in cargo-only or combination cargo-passenger (Combi) aircraft. Class A and B cargo compartments may be found in cargo-only, Combi, and passenger-carrying aircraft.

Currently, § 121.337(b)(9)(i) calls for a separate PBE unit for each Class A, B, and E cargo compartment; thus, if there is a total of seven such compartments, then seven portable PBE units are required under the current provision. This provision has not been implemented, however. On behalf of six member airlines operating cargo-only aircraft, the Air Transport Association (ATA) petitioned the FAA on August 14, 1989, for a permanent exemption from § 121.337(b)(9)(i). In its petition, ATA argued that the current requirement to install a portable PBE unit for each Class E cargo compartment should be eliminated.

In support of its petition, ATA argued that Class E cargo compartments are generally inaccessible in flight and that established crewmember procedures are to land the aircraft as soon as possible and to combat a fire in the compartment only as a last resort. According to ATA, the portable PBE unit on the flight deck, as required by § 121.337(b)(9)(iii), would suffice in the unlikely event that a crewmember would have to combat an in-flight fire.

The FAA concluded that the PBE requirements for cargo-only airplanes deserved further consideration through the rulemaking process. The agency therefore extended the compliance date for certificate holders operating cargo-only airplanes to install portable PBE units for use in Class A, B, or E cargo compartments from January 31, 1990, to February 18, 1992,[1] and invited interested persons to submit comments on this subject to Docket No. 24792. See Amendment No. 121–212 (55 FR 5548; February 15, 1990), which became effective on February 15, 1990.

The Air Line Pilots Association (ALPA), Airborne Express, and Mid-Pacific Air Corporation responded to the request for public comment set forth in Amendment No. 121–212. ALPA took the position that PBE should be conveniently located adjacent to each cargo compartment. Airborne Express and the Mid-Pacific Air Corporation stated that the portable PBE unit already required on the flight deck by § 121.337(b)(9)(iii) was adequate for investigating and combating fires in Class E cargo compartments.

Subsequently, the FAA published a notice of proposed rulemaking (NPRM), Notice No. 93–2 (58 FR 16584), in which the agency proposed to eliminate the multiple units required by § 121.337(b)(9)(i) and proposed instead to require that for cargo-only operations one portable PBE unit be located in a position approved by the FAA as appropriate to each airplane and the specific type of operation being conducted. The intent was for the PBE to be easily accessible and conveniently located for use in the cargo area. The FAA stated that it believed that safety requires that an additional PBE unit be available as a backup unit in the cargo area.

However, based on comments received, the FAA published a supplemental proposal on April 11, 1994, stating that it would broaden its consideration of the number of portable PBE units required in the cargo area of cargo-only aircraft. In a supplemental notice of proposed rulemaking, Notice No. 94–7 (59 FR 17166), the FAA stated that is would consider whether the portable PBE unit, that is currently required for the flight deck under § 121.337(b)(9)(iii), is sufficient for use both on the flight deck and in the cargo area, without having another one required under § 121.337(b)(9)(i). Comments to both the NPRM and SNPRM are discussed in the DISCUSSION OF COMMENTS section of this final rule.

[1] Exemption No. 5407, issued to Air Transport Association on February 18, 1992, further extended the date of compliance for cargo only carriers until February 18, 1993. Exemption No. 5407A extended the date of compliance until February 18, 1994; Exemption No. 5407B extended the date of compliance until February 18, 1996.

Passenger Compartments

This final rule also addresses several issues concerning PBE requirements for passenger compartments. The first issue involves the number of portable PBE units that are required in passenger compartments of transport category airplanes. In its current form, § 121.337(b)(9)(iv) requires a portable PBE unit to be located ''in each passenger compartment, one located within 3 feet of each hand fire extinguisher required by § 121.309 of this part * * *.'' Section 121.309(c) specifies the number and location of fire extinguishers in passenger compartments, which increase with the seating capacity of the airplane. At least one air carrier has interpreted § 121.337(b)(9)(iv) to mean that one portable PBE would satisfy the requirement for 2 required hand fire extinguishers as long as both of those fire extinguishers are within 3 feet of the PBE. The FAA never intended such a result, as evidenced in the preamble to the original final rule.

In response to several comments to the original notice regarding the number of PBE units required, the FAA stated that one PBE device at each hand fire extinguisher location required by § 121.309 will provide an adequate level of coverage and will avoid any confusion in locating the equipment since it will be near a hand fire extinguisher. This final rule revises the section to make it clear that there must be a PBE unit for each fire extinguisher.

The FAA finds that safety requires that each hand fire extinguisher be paired with a separate PBE unit. The FAA does not agree that safety would be served by allowing more than one fire extinguisher per PBE unit. In the event that more than one crewmember is required to combat a fire in the area of the two or more fire extinguishers the second crewmember would have to spend additional time seeking a second PBE unit. The FAA has determined that the potential safety hazard created by allowing this practice to continue far outweighs any reduction in cost. Therefore, this final rule makes it clear that one PBE is required for each fire extinguisher. The final rule clearly states that one portable PBE unit is required for each required hand fire extinguisher. However, if a carrier chooses to provide an additional fire extinguisher in excess of the number of fire extinguishers required by § 121.309, the carrier is not required to provide an additional PBE unit to be paired with it.

Discussion of Comments (NPRM)

Eight comments were received on the NPRM. In addition, ATA submitted comments from both cargo-only and passenger carrying operators. Comments were received from the National Transportation Safety Board (NTSB), ATA, ALPA, the Regional Airline Association (RAA), and two air carriers. Two other comments did not relate to the NPRM. Most commenters express basic support for the NPRM, particularly its clarification that passenger-carrying operations must provide one portable PBE unit for each required fire extinguisher. NTSB agrees with the NPRM and states that the proposed amendments will clarify existing regulations and will also allow air carriers some flexibility with compliance without compromising safety. RAA supports the proposal, saying that it ''serves its objectives to provide needed clarification, and to relieve the requirement for certain unnecessary equipment.'' Boeing states that a requirement to check the PBE unit enclosure to ensure it has not been tampered with should be retained.

In regard to passenger-carrying operations, ALPA comments that portable PBE should remain in the cargo compartments of passenger-carrying operations for reasons of safety. ALPA states that it is a common occurrence to investigate for strange odors in large aircraft. It notes that valuable time could be lost if the crewmember has to retrieve the PBE from another location.

Boeing comments that it favors the installation of one PBE for each fire extinguisher for both cargo and passenger-carrying aircraft.

ATA states that it supports the proposed amendments with the exception to those applicable to cargo-only aircraft.

Finally, two commenters state that the NPRM should retain some measure which requires crewmembers to check PBE readiness.

In regard to cargo-only operations, ALPA comments that locating portable PBE in the cargo compartment enables crewmembers to more rapidly respond to possible fire threats in these areas. Under the proposed rule change, ALPA states that ''valuable time would be lost by the crew returning to the cockpit to get the PBE in the rare occurrence when a fire is discovered.'' ALPA believes that PBE should be conveniently available to each cargo compartment, although it also states that in some cases a PBE unit could be shared between two compartments. ALPA considers the cargo units prudent backup to the cockpit PBE when its air supply is expended. Finally, ALPA finds that cargo carried in cargo-only is more reactive and hazardous, and that in some instances, the crew would have no choice but to fight the fire.

ATA comments that the FAA's safety justification for requiring an additional portable PBE unit in the cargo area of cargo-only airplanes contradicts the agency's rationale for granting cargo-only operators an exemption to install a sole portable PBE unit on the flight deck. According to ATA, the installation of an additional portable PBE unit in the Class E cargo compartment does not improve safety. As support, ATA states that its review of Service Difficulty Report data from 1979 to 1992 did not uncover any reports of fire or smoke in Class E cargo compartments. Furthermore, ATA notes that each aircraft already contains sedentary PBE that protects the crewmember, plus one portable PBE unit in the event that a crewmember has to leave a duty station for a brief time to investigate a potential fire in the cargo area. According to ATA, most cargo areas are inaccessible in flight, and flight procedures do not call for crewmembers fighting fires. Finally, ATA estimates that, if the requirement for an additional portable PBE unit is imposed, the air carrier industry would incur $550,000 in unnecessary equipment costs. Attached to the ATA comment were comments from Airborne Express, DHL, Evergreen, and UPS supporting the ATA position.

Boeing Commercial Airplane Group commented that one PBE located with the fire extinguisher on the flight deck is not adequate and suggested that a second PBE be stored near the entrance to the cargo compartment to increase availability. Boeing, however, provided no data to support this statement.

FAA Response

In response to comments on cargo-only operations, the FAA determined that the question of whether to require one portable PBE unit to be located in a position that is easily accessible and conveniently located for use in the cargo area of the airplane, in addition to the one unit on the flight deck, deserved further comment. Therefore, on April 11, 1994, the FAA published a supplemental notice, proposing that the one additional PBE unit designated for the cargo area be eliminated. Discussion of comments received on that proposal follows.

The FAA does not agree with ALPA's comment that removing portable PBE from the cargo compartments of passenger-carrying airplanes would compromise safety. The regulations already require one PBE unit for each

hand fire extinguisher, a requirement that is being clarified in this amendment.

Discussion of Comments (SNPRM)

Five comments were received on the SNPRM.

ALPHA opposes the proposal set forth in the SNPRM, saying that the additional PBE unit in the cargo area is needed as a back-up for the one unit on the flight deck. ALPA is also critical of the 15-minute standard for the portable PBE unit, saying that flights often must operate much longer than this to make an emergency landing at the nearest airport. The Association cites five reports where the crew smelled smoke and decided to divert to the nearest airport; time to do so ranged from 10 minutes to 1 hour and 2 minutes. ALPA finds that reducing the number of portable PBE units to one is unacceptable, since that would limit the crew to only a 15-minute supply of oxygen.

ATA strongly supports the SNPRM. It notes that for most of the time since § 121.337 was established, cargo-only operators have been flying their aircraft with an exemption that permits the flight deck PBE to satisfy the requirement for PBE in the cargo compartment. ATA states that for 7 years, cargo-only operators have not experienced any incident which would justify requiring a second unit for the Class E compartment. ATA also incorporates its previous arguments in its letter dated May 27, 1993.

Airborne Express comments that it supports the SNPRM and notes that its 1993 and 1994 Service Difficulty Reports show no incidents of smoke or fire in Class E compartments.

Likewise, Douglas Aircraft Company comments that the second PBE unit is unnecessary.

Boeing Commercial Airplane Group comments that it has reevaluated its comment on the NPRM and now concludes that there was no data to support that recommendation. Therefore, Boeing now finds that the one PBE unit required for the flight deck is sufficient and that a second unit is unwarranted and unnecessary.

FAA Response

In the event of a fire in a Class E compartment, standardized checklist procedures are established to address the particular situation for each affected compartment. Procedures include landing the aircraft as soon as practical. Attempting to combat a fire in the Class E cargo compartment is a last resort measure, and may be of limited effectiveness. It may be unwise, for instance, depending on the particular situation, to send one crewmember of a 2-person cockpit into a large cargo compartment that may contain unknown hazards. Further, Class E cargo compartments are often inaccessible in flight due to containerized cargo that poses a barrier to getting into the areas that may be on fire. Class A and B compartments are small and accessible to the flight deck. Therefore, the flight deck PBE is adequate for fighting fires in those compartments. The accident and incident data is consistent with this conclusion. Because of exemptions to ATA, discussd above, cargo-only carriers have never been required to install this second portable PBE unit since the adoption of the rule in 1987. Thus, for more than 6 years these operators have conducted cargo-only operations with one additional portable PBE unit located on the flight deck, but without portable PBE units in the cargo areas. The FAA has no accident or incident data regarding fires on cargo-only airplanes in which a second portable PBE unit could have made a difference.

Therefore, the FAA has determined that the one portable PBE unit currently required under § 121.337(b)(a)(iii) for the flight deck is sufficient for the unlikely possibility that a crewmember would need to fight an in-flight fire anywhere on the airplane, including the cargo area. In addition, on passenger-carrying aircraft the PBEs in the passenger compartment provides additional equipment to use should the need arise.

In response to ALPA's concerns about the 15-minute supply of oxygen, this was not an issue raised in the NPRM or SNPRM. The supply of oxygen was dealt with in Amendment 121–193 (52 FR 20950, June 3, 1987).

Means to Determine Quantity of Breathing Gas

The NPRM proposed to remove § 121.337(b)(7)(iii). That section requires a means to determine, during flight, the quantity of breathing gas. This paragraph was considered unnecessary because the newer designs do not have a quantity gauge, rather they have such things as vacuum seals or tamper-evident seals that allow the user to determine whether the gas supply is fully charged and ready to use.

In the NPRM, the FAA also proposed to remove from the preflight inspection in § 121.337(c)(2) the requirement to check whether the breathing gas supply is ''fully charged.''

After further consideration, the FAA has determined that it is not appropriate to remove § 121.337(b)(7)(iii), but that modifications are in order. In addition, the FAA has determined that no amendment to § 121.337(c)(2) is needed. Section 121.337(c) requires a preflight inspection of each PBE, including whether it is serviceable and fully charged. To make this meaningful the unit should have some means to identify whether the item appears to be ready to use or there appears to have been tampering or a discharge of gas, such as vacuum seals or tamper-evident seals that are used on the newer PBEs. The crew can check whether the seal is broken, for instance.

Accordingly, § 121.337(b)(7)(iii) is amended to require that the PBE unit have means to determine whether the gas supply is fully charged, but does not specify that a gauge or any other particular means is to be used. In addition, the proposed changes to § 121.337(c)(2) are withdrawn.

Synopsis of Changes

This final rule amends § 121.337 with three changes:

(1) It eliminates the current requirements § 121.337(b)(9)(iii) to install one portable PBE unit in each Class A, B, and E cargo compartment.

(2) It clarifies § 121.337(b)(9)(iv) to provide that on passenger-carrying airplanes, there must be one PBE for each hand fire extinguisher and that one portable PBE unit located between two fire extinguishers is not sufficient.

(3) The rule changes the requirement in § 121.337(b)(7)(iii) that portable PBE units indicate the quantity of the breathing gas available in each source of supply, to requiring that the gas supply is fully charged.

Economic Summary

The FAA finds that the set of proposals in this final rule are not ''major'' within the meaning of Executive Order 12866 or the DOT Regulatory Policies and Procedures. In regard to cargo-only operations, the final rule will no longer require a separate portable PBE for each Class A, B, and E cargo compartment; instead, it will require only one portable PBE for use in the cargo area of cargo-only airplanes (in addition to the portable PBE already required on the flight deck for use throughout the aircraft).

The final rule will eliminate the pending requirement that cargo-only aircraft must have a PBE unit for each of its cargo compartments. An adequate level of safety is met with the existing level of PBE units onboard. Without this final rule, the FAA would require about 620 cargo aircraft to add one or more portable PBE units to its onboard

equipment. The cost of each unit is approximately $490. The final rule will prevent the imposition of more than $304,000 in costs. Hence, the proposal relieves the industry of an unnecessary potential cost burden.

As for passenger-carrying operations, the final rule does two things. First, it clarifies the present rule so that air carriers understand that the requirement is not met by one portable PBE for every two hand fire extinguishers if those fire extinguishers are within 3 feet of the PBE. Thus, the amended rule will clearly indicate, in accordance with the FAA's original intent, that there must be one portable PBE unit for each required hand fire extinguisher in the passenger compartments. Since the total number of required portable PBE units will not change as a result of this clarification, it yields no costs or benefits to quantify nor any economic consequences to evaluate.

Second, without the final rule, the FAA would require a PBE unit within the cargo areas of passenger-carrying planes. Eliminating this requirement will not reduce passenger or crew safety. The PBE equipment in the passenger compartments and on the flight deck will be sufficient to meet all FAA safety requirements. As with the all cargo aircraft, this final rule will relieve the airline industry of an unnecessary potential cost.

The FAA has determined that the final rule will result in some small cost reduction because it will prevent the imposition of additional costs on the industry resulting from existing requirements for PBE, i.e., the purchase of additional PBE units to furbish newly acquired aircraft. In addition, the FAA has determined that the final rule will have no adverse impact on existing airline safety. Because the final rule will have little or no effect on existing costs and airline safety, the FAA has not prepared a full regulatory evaluation for the docket.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to specifically review rules that may have a ''significant economic impact on a substantial number of small entities.''

This final rule will impact entities regulated by part 121. The FAA's criteria for ''a substantial number'' are a number which is not less than 11 and which is more than one third of the small entities subject to this rule. For all carriers, a small entity has been defined as one which owns, but does not necessarily operate, nine or fewer aircraft. The FAA's criteria for ''a significant impact'' are as follows: At least $4,600 per year for an unscheduled air carrier, $67,000 per year for a scheduled carrier having airplanes with only 60 or fewer seats, and $119,900 per year for a scheduled carrier having an airplane with 61 or more seats.

Using these criteria, the FAA has determined, and therefore certifies, that the final amendments to § 121.337 if promulgated, will not have a significant economic impact on a substantial number of small entities. None of the final amendments will have a significant affect on air carrier costs. Therefore, the FAA has determined that the final amendments to § 121.337, if promulgated, will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The rule will impose no additional cost burden on either domestic or international all-cargo carriers. Hence, the amendment will not cause any competitive trade advantage or disadvantage to either the U.S. or to any foreign country.

Federalism Implications

This rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Therefore, in accordance with Executive Order 12612, it is determined that the amendments will not have federalism implications requiring the preparation of a Federalism Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. This final rule will not present any differences with those standards.

In addition, these amendments are similar to those found in the JAR, though those regulations are less specific. JAR–OPS 1.780 addresses that PBE units must provide a 15-minute breathing supply for both flight crewmember and cabin crewmembers.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 92–511), there are no requirements for information collection associated with this rule.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this regulation is not a significant regulatory action under Executive Order 12866 since it will not impose any additional costs. In addition, the FAA has determined that this action is not significant under Department of Transportation (DOT) Regulatory Policies and Procedures [44 FR 11034; February 26, 1979].

The rule will have no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

This regulation will have no additional economic impact on the public. In fact, in the case of cargo-only operators, the rule will relieve costs. The FAA has determined that the expected impact of the rule is so minimal that it does not warrant a full Regulatory Evaluation.

List of Subjects in 14 CFR Part 121

Air Carriers, Air Safety, Air Transportation, Airplanes, Aviation Safety, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends Title 14 of the Code of Federal Regulations Part 121 (14 CFR Part 121) as follows:

PART 121 CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

2. Section 121.337 is amended by removing paragraph (b)(9)(i); by redesignating paragraphs (b)(9)(ii), (b)(9)(iii), and (b)(9)(iv) as (b)(9)(i), (b)(9)(ii), and (b)(9)(iii); by revising paragraph (b)(7)(iii); by revising newly designated paragraph (b)(9)(iii); and by removing, in paragraph (d)(1), the words '', except that for all-cargo airplanes subject to the requirements of paragraph (b)(9)(i) of this section the compliance date is February 18, 1992''.

§ 121.337 Protective breathing equipment.

* * * * *

(b) * * *

(7) * * *

(iii) For breathing gas systems other than chemical oxygen generators, there must be a means to allow the crew to readily determine, during the equipment preflight described in paragraph (c) of this section, that the gas supply is fully charged.

* * * * *

(9) * * *

(iii) In each passenger compartment, one for each hand fire extinguisher required by § 121.309 of this part, to be located within 3 feet of each required hand fire extinguisher, except that the Administrator may authorize a deviation allowing locations of PBE more than 3 feet from required hand fire extinguisher locations if special circumstances exist that make compliance impractical and if the proposed deviation provides an equivalent level of safety.

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Issued in Washington, DC on August 21, 1996.

David R. Hinson,

Administrator.

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Part V

Environmental Protection Agency

40 CFR Parts 268 and 271

Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Wastes From Carbamate Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 268 and 271

[EPA # 530–Z–96–002; FRL–5560–1]
RIN 2050–AD38

Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Wastes From Carbamate Production

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Immediate final rule.

SUMMARY: On April 8, 1996, EPA published treatment standards (the ''Phase III'' final rule) for a number of hazardous wastes associated with the production of carbamate pesticides (''carbamate wastes'') (61 FR 15566, April 8, 1996). The treatment standards were expressed as levels of chemical constituents that had to be measured in treatment residues before land disposal. They became effective July 8, 1996.

The Agency recently has become aware, however, of a serious analytic monitoring problem associated with the carbamate constituent treatment standards. Laboratory standards (chemicals used to calibrate laboratory instruments) do not exist for every carbamate constituent. Since commercial laboratories currently are unable to analyze all of the carbamate waste constituents, treatment facilities cannot certify that the LDR treatment standards have been achieved. Today's final rule revises the carbamate waste treatment standards for one year from the date of publication by allowing carbamate wastes to be treated either by any technology which achieves the constituent concentration levels promulgated in the Phase III rule, or by treatment technologies specified in this final rule as alternative treatment standards. This rule also suspends the requirement to treat carbamate waste constituents when they are expected to be present in ignitable, corrosive, reactive or toxic hazardous wastes as ''underlying hazardous constituents.''

The Agency believes that these temporary alternative treatment standards will assure that carbamate wastes are adequately treated prior to land disposal, while providing time for analytic chemical standards to be developed. At the end of the year EPA expects that laboratories will be able to perform the analyses necessary to measure compliance with treatment levels. At that time, therefore, the LDR treatment standards for carbamate wastes will revert to those originally promulgated in the Phase III rule.

EFFECTIVE DATE: August 26, 1996.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA. The Docket Identification Number is F–96–P32F–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at 800–424–9346 (toll-free) or 703–412–9810 locally. For technical information on the carbamate treatment standards, contact Shaun McGarvey in the Office of Solid Waste, phone 703–308–8603. For specific information about this rule, contact Rhonda Craig, phone 703–308–8771.

SUPPLEMENTARY INFORMATION:

I. Background

The Phase III final rule established treatment standards for 64 listed hazardous wastes associated with carbamate pesticide production (61 FR 15583; see also the attached appendix for the list of carbamate wastes). The treatment standards were at Universal Treatment Standard (UTS) levels for 21 of the constituents of concern (16 organic constituents and 5 metals), and at newly-established levels for 42 other constituents that were added to the UTS list.

The wastewater standards for the 42 new constituents were based on data developed by the Office of Water for the development of effluent guideline limitations, or on data transferred from other UTS constituents. These data reflected performance of biodegradation, combustion, carbon adsorption, or chemical oxidation.

There were no sampling data from treatment of carbamate nonwastewaters at the time treatment standards were being developed; thus, the nonwastewater treatment standard levels were calculated using analytical detection limits, based on EPA's experience that combustion technologies destroy organic constituents to nondetectable levels. To account for variability, the treatment standards were based on the detection limit for the waste constituent times a variability factor. (See BDAT Background Document for Carbamates at 4–4 through 4–9.)

During the comment period for the Phase III proposed rule, EPA became aware that commenters thought a number of the 42 constituents with newly-established UTS levels did not have EPA-recommended analytical methods for measuring compliance. Furthermore, some commenters noted that laboratory standards were not available for some of the constituents. Thus, laboratories would not be able to calibrate their instruments to measure compliance with treatment standards for those constituents. EPA responded that analytical methods had been recommended for all carbamate waste constituents, and that analytical standards were expected to become available prior to the Phase III effective date, as laboratories geared up for the new regulation.

After EPA published the Phase III rule on April 8, 1996, but shortly before the treatment standards took effect on July 8, several companies in the waste management industry again contacted EPA reporting that analytic laboratory standards were in fact not available for some of the carbamate waste constituents. The Agency contacted several laboratories (see Memorandum to the Docket from Shaun McGarvey, EPA, August 1, 1996). EPA now agrees that the waste management industry was unintentionally left in a quandary: they were required to certify compliance with the carbamate waste treatment standards but commercial laboratories indicated that they were only able to perform the necessary analyses for some of the newly regulated constituents. Thus, it would be impossible to document that the treatment standards were or were not achieved for those constituents which cannot be analyzed.

The problem was complicated by the LDR rules that pertain to regulation of underlying hazardous constituents (UHCs) in characteristic (or formerly characteristic) hazardous wastes. Because 42 new carbamate constituents have been added to the UTS list (61 FR 15584), they thus become UHCs. Under the regulations published on May 24, 1993 (the ''Emergency Rule,'' 58 FR 29860; codified at 40 CFR 268.2(i), 268.7(a) and 268.9), and on September 19, 1994 (Phase II Rule, 59 FR 47982; same citations as above), whenever a generator sends a characteristic (or formerly-characteristic) waste to a treatment facility, they must identify for treatment not only the hazardous characteristic, but also all UHCs reasonably expected to be present in the waste at the point of generation. Because of the lack of laboratory

standards for all carbamate constituents, generators could not in all cases identify the UHCs reasonably expected to be present in their wastes, and treatment facilities and EPA could not monitor compliance with the standards for the carbamate UHCs.

II. The Revised Carbamate Treatment Standards

This final rule establishes temporary treatment standards for carbamate wastes for a one-year period. EPA believes that one year is sufficient time for laboratory standards to be developed and for laboratories to take appropriate steps to do the necessary analyses for these wastes. The temporary alternative treatment standards will be in effect for one year from the date of publication of this final rule.

The Phase III rule required treatment of carbamate wastes to UTS levels. The temporary alternative standards being promulgated today provide waste handlers with a choice of meeting the Phase III treatment levels, or of using a specified treatment technology. Combustion is the specified technology for nonwastewaters; combustion, biodegradation, chemical oxidation, and carbon adsorption are the specified technologies for wastewaters. These technologies are defined at 40 CFR 268.42, Table 1 (see technology codes: BIODG, CARBN, CHOXD, and CMBST). If the wastes are treated by a specified technology, there is no requirement to measure compliance with treatment levels (thus the analytical problems are avoided). Because the performance of these Best Demonstrated Available Technologies (BDATs) was the basis of the originally promulgated treatment levels, EPA believes that temporarily allowing the use of these BDATs—without a requirement to monitor the treatment residues—fully satisfies the core requirement of the LDR program: hazardous wastes must be effectively treated before they are land disposed.

EPA considered completely replacing the carbamate treatment standard levels with specified treatment methods, rather than providing the alternative approach being promulgated in this rule. EPA decided it was better to retain the treatment levels (along with the alternative treatment methods) and let the regulated community decide which treatment standards to meet. EPA believes that it is important to retain the treatment levels because laboratories may be ready to analyze all carbamate waste constituents before the end of the year. Furthermore, it is possible that a carbamate waste would not contain any of the problem constituents that cannot be analyzed at this time. Thus compliance with the treatment levels for such a waste could easily be measured.

The Agency's preference, ultimately, is to establish only constituent treatment standard levels for these wastes. The Agency believes that compliance with treatment levels provides maximum flexibility in selecting treatment technologies, while ensuring that the technologies are optimally operated to achieve full waste treatment. Therefore, the alternative specified treatment technologies only temporarily satisfy the LDR treatment standards. The treatment standards will revert exclusively to treatment levels at the end of one year.

The Agency is also temporarily suspending inclusion of carbamate waste constituents on the UTS list at 40 CFR 268.48. Not including these constituents on the UTS list elimiantes the need to identify and treat them, and monitor compliance with their UTS levels, when they are present as UHCs in characteristic hazardous wastes.

The Agency believes that suspending the carbamate constituents from the UTS list will not have adverse environmental consequences because it will be in effect for only one year. Furthermore, EPA found in the Phase III rulemaking that these constituents are unlikely to occur in wastes generated outside the carbamate production industry (61 FR 15584, April 8, 1996), so today's rule may not cause an adverse environmental impact because carbamate constituents simply are not present in most characteristic hazardous wastes.

III. Good Cause for Foregoing Notice and Comment Requirements

This final rule is being issued without notice and opportunity for public comment. Under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), an agency may forgo notice and comment in promulgating a rule when, according to the APA, the agency for good cause finds (and incorporates the finding and a brief statement of the reasons for that finding into the rules issues) that notice and public comments procedures are impracticable, unnecessary, or contrary to the public interest. For the reasons set forth below, EPA believes it has good cause to find that notice and comment would be unnecessary and contrary to the public interest, and therefore is not required by the APA.

First, the Agency has discovered an unanticipated unavailability of analytic laboratory standards for a number of the carbamate waste constituents covered by the Phase III rule. As a practical matter, therefore, members of the regulated community cannot fully document compliance with the requirements of the treatment standard through no fault of their own. For the same reason, EPA cannot ascertain compliance for these constituents.

In addition, this unavailability of analytic standards is likely to create a serious disruption in the production of at least some carbamate pesticides. Although the treatment of the restricted carbamate wastes through biodegradation, carbon adsorption, chemical oxidation (for wastewaters), and combustion is both possible and highly effective, certification that the treatment actually meets the treatment standard levels may not be possible in many instances. Without the certification, disposal of the residuals left after treatment cannot legally occur. The Agency believes this situation will quickly impede production of certain pesticides, since legal disposal of some carbamate wastes will no longer be available. *See Steel Manufacturers Ass'n* v. *EPA*, 27 F.3d 642, 646–47 (D.C. Cir. 1994) (absence of a treatment standard providing a legal means of disposing of wastes from a process is equivalent to shutting down that process). With regard to the suspension of certain carbamates as underlying hazardous constituents in characteristic (and formerly-characteristic) prohibited wastes, the Agency believes that the same practical difficulties described for listed carbamate wastes would be created.

Finally, today's rule merely removes, on a temporary basis, an administrative hurdle that would impede sound management of certain hazardous wastes. By altering the treatment standard to allow certification of compliance, the Agency can ensure that treatment through use of the BDAT basis of the treatment standard levels actually occurs without delay.

Consequently, EPA today is preserving the core of the promulgated Phase III rule by ensuring that the restricted carbamate wastes are treated by a BDAT before they are land disposed. At the same time, EPA is eliminating the situation which could halt production of carbamate pesticides. For these reasons, EPA believes there is good cause to issue the rule immediately without prior notice and opportunity for comment.

IV. Rationale for Immediate Effective Date

The Agency believes that the regulated community is in the untenable position of having to comply with treatment standards for which there is not an analytical way to measure

compliance. Therefore, it is imperative that relief be immediately provided from those treatment standards. In addition, today's rule does not create additional regulatory requirements; rather, it provides greater flexibility for compliance with treatment standards. For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 6903(b)(3), to provide for an immediate effective date. See generally 61 FR at 15662. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(b)(3) to waive the requirement that regulations be published at least 30 days before they become effective.

V. Analysis Under Executive Order 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act, and the Paperwork Reduction Act

This final rule does not create new regulatory requirements; rather, it provides a temporary alternative means to comply with the treatment standards already promulgated. Therefore, this final rule is not a ''significant'' regulatory action within the meaning of Executive Order 12866.

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector, and does not impose any Federal mandate on State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. This final rule does not create new regulatory requirements; rather, it provides a temporary alternative means to comply with the treatment standards already promulgated. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reasons, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. EPA recognizes that small entities may own and/or operate carbamate pesticide manufacturing operations or TSDFs that will become subject to the requirements of the land disposal restrictions program. However, since such small entities are already subject to the requirements in 40 CFR part 268, this rule does not impose any additional burdens on these small entities, because this rule does not create new regulatory requirements. Rather, it provides a temporary alternative means to comply with the treatment standards already promulgated.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Today's rule does not contain any new information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Because there are no new information collection requirements in today's rule, an Information Collection Request has not been prepared.

VI. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. State Authority

A. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR Part 271.

Prior to HSWA, a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in unauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so.

Today's rule is being promulgated pursuant to section 3004(m), of RCRA (42 U.S.C. 6924(m)). Therefore, the Agency is adding today's rule to Table 1 in 40 CFR 271.1(j), which identifies

the Federal program requirements that are promulgated pursuant to HSWA. States may apply for final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble.

B. Effect on State Authorization

As noted above, EPA will implement today's rule in authorized States until they modify their programs to adopt these rules and the modification is approved by EPA. Because today's rule is promulgated pursuant to HSWA, a State submitting a program modification may apply to receive interim or final authorization under RCRA section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications for final authorization are described in 40 CFR 271.21. All HSWA interim authorizations will expire January 1, 2003. (See § 271.24 and 57 FR 60132, December 18, 1992.)

In general, EPA recommends that States pay close attention to the sunset date for today's rule. If States are adopting the Phase III rule before the sunset date of today's rule, and applying for authorization, EPA strongly encourages these States to adopt today's rule when they adopt the April 8, 1996, Phase III rule. States should note that after the sunset date, the provisions of this rule will be considered less stringent. Thus, States would be barred under section 3009 of RCRA, from adopting this rule after the date one year from the date of publication of today's rule, and would not be able to receive authorization for it. States that are planning to adopt and become authorized for today's rule and the Phase III rule should factor the sunset date into their rulemaking activities.

Appendix to Preamble —List of Regulated Carbamate Wastes

K156—Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes.
K157—Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes.
K158—Bag house dust, and filter/separation solids from the production of carbamates and carbamoyl oximes.
K159—Organics from the treatment of thiocarbamate wastes.
K160—Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarbamates and solids from the treatment of thiocarbamate wastes.
K161—Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust, and floor sweepings from the production of dithiocarbamate acids and their salts. (This listing does not include K125 or K126.)
P203 Aldicarb sulfone
P127 Carbofuran
P189 Carbosulfan
P202 m-Cumenyl methylcarbamate
P191 Dimetilan
P198 Formetanate hydrochloride
P197 Formparanate
P192 Isolan
P196 Manganese dimethyldithiocarbamate
P199 Methiocarb
P190 Metolcarb
P128 Mexacarbate
P194 Oxamyl
P204 Physostigmine
P188 Physostigmine salicylate
P201 Promecarb
P185 Tirpate
P205 Ziram
U394 A2213
U280 Barban
U278 Bendiocarb
U364 Bendiocarb phenol
U271 Benomyl
U400 Bis(pentamethylene)thiuram tetrasulfide
U392 Butylate
U279 Carbaryl
U372 Carbendazim
U367 Carbofuran phenol
U393 Copper dimethyldithiocarbamate
U386 Cycloate
U366 Dazomet
U395 Diethylene glycol, dicarbamate
U403 Disulfiram
U390 EPTC
U407 Ethyl Ziram
U396 Ferbam
U375 3–Iodo-2-propynyl n-butylcarbamate
U384 Metam Sodium
U365 Molinate
U391 Pebulate
U383 Potassium dimethyl dithiocarbamate
U378 Potassium n-hydroxymethyl-n-methyldithiocarbamate
U377 Potassium n-methyldithiocarbamate
U373 Propham
U411 Propoxur
U387 Prosulfocarb
U376 Selenium, tetrakis (dimethyldithiocarbamate)
U379 Sodium dibutyldithiocarbamate
U381 Sodium diethyldithiocarbamate
U382 Sodium dimethyldithiocarbamate
U277 Sulfallate
U402 Tetrabutylthiuram disulfide
U401 Tetramethylthiuram monosulfide
U410 Thiodicarb
U409 Thiophanate-methyl
U389 Triallate
U404 Triethylamine
U385 Vernolate

List of Subjects

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Penalties, Reporting and recordkeeping requirements.

Dated: August 20, 1996.

Carol M. Browner,

Administrator.

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

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart D—Treatment Standards

2. Section 268.40 is amended by adding paragraph (g) and by revising in the table ''Treatment Standards for Hazardous Wastes'' the entries for K156–K161, P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, U407, and U409–U411; to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

(g) Between August 26, 1996 and August 26, 1997 the treatment standards for the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K156–K161; and in 40 CFR 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188–P192, P194, P196–P199, P201–P205, U271, U277–U280, U364–U367, U372, U373, U375–U379, U381–U387, U389–U396, U400–U404, U407, and U409–U411; and soil contaminated with these wastes; may be satisfied by either meeting the constituent concentrations presented in the table ''Treatment Standards for Hazardous Wastes'' in this section, or by treating the waste by the following technologies: combustion, as defined by the technolgy code CMBST at § 268.42 Table 1, for nonwastewaters; and, biodegradation as definded by the technolgy code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technolgy code CMBST at § 268.42 Table 1, for wastewaters.

TREATMENT STANDARDS FOR HAZARDOUS WASTES

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/l [3]; or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/l TCLP" or technology code
*	* *	* * *		*	
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes [10].	Acetonitrile	75–05–8	5.6	1.8
		Acetophenone	96–86–2	0.010	9.7
		Aniline	62–53–3	0.81	14
		Benomyl	17804–35–2	0.056	1.4
		Benzene	71–43–2	0.14	10
		Carbaryl	63–25–2	0.006	0.14
		Carbenzadim	10605–21–7	0.056	1.4
		Carbofuran	1563–66–2	0.006	0.14
		Carbosulfan	55285–14–8	0.028	1.4
		Chlorobenzene	108–90–7	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		o-Dichlorobenzene	95–50–1	0.088	6.0
		Methomyl	16752–77–5	0.028	0.14
		Methylene chloride	75–09–2	0.089	30
		Methyl ethyl ketone	78–93–3	0.28	36
		Naphthalene	91–20–3	0.059	5.6
		Phenol	108–95–2	0.039	6.2
		Pyridine	110–86–1	0.014	16
		Toluene	108–88–3	0.080	10
		Triethylamine	121–44–8	0.081	1.5
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes [10].	Carbon tetrachloride	56–23–5	0.057	6.0
		Chloroform	67–66–3	0.046	6.0
		Chloromethane	74–87–3	0.19	30
		Methomyl	16752–77–5	0.028	0.14
		Methylene chloride	75–09–2	0.089	30
		Methyl ethyl ketone	78–93–3	0.28	36
		o-Phenylenediamine	95–54–5	0.056	5.6
		Pyridine	110–86–1	0.014	16
		Triethylamine	121–44–8	0.081	1.5
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes [10].	Benomyl	17804–35–2	0.056	1.4
		Benzene	71–43–2	0.14	10
		Carbenzadim	10605–21–7	0.056	1.4
		Carbofuran	1563–66–2	0.006	0.14
		Carbosulfan	55285–14–8	0.028	1.4
		Chloroform	67–66–3	0.046	6.0
		Methylene chloride	75–09–2	0.089	30
		Phenol	108–95–2	0.039	6.2
K159	Organics from the treatment of thiocarbamate wastes [10]	Benzene	71–43–2	0.14	10
		Butylate	2008–41–5	0.003	1.5
		EPTC (Eptam)	759–94–4	0.003	1.4
		Molinate	2212–67–1	0.003	1.4

		Pebulate	1114–71–2	0.003	1.4
		Vernolate	1929–77–7	0.003	1.4
K160	Solids (including filter wastes, separation solids, and spent catalysts) from the production of thiocarabamates and solids from the treatment of thiocarbamate wastes [10].	Butylate	2008–41–5	0.003	1.5
		EPTC (Eptam)	759–94–4	0.003	1.4
		Molinate	2212–67–1	0.003	1.4
		Pebulate	1114–71–2	0.003	1.4
		Toluene	108–88–3	0.080	10
		Vernolate	1929–77–7	0.003	1.4
K161	Purification solids (including filtration, evaporation, and centrifugation solids), baghouse dust and floor sweepings from the production of dithiocarbamate acids and their salts [10].	Antimony	7440–36–0	1.9	2.1 mg/l TCLP
		Arsenic	7440–38–2	1.4	5.0 mg/l TCLP
		Carbon disulfide	75–15–0	3.8	4.8 mg/l TCLP
		Dithiocarbamates (total)	137–30–4	0.028	28
		Lead	7439–92–1	0.69	0.37 mg/l TCLP
		Nickel	7440–02–0	3.98	5.0 mg/l TCLP
		Selenium	7782–49–2	0.82	0.16 mg/l TCLP
*	* *	* *	*	*	
P127	Carbofuran [10]	Carbofuran	1563–66–2	0.006	0.14
P128	Mexacarbate [10]	Mexacarbate	315–18–4	0.056	1.4
P185	Tirpate [10]	Tirpate	26419–73–8	0.056	0.28
P188	Physostigmine salicylate [10]	Physostigmine salicylate	57–64–7	0.056	1.4
P189	Carbosulfan [10]	Carbosulfan	55285–14–8	0.028	1.4
P190	Metolcarb [10]	Metolcarb	1129–41–5	0.056	1.4
P191	Dimetilan [10]	Dimetilan	644–64–4	0.056	1.4
P192	Isolan [10]	Isolan	119–38–0	0.056	1.4
P194	Oxamyl [10]	Oxamyl	23135–22–0	0.056	0.28
P196	Manganese dimethyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
P197	Formparanate [10]	Formparanate	17702–57–7	0.056	1.4
P198	Formetanate hydrochloride [10]	Formetanate hydrochloride	23422–53–9	0.056	1.4
P199	Methiocarb [10]	Methiocarb	2032–65–7	0.056	1.4
P201	Promecarb [10]	Promecarb	2631–37–0	0.056	1.4
P202	m-Cumenyl methylcarbamate [10]	m-Cumenyl methylcarbamate	64–00–6	0.056	1.4
P203	Aldicarb sulfone [10]	Aldicarb sulfone	1646–88–4	0.056	0.28
P204	Physostigmine [10]	Physostigmine	57–47–6	0.056	1.4
P205	Ziram [10]	Dithiocarbamates (total)	NA	0.028	28
*	* *	* *	*	*	
U271	Benomyl [10]	Benomyl	17804–35–2	0.056	1.4
U277	Sulfallate [10]	Dithiocarbamates (total)	NA	0.028	28
U278	Bendiocarb [10]	Bendiocarb	22781–23–3	0.056	1.4
U279	Carbaryl [10]	Carbaryl	63–25–2	0.006	0.14
U280	Barban [10]	Barban	101–27–9	0.056	1.4
*	* *	* *	*	*	
U364	Bendiocarb phenol [10]	Bendiocarb phenol	22961–82–6	0.056	1.4
U365	Molinate [10]	Molinate	2212–67–1	0.042	1.4
U366	Dazomet [10]	Dithiocarbamates (total)	NA	0.028	28
U367	Carbofuran phenol [10]	Carbofuran phenol	1563–38–8	0.056	1.4
U372	Carbendazim [10]	Carbendazim	10605–21–7	0.056	1.4
U373	Propham [10]	Propham	122–42–9	0.056	1.4
U375	3-Iodo-2-propynyl n-butylcarbamate [10]	3-Iodo-2-propynyl n-butylcarbamate	55406–53–6	0.056	1.4
U376	Selenium, tetrakis (dimethyldithiocarbamate) [10]	Dithiocarbamates (total)	NA	0.028	28
		Selenium	7782–49–2	0.82	0.16 mg/l TCLP
U377	Potassium n-methyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
U378	Potassium n-hydroxymethyl-n-methyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[Note: NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/l [3]; or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/l TCLP" or technology code
U379	Sodium dibutyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
U381	Sodium diethyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
U382	Sodium dimethyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
U383	Potassium dimethyl dithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
U384	Metam Sodium [10]	Dithiocarbamates (total)	NA	0.028	28
U385	Vernolate [10]	Vernolate	1929–77–7	0.042	1.4
U386	Cycloate [10]	Cycloate	1134–23–2	0.042	1.4
U387	Prosulfocarb [10]	Prosulfocarb	52888–80–9	0.042	1.4
U389	Triallate [10]	Triallate	2303–17–5	0.042	1.4
U390	EPTC [10]	EPTC	759–94–4	0.042	1.4
U391	Pebulate [10]	Pebulate	1114–71–2	0.042	1.4
U392	Butylate [10]	Butylate	2008–41–5	0.042	1.4
U393	Copper dimethyldithiocarbamate [10]	Dithiocarbamates (total)	NA	0.028	28
U394	A2213 [10]	A2213	30558–43–1	0.042	1.4
U395	Diethylene glycol, dicarbamate [10]	Diethylene glycol, dicarbamate	5952–26–1	0.056	1.4
U396	Ferbam [10]	Dithiocarbamates (total)	NA	0.028	28
U400	Bis(pentamethylene)thiuram tetrasulfide [10]	Dithiocarbamates (total)	NA	0.028	28
U401	Tetramethyl thiuram monosulfide [10]	Dithiocarbamates (total)	NA	0.028	28
U402	Tetrabutylthiuram disulfide [10]	Dithiocarbamates (total)	NA	0.028	28
U403	Disulfiram [10]	Dithiocarbamates (total)	NA	0.028	28
U404	Triethylamine [10]	Triethylamine	101–44–8	0.081	1.5
U407	Ethyl Ziram [10]	Dithiocarbamates (total)	NA	0.028	28
U409	Thiophanate-methyl [10]	Thiophanate-methyl	23564–05–8	0.056	1.4
U410	Thiodicarb [10]	Thiodicarb	59669–26–0	0.019	1.4
U411	Propoxur [10]	Propoxur	114–26–1	0.056	1.4

Notes to the Table:

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR part 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1—Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264, Subpart O, or Part 265, Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

* * * * * * *

[10] Between August 26, 1996 and August 27, 1997, the treatment standard for this waste may be satisfied by either meeting the constituent concentrations if this table or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at § 268.42 Table 1, for nonwastewaters; and, biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at § 268.42 Table 1, for wastewaters.

4. In § 268.48, the table in paragraph (a) is amended by adding footnote number ''[6]'' in column one, under the heading *Regulated Constituents/Common Name,* under I. Organic constituents, after the following chemical names: ''2213''; ''Aldicarb sulfone''; ''Barban''; ''Bendiocarb''; ''Bendiocarb phenol''; ''Benomyl''; ''Butylate''; ''Carbaryl''; ''Carbenzadim''; ''Carbofuran''; ''Carbofuran phenol''; ''Carbosulfan''; ''m-Cumenyl methylcarbamate''; ''Cycloate''; ''Diethylene glycol, dicarbamate''; ''Dimetilan''; ''Dithiocarbamates (total)''; ''EPTC''; ''Formetanate hydrochloride''; ''Formparanate''; ''3-Iodo-2-propynyl n-butylcarbamate''; ''Isolan''; ''Methiocarb''; ''Methomyl''; ''Metolcarb''; ''Mexacarbate''; ''Molinate''; ''Oxamyl''; ''Pebulate''; ''o-Phenylenediamine''; ''Physostigmine''; ''Physostigmine salicylate''; ''Promecarb''; ''Propham''; ''Propoxur''; ''Prosulfocarb''; ''Thiodicarb''; ''Thiophanate-methyl''; ''Tirpate''; ''Triallate''; ''Triethylamine''; and, ''Vernolate''; and adding footnote [6] at the end of the table to read as follows:

§ 268.48 Universal treatment standards.

(a) * * *

[6] Between August 26, 1996 and August 26, 1997, these constituents are not underlying hazardous constituents as defined at § 268.2(i).

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

5. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 9602; 33 U.S.C. 1321 and 1361.

Subpart A—Requirements for Final Authorization

6. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication in the Federal Register to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	*	*	*
Aug. 26, 1996	Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Wastes from Carbamate Production.	61 FR (Insert ..... page numbers).	Aug. 26, 1996 until Aug. 26, 1997.
*	*	*	*

[FR Doc. 96–21626 Filed 8–23–96; 8:45 am]
BILLING CODE 6560–50–P

federal register

Monday
August 26, 1996

Part VI

Department of Health and Human Services

Food and Drug Administration

Single Dose Acute Toxicity Testing for Pharmaceuticals; Revised Guidance; Availability; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N–0136]

Single Dose Acute Toxicity Testing for Pharmaceuticals; Revised Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a revised guidance entitled ''Single Dose Acute Toxicity Testing for Pharmacueticals.'' This guidance was originally published as part of a proposed implementation document entitled ''U.S. FDA's Proposed Implementation of ICH Safety Working Group Consensus Regarding New Drug Applications.'' The agency has revised the guidance based on comments it received on the proposed implementation document.

DATES: Written comments on the revised guidance may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the revised guidance entitled ''Single Dose Acute Toxicity Testing for Pharmaceuticals'' to the Division of Communications Management (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. An electronic version of this guidance is also available via Internet using FTP, Gopher or the World Wide Web (WWW). For FTP, connect to the Center for Drug Evaluation and Research (CDER) anonymous FTP server at CDVS2.CDER.FDA.GOV and change to the ''guidance'' directory. For Gopher, connect to the CDER Gopher server at GOPHER.CDER.FDA.GOV and select the ''Industry Guidance'' menu option. For WWW, connect to the FDA Home Page at WWW.FDA.GOV and go to the CDER section. Submit written comments on the revised guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Regarding the toxicity testing document: Joseph J. DeGeorge, Center for Drug Evaluation and Research (HFD–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5758.

Regarding the ICH: Janet Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industry Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers Association of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In the Federal Register of April 15, 1992 (57 FR 13105), FDA published a notice of availability of a proposed implementation document entitled ''U.S. FDA's Proposed Implementation of ICH Safety Working Group Consensus Regarding New Drug Applications.'' The proposed implementation document was developed by the Safety Working Group of the ICH and described scientific and technical aspects of conducting pharmacology and toxicology studies, including single dose (acute toxicity studies), to be submitted to FDA. That notice gave interested persons an opportunity to submit written comments by June 15, 1992. In the Federal Register of July 31, 1992 (57 FR 33965), FDA reopened the comment period until August 14, 1992, in response to a request for an extension of the comment period.

The FDA draft guidance on Single Dose (acute) Toxicity Studies placed in the docket (92N–0136) for comment was considered compatible with the ICH participant regulatory agencies policies and with the consensus opinion of ICH Safety Working Group members on single dose toxicity testing. The main intent of the guidance was to have all regulatory regions confirm that LD_{50} studies were not necessary as part of acute toxicity testing. The agency received 15 comments on the proposed implementation document. In response to comments on the draft guidance, FDA modified its proposed guidance to provide information that would allow for use of single-dose toxicity studies to support single dose studies in humans. This approach, designed to facilitate the early stages of pharmaceutical development, is not an ICH consensus position although it is considered to be in general agreement with the ICH position on acute toxicity testing. It is, however, an FDA specific modification of the Single Dose Toxicity guidance of regional applicability.

Although this guidance does not create or confer any rights for or on any person and does not operate to bind FDA, it does represent the agency's current thinking on single dose acute toxicity testing for pharmaceuticals.

The public is encouraged to submit written comments with new data or other new information pertinent to this guidance. The comments in the docket will be periodically reviewed, and, where appropriate, the guidance will be amended. The public will be notified of any such amendments through a notice in the Federal Register.

Interested persons may, at any time, submit written comments on the final guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this

document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the revised guidance follows:

Single Dose Acute Toxicity Testing for Pharmaceuticals

Introduction

Acute toxicity studies in animals are usually necessary for any pharmaceutical intended for human use. The information obtained from these studies is useful in choosing doses for repeat-dose studies, providing preliminary identification of target organs of toxicity, and, occasionally, revealing delayed toxicity. Acute toxicity studies may also aid in the selection of starting doses for Phase 1 human studies, and provide information relevant to acute overdosing in humans.

Definition

Acute toxicity is the toxicity produced by a pharmaceutical when it is administered in one or more doses during a period not exceeding 24 hours.

Testing Procedures

The test compound should be administered to animals to identify doses causing no adverse effect and doses causing major (life-threatening) toxicity. The use of vehicle control groups should be considered. For compounds with low toxicity, the maximum feasible dose should be administered.

Acute toxicity studies in animals should ordinarily be conducted using two routes of drug administration: (1) The route intended for human administration, and (2) intravenous administration, if feasible. When intravenous dosing is proposed in humans, use of this route alone in animal testing is sufficient.

Studies should be conducted in at least two mammalian species, including a nonrodent species when reasonable. The objectives of acute studies can usually be achieved in rodents using small groups of animals (for instance, three to five rodents per sex per dose). Where nonrodent species are appropriate for investigation, use of fewer animals may be considered. Any data providing information on acute effects in nonrodent species, including preliminary dose-range finding data for repeat-dose toxicity studies, may be acceptable.

Observation

Animals should be observed for 14 days after pharmaceutical administration. All mortalities, clinical signs, time of onset, duration, and reversibility of toxicity should be recorded. Gross necropsies should be performed on all animals, including those sacrificed moribund, found dead, or terminated at 14 days.

In addition, if acute toxicity studies in animals are to provide the primary safety data supporting single dose safety/kinetic studies in humans (e.g., a study screening multiple analogs to aid in the selection of a lead compound for clinical development), the toxicity studies should be designed to assess dose-response relationships and pharmacokinetics. Clinical pathology and histopathology should be monitored at an early time and at termination (i.e., ideally, for maximum effect and recovery).

Note: Animal Protection

Studies should be designed so that the maximum amount of information is obtained from the smallest number of animals. Calculating lethality parameters (e.g., LD_{50}) using large numbers of animals, as was done previously, is not recommended (see the Federal Register of October 11, 1988, 53 FR 39650).

To avoid causing excessive pain or tissue damage in the animals, pharmaceuticals with irritant or corrosive characteristics should not be administered in concentrations that produce severe toxicity solely from local effects.

Dated: August 15, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–21651 Filed 8–23–96; 8:45 am]

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240–End	(869–028–00054–1)	31.00	Apr. 1, 1996
18 Parts:			
1–149	(869–028–00055–0)	17.00	Apr. 1, 1996
150–279	(869–028–00056–8)	12.00	Apr. 1, 1996
280–399	(869–028–00057–6)	13.00	Apr. 1, 1996
400–End	(869–028–00058–4)	11.00	Apr. 1, 1996
19 Parts:			
1–140	(869–028–00059–2)	26.00	Apr. 1, 1996
141–199	(869–028–00060–6)	23.00	Apr. 1, 1996
200–End	(869–028–00061–4)	12.00	Apr. 1, 1996
20 Parts:			
1–399	(869–028–00062–2)	20.00	Apr. 1, 1996
400–499	(869–028–00063–1)	35.00	Apr. 1, 1996
500–End	(869–028–00064–9)	32.00	Apr. 1, 1996
21 Parts:			
1–99	(869–028–00065–7)	16.00	Apr. 1, 1996
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*800–1299	(869–028–00072–0)	30.00	Apr. 1, 1996
1300–End	(869–028–00073–8)	14.00	Apr. 1, 1996
22 Parts:			
1–299	(869–028–00074–6)	36.00	Apr. 1, 1996
300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–028–00076–2)	21.00	Apr. 1, 1996
24 Parts:			
0–199	(869–028–00077–1)	30.00	May 1, 1996
200–219	(869–028–00078–9)	14.00	May 1, 1996
220–499	(869–028–00079–7)	13.00	May 1, 1996
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900–1699	(869–028–00082–7)	21.00	May 1, 1996
1700–End	(869–028–00083–5)	14.00	May 1, 1996
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§§ 1.851–1.907	(869–028–00093–2)	26.00	Apr. 1, 1996
§§ 1.908–1.1000	(869–028–00094–1)	26.00	Apr. 1, 1996
§§ 1.1001–1.1400	(869–028–00095–9)	26.00	Apr. 1, 1996
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2–29	(869–028–00097–5)	28.00	Apr. 1, 1996
30–39	(869–028–00098–3)	20.00	Apr. 1, 1996
40–49	(869–028–00099–1)	13.00	Apr. 1, 1996
50–299	(869–028–00100–9)	14.00	Apr. 1, 1996
300–499	(869–028–00101–7)	25.00	Apr. 1, 1996

Title	Stock Number	Price	Revision Date
500–599	(869–028–00102–5)	6.00	[4] Apr. 1, 1990
600–End	(869–028–00103–3)	8.00	Apr. 1, 1996
27 Parts:			
1–199	(869–028–00104–1)	44.00	Apr. 1, 1996
200–End	(869–028–00105–0)	13.00	Apr. 1, 1996
28 Parts:			
1-42	(869–026–00108–1)	27.00	July 1, 1995
43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
*0–99	(869–028–00108–4)	26.00	July 1, 1996
*100–499	(869–028–00109–2)	12.00	July 1, 1996
500–899	(869–026–00112–0)	36.00	July 1, 1995
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1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
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200–699	(869–026–00120–1)	20.00	July 1, 1995
700–End	(869–026–00121–9)	30.00	July 1, 1995
31 Parts:			
0–199	(869–026–00122–7)	15.00	July 1, 1995
200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
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200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
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200–End	(869–026–00138–3)	37.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
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1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
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*102–200	(869–028–00161–1)	17.00	July 1, 1996
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43 Parts:			
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45 Parts:			
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46 Parts:			
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49 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.