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Friday
December 20, 1996

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV–97–326]

Quality Through Verification and Other Audit-Based Quality Assurance Programs for the Fruit and Vegetable Industry

AGENCY: Agricultural Marketing Service.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS) announces a forthcoming public meeting for interested parties especially firms and individuals who provide quality assurance or laboratory support to the fruit and vegetable industry to discuss the Agency's Quality Through Verification Program and certain other audit-based quality assurance programs operated by the Agency's Fruit and Vegetable Division.

DATES: February 6, 1997, 9:00 a.m.–11:00 a.m.

ADDRESSES: U.S. Department of Agriculture, South Building, Fruit and Vegetable Division, 1400 Independence Avenue, SW, Agricultural Marketing Service Conference Room 3501, Washington, DC 20250. Telephone (202) 690–0262.

FOR FURTHER INFORMATION CONTACT: Eric Forman, Deputy Director, U.S. Department of Agriculture, Agricultural Marketing Service, Fruit and Vegetable Division, P.O. Box 96456, Room 2085 South Building, Washington, DC 20090–6456. Telephone (202) 690–0262.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the first-phase development of the Quality Through Verification (QTV) Program and other audit-based quality assurance programs administered by the Fruit and Vegetable Division, and to obtain input regarding their administration, operations, and applicability to the marketplace. QTV is a voluntary, user-fee inspection program for processed and minimally processed fruits and vegetables and certain other commodities in which USDA specialists work with company management to validate the facility's HACCP-based QTV Plan and, through on-site audits, verify its effectiveness. HACCP is a scientific, analytical, and economical approach to ensure food is safe, wholesome, and of high quality. Firms operating under QTV can use a specifically designed USDA QTV shield on their packages. Other programs are directed principally to the assurance of uniform quality in fresh-pack fruits, vegetables, and related products. These programs are in the pilot stage of development.

The exchange of views and information among industry, technical experts, other interested parties, and the Department should result in improved public understanding and participation as well as cost effective and reliable implementation of these programs. The meeting is open to the public, but space is limited. Persons wishing to provide statements or otherwise attend should notify the Deputy Director by January 21, 1997.

At that time please inform the Deputy Director of any special accommodations that may be needed. Any member of the public may file a written statement with AMS before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: December 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–32285 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 955

[Docket No. FV96–955–1 FIR]

Vidalia Onions Grown in Georgia; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule establishing an assessment rate for the Vidalia Onion Committee (Committee) under Marketing Order No. 955 for the 1996–97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Vidalia onions grown in Georgia. Authorization to assess Vidalia onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: September 15, 1996.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Assistant, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276, telephone 941–299–4770; FAX 941–299–5169, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–720–9918; FAX 202–720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone 202–720–2491; FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 955, both as amended (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Vidalia onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Vidalia onions beginning September 15, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws,

regulations, or policies unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 250 producers of Vidalia onions in the production area and approximately 145 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Vidalia onion producers and handlers may be classified as small entities.

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

The Committee met on August 1, 1996, and unanimously recommended 1996–97 expenditures of $370,000 and an assessment rate of $0.10 per 50-pound bag or equivalent of Vidalia onions. In comparison, last year's budgeted expenditures were $343,000. The assessment rate of $0.10 is the same as last year's established rate. Major expenditures recommended by the Committee for the 1996–97 fiscal period include $110,000 for marketing, $95,000 for research, $139,000 for program administration, and $26,000 for compliance. Budgeted expenses for these items in 1995–96 were $146,500, $48,500, $122,600, and $25,400, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Vidalia onions. Vidalia onion shipments for the year are estimated at 3,614,000 which should provide $361,400 in assessment income. The Committee also anticipates shipments of 70,000 50-pound bags of previously unassessed Vidalia onions which have been in storage, which will yield an additional $7,000 in assessment income. Income derived from handler assessments, along with interest income, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the September 24, 1996, issue of the Federal Register (61 FR 49952). That rule provided for a 30-day comment period. No comments were received.

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

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

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal period began on September 15, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Vidalia onions handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action and provided for a 30-day comment period; no comments were received.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

Note: This section will appear in the Code of Federal Regulations.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

Accordingly, the interim final rule amending 7 CFR part 955 which was published at 61 FR 49952 on September 24, 1996, is adopted as a final rule without change.

Dated: December 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–32286 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 600, 603, 611, 614, 615, 618, and 619

RIN 3052–AB61

Organization and Functions; Privacy Act Regulations; Organization; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; Definitions

AGENCY: Farm Credit Administration.

ACTION: Interim rule; request for comment.

SUMMARY: The Farm Credit Administration (FCA or Agency) through the Farm Credit Administration Board (Board) amends the current regulations in parts 600, 603, 611, 614, 615, 618, and 619 to eliminate unnecessary, outdated, duplicative, or burdensome regulatory requirements, to replace outdated regulatory language with more current terminology, and to clarify the intended meaning of certain regulatory provisions. This is an interim rule, with request for comment, because the changes cover issues that are primarily technical in nature.

DATES: The regulations shall be effective upon the expiration of 30 days after publication during which either or both houses of Congress are in session. Written comments must be received on or before January 31, 1997. Notice of effective date will be published in the Federal Register.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Director, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 or by facsimile at (703) 734–5784. Comments may also be submitted via electronic mail to ''reg-comm@fca.gov''. Copies of all communications received will be available for review by interested parties in the Office of Policy Development and Risk Control, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Linda C. Sherman, Policy Analyst, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444.

or

Wendy R. Laguarda, Senior Attorney, Legal Counsel Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Basic Objectives for Interim Regulation

The FCA is continuing efforts to streamline its regulations as part of its commitment to the principles contained in the Board's Policy Statement on Regulatory Philosophy (Policy Statement). *See* 60 FR 26034 (May 16, 1995). Pursuant to the Policy Statement, the FCA will strive to ensure that each regulation has a well-defined objective that addresses specific problems or risks. The Policy Statement commits the FCA to repeal regulations that prescribe detailed management and operational practices for Farm Credit System (System) institutions and that are not needed to enhance safe and sound bank operations. It is in furtherance of these objectives that the Agency is making a number of deletions, clarifications, and technical amendments to its regulations.

II. Background Information

As part of its ongoing efforts to streamline the regulatory process, the Agency took the following initiatives to determine ways to reduce regulatory burden:

A. The establishment of an FCA task force, pursuant to the Agency's Strategic Action Plan, to eliminate nonstatutory prior approvals of routine business matters;

B. A 1993 Solicitation for Public Comments concerning ways to reduce regulatory burden (*See* 58 FR 34003, June 23, 1993);

C. The consideration of Regulatory Petitions submitted by the public that recommended certain changes to existing regulations;

D. The establishment of an FCA task force on agricultural credit bank (ACB) issues to evaluate the need for technical changes to existing regulations in order to include ACBs; and

E. The consideration of FCA staff submissions containing suggestions for regulatory deletions and amendments.

Substantive issues arising from such actions have been incorporated into existing or new Agency regulatory projects. In order to provide regulatory relief in the most expeditious manner possible, remaining non-substantive and technical issues are addressed in this regulation.

III. Section-by-Section Analysis

1. 12 CFR 600.5 (Subpart A)—Farm Credit Administration

This section is amended to reflect the Agency's recent organizational changes.

2. 12 CFR 603.310 (b)—Privacy Act Regulations

This section is amended to reflect the fact that the Privacy Act Officer position has moved from the Office of Congressional and Public Affairs to the Office of General Counsel.

3. 12 CFR 611.1135 (Subpart I)—Service Organizations

Section 611.1135(e) requires prior approval by the FCA for amending the bylaws of service corporations. Section 4.25 of the Farm Credit Act of 1971, as amended (Act) authorizes the FCA to charter service corporations. However, section 5.17(b) of the Act provides that the FCA shall not have the authority to approve bylaws, or amendments, modifications or changes to bylaws, of System institutions. Further, § 4.26 of the Act no longer authorizes the FCA to approve bylaws of service corporations. Thus, the FCA is deleting § 611.1135(e) and removing the FCA prior approval requirement for amendments to bylaws for service corporations.

As part of the normal chartering application process, service corporation bylaws will continue to be reviewed by the FCA. Such review will be limited, however, to whether the bylaws violate any statutory, regulatory or safety and soundness provisions.

Under the Farm Credit System Reform Act of 1996, Pub. L. 104–105, 110 Stat. 162, February 10, 1996, associations are authorized to form service corporations. Technical changes to make § 611.1135 consistent with the 1996 legislation have been incorporated into the interim rule. This rule also replaces outdated language with more current terminology. For example, the word ''Chairman'' is deleted, and in its place the words ''Farm Credit Administration'' are inserted.

4. 12 CFR 611.1140 and 611.1145 (Subpart J)—Merger and Reorganization Proposals Required by the Agricultural Credit Act of 1987

The FCA is deleting all of subpart J. These regulations were issued to facilitate the consolidation of System institutions as required by section 412 of the Agricultural Credit Act of 1987. All consolidations were required to be completed by January 1, 1990. Hence, these regulations, including the FCA

prior approval requirements in §§ 611.1140(d) and 611.1145(c), have become obsolete.

5. 12 CFR 611.1155, 611.1157, 611.1158, 611.1160, 611.1161, 611.1162, 611.1163, 611.1164, 611.1166, 611.1167, 611.1168, 611.1169, 611.1170, 611.1171, 611.1172, 611.1173, 611.1174, 611.1175, 611.1176, 611.1180, 611.1181, 611.1182, and 611.1183 (Subparts K, L, M and N)—Appointment of Conservators and Receivers, Liquidation of Associations, Liquidation of Banks, and Conservators and Conservatorships of Banks and Associations

Subparts K through N address System conservatorships or receiverships in which the identity of the conservator or receiver is left to the discretion of the FCA. Pursuant to section 4.12 of the Act, after January 5, 1993, the Farm Credit System Insurance Corporation (FCSIC) is the sole entity that may be appointed by the FCA as receiver or conservator for System institutions (except the Federal Agricultural Mortgage Corporation) placed into conservatorship or receivership. Future conservatorships or receiverships of System institutions are governed by 12 CFR part 627. As there are no outstanding System receiverships or conservatorships, the regulations in subparts K–N are obsolete. An issue was raised regarding whether a System institution may liquidate or dissolve through means other than a receivership. This issue is substantive and will be addressed at a later date.

Finally, the FCA previously proposed changes to §§ 611.1155 and 611.1157 pertaining to the definition of insolvency (*See* 53 FR 43897, October 31, 1988). In this rulemaking, the FCA is deleting both these sections and therefore withdrawing any outstanding proposals on these regulations. Any remaining issues pertaining to the definition of insolvency will be addressed in the Capital—Phase III (RIN 3052–AB58) regulatory project.

6. 12 CFR 611.1190, 611.1191, 611.1192, 611.1193, 611.1194, 611.1195, 611.1196, 611.1197, 611.1198 (Subpart O)—Special Reconsideration of Mergers

The regulations in subpart O implement the provisions of the Agricultural Credit Act of 1987 relating to special reconsideration of voluntary mergers and consolidations that occurred after December 23, 1985, and prior to January 6, 1988. System associations had 1 year, until December 1989, to reconsider these mergers. As this regulation is obsolete, the FCA is deleting all of subpart O.

7. 12 CFR 614.4321 (Subpart G)—Interest Rates and Charges

Section 614.4321 currently defines the types of interest rate programs that may be utilized by System banks and associations. This section also requires the FCA's prior approval of specific criteria for differential interest rate programs.

The FCA has concluded that defining the types of interest rate programs and requiring the FCA's prior approval are no longer necessary. Also, the last sentence in § 614.4321(d) is duplicative of direction already found in the Other Financing Institutions regulation at § 614.4640. Accordingly, the FCA is deleting most of this section. However, the section on differential interest rates is being retained in order to set forth the requirement that System institutions adhere to the principle of nondiscrimination among similarly situated borrowers in setting differential interest rates.

8. 12 CFR 614.4444 (Subpart L)—Actions on Applications; Review of Credit Decisions

The interim regulation eliminates all references to Special Asset Groups and the National Special Assets Council, as these entities no longer exist. The interim regulation also revises the last two sentences of this paragraph to clarify that System institutions must continue to retain sufficient documentation of their reasons not to restructure a loan to permit the institution or an outside party, such as the FCA, to review each determination. The FCA considers this change to be technical in nature because this is not a new requirement. The above change permits the review of a decision not to restructure a loan to be conducted by a System institution or an outside party such as the FCA, rather than by the defunct Special Asset Groups or the National Special Asset Council.

9. 12 CFR 614.4510 (Subpart N)—Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal

Section 614.4510 prescribes guidelines for bank and association loan servicing activities. Specifically, paragraph (b) requires the district bank to provide guidelines for establishing loan servicing policies and procedures for associations. Paragraph (d)(4) of this section requires System institutions to provide the FCA with any revisions to loan servicing policies. Consistent with the FCA Board's emphasis on holding direct lender associations responsible for their lending activities, the Agency is deleting paragraphs (b) and (d)(4). The funding bank's involvement in association loan servicing policies will continue to be monitored through its direct loan and the general financing agreement. Further, these policies will continue to be reviewed as part of the normal examination process. The interim rule also replaces outdated terminology to describe correctly the types of System institutions to which this section applies.

10. 12 CFR 614.4515(b), 614.4516, 614.4517(c), and 614.4520 (Subpart N)—Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal

The interim rule eliminates § 614.4515(a)(2), (b)(1) and (b)(2) because they contain a statutory requirement relating to restructuring policy and reporting that expired on January 6, 1993. The remainder of § 614.4515(a) is incorporated in the introductory paragraph of § 614.4516, retitled ''Restructuring policy and procedures.''

The FCA is adding a new paragraph (c), entitled ''Documentation,'' to § 614.4517 regarding restructuring decisions. The new paragraph clarifies that, when an application for restructuring is denied, qualified lenders must maintain sufficient documentation to support their decision. The documentation should demonstrate that the institution considered all the applicable factors for determining whether to restructure a loan, as set forth in paragraphs (a) and (b) of this section.

In addition, the FCA is deleting all of § 614.4520. The Farm Credit System Assistance Board (Assistance Board) established the National Special Asset Council in June 1988 to ensure that Federal financial assistance to financially distressed farmers provided loan restructuring measures as alternatives to foreclosure. The Assistance Board's charter was canceled by the FCA Board, effective December 31, 1992, as required by § 6.12 of the Act. The FCA Board also dissolved the National Special Asset Council effective December 31, 1992. There are no longer any ''certified'' institutions remaining in the System today and, thus, this section is no longer necessary.

11. 12 CFR 614.4525(d) (Subpart O)—Special Lending Programs

The interim rule removes the requirement that System lenders obtain the approval of their respective banks' board of directors prior to entering into a memorandum of understanding with other lenders when processing loans to

mutual borrowers. Consistent with the FCA Board's regulatory philosophy of repealing regulations that prescribe needlessly detailed management and operational practices, the FCA believes that it is reasonable for System institutions to decide their own policies on these matters. This rule also replaces outdated language with more current terminology.

12. 12 CFR 615.5140(a)(1) (Subpart E)—Investment Management

Currently § 615.5140(a)(1) permits System banks to invest in obligations that are both ''issued and guaranteed'' by agencies and instrumentalities of the United States. The FCA intended to preclude System banks from acquiring securities that are not guaranteed by Federal agencies or instrumentalities. However, an unintended consequence of § 615.5140(a)(1) was to prohibit System banks from investing in non-governmental obligations that are not issued, but are guaranteed or insured, by a Federal agency or instrumentality.

For this reason, the FCA is amending § 615.5140(a)(1) to include the following as eligible investments: Obligations of the United States; full-recourse obligations, other than mortgage-backed securities, of agencies, instrumentalities or corporations of the United States; or debt obligations of other obligers that are fully insured or guaranteed as to both principal and interest by the United States, its agencies, instrumentalities, or corporations. This amendment will provide System banks with the flexibility they need to achieve the investment objectives specified in § 615.5132.

13. 12 CFR 615.5250 (Subpart I)—Issuance of Equities

Section 615.5250 requires System banks and associations to disclose certain information to purchasers of an institution's equities. An exception in § 615.5250(e) relieves System institutions from making disclosures to ''other financing institutions having a discount or lending relationship with the selling Farm Credit System institutions.'' This regulation was intended to grant System institutions relief from disclosing equity information to sophisticated or institutional investors in System equities. System institutions have inquired whether the exemption in § 615.5250(e) applies to those non-System lenders that purchase System equities as part of a loan participation transaction. In response to these inquiries, the FCA is clarifying § 615.5250(e) by including ''other financing institutions'' as defined in § 1.7(b) of the Act, as well as other System institutions and non-System lenders. The interim rule is consistent with the FCA's approach concerning disclosures to shareholders because the disclosure requirements in § 615.5250 are not necessary for financial institutions and other sophisticated investors. This clarification also eliminates an unnecessary regulatory burden on the System and facilitates loan participation arrangements between System institutions and non-System institutions.

14. 12 CFR 618.8260 (Subpart F)—Miscellaneous Provisions

This section sets forth procedures by which System banks may purchase automobiles through the General Services Administration (GSA). This regulation is rarely used and contains an unnecessary prior approval in § 618.8260(b).

The authority for System banks to make such purchases exists whether or not it is specified in an FCA regulation. Accordingly, the Agency is deleting all of § 618.8260. System banks that desire guidance on how to proceed may contact the GSA directly, or may request additional information from the FCA's Contracting and Procurement Branch.

15. 12 CFR 618.8310(b) (Subpart G)—Releasing Information

In connection with the regulatory burden project (*See* 58 FR 34003, June 23, 1993), an association submitted comments to the FCA concerning the provisions of § 618.8310(b). This regulation prescribes circumstances under which a System institution can release lists of its stockholders. The association expressed a concern that the regulation imposed an undue burden on System institutions in determining what constitutes a ''permissible purpose'' and whether System institutions can enforce the regulatory provision after releasing a stockholder list. It is neither feasible nor advisable to amend this section to provide a comprehensive list of every permissible purpose for requesting and using a stockholder list. The Agency will provide additional interpretive guidance directly to the concerned association and to any other interested parties.

The interim rule also replaces outdated language with more current terminology.

16. 12 CFR 618.8320 (Subpart G)—Releasing Information

The existing regulation prohibits System institutions from releasing information regarding borrowers and loan applicants except in specified circumstances. The FCA received a letter from a System bank requesting clarification on whether releasing borrower information to credit bureaus was permitted by this regulation, as the ''reliable organization'' exception in § 618.8320(b)(5) does not make this clear.

The FCA believes that credit bureaus should be among the types of reliable organizations contemplated by this regulation. To make this clear, the interim rule amends § 618.8320(b)(5) by expressly authorizing System institutions to provide borrower information to consumer reporting agencies.

Section 618.8320(b)(2) permits System institutions to provide borrower data to specified Federal agencies in connection with official investigations. The list in the regulation is outdated and restrictive. To facilitate communications between the System and Federal law enforcement authorities investigating possible borrower misconduct, § 618.8320(b)(2) has been modified to replace the list of Federal agencies with a generic reference to all Federal agencies with a legitimate law enforcement inquiry.

Finally, a technical change was made to delete § 618.8320(b)(9) because it refers to the National Special Asset Council, an entity which no longer exists.

17. 12 CFR 618.8330 and 618.8340 (Subpart G)—Releasing Information

During the regulatory burden project (*See* 58 FR 34003, June 23, 1993), the FCA received two letters from System institutions requesting clarification of the legal circumstances under which System institution personnel could be summoned as witnesses. Their first concern was that requiring System personnel to formally inform the court of the FCA's regulations was burdensome. After reviewing the issue the Agency has determined that, contrary to being a burden, this regulation provides System directors, officers or employees with a means to resist complying with a subpoena that requests the disclosure of confidential information in violation of FCA regulations, except as ordered by a court of law. Their second concern pertains to the requirements of § 618.8330(b) to consult with an attorney at their funding bank when System personnel are summoned as a witness. The Agency agrees that this requirement is burdensome and unnecessary. Consistent with the FCA Board's regulatory philosophy of repealing regulations that prescribe needlessly detailed management and operational

practices, the FCA is deleting § 618.8330(b).

Upon review of the regulation at § 618.8340, which requires the approval of the supervising funding bank before releasing lists of bank and association employees, the FCA has determined to delete it in its entirety. Consistent with the FCA Board's regulatory philosophy, the FCA believes that it is reasonable for System institutions to decide their own policies on these matters.

18. 12 CFR 618.8360 and 618.8370 (Subpart H)—Disposition of Obsolete Records

This subpart currently requires System institutions to maintain records indefinitely and to maintain an ''up-to-date records disposal schedule.'' Consistent with the FCA Board's regulatory philosophy of repealing regulations that prescribe unnecessarily detailed management and operational practices, the FCA is proposing to delete this subpart, including the list of appropriate records retention practices in the current § 618.8360. The FCA believes that System institutions have the discretion to dispose of any records that are not required for research, legal, audit or examination purposes. In accordance with good business practices, records retention policies should be set forth in written procedures approved by an institution's board.

The FCA may issue further guidance (such as in a bookletter or examination manual) regarding what records System institutions should retain so that they may be adequately examined for safety and soundness purposes.

Section 618.8360(a)(3) requires System institutions to retain basic personnel records, including personnel folders, service records, cards, and earning records for all active and former employees covered under the Civil Service Retirement Act (CSRA). These records were necessary to ensure that employees eligible for Civil Service retirement received appropriate benefits. The FCA is deleting this requirement because our research indicates that there are only three remaining System employees eligible for CSRA benefits, and their personnel offices are aware of the appropriate Office of Personnel Management requirements.

Finally, § 618.8360(a)(6) currently requires System institutions to keep financial reports as of June 30 and December 31 of each year. Although the FCA is deleting § 618.8360(a)(6), the call report instructions will continue to require System institutions to keep such financial reports.

19. 12 CFR 618.8380, 618.8390, 618.8400, 618.8410, and 618.8420 (Subpart I)—Federal Records

This subpart pertains to the maintenance and disposal of Federal records. The Federal records held by the System institutions are the property of the Federal government rather than the property of the System or the FCA. These records must be handled in accordance with the laws and regulations governing all Federal records, and there are penalties attached to the unauthorized disposal of Federal records. The National Archives and Records Administration is the Federal agency responsible for promulgating rules and regulations on the management and disposal of Federal records.

Although no new Federal records are being created in the System today, some System institutions may still be in possession of Federal records as described in current § 618.8390. Because most of these records would be over 40 years old, the FCA assumes that their number is limited and that most, if not all, could be destroyed or archived. The FCA believes that future guidance on their maintenance and disposition is more appropriately the subject of a bookletter. Therefore, the Agency is deleting all of subpart I. The FCA requests that any System institution with records as described in § 618.8390 notify the Agency during the comment period of the types of Federal records in their possession. The goal is to identify all Federal records still retained by System institutions so that they can either be destroyed (at the institution's discretion) or archived, as appropriate.

IV. Agricultural Credit Banks

In 1987, the Act was amended to allow the System to form agricultural credit banks (ACBs). An ACB is formed by the merger of a Farm Credit Bank (FCB) and a bank for cooperatives (BC). Pursuant to section 7.2 of the Act, an ACB is granted all of the powers of its constituent FCB and BC. The FCA reviewed its regulations to determine whether or not technical changes were needed to adapt the rules to ACBs. The ACB review highlighted the need for technical amendments to the regulations. Set forth below is a discussion of issues involving ACBs that are technical in nature. A complete listing of the technical edits can be found in the amendatory language following the preamble.

A. Definition of Bank for Cooperatives

Currently, the definition of a bank for cooperatives in § 619.9060 reads as follows, ''Banks operating under title III of the Act, including the National Bank for Cooperatives, individual and regional banks for cooperatives and agricultural credit banks.'' There is a separate definition of ACBs in § 619.9020 that reads as follows, ''Agricultural credit banks are those banks created by the merger of a Farm Credit Bank and a bank for cooperatives pursuant to section 7.0 of the Act.'' The current definition of a BC serves to ensure that an ACB is subject to the same constraints as a BC on its title III lending authorities. However, this BC definition is insufficient because it does not address the title I authorities of an ACB. As currently written, § 619.9060 has the effect of excluding ACBs from various regulatory provisions. For example, BCs are not subject to the regulations relating to borrower rights, loan disclosures, and secondary market activities.

For all the foregoing reasons, the FCA is keeping the definitions of an ACB and a BC separate by revising the definition of BC to read as follows, ''A bank for cooperatives is a bank that is operating under section 3.0 of the Act.'' The definition of an ACB will continue to read as currently set forth in § 619.9020. The definition of a BC also strikes the obsolete reference to the National Bank for Cooperatives, whose charter was canceled in 1994, when CoBank and the Springfield FCB and BC merged to create CoBank, ACB.

B. Borrower Rights

When the FCA approved the formation of the first ACB in 1994, it addressed the issue of whether borrower rights provisions would apply to the new entity. In approving the new charter, the FCA confirmed that the ACB would not be subject to the borrower rights provisions of title IV, part C of the Act, except to the extent that it lends to farmers, ranchers, and producers and harvesters of aquatic products. Thus, the FCA concluded that the borrower rights provisions attach to all loans made under an ACB's title I lending authorities.

Many of the current regulations pertaining to borrower rights exclude a BC from the definition of ''qualified lender.'' By revising the definition of a BC as discussed above, ACBs would now be included in the definition of ''qualified lender'' to the extent of their title I lending authorities. Therefore, no additional regulatory language changes have been made to the borrower rights

provisions, except for technical corrections in §§ 614.4440(h)(1) and 614.4510, in which outdated language is replaced by more current terminology.

C. Termination of Farm Credit Status

Several technical changes have been made to the regulatory provisions pertaining to the termination of Farm Credit status at §§ 611.1200(c), 611.1250(b) and (c), 611.1255, 611.1266(c). These changes include adding the phrase ''or agricultural credit bank'' and deleting or replacing outdated language with more current terminology, where necessary.

D. Miscellaneous Technical Changes

Several technical changes have been made to various regulatory provisions at §§ 615.5120(a), 615.5143, 615.5280, 615.5290(a), 618.8310(b)(1) and 618.8325(c). These changes include adding the phrase ''or agricultural credit bank'' and deleting or replacing outdated language with more current terminology, as appropriate.

List of Subjects

12 CFR Part 600

Organization and functions (Government agencies).

12 CFR Part 603

Privacy.

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 619

Agriculture, Banks, banking, Rural areas.

For the reasons stated in the preamble, parts 600, 603, 611, 614, 615, 618, and 619 of chapter VI, title 12 of the Code of Federal Regulations, are amended to read as follows:

PART 600—ORGANIZATION AND FUNCTIONS

1. The authority citation for part 600 is revised to read as follows:

Authority: Secs. 5.7, 5.8, 5.9, 5.10, 5.11, 5.17, 8.11 of the Farm Credit Act (12 U.S.C. 2241, 2242, 2243, 2244, 2245, 2252, 2279aa–11).

Subpart A—Farm Credit Administration

2. Section 600.5 is amended by removing the words ''Special Supervision and Corporate Affairs'' and adding in their place the words ''Policy Development and Risk Control'' in the fourth sentence of paragraph (b); removing the words ''coordinates the agency's preparation of rules and regulations;'' in the first sentence of paragraph (d)(1); and by revising paragraph (d)(2) to read as follows:

§ 600.5 Organization of the Farm Credit Administration.

* * * * *

(d) * * *

(2) *Office of Policy Development and Risk Control.*

The Office of Policy Development and Risk Control (OPDRC) develops policies and regulations for the FCA Board's consideration and promotes risk management policies and practices by the Farm Credit System. The OPDRC has primary responsibility for developing regulatory proposals and public policy statements that effectively implement applicable statutes and promote the safety and soundness of the System. Other major functions include evaluating requests for regulatory and charter approvals and managing the FCA's corporate activities; ensuring that risks associated with chartering activities are properly disclosed to System shareholders and the FCA Board; managing the FCA's formal enforcement activities and providing economic and financial analyses that identify risk and contribute to the effective management of such risks. The OPDRC also facilitates the FCA's strategic planning function.

* * * * *

PART 603—PRIVACY ACT REGULATIONS

3. The authority citation for part 603 is revised to read as follows:

Authority: Secs. 5.9, 5.17 of the Farm Credit Act (12 U.S.C. 2243, 2252); 5 U.S.C. app. 3, 5 U.S.C. 552a (j)(2) and (k)(2).

§ 603.310 [Amended]

4. Section 603.310 is amended by removing the words ''Congressional and Public Affairs'' and adding in their place the words ''General Counsel'' in paragraph (b).

PART 611—ORGANIZATION

5. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.21, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2209, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003, and 1004.

Subpart F—Bank Mergers, Consolidations and Charter Amendments

§ 611.1030 [Amended]

6. Section 611.1030 is amended by removing the words ''Agricultural Credit Bank'' and adding in their place, the words ''agricultural credit bank'' in the heading and the first sentence.

Subpart I—Service Organizations

7. Section 611.1135 is amended by removing paragraph (e) and revising paragraphs (a), (b)(1), (b)(2), (b)(3)(v), (b)(6), (b)(7), (c), (d)(1) introductory text, (d)(1)(iv), and (d)(2) to read as follows:

§ 611.1135 Incorporation of service organizations.

(a) *General.* Any Farm Credit bank(s) or association(s) may organize a corporation to perform, for or on behalf of the bank(s) or association(s), any function or service that the bank(s) or association(s) is authorized to perform under the Act and the regulations, except extending credit and providing the sale of insurance services. The bank(s) or association(s) wishing to organize such a corporation shall submit an application to the Farm Credit Administration according to the application requirements of paragraph (b) of this section. If the proposal meets the requirements of the Act, the regulations, and any other conditions that the Farm Credit Administration may impose, the Agency may issue a charter for the service corporation making it a federally chartered instrumentality of the United States. Such service corporation shall be subject to examination, supervision, and regulation by the Farm Credit Administration. Only Farm Credit banks or associations are eligible to become stockholders in such a corporation. Each bank or association shall be eligible to become a stockholder of each service corporation organized under this section.

(b) * * *

(1) The certified resolution of the board of each organizating bank or

association authorizing the incorporation.

(2) A request signed by the president(s) of the organizing bank(s) or association(s) to the Farm Credit Administration to issue a charter, supported by a detailed statement demonstrating the need and the justification for the proposed entity.

(3) * * *

(v) The procedures under which a bank or association may become a stockholder;

* * * * *

(6) Any agreements between the organizing banks or associations relating to the organization or the operation of the corporation.

(7) Any other supporting documentation as may be requested by the Farm Credit Administration.

(c) *Approval.* The Farm Credit Administration may condition the issuance of a charter as it deems appropriate and for good cause may deny the application. Upon approval by the Farm Credit Administration of a completed application, which shall be kept on file at the Farm Credit Administration, the Agency shall issue a charter for the service corporation which shall thereupon become a corporate body and a Federal instrumentality.

(d) * * *

(1) The board of directors of the corporation may request that the Farm Credit Administration amend the articles of incorporation by sending with its request a certified resolution of the board of directors of the service corporation and stating:

* * * * *

(iv) That the requisite shareholder approval has been obtained. The request shall be subject to the approval of the Farm Credit Administration as stated in paragraphs (a) and (c) of this section.

(2) The Farm Credit Administration may at any time make any and all changes in the articles of incorporation of a service corporation that are necessary and appropriate for the accomplishment of the purposes of the Act.

Subparts J, K, L, M, N, and O [Reserved]

8. Subparts J, K, L, M, N, and O of part 611 are removed and reserved.

Subpart P—Termination of Farm Credit Status—Associations

§ 611.1200 [Amended]

9. Section 611.1200 is amended by adding the words ''or agricultural credit bank'' after the words ''Farm Credit Bank'' each place they appear in paragraph (c).

§ 611.1250 [Amended]

10. Section 611.1250 is amended by adding the words ''or agricultural credit bank'' after the words ''Farm Credit Bank'' in the first sentence of paragraph (b) and in the first and third place they appear in paragraph (c); and by removing the words ''Farm Credit Bank'' the second place they appear and adding in their place the words ''appropriate bank'' in the first sentence of paragraph (c).

11. Section 611.1255 is revised to read as follows:

§ 611.1255 Retirement of equities owned.

(a) The Farm Credit Bank or agricultural credit bank may retire all equities of the bank that are owned by the terminating association on the termination date or may enter into an agreement with the terminating association that would provide for a phased retirement of the equities. Any such plan for phased retirement shall provide for such retirement to be completed by the earlier to occur of the date on which the terminating association repays all indebtedness to the bank or the date that is 3 years from the termination date, provided that no retirement shall occur during that period if any such retirement would result in the Bank's failure to meet minimum capital requirements.

(b) If the Farm Credit Bank or agricultural credit bank, and the terminating association are unable to reach agreement regarding the retirement of the bank's equities, either institution may send the most recent proposals to the Farm Credit Administration along with an explanation of the points of disagreement. The Farm Credit Administration may require the bank to retire terminating association equities under such conditions as the Farm Credit Administration may require.

(c) No retirement shall occur if the Farm Credit Administration determines that the retirement of equities of the Farm Credit Bank or the agricultural credit bank would threaten the viability of the bank.

(d) The amount to be paid to a terminating association in the retirement of equities owned in the Farm Credit Bank or the agricultural credit bank shall be equal to the amount of the allocated equities owned by the terminating association in the bank, less any impairment, at the date the request for retirement is made by the terminating association.

(e) If the terminating association has outstanding stock issued to another Farm Credit institution, the association shall retire all such investment prior to termination.

(f) A Farm Credit Bank's or agricultural credit bank's equities obligated to be retired under any agreement between the terminating association and the bank shall not be considered as part of the permanent capital of the Farm Credit Bank or agricultural credit bank for purposes of § 615.5240.

§ 611.1266 [Amended]

12. Section 611.1266 is amended by removing the words ''district Farm Credit Bank'' and adding in their place the words ''funding bank'' in the last sentence of paragraph (c).

PART 614—LOAN POLICIES AND OPERATIONS

13. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4014a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639; sec. 207 of Pub. L. 104–105, 110 Stat. 162.

Subpart G—Interest Rates and Charges

14. Section 614.4321 is revised to read as follows:

§ 614.4321 Differential interest rate programs.

Pursuant to policies approved by the board of directors, differential interest rates may be established for loans based on a variety of factors that may include type, purpose, amount, quality, funding or operating costs, or similar factors or combinations of factors. Differential interest rate programs should achieve equitable rate treatment within categories of borrowers. In the adoption of differential interest rate programs, institutions may consider, among other things, the effect that such interest rate structures will have on the achievement of objectives relating to the special credit needs of young, beginning or small farmers.

Subpart K—Disclosure of Loan Information

§ 614.4440 [Amended]

15. Section 614.4440 is amended by removing the reference to ''paragraph (f)'' and adding in its place the reference ''paragraph (g)'' in paragraph (h)(1).

Subpart L—Actions on Applications: Review of Credit Decisions

16. Section 614.4444 is amended by revising the last two sentences to read as follows:

§ 614.4444 Records.

* * * The file shall include minutes of each credit review committee meeting, and sufficient documentation of the basis for each determination not to restructure a loan to permit the institution or the FCA to review each determination.

Subpart N—Loan Servicing Requirements; State Agricultural Loan Mediation Programs; Right of First Refusal

17. Section 614.4510 is amended by removing paragraphs (b) and (d)(4); by redesignating paragraphs (c) and (d) as paragraphs (b) and (c); and by revising the introductory paragraph, paragraph (a), and newly designated paragraph (c) introductory text to read as follows:

§ 614.4510 General.

Direct lenders shall be responsible for the servicing of the loans that they make. However, loan participation agreements may designate specific loan servicing efforts to be accomplished by a participating institution. Each direct lender shall adopt loan servicing policies and procedures to assure that loans will be serviced fairly and equitably for the borrower while minimizing the risk for the lender. Procedures shall include specific plans that help preserve the quality of sound loans and that help correct credit deficiencies as they develop.

(a) The Farm Credit Bank shall provide guidelines for the servicing of loans by the Federal land bank associations. The servicing may be accomplished either under the direct supervision of the bank or under delegated authority.

* * * * *

(c) In the development of loan servicing policies and procedures, the following criteria shall be included:

* * * * *

§ 614.4515 [Reserved]

18. Section 614.4515 is removed and reserved.

19. Section 614.4516 is amended by revising the heading and adding the following introductory paragraph before paragraph (a) to read as follows:

§ 614.4516 Restructuring policy and procedures.

Loan restructurings are to be accomplished with the policy adopted by the bank board of directors under section 4.14A(g) of the Act.

* * * * *

20. Section 614.4517 is amended by adding paragraph (c) as follows:

§ 614.4517 Restructuring decision.

* * * * *

(c) *Documentation.* In the event that an application for restructuring is denied, a qualified lender shall maintain sufficient documentation to demonstrate its compliance with paragraphs (a) and (b) of this section, as applicable.

§ 614.4520 [Reserved]

21. Section 614.4520 is removed and reserved.

Subpart O—Special Lending Programs

§ 614.4525 [Amended]

22. Section 614.4525 is amended by adding the words ''and agricultural credit associations'' after the words ''Production credit associations'' in the first sentence of paragraph (c); and by removing the words ''Subject to the approval of the respective banks board of directors, Federal land banks, Federal intermediate credit banks, for cooperatives, and production credit associations'' and adding in their place the words ''Farm Credit System institutions that are direct lenders'' in the first sentence of paragraph (d).

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

23. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2. 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608; sec. 105 of Pub. L. 104–105, 110 Stat. 162, 163–64.

Subpart D—Other Funding

§ 615.5120 [Amended]

24. Section 615.5120 is amended by adding the words ''or agricultural credit bank'' after the words ''Farm Credit Bank'' in the fourth sentence of paragraph (a).

25. Section 615.5140 is amended by revising paragraph (a)(1) to read as follows:

§ 615.5140 Eligible investments and risk diversification.

(a) * * *

(1) Obligations of the United States; full-recourse obligations, other than mortgage-backed securities, of agencies, instrumentalities or corporations of the United States; or debt obligations of other obligors that are fully insured or guaranteed as to both principal and interest by the United States, its agencies, instrumentalities, or corporations;

* * * * *

Subpart E—Investment Management

§ 615.5143 [Amended]

26. Section 615.5143 is amended by adding the words ''and agricultural credit banks'' at the end of the heading; by adding the words ''or agricultural credit banks' '' after the words ''banks for cooperatives' '' in the first sentence; and by adding the words ''or agricultural credit bank'' after the words ''bank for cooperatives'' in the fourth and fifth sentences of the paragraph.

Subpart I—Issuance of Equities

27. Section 615.5250 is amended by revising paragraph (e) to read as follows:

§ 615.5250 Disclosure requirements.

* * * * *

(e) The requirements of this section shall not apply to the sale of Farm Credit System institution equities to other Farm Credit System institutions, other financing institutions, or non-Farm Credit System lenders.

Subpart J—Retirement of Equities

28. Section 615.5280 is amended by revising paragraphs (a), (b), (c), (d) and (e) to read as follows:

§ 615.5280 Retirement in event of default.

(a) When the debt of a holder of eligible borrower stock issued by a production credit association, Federal land association, Federal land credit association or agriculture credit association is in default, such institution may, but shall not be required to, retire at par eligible borrower stock owned by such borrower

on which the institution has a lien, in total or partial liquidation of the debt.

(b) When the debt of a holder of stock, participation certificates or other equities issued by a production credit association, Federal land bank association, Federal land credit association or agricultural credit association is in default, such institution may, but shall not be required to, retire at book value not to exceed par all or part of such equities, other than eligible borrower stock as defined in § 615.5260(a)(1), owned by such borrower on which the institution has a lien, in total or partial liquidation of the debt.

(c) When the debt of a holder of equities or guaranty fund certificates issued by a bank for cooperatives or agricultural credit bank is in default the bank may, but shall not be required to, retire all or part of such equities qualify or guaranty fund investments owned by the borrower on which the bank has a lien, in total or partial liquidation of the debt. If such investments qualify as eligible borrower stock, it shall be retired at par, as defined in § 615.5260(a)(3). All other investments shall be retired at a rate determined by the institution to reflect its present value on the date of retirement.

(d) When the debt of a holder of the equities of a Farm Credit Bank or agricultural credit bank is in default the bank may, but shall not be required to, retire all or part of such equities owned by the borrower on which the bank has a lien, in total or partial liquidation of the debt. If such equities qualify as eligible borrower stock or are retired solely to permit a Federal land bank association to retire eligible borrower stock under § 615.5280(a), they shall be retired at par. All other equities shall be retired at book value not to exceed par.

(e) Any retirements made under this section by a Federal land bank association shall be made only upon the specific approval of, or in accordance with, approval procedures issued by the association's funding bank.

* * * * *

§ 615.5290 [Amended]

29. Section 615.5290 is amended by adding the words ''or agricultural credit bank'' after each reference to ''Farm Credit Bank'' in paragraph (a).

PART 618—GENERAL PROVISIONS

30. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart F—Miscellaneous Provisions

§ 618.8260 [Reserved]

31. Section 618.8260 is removed and reserved.

Subpart G—Releasing Information

§ 618.8310 [Amended]

32. Section 618.8310 is amended by adding the words ''agricultural credit bank'' before the words ''bank for cooperatives'' in paragraph (b)(1).

33. Section 618.8320 is amended by removing paragraph (b)(9); by redesignating paragraphs (b)(10) and (b)(11) as new paragraphs (b)(9) and (b)(10) consecutively; and by revising paragraphs (b)(2) and (b)(5) to read as follows:

§ 618.8320 Data regarding borrowers and loan applicants.

* * * * *

(b) * * *

(2) In connection with a legitimate law enforcement inquiry, accredited representatives of any agency or department of the United States may be given access to information upon presentation of official identification and a written request specifying:

(i) The particular information desired; and

(ii) That the information is relevant to the law enforcement inquiry and will be used only for the purpose for which it is sought.

* * * * *

(5) Impersonal information based solely on transaction or experience with a borrower, such as amounts of loans, terms and payment records, may be given by a bank or association to a consumer reporting agency, or any other reliable organization for its confidential use in contemplation of the extension of credit.

* * * * *

§ 618.8325 [Amended]

34. Section 618.8325 is amended by removing the commas after the words ''offices'', ''charter'', and ''inspection'' in paragraph (c).

§ 618.8330 [Amended]

35. Section 618.8330 is amended by removing paragraph (b) and removing the designation from paragraph (a).

§ 618.8340 [Reserved]

36. Section 618.8340 is removed and reserved.

Subpart H—Disposition of Obsolete Records

§ 618.8360 [Reserved]

37. Section 618.8360 is removed and reserved.

§ 618.8370 [Reserved]

38. Section 618.8370 is removed and reserved.

Subpart I [Reserved]

39. Subpart I, consisting of §§ 618.8380 through 618.8420, is removed and reserved.

PART 619—DEFINITIONS

40. The authority citation for part 619 continues to read as follows:

Authority: Secs. 1.7, 2.4, 4.9, 5.9, 5.12, 5.17, 5.18, 7.0, 7.6, 7.7, 7.8 of the Farm Credit Act (12 U.S.C. 2015, 2075, 2160, 2243, 2246, 2252, 2253, 2279a, 2279b, 2279b–1, 2279b–2).

41. Section 619.9060 is revised to read as follows:

§ 618.9060 Bank for cooperatives.

A bank for cooperatives is a bank that is operating under section 3.0 of the Act.

Dated: December 12, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–32309 Filed 12–19–96; 8:45 am]

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12 CFR Part 615

RIN 3052–AB73

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Book-entry Procedures for Farm Credit Securities

AGENCY: Farm Credit Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The Farm Credit Administration (FCA) adopts an interim rule that revises procedures governing the issuance, maintenance, and transfer of Farm Credit securities on the book-entry system of the Federal Reserve Banks (Book-entry System). The revisions are necessary to conform FCA book-entry procedures to the recently revised book-entry procedures of the Department of the Treasury (Treasury), which regulates the Book-entry System for Treasury securities. The interim rule also makes conforming amendments in the book-entry regulations governing securities of the Farm Credit System Financial Assistance Corporation (FAC) and the Federal Agricultural Mortgage Corporation (Farmer Mac).

The FCA's action follows the action of Treasury, which revised its book-entry regulations to eliminate outdated legal concepts and incorporate significant changes in commercial and property law affecting the holding of securities through financial intermediaries. At the request of Treasury, and in coordination with other regulators of Government-Sponsored Enterprises (GSEs), the FCA is making this interim rule effective on the same date as Treasury's new book-entry regulations. This coordinated action will avoid market uncertainty and help ensure a consistent regulatory approach for all users of the Book-entry System, including Farm Credit System institutions.

EFFECTIVE DATE: January 1, 1997. Written comments must be received on or before February 18, 1997.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Director, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 or by facsimile at (703) 734–5784. Comments may also be submitted via electronic mail to ''reg-comm@fca.gov''. Copies of all communications received will be available for review by interested parties in the Office of Policy Development and Risk Control, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Michael J. LaVerghetta, Senior Financial Analyst, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, or

William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Book-Entry Regulations

The Farm Credit System obtains funds for its lending operations primarily from the sale of debt securities issued by the Farm Credit banks through the Federal Farm Credit Banks Funding Corporation (Funding Corporation). As late as the mid-1970s, Farm Credit securities were issued exclusively in definitive form (*i.e.*, as paper certificates). The Federal Reserve Banks acted as the fiscal agent of the Farm Credit banks for transactions in definitive Farm Credit securities. Around 1970, however, Treasury began a concerted effort to convert the holding and issuance of marketable Treasury securities to book-entry form, with the goals of protecting against loss, theft, and counterfeit of definitive securities, as well as reducing paperwork and printing costs. Treasury and the Federal Reserve Banks developed the Book-entry System for Treasury securities. Access for GSE securities to the Book-entry System soon followed. The Farm Credit System, along with other GSEs, joined Treasury in moving toward issuing and maintaining their securities in book-entry form.

Under the Book-entry System, the Federal Reserve Banks maintain records of book-entry securities in the names of depository institutions. The depository institutions keep separate accounts for securities they own and for those they maintain for investors and other financial institutions. Book-entry securities are assigned to an investor's account at the depository institution. Instead of a physical certificate, the investor receives a confirmation or custody receipt from his bank or non-bank dealer.

Beginning in 1968, Treasury issued regulations to govern operation of the Book-entry System and set forth the legal framework for maintenance and transfer of Treasury securities in the Book-entry System. Treasury's regulations applied only to Treasury securities, but the basic book-entry procedures applicable to GSE securities in the Book-entry System are closely analogous to book-entry procedures for Treasury securities. Thus, the Treasury regulations at subpart O of 31 CFR part 306 served as the model for the FCA's current book-entry regulations at 12 CFR part 615, subpart O. The FCA adopted book-entry regulations in 1977 (42 FR 43824, August 31, 1977). Other GSE regulators adopted similar regulations. The FCA later adopted regulations governing the access of FAC and Farmer Mac to the Book-entry System. (See 12 CFR part 615, subpart R, published at 53 FR 12141, April 13, 1988; 12 CFR 615, subpart S, published at 61 FR 31392, June 20, 1996.)

B. New Treasury Book-Entry Regulations

On March 4, 1996, Treasury proposed to substantially revise its book-entry regulations (61 FR 8420). Treasury's action came after years of study of the legal issues and problems generated when older legal concepts developed for handling transactions and determining ownership interests in physical certificates were applied to paperless book-entry securities often held through a chain of intermediary parties. Treasury's proposal followed the development in 1994 of a revised version of Article 8 of the Uniform Commercial Code (UCC) designed to address similar issues and problems for purposes of state commercial law. Treasury adopted final book-entry regulations on August 16, 1996 (61 FR 43626), effective January 1, 1997.

Treasury's new book-entry regulations are known by the acronym ''TRADES'' (Treasury/Reserve Automated Debt Entry System). In essence, the TRADES regulations set forth the rights and obligations of various parties, including investors and securities intermediaries, with respect to the holding of Treasury securities in the Book-entry System. The TRADES regulations eliminate the confusing concept central to earlier book-entry regulations (including the FCA's) known as the ''bearer-definitive fiction.'' The bearer-definitive fiction assumed that book-entry securities were the equivalent of bearer-definitive securities (*i.e.*, physical securities in the possession of and payable to the bearer) for purposes of determining interests in the securities. In the early years of the Book-entry System, this concept allowed for the application of existing law to the rights and interests of investors and other persons in marketable book-entry securities, but ultimately generated uncertainty in settling ownership interests because physical certificates do not actually exist for book-entry securities. The TRADES regulations provide guidance on the application of state law in choice of law situations, but also clarify that the interests and obligations of the United States and the Federal Reserve Banks in relationship to other parties with interests in marketable Treasury book-entry securities are governed exclusively by Federal law rather than state law unless otherwise provided.

II. FCA Action on TRADES

A. In General

The FCA supports the Treasury's efforts to clarify and update the legal structure and mechanics of the Book-entry System to improve certainty and liquidity in the Government/GSE securities market. Moreover, the FCA recognizes that book-entry regulations governing Farm Credit securities must be substantially consistent with TRADES to avoid confusion in the Government/GSE securities market and ensure a consistent regulatory approach for users of the Book-entry System. To this end, the FCA is adopting interim amendments to its book-entry regulations that conform in all substantive respects with TRADES, but are customized for applicability to Farm Credit institutions.

In view of the fundamental similarity of TRADES and FCA book-entry regulations, the FCA does not believe it is necessary or efficient to repeat in this rulemaking document the extensive background material and detailed explanation of the rationale and effect of the TRADES regulations set forth in Treasury's proposed and final rulemaking documents, *supra.* Members of the public should refer to Treasury's TRADES rulemaking documentation for background on the history and mechanics of the Book-entry System and guidance on the general provisions of the book-entry regulations. As is its current policy regarding interpretation of book-entry regulations, the FCA expects to follow Treasury TRADES interpretations and guidance with respect to FCA book-entry regulations and will coordinate with Treasury regarding future guidance and any necessary changes.

B. Comparison of TRADES and FCA Book-Entry Regulations

The discussion that follows compares the interim regulations adopted by the FCA and TRADES. Any differences are based on the distinction between Treasury securities and Farm Credit securities, as well as on the unique characteristics of the Farm Credit System.

1. General

The TRADES regulations generally refer to the United States or Treasury as the issuer of Treasury securities. For purposes of the FCA's adaptation of the TRADES regulations to FCA book-entry regulations, the FCA has substituted the term ''Farm Credit banks'' as the issuer and ''Farm Credit securities'' for Treasury securities. Any reference in FCA book-entry regulations to the United States, the Treasury, or the Federal Reserve Banks is not meant to imply any liability of the United States for Farm Credit securities. See section 4.4(c) of the Farm Credit Act of 1971, as amended (Act) (12 U.S.C. 2155(c)). In addition, to avoid potential confusion regarding the obligation of the Funding Corporation to investors and other parties to the book-entry process, the FCA has included the Funding Corporation as an issuer solely for purposes of these book-entry regulations. As a technical matter, section 4.9 of the Act (12 U.S.C. 2160) assigns the Funding Corporation the ministerial duty of ''issuing'' Farm Credit securities as the System's fiscal agent. The FCA concludes that, even though the Funding Corporation is not an issuer in the conventional sense of being liable to pay interest and principal on Farm Credit securities, its extensive involvement in the process of issuance and maintenance of Farm Credit securities on the Book-entry System requires that the Funding Corporation be afforded the protections of an issuer for purposes of determining its rights and obligations with respect to Farm Credit securities maintained on the Book-entry System.

This interim rule continues the separate location in 12 CFR part 615, subparts R and S, respectively, of book-entry regulations applicable to FAC and Farmer Mac. The subpart R and S book-entry regulations incorporate by reference applicable sections of the 12 CFR part 615, subpart O book-entry regulations applicable to Farm Credit banks and the Funding Corporation. While the access of FAC and Farmer Mac to the Book-entry System clearly makes them issuers for purposes of the book-entry regulations, the FCA believes it is important to differentiate FAC and Farmer Mac securities from the Farm Credit securities that are the joint and several obligations of the Farm Credit banks. Thus, FAC and Farmer Mac are not identified in conjunction with the Farm Credit banks and the Funding Corporation as issuers in subpart O of the interim rule, but rather are treated separately in subparts R and S.

There are several other general areas in which the FCA's book-entry regulations diverge from Treasury's book-entry regulations. First, under Treasury regulations, Treasury securities may be held in book-entry form by investors who do not choose to hold their book-entry securities accounts at financial institutions or dealers. Treasury's book-entry system for these investors is known as TREASURY DIRECT. Since there is currently no direct registration and holding of Farm Credit securities, this interim rule does not establish a system analogous to TREASURY DIRECT for Farm Credit securities.

Second, the Farm Credit banks have authority to issue a wide variety of securities, some of which are not maintained by the Federal Reserve Banks. For example, securities issued pursuant to the Global Debt Program of the Farm Credit banks can be issued through fiscal agents other than the Federal Reserve Banks. See 12 CFR part 615, subpart P. Farm Credit securities not maintained by a Federal Reserve Bank are not subject to these book-entry regulations. Furthermore, the FCA's book-entry regulations apply only while a Farm Credit security is on the Book-entry System; this regulation does not apply to Farm Credit securities initially issued on the Book-entry System but subsequently converted to definitive form.

Third, FCA's book-entry regulations recognize that there may be variations in documentation that Farm Credit banks use depending upon the type of security issued and accordingly contain a broader definition of securities documentation than Treasury's regulations.

2. Section-by-Section Comparison With Treasury's TRADES

This segment of the preamble provides a section-by-section comparison between FCA's book-entry regulations and TRADES and explains several situations unique to the Farm Credit banks and their securities that are not part of the TRADES regulation. Section references to title 31 of the Code of Federal Regulations (31 CFR) are to Treasury's book-entry regulations as revised.

Section 615.5450

This section contains definitions applicable to FCA book-entry regulations. To conform with TRADES, the interim rule revises several definitions found in current FCA regulations and adds definitions that correspond to definitions in 31 CFR 357.2 or are custom-tailored to apply to the Farm Credit banks and their securities. The FCA's rule uses the terminology ''Book-entry System'' rather than ''TRADES,'' since TRADES is Treasury's unique terminology for the book-entry system applicable to Treasury securities. Section 615.5450(p) cross-references the definition of revised Article 8 of the UCC to 31 CFR 357.2.

Section 615.5451

This section addresses Farm Credit banks'' book-entry and definitive securities. It is adapted from § 615.5450 of current subpart O and does not have a TRADES counterpart section. Section 615.5451 deletes outmoded specific references to dates of issuance of Farm Credit banks' securities, denominations in U.S. dollars, and minimum original maturity requirements. The revisions also provide that, subject to the approval of the FCA, the Funding Corporation may issue Farm Credit securities in book-entry or bearer-definitive form in denominations determined to be appropriate by the Funding Corporation.

Section 615.5452

This section is adapted from 31 CFR 357.10 and covers the law governing the rights and obligations of the United States, Federal Reserve Banks, Farm Credit banks, and Funding Corporation,

as well as the rights of any person against such institutions and the United States. Through use of the defined term, securities documentation, the FCA's rule recognizes that the Farm Credit banks may use various forms of documentation to establish the terms of Farm Credit securities, depending upon the type of security issued.

Section 615.5453

This section covers the law governing other interests in securities. Other than the substituted cross-reference to Treasury regulations, this provision is identical to 31 CFR 357.11.

Section 615.5454

This section addresses security entitlements and security interests. It is modeled after 31 CFR 357.12. The FCA's rule applies these provisions to the Farm Credit banks and their securities.

Section 615.5455

This section is modeled after 31 CFR 357.13 and addresses obligations of the Farm Credit banks. The FCA's rule allows for the possibility that the Farm Credit banks could make payments with respect to book-entry securities that might be characterized as other than principal or interest payments, such as ''yield maintenance premiums.''

Section 615.5456

This section concerns the authority of Federal Reserve Banks. It is modeled after 31 CFR 357.14. As is permissible under current book-entry regulations, the FCA's rule specifically authorizes each Federal Reserve Bank to effect conversions between book-entry securities and definitive Farm Credit securities where conversion rights are available pursuant to the applicable securities documentation.

Section 615.5457

This section addresses withdrawal of eligible book-entry securities for conversion to definitive form. It is a continuation of existing authority modeled after 31 CFR 306.117. The FCA's rule requires that conversion must be consistent with the securities documentation.

Section 615.5458

This provision reserves the right of the FCA to waive requirements of the book-entry regulations in limited circumstances, such as in cases of unnecessary hardship, where such action is not inconsistent with law. It is based on 31 CFR 357.41.

Section 615.5459

This section concerns liability of Farm Credit banks, the Funding Corporation, and Federal Reserve Banks. It is modeled after 31 CFR 357.42. The FCA's rule reflects that some terms such as ''tender'' and ''transactions request form'' used in Treasury's rule do not apply to Farm Credit book-entry securities.

Section 615.5460

This section is modeled after two Treasury regulations. Paragraph (a) regarding additional requirements is modeled after 31 CFR 357.40. Paragraph (b) regarding notice of attachment for Farm Credit securities is modeled after 31 CFR 357.44.

Section 615.5461

This section on lost, stolen, and defaced Farm Credit securities applies to definitive securities. It is redesignated from § 615.5495 of the current FCA regulations. The word ''securities'' is substituted for the word ''obligations'' to conform with the terminology of the interim rule. The reference to Treasury is updated.

Section 615.5462

This section on restrictive endorsement of bearer securities is redesignated from § 615.5498 of the current FCA regulations. The word ''securities'' is substituted for the word ''obligations'' to conform with the terminology of the interim rule.

Section 615.5560

This section provides that the core book-entry regulations contained in 12 CFR part 615, subpart O apply to FAC securities through incorporation by reference. For purposes of applying §§ 615.5450 and 615.5452–5460 to FAC securities, the term ''Financial Assistance Corporation securities'' shall be read for ''Farm Credit securities'', and ''Financial Assistance Corporation'' shall be read for ''Farm Credit banks'' and ''Funding Corporation.'' Pursuant to section 6.26(a) of the Act (12 U.S.C. 2278b-6(a)), FAC's authority to issue securities expired on September 30, 1992. Accordingly, these book-entry regulations apply to FAC securities issued before the expiration date.

Section 615.5570

This section provides that the core book-entry regulations contained in 12 CFR part 615, subpart O apply to Farmer Mac securities through incorporation by reference. For purposes of applying §§ 615.5450 and 615.5452–5460 to Farmer Mac securities, the term ''Farmer Mac securities'' shall be read for ''Farm Credit securities,'' and ''Farmer Mac'' shall be read for ''Farm Credit banks'' and ''Funding Corporation.''

C. Elimination of Certain Provisions Found in Current Regulations

The interim rule eliminates most of the provisions of FCA's current book-entry regulations. Because a major part of the current regulations was based on Treasury's book-entry regulations at subpart O of 31 CFR part 306, which has basically been replaced by TRADES, the FCA has eliminated §§ 615.5470, 615.5475, 615.5480, and 615.5485 and replaced these provisions consistent with the new TRADES regulations. Section 615.5454 on Liability is being eliminated because it does not accurately reflect the current law on joint and several liability of Farm Credit banks for Farm Credit securities as set forth in section 4.4 of the Act, as amended by the Agricultural Credit Act of 1987 (Pub. L. 100–233, section 303(a)). Sections 615.5490, 615.5492, and 615.5494, which contain general information on maintenance and servicing of book-entry securities, have been eliminated because detailed authority for maintenance and servicing of book-entry securities by the Federal Reserve Banks is set forth in § 615.5456 of the interim rule and general information on book-entry procedures is available to investors in securities documentation.

III. Expedited Proceeding and Effective Date

To prevent any uncertainty and dislocation in the government/GSE securities market, and in response to public comment received during the TRADES rulemaking, Treasury has requested that book-entry regulations compatible with TRADES be effective for the Farm Credit System and other GSEs on January 1, 1997, simultaneously with TRADES. To meet this timetable, the FCA has determined that there is good cause to omit, as neither practicable nor in the public interest, prepromulgation notice and comment pursuant to section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 551–59, *et seq.* (APA). Treasury's final regulation was not published until August 23, 1996, making a proposed phase for this rulemaking impracticable. Moreover, since the substance of the FCA's book-entry regulations is based almost entirely on TRADES, the broad public interest in commenting on book-entry regulations was met during Treasury's rulemaking. Nonetheless, the FCA is providing for post-effective public comment by adopting its revised book-entry regulations on an interim basis. In this way, FCA book-entry regulations can take full effect simultaneously with the Treasury's

TRADES regulations, yet still be subject to comment from the public. The FCA will consider comments received during a 60-day comment period and issue a subsequent notice of finalization.

In taking this interim action, the FCA is adopting an effective date for the regulations that is less than 30 days after publication in the Federal Register. The necessity that FCA make its book-entry regulations effective simultaneously with Treasury's provides good cause, in accordance with section 553(d) of the APA, to adopt an accelerated effective date. Finally, consistent with the reasons for its expedited actions under the APA, the FCA finds cause under section 5.17(c)(2) of the Act to make these regulations effective prior to the expiration of the 30-day Congressional notice and waiting period for final agency regulatory action.

IV. Regulatory Philosophy

The adoption of these interim regulations is consistent with the FCA's Policy Statement on Regulatory Philosophy. See 60 FR 26034 (May 16, 1995). The interim regulations eliminate outdated book-entry regulations without unnecessary burden or cost. Moreover, the FCA's action is consistent with similar actions taken by Treasury and other GSE regulators. Consistent book-entry regulations should promote investor confidence in Farm Credit securities.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, Banking, Government securities, Investments, and Rural areas.

For the reasons stated in the preamble, part 615 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

1. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b-6, 2279aa, 2279aa-3, 2279aa-4, 2279aa-6, 2279aa-7, 2279aa-8, 2279aa-10, 2279aa-12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608; sec. 105 of Pub. L. 104–105, 110 Stat. 162, 163–64.

2. Subpart O of part 615 is revised to read as follows:

Subpart O—Book-Entry Procedures for Farm Credit Securities

Sec.

615.5450 Definitions.
615.5451 Book-entry and definitive securities.
615.5452 Law governing rights and obligations of United States, Federal Reserve Banks, Farm Credit banks, and Funding Corporation; rights of any person against United States, Federal Reserve Banks, Farm Credit banks, and Funding Corporation.
615.5453 Law governing other interests.
615.5454 Creation of participant's security entitlement; security interests.
615.5455 Obligations of the Farm Credit banks and the Funding Corporation; no adverse claims.
615.5456 Authority of Federal Reserve Banks.
615.5457 Withdrawal of eligible book-entry securities for conversion to definitive form.
615.5458 Waiver of regulations.
615.5459 Liability of Farm Credit banks, Funding Corporation and Federal Reserve Banks.
615.5460 Additional provisions.
615.5461 Lost, stolen, destroyed, mutilated or defaced Farm Credit securities, including coupons.
615.5462 Restrictive endorsement of bearer securities.

Subpart O—Book-Entry Procedures for Farm Credit Securities

§ 615.5450 Definitions.

In this subpart, unless the context otherwise requires or indicates:

(a) *Adverse claim* means a claim that a claimant has a property interest in a security and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the security.

(b) *Book-entry security* means a Farm Credit security issued or maintained in the Book-entry System.

(c) *Book-entry System* means the automated book-entry system operated by the Federal Reserve Banks, acting as the fiscal agent for the Farm Credit banks, through which book-entry securities are issued, recorded, transferred and maintained in book-entry form.

(d) *Definitive Farm Credit security* means a Farm Credit security in engraved or printed form, or that is otherwise represented by a certificate.

(e) *Eligible book-entry security* means a book-entry security issued or maintained in the Book-entry System, which by the terms of its securities documentation, is eligible to be converted from book-entry into definitive form.

(f) *Entitlement Holder* means a person to whose account an interest in a book-entry security is credited on the records of a securities intermediary.

(g) *Farm Credit banks* means one or more Farm Credit Banks, agricultural credit banks, and banks for cooperatives.

(h) *Farm Credit securities* means consolidated notes, bonds, debentures, or other similar obligations of the Farm Credit banks and Systemwide notes, bonds, debentures, or similar obligations of the Farm Credit banks issued under sections 4.2(c) and 4.2(d) of the Act, or laws repealed thereby.

(i) *Federal Reserve Bank* means a Federal Reserve Bank or Branch acting as agent for the Farm Credit banks and the Funding Corporation.

(j) *Federal Reserve Bank Operating Circular* means the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Federal Reserve Bank maintains book-entry securities accounts and transfers book-entry securities.

(k) *Funding Corporation* means the Federal Farm Credit Banks Funding Corporation established pursuant to section 4.9 of the Act, which issues Farm Credit securities on behalf of the Farm Credit banks.

(l) *Funds Account* means a reserve and/or clearing account at a Federal Reserve Bank to which debits or credits are posted for transfers against payment, book-entry securities transaction fees, or principal and interest payments.

(m) *Participant* means a person that maintains a participant's securities account with a Federal Reserve Bank.

(n) *Participant's Securities Account* means an account in the name of a participant at a Federal Reserve Bank to which book-entry securities held for a participant are or may be credited.

(o) *Person* means an individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative and any other similar organization, but does not mean the United States, a Farm Credit bank, the Funding Corporation or a Federal Reserve Bank.

(p) *Revised Article 8* means Uniform Commercial Code, Revised Article 8, Investment Securities (with Conforming and Miscellaneous Amendments to Articles 1, 3, 4, 5, 9, and 10) 1994 Official Text, and has the same meaning as in 31 CFR 357.2.

(q) *Securities Documentation* means the applicable statement of terms, trust indenture, securities agreement, offering circular or other documents establishing the terms of a book-entry security.

(r) *Securities Intermediary* means:

(1) A person that is registered as a ''clearing agency'' under the Federal

securities laws; a Federal Reserve Bank; any other person that provides clearance or settlement services with respect to a book-entry security that would require it to register as a clearing agency under the Federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a Federal or State governmental authority; or

(2) A person (other than an individual, unless such individual is registered as a broker or dealer under the Federal securities laws) including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(s) *Security* means a Farm Credit security as defined in paragraph (h) of this section.

(t) *Security Entitlement* means the rights and property interest of an entitlement holder with respect to a book-entry security.

(u) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

(v) *Transfer Message* means an instruction of a participant to a Federal Reserve Bank to effect a transfer of a book-entry security maintained in the Book-entry System, as set forth in Federal Reserve Bank Operating Circulars.

§ 615.5451 Book-entry and definitive securities.

Subject to subpart C of this part:

(a) Farm Credit banks operating under the same title of the Act may issue consolidated securities in book-entry form.

(b) Farm Credit banks may issue Systemwide securities in book-entry form.

(c) Consolidated and Systemwide securities also may be issued in bearer-definitive form.

§ 615.5452 Law governing rights and obligations of United States, Federal Reserve Banks, Farm Credit banks, and Funding Corporation; rights of any person against United States, Federal Reserve Banks, Farm Credit banks, and Funding Corporation.

(a) Except as provided in paragraph (b) of this section, the following are governed solely by the regulations contained in this subpart O, the securities documentation, and Federal Reserve Bank Operating Circulars:

(1) The rights and obligations of the United States, the Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks with respect to:

(i) A book-entry security or security entitlement, and

(ii) The operation of the Book-entry System as it applies to Farm Credit securities; and

(2) The rights of any person, including a participant, against the United States, the Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks with respect to:

(i) A book-entry security or security entitlement, and

(ii) The operation of the Book-entry System as it applies to Farm Credit securities.

(b) A security interest in a security entitlement that is in favor of a Federal Reserve Bank from a participant and that is not recorded on the books of a Federal Reserve Bank pursuant to § 615.5454(c)(1) of this subpart, is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the participant's securities account is located. A security interest in a security entitlement that is in favor of a Federal Reserve Bank from a person that is not a participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to § 615.5454(c)(1)of this subpart, is governed by the law determined in the manner specified in § 615.5453 of this subpart.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted revised Article 8 (see 31 CFR 357.2) then the law specified in paragraph (b) of this section shall be the law of that State as though revised Article 8 had been adopted by that State.

§ 615.5453 Law governing other interests.

(a) To the extent not inconsistent with these regulations, the law (not including the conflict-of-law rules) of a securities intermediary's jurisdiction governs:

(1) The acquisition of a security entitlement from the securities intermediary;

(2) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement;

(4) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder; and

(5) Except as otherwise provided in paragraph (c) of this section, the perfection, effect of perfection or non-perfection and priority of a security interest in a security entitlement.

(b) The following rules determine a ''securities intermediary's jurisdiction'' for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(2) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph (b)(1) of this section, but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section, the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.

(4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (b)(1) or (b)(2) of this section and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (b)(3) of this section, the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

(c) Notwithstanding the general rule in paragraph (a)(5) of this section, the law (but not the conflict-of-law rules) of the jurisdiction in which the person creating a security interest is located governs whether and how the security interest may be perfected automatically or by filing a financing statement.

(d) If the jurisdiction specified in paragraph (b) of this section is a State that has not adopted revised Article 8 (see 31 CFR 357.2), then the law for the matters specified in paragraph (a) of this section shall be the law of that State as though revised Article 8 had been adopted by that State. For purposes of the application of the matters specified in paragraph (a) of this section, the Federal Reserve Bank maintaining the securities account is a clearing corporation, and the participant's interest in a book-entry security is a security entitlement.

§ 615.5454 Creation of participant's security entitlement; security interests.

(a) A participant's security entitlement is created when a Federal Reserve Bank indicates by book entry that a book-entry security has been credited to a participant's securities account.

(b) A security interest in a security entitlement of a participant in favor of the United States to secure deposits of public money, including without limitation deposits to the Treasury tax and loan accounts, or other security interest in favor of the United States that is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the securities. Where a security interest in favor of the United States in a security entitlement of a participant is marked on the books of a Federal Reserve Bank, such Federal Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the security. For purposes of this paragraph, an ''authorized representative of the United States'' is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) The Farm Credit banks, the Funding Corporation, the United States, and the Federal Reserve Banks have no obligation to agree to act on behalf of any person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a security entitlement that is in favor of a Federal Reserve Bank, a Farm Credit bank, the Funding Corporation, or a person may be created and perfected by a Federal Reserve Bank marking its books to record the security interest. Except as provided in paragraph (b) of this section, a security interest in a security entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 615.5452(b) or § 615.5453 of this subpart. The perfection, effect of perfection or non-perfection and priority of a security interest are governed by that applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under that law, including with respect to the effect of perfection and priority of the security interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

§ 615.5455 Obligations of the Farm Credit banks and the Funding Corporation; no adverse claims.

(a) Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 615.5454(c)(1), for the purposes of this subpart O, the Farm Credit banks, the Funding Corporation and the Federal Reserve Banks shall treat the participant to whose securities account an interest in a book-entry security has been credited as the person exclusively entitled to issue a transfer message, to receive interest and other payments with respect thereof and otherwise to exercise all the rights and powers with respect to such security, notwithstanding any information or notice to the contrary. The Federal Reserve Banks, the United States, the Farm Credit banks, and the Funding Corporation are not liable to a person asserting or having an adverse claim to a security entitlement or to a book-entry security in a participant's securities account, including any such claim arising as a result of the transfer or disposition of a book-entry security by a Federal Reserve Bank pursuant to a transfer message that the Federal Reserve Bank reasonably believes to be genuine.

(b) The obligation of the Farm Credit banks and the Funding Corporation to make payments (including payments of interest and principal) with respect to book-entry securities is discharged at the time payment in the appropriate amount is made as follows:

(1) Interest or other payments on book-entry securities are either credited by a Federal Reserve Bank to a funds account maintained at the Federal Reserve Bank or otherwise paid as directed by the participant.

(2) Book-entry securities are redeemed in accordance with their terms by a Federal Reserve Bank withdrawing the securities from the participant's securities account in which they are maintained and by either crediting the amount of the redemption proceeds, including both principal and interest, where applicable, to a funds account at the Federal Reserve Bank or otherwise paying such principal and interest as directed by the participant. No action by the participant is required in connection with the redemption of a book-entry security.

§ 615.5456 Authority of Federal Reserve Banks.

(a) Each Federal Reserve Bank is hereby authorized as fiscal agent of the Farm Credit banks and the Funding Corporation to perform functions with respect to the issuance of book-entry securities offered and sold by the Farm Credit banks and the Funding Corporation to which this subpart applies, in accordance with the terms of the securities documentation and the provisions of this subpart:

(1) To service and maintain book-entry securities in accounts established for such purposes;

(2) To make payments of principal and interest, as directed by the Farm Credit banks and the Funding Corporation;

(3) To effect transfer of book-entry securities between participants' securities accounts as directed by the participants;

(4) To effect conversions between book-entry securities and definitive Farm Credit securities with respect to those securities as to which conversion rights are available pursuant to the applicable securities documentation; and

(5) To perform such other duties as fiscal agent as may be requested by the Farm Credit banks and the Funding Corporation.

(b) Each Federal Reserve Bank may issue Operating Circulars not inconsistent with this subpart, governing the details of its handling of book-entry securities, security entitlements, and the operation of the Book-entry System under this subpart.

§ 615.5457 Withdrawal of eligible book-entry securities for conversion to definitive form.

(a) Eligible book-entry securities may be withdrawn from the Book-entry System by requesting delivery of like definitive Farm Credit securities.

(b) A Federal Reserve Bank shall, upon receipt of appropriate instructions to withdraw eligible book-entry securities from book-entry in the Book-entry System, convert such securities into definitive Farm Credit securities and deliver them in accordance with such instructions.

(c) Farm Credit securities which are to be delivered upon withdrawal may be issued in bearer form, to the extent permitted by the applicable securities documentation.

(d) All requests for withdrawal of eligible book-entry securities must be made prior to the maturity or date of call of the Farm Credit securities.

§ 615.5458 Waiver of regulations.

The Farm Credit Administration reserves the right, in the Farm Credit Administration's discretion, to waive any provision(s) of the regulations in this subpart in any case or class of cases for the convenience of the Farm Credit banks and the Funding Corporation or in order to relieve any person(s) of unnecessary hardship, if such action is not inconsistent with law, does not adversely affect any substantial existing rights, and the Farm Credit Administration is satisfied that such action will not subject the Farm Credit banks and the Funding Corporation to any substantial expense or liability.

§ 615.5459 Liability of Farm Credit banks, Funding Corporation and Federal Reserve Banks.

The Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks may rely on the information provided in a transfer message or other transaction documentation, and are not required to verify the information. The Farm Credit banks, the Funding Corporation, and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information set out in the transfer message, other transaction documentation, or evidence submitted in support thereof.

§ 615.5460 Additional provisions.

(a) *Additional requirements.* In any case or any class of cases arising under the regulations in this subpart, the Farm Credit banks and the Funding Corporation may require such additional evidence and a bond of indemnity, with or without surety, as may in the judgment of the Farm Credit banks and the Funding Corporation be necessary for the protection of the interests of the Farm Credit banks and the Funding Corporation.

(b) *Notice of attachment for Farm Credit securities in the Book-entry System.* The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except where a security entitlement is maintained in the name of a secured party, in which case the debtor's interest may be reached by legal process upon the secured party. These regulations do not purport to establish whether a Federal Reserve Bank is required to honor an order or other notice of attachment in any particular case or class of cases.

§ 615.5461 Lost, stolen, destroyed, mutilated or defaced Farm Credit securities, including coupons.

(a) Relief on the account of the loss, theft, destruction, mutilation, or defacement of any definitive consolidated or Systemwide securities of the Farm Credit banks and coupons of such securities may be granted on the same basis and to the same extent as relief may be granted under the statutes of the United States and the regulations of the Department of the Treasury on the account of the loss, theft, destruction, mutilation, or defacement of United States securities and coupons of such securities.

(b) Applicants for relief under paragraph (a) of this section, shall present claims and proof of loss:

(1) To the Division of Special Investments, Bureau of the Public Debt, P.O. Box 396, Parkersburg, WV 26102–0396, in the case of consolidated or Systemwide securities of the Farm Credit banks issued prior to May 1, 1978; or

(2) To the Federal Farm Credit Banks Funding Corporation, 10 Exchange Place, Suite 1401, Jersey City, NJ 07302, in the case of consolidated or Systemwide securities issued on or after May 1, 1978.

§ 615.5462 Restrictive endorsement of bearer securities.

When consolidated and Systemwide bearer securities of the Farm Credit banks are being presented to Federal Reserve Banks, for redemption, exchange, or conversion to book entry, such securities may be restrictively endorsed. The restrictive endorsement shall be placed thereon in substantially the same manner and with the same effects as prescribed in United States Treasury Department regulations, now or hereafter in force, governing like transactions in United States bonds; and consolidated or Systemwide securities of the Farm Credit banks so endorsed shall be prepared for shipment and shipped in the manner prescribed in such regulations for United States bearer securities. (See 31 CFR part 328.)

Subpart R—Farm Credit System Financial Assistance Corporation Securities

3. Section 615.5560 is amended by revising paragraph (c) to read as follows:

§ 615.5560 Book-entry Procedure for Farm Credit System Financial Assistance Corporation Securities.

* * * * *

(c) Financial Assistance Corporation securities shall be governed by §§ 615.5450, and 615.5452 through 615.5460. In interpreting those sections for purposes of this subpart, unless the context requires otherwise, the term ''Financial Assistance Corporation securities'' shall be read for ''Farm Credit securities,'' and ''Financial Assistance Corporation'' shall be read for ''Farm Credit banks'' and ''Funding Corporation.'' These terms shall be read as though modified where necessary to effectuate the application of the designated sections of subpart O of this part to the Financial Assistance Corporation.

Subpart S—Federal Agricultural Mortgage Corporation Securities

4. Section 615.5570 is amended by revising paragraph (c) to read as follows:

§ 615.5570 Book-entry procedures for Federal Agricultural Mortgage Corporation Securities.

* * * * *

(c) Farmer Mac securities shall be governed by §§ 615.5450, and 615.5452 through 615.5460. In interpreting those sections for purposes of this subpart, unless the context requires otherwise, the term ''Farmer Mac securities'' shall be read for ''Farm Credit securities,'' and ''Farmer Mac'' shall be read for ''Farm Credit banks'' and ''Funding Corporation.'' These terms shall be read as though modified where necessary to effectuate the application of the designated sections of subpart O of this part to Farmer Mac.

Dated: December 12, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–32310 Filed 12–19–96; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–158–AD; Amendment 39–9845; AD 96–25–03]

RIN 2120–AA64

Airworthiness Directives; Raytheon (Beech) Model 400A, 400T (Military T–1A), and 400T (Military TX) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Raytheon (Beech) Model 400A and 400T series airplanes, that currently requires an inspection of certain flap roller retention components to detect discrepant or missing parts; replacement of those parts; and installation of new washers on the roller attach bolts. This amendment requires the replacement of certain previously-installed washers with new and stronger washers. This amendment also expands the applicability of the rule to include additional airplanes. This amendment is prompted by reports indicating that some locking tab washers on the roller attach bolt could fail, due to the absence of an inner tang. The actions specified by this AD are intended to prevent the loss of roller attach nuts and the flap roller, which could result in the loss of a flap when the airplane is subject to load limit conditions, and consequently lead to reduced controllability of the airplane.

DATES: Effective January 24, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 24, 1997.

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 FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Larry Engler, Aerospace Engineer, Airframe Branch, ACE–115W, FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4122; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 94–14–06, amendment 39–8958 (59 FR 35234, July 11, 1994), which is applicable to certain Raytheon (Beech) Model 400A and 400T (military T–1A) series airplanes, was published in the Federal Register on September 30, 1996 (61 FR 51064). The action proposed to supersede AD 94–14–06 to require the following actions:

1. For airplanes that have been inspected previously, and on which the washers, tab washers, and flat washers have been installed in accordance with AD 94–14–06: Those washers would be required to be replaced with new washers (including stronger tab washers).

2. For airplanes that have not been inspected previously and have not had the washers, tab washers, and flat washers replaced; and for airplanes that were not included in the applicability of AD 94–14–06: These airplanes would be required to be inspected for discrepancies in the roller attach nuts and bolts of the flaps, and discrepant parts replaced. In addition, the new washers, including the stronger tab washers, would be required to be installed on the attach bolts.

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 revised the final rule to specify that the type certificate holder for the affected airplanes has been changed from the Beech Aircraft Corporation to Raytheon Aircraft Company.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 212 Raytheon (Beech) Model 400A and 400T series airplanes of the affected design in the worldwide fleet. The FAA estimates that 183 airplanes of U.S. registry will be affected by this AD.

It is estimated that 102 of the U.S.-registered airplanes will be required to have the washers replaced with new and stronger washers. This action will take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $25 per airplane. Based on these figures, the cost impact of the required replacement action on U.S. operators of these airplanes is estimated to be $14,790, or $145 per airplane.

It is estimated that 81 of the U.S.-registered airplanes will be required to be inspected for discrepancies of the roller attach nuts and bolts, and will require the installation of new washers. Those actions will take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $100 per airplane. Based on these figures, the cost impact of the required actions on U.S. operators of these airplanes is estimated to be $37,260, or $460 per airplane.

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 39–8958 (59 FR 35234, July 11, 1994), and by adding a new airworthiness directive (AD), amendment 39-9845, to read as follows:

96–25–03 Raytheon Aircraft Company (Formerly Beech): Amendment 39–9845. Docket 96–NM–158–AD. Supersedes AD 94–14–06, Amendment 39–8958.

Applicability: Model 400A and 400T series airplanes; as listed in Beech Service Bulletin No. 2522, dated January 1994, and Raytheon Service Bulletin No. 2522, Revision 1, dated May 1996; 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 (d) 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 loss of roller attach nuts and the flap roller, which could result in the loss of a flap when the airplane is subject to load limit conditions, and consequently lead to reduced controllability of the airplane, accomplish the following:

(a) For airplanes listed in Beech Service Bulletin No. 2522, dated January 1994, on which the inspection and installation of washers, tab washers, and flat washers have been accomplished prior to the effective date of this AD in accordance with that service bulletin, and in accordance with the requirements of AD 94–14–06, amendment 39–8958: Prior to the accumulation of 200 hours time-in-service or within one year after the effective date of this AD, whichever occurs first, remove the washers, tab washers, and flat washers, having part numbers specified in Table 1 of this AD, from the roller attach bolts of the left and right flaps, and replace them with new washers, tab washers, and flat washers, having part numbers specified in Table 2 of this AD, in accordance with Part I of Raytheon Service Bulletin No. 2522, Revision 1, dated May 1996.

TABLE 1.—PARTS TO BE REPLACED

Part	Beech part No.
Tab Washers	NAS460–616 MS27111–3 168AS–06–02
Flat Washers	AN960D616L
Washers	AN960–616

TABLE 2.—NEW REPLACEMENT PARTS

Part	Beech part No.
Tab Washers	45A16122–37
Flat Washers	AN960D616L
Washers	AN960–616

(b) For all other airplanes not subject to paragraph (a) of this AD: Prior to the accumulation of 200 hours time-in-service after the effective date of this AD, or within one year after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (b)(1) and (b)(2) of this AD:

(1) Perform an inspection of the roller attach nuts and bolts for the flaps to detect discrepancies (i.e., flattened, worn or damaged threads, damaged keway of bolts, etc.), in accordance with Part II of Raytheon Service Bulletin No. 2522, Revision 1, dated May 1996. If any discrepancies are found, prior to further flight, replace the discrepant parts with new or serviceable parts, in accordance with the service bulletin. And

(2) Remove the washers, tab washers, and flat washers from the roller attachment bolts of the left and right flaps, and replace them with new washers, tab washers, and flat washers that have part numbers specified in Table 2 of this AD, in accordance with Part I of Raytheon Service Bulletin No. 2522, Revision 1, dated May 1996.

(c) As of the effective date of this AD, no person shall install on any airplane any tab washer for the roller attach bolt, having Beech part number 168AS–06–2, NAS460–616, or MS27111–3.

(d) 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, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(e) 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.

(f) The actions shall be done in accordance with Raytheon Service Bulletin No. 2522, Revision 1, dated May 1996. 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 FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 24, 1997.

Issued in Renton, Washington, on December 2, 1996.

Gary L. Killion,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–31114 Filed 12–19–96; 8:45 am]

BILLING CODE 4910–13–U

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1507

Final Rule: Fireworks Devices; Fuse Burn Time

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its regulation under the Federal Hazardous Substances Act that specifies the allowable fuse burn times of fireworks devices (except firecrackers). The amendment changes the allowable fuse burn times from the presently required range of 3 to 6 seconds to the range of 3 to 9 seconds. Increasing the range will improve safety by allowing manufacturers to more consistently produce fireworks that do not have dangerously short fuse burn times of below 3 seconds. Further, the increase in the maximum allowable fuse burn time to 9 seconds will not create any additional risk of injury to consumers. The amendment originally was requested in a petition from the American Fireworks Standards Laboratory.

DATES: Adversely affected persons have until January 21, 1997, to file objections to this rule, stating grounds therefor and requesting a public hearing on those objections.

If no material objections are received, the Commission will promptly publish a Federal Register document announcing that fact and affirming the issuance and the effective date of the amendment. The amendment will go into effect on the date that the affirmation document is published, but not earlier than January 22, 1997. If material objections are received, the Commission will publish a document in the Federal Register specifying whether the amendment has been stayed by the filing of proper objections.

ADDRESSES: Objections and requests for hearings must be mailed to the Office of

the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814 telephone (301) 504–6800.

FOR FURTHER INFORMATION CONTACT: Robert Poth, Division of Regulatory Management, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301)504–0400 ext. 1375.

SUPPLEMENTARY INFORMATION:

I. Background

In this notice, the Consumer Product Safety Commission (''the Commission'' or ''CPSC'') amends its regulation under the Federal Hazardous Substances Act (''FHSA'') that governs the allowable range of times that fuses for fireworks (other than firecrackers [1]) may burn before the device ignites. 16 CFR 1507.3(a)(2). That regulation currently requires fireworks devices to have a fuse which will burn at least 3 seconds but not more than 6 seconds before the device ignites. 16 CFR 1507.3(a)(2).[2]

In 1991, the American Pyrotechnics Association (''APA''), a trade association representing the fireworks industry, submitted a petition to the Commission to modify the fuse burn time regulation. APA requested that the upper limit of the allowable fuse burn time be raised to 9 seconds.

The 1991 petition was denied because, at that time, there were insufficient human factors data to demonstrate that a person would not return to a fireworks device within the requested 9-second allowable fuse burn time. The Commission was concerned that a longer fuse burn time might increase injuries to consumers who returned to live fireworks assuming that they were ''duds.''

After the APA's petition was denied, the American Fireworks Standards Laboratory (''AFSL''), an industry-supported fireworks standards and certification organization, contracted with the American Institutes of Research (''AIR'') to conduct human factors research of fireworks-related behavior. As discussed in the notice of proposed rulemaking, 61 FR 41043 (August 7, 1996), the study found that consumers would not likely return to a fireworks device within 9 seconds after lighting the fuse.

In September 1995, AFSL petitioned the CPSC (Petition HP 96–1) to make the same modification to the FHSA fireworks fuse burn time regulation as had been previously requested by APA—that the upper limit of the allowable range of fuse burn times be changed from 6 to 9 seconds.

Manufacturers currently target a 4.5-second average fuse burn time, which is the midpoint of the currently allowed 3 to 6-second range. By raising the upper limit of the fuse burn time from 6 to 9 seconds, AFSL contends that manufacturers could target a more ideal average fuse burn time of 6 seconds. AFSL claims this would enhance consumer safety by eliminating incidents where fuses burn less than 3 seconds.

After considering the available information, the Commission preliminarily concluded that raising the upper limit of the fuse burn time range from 6 seconds to 9 seconds will reduce injuries caused by short fuse burn times. Further, the Commission found that raising the upper limit of the fuse burn time range by 3 seconds will not cause additional injuries from long fuse burn times.

In addition, the Commission concluded that the risk associated with short fuse burn times is of greater concern than any risk associated with long fuse burn times. With a long fuse burn time, consumers have some cues (absence of smoke and noise) to guide them as to when to approach a device; they have time to make decisions before they react. However, consumers have no cues to alert them that a fireworks device may have a short fuse burn time. The consequences of short fuse burn times can be immediate. Consumers may have no time to retreat to a safe distance or to take safety precautions.

Accordingly, the Commission voted to grant Petition HP 96–1, and published a notice of proposed rulemaking on August 7, 1996. 61 FR 41043. That notice discusses in detail the reasons for the Commission's action and various issues associated with the proposed amendment. The Commission received 8 comments on the proposal, all of which favored the amendment. The comments are discussed below in Section III of this notice.

II. Statutory Procedure

This proceeding is conducted under the FHSA. 15 U.S.C. 1261–1278. Fireworks are ''hazardous substances'' within the meaning of section 2(f)(1)(A) of the FHSA. More specifically, they are flammable or combustible substances, or generate pressure through decomposition, heat, or other means, and ''may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use * * *'' 15 U.S.C. 1261(f)(1)(A).

Under section 2(q)(1)(B) of the FHSA, the Commission may classify as a ''banned hazardous substance'' any hazardous substance intended for household use which, notwithstanding the precautionary labeling that is or may be required by the FHSA, presents such a hazard that keeping the substance out of interstate commerce is the only adequate way to protect the public health and safety. Id. at 1261(q)(1)(B). The current fuse burn time requirement was issued under that section.

The fireworks subject to this regulation, and that have fuse burn times outside the 3 to 9-second range set forth in this amendment, are already banned hazardous substances. Because the amendment will not declare any additional products to be banned hazardous substances, an advance notice of proposed rulemaking was not required for this proceeding. See FHSA section 3(f), 15 U.S.C. 1262(f). For the same reason, the procedures required by sections 3–(g) (i) of the FHSA do not apply to this proceeding.

The procedures established under section 701(e) of the Food, Drug, and Cosmetic Act (''FDCA'') also govern this rulemaking. 15 U.S.C. 1261(q)(2). These procedures provide that, once the Commission issues a final rule, persons who would be adversely affected by the rule have 30 days in which to file objections with the Commission stating the grounds therefor, and to request a public hearing on those objections. 21 U.S.C. 371(e). Here, this 30-day period expires January 21,1997. If objections were filed, a hearing to receive evidence concerning the objections would be held. The presiding officer would then issue an order, based upon substantial evidence. Id. The Commission's procedural rules at 16 CFR Part 1502 would apply to such a hearing.

Any objections and requests for a hearing must be filed with the Commission's Office of the Secretary. They will be accepted for filing if they meet the following conditions: (1) They are submitted within the 30-day period specified; (2) each objection is separately numbered; (3) each objection specifies with particularity the provision(s) of the regulation to which the objection is directed; (4) each objection on which a hearing is desired specifically requests a hearing; and (5) each objection for which a hearing is requested includes a detailed description of the basis for the objection and the factual information or analysis

[1] 16 CFR 1507.1.

[2] As a matter of enforcement policy, the Commission's staff has not brought legal actions against fuse burn time violations as low as 2 seconds and as high as 8 seconds for all fireworks except reloadable shell devices, bottle rockets, and jumping jacks which exhibit erratic flight.

in support thereof. 16 CFR 1502.6(a). (Failure to submit a description and analysis for an objection constitutes a waiver of the right to a hearing on that objection. Id. at 1502.6(a)(5).)

The Commission will publish a notice in the Federal Register specifying any parts of the regulation that have been stayed by the filing of proper objections or, if no objections have been filed, stating that fact. Id. at § 1502.7. As soon as practicable, the Commission will review any objections and hearing requests that have been filed to determine whether the regulation should be modified or revoked, and whether a hearing is justified. Id. at § 1502.8.

III. Comments on the Proposal

The Commission received 10 comments in response to the notice of proposed rulemaking. All commenters supported raising the upper limit of the fuse burn time regulation from 6 to 9 seconds. Other issues raised by the comments are discussed below.

1. *Comment: Ban of consumer fireworks.* The National Fire Protection Association (''NFPA'') urged the Commission to adopt NFPA's position, stated in its Model Fireworks Law, that fireworks should not be used by consumers but should be strictly limited to trained professionals who operate in accordance with applicable codes. (Short of this preferred solution, the NFPA supports the proposed change to the fuse burn time regulation to help reduce injuries.) Similarly, although Prevent Blindness America opposes the sale, distribution, and use of Class C fireworks, that group supports the amendment because it will ''improve public safety.''

Response: The only way that the Commission could directly accomplish NFPA's preferred goal of keeping fireworks out of the hands of consumers would be to ban all consumer fireworks. *See* 15 U.S.C. 1263. That alternative is beyond the scope of this proceeding.

2. *Comment: Continuation of the current enforcement policy allowing 2 to 3-second fuse burn times.* The AFSL pointed out that the Commission's current enforcement policy allows a 2 to 3-second lower limit of fuse burn time for some fireworks. The Commission has indicated that, at some time after the regulation is amended, the 3-second minimum for all subject fireworks would be strictly enforced. However, the Commission also indicated that the current 2 to 3-second policy would remain in effect for a time after the effective date of the regulation so as to minimize any adverse economic effect on manufacturers. The AFSL and some other industry members requested that this enforcement policy be extended for 1 year after the effective date of the regulation.

Response: The Commission agrees that strict enforcement of the 3-second lower limit of fuse burn time for all fireworks, as soon as the amended rule goes into effect, would pose some adverse economic impact on the industry. Fireworks produced before then that have 2 to 3-second fuse burn times, although complying with the Commission's enforcement policy that was in effect when these fireworks were made, would be banned. This would cause an unwarranted economic burden on the industry.

CPSC staff discussion with an industry commenter indicated that the July 4th season represents peak demand in the U.S. for fireworks and that domestic and imported fireworks to meet that demand should be in U.S. distribution channels by mid-May at the latest. It seems reasonable to assume that all noncomplying current inventory is intended for the 1997 July 4th season. Therefore June 30, 1997, is an appropriate cut-off date for the enforcement policy allowing 2 to 3-second fuse burn times for most fireworks. Accordingly, the Commission will not bring enforcement actions against fireworks on the basis of fuse burn times between 2 and 3 seconds for fireworks that are first distributed in commerce in the United States—by being imported into the U.S. or shipped from a U.S. manufacturer—by June 30, 1997.

The June 30, 1997, date for ending the enforcement policy allowing the introduction into commerce of fireworks having fuse burn times of between 2 and 3 seconds assumes that no objections will be received to amending the fuse burn time to 3 to 9 seconds. However, as explained in Section II of this notice, if objections are received, the effective date of the amendment could be delayed considerably. To account for this possibility, the Commission is extending this enforcement policy until June 30, 1997, or until 6 months after the effective date of the amendment allowing 3 to 9-second fuse burn times, whichever is later.

3. *Comment: Interim policy allowing fuse burn times between 6 and 9 seconds.* The notice of proposed rulemaking indicated that the earliest possible effective date for the final rule would be 31 days after the final rule was published in the Federal Register. The AFSL stated that, if there are no objections to amending the regulation, the pending 3 to 9-second amendment should be implemented as an enforcement policy at the close of the comment period. The AFSL commented that this would allow the safety benefit to be immediately realized.

The AFSL also commented that immediately implementing the amended upper fuse burn time limit would allow a significant amount of the devices for the 1997 fireworks season to comply with the new requirement. If the amendment were not allowed to be implemented until after the rule became effective, AFSL stated, ''the positive impact that the rule is expected to have on consumer safety is virtually lost until the 1998 fireworks season.''

Response: The Commission believes it is in the public interest to allow the manufacture of fireworks with a 9-second upper limit of fuse burn time as soon as possible. Such a change should reduce injuries caused by short fuse burn times. Accordingly, the Commission's staff sent a letter, dated November 7, 1996, to the petitioner and other major fireworks trade associations announcing an interim policy allowing manufacturers to begin immediately producing fireworks to the 9-second upper limit of fuse burn time.

4. *Comment: Consumer Survey.* As part of a class assignment, students from Florida International University conducted an informal survey of 30 people, from 9 through 54 years of age, to determine whether they thought banning fireworks was the best solution to the problems caused by their use. The respondents preferred increasing the fuse burn time as the best course of action to be pursued. The students also suggested that, in the future, consideration be given to having manufacturers enclose safety information with their products.

Response: The action taken by the Commission is consistent with this comment, insofar as it relates to the scope of this proceeding.

IV. Effective Date

Increasing the allowable fuse burn times from the range of 3 to 6 seconds to a range of 3 to 9 seconds will not have any adverse effects on manufacturers, since it simply provides a wider range of allowable times. Thus, the Commission is making the amendment effective as soon as practicable. Under 21 U.S.C. 371(e), 30 days is allowed after this type of final rule is issued to receive any objections to the rule. That section also provides that the final rule may not become effective before the 30-day period for objections expires. As noted above, if no objections are filed, the Commission must publish a Federal Register notice stating that fact. Therefore, the

amendment will become effective on the day the notice affirming the final rule is published in the Federal Register. This approach will allow interested persons to know with greater certainty that the amendment had in fact taken effect, without having to determine whether another party had filed objections.

As noted above, the Commission's staff currently has a policy of not enforcing against fuse burn time violations as low as 2 seconds for all subject fireworks except reloadable shell devices, bottle rockets, and jumping jacks that exhibit erratic flight. The Commission intends to continue the current policy with respect to fuse burn times of 2 to 3 seconds until at least June 30, 1997, in order to minimize any adverse economic effects on the industry. Thus, subject to further notice, no enforcement actions will be brought on the basis of fuse burn times between 2 and 3 seconds against subject fireworks that are imported or shipped from a U.S. manufacturer by June 30, 1997, or 6 months after the effective date of the amendment, whichever is longer.

Also, after notifying the Commission, the CPSC staff on November 7, 1996, established an interim policy of allowing fuse burn times between 6 and 9 seconds. Therefore, until the amendment to allow fuse burn times of between 3 and 9 seconds becomes effective, the staff will not bring enforcement actions based on fuse burn time violations in the 6 to 9-second range.

V. Final Regulatory Flexibility Analysis

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, generally requires the agency to prepare initial and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. An agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605.

The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations.

Based on information from the U.S. Department of Commerce and industry sources, the estimated value of imported shipments of consumer fireworks is about $70 to $100 million annually. Practically all of the imports are from China.

Most U.S. firms that import, distribute, or manufacture fireworks for consumer use are small, and the rule is not expected to result in any adverse impact. This is because the change to a longer fuse, which should increase production costs by only about one percent, will generate savings as a result of fewer rejections of fireworks due to fuse burn time violations. Based on information from a trade association and CPSC's Office of Compliance, an estimated 40 to 50 percent of the rejections of fireworks as a result of private and CPSC testing are due to fuse burn time violations. The savings from the reduced violations, according to a representative of an industry trade association, could reach approximately $20 million annually. This may result in lower prices to the consumer.

Industry sources indicate that any necessary adjustments to the manufacturing process will take approximately 1 week to accomplish once notification is received. Since fireworks which comply with the current 3 to 6-second fuse burn time requirement will necessarily comply with the new 3 to 9-second fuse burn time requirement and because the existing enforcement policy will be continued for a sufficient period of time—there will be no economic impact resulting from the choice of effective date.

VI. Environmental Impact

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the amendment to the fuse burn times of fireworks.

The Commission's regulations at 16 CFR 1021.5(c)(1) and (2) state that safety standards for consumer products normally have little or no potential for affecting the human environment. Since the acceptable fuse burn times will increase from the range of 3 to 6 seconds to the range of 3 to 9 seconds—and because the existing enforcement policy will be continued for a sufficient period of time—the change will not cause any increase in noncomplying fireworks, which would require disposal. Therefore, no significant environmental effects are expected from the amended rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

IX. Conclusion

List of Subjects in 16 CFR Part 1507

Consumer protection, Explosives, Fireworks.

For the reasons set out in the preamble, title 16, chapter II, part 1507, of the Code of Federal Regulations is amended as follows.

PART 1507—FIREWORKS DEVICES

1. The authority citation for part 1507 is revised to read as follows:

Authority: 15 U.S.C. 1261–1262, 2079(d); 21 U.S.C. 371(e).

§ 1507.3 [Amended]

2. In section 1507.3(a)(2), remove the words ''6 seconds'' and add, in their place, the words ''9 seconds''.

Dated: December 16, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–32397 Filed 12–19–96; 8:45 am]

BILLING CODE 6355–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 232 and 239

[Release No. 33–7373]

Revisions to Forms SB–1, SB–2, Regulation A and Regulation S-T With Regard to the Appropriate Place for Filing for Registrants in the Regions Covered by the Northeast, Southeast, Midwest, Central and Pacific Regional Offices

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission (''Commission'') is amending Forms SB–1, SB–2, and Regulation A to provide that registrants may no longer file their Forms SB–1 and SB–2 registration statements and Regulation A materials in the Commission's Regional Offices given recently implemented changes to its filing processing programs. All such documents must be filed at the Commission's Headquarters in Washington, D.C. Regulation S-T, the electronic filing regulation of the Commission, also is being amended to reflect this change.

EFFECTIVE DATES: The rule revisions are effective January 21, 1997, except that the amendment to § 232.101(c) is effective May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Barbara C. Jacobs or James R. Budge,

(202) 942–2950, Office of Small Business Review, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 7–8, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to the following forms and rules: Form SB–1,[1] Form SB–2,[2] Rule 252,[3] Rule 254,[4] Rule 255,[5] Rule 256,[6] Rule 257,[7] Rule 259,[8] Form 1–A,[9] and Form 2–A [10] under Regulation A.[11] Rule 101(c) of Regulation S-T [12] also is being amended to reflect these revisions. The purpose of these amendments is to reflect the fact that the Regional Offices of the Commission will no longer review small business issuer registration forms and Regulation A material.

I. Amendments

Forms SB–1 [13] and SB–2 [14] are special registration statement forms for the use of small business issuers [15] to register their securities for sale under the Securities Act of 1933.[16] Forms SB–1 and SB–2 provide that a registration statement on the Form relating to an initial public offering may be filed either at the Commission's Headquarters in Washington, D.C., or in certain Regional or District Offices for the region closest to the registrant's principal place of business. Regulation A provides an exemption from the registration requirements of the Securities Act for any offering made in accordance with the conditions of that exemption.[17] Regulation A requires that an offering statement, which contains specified information, be filed either at the Commission's Headquarters in Washington, D.C. or with certain Regional or District Offices for the region in which the issuer's principal business operations are conducted or proposed to be conducted.[18]

On October 9, 1996, the Commission announced that its Regional Offices will no longer review small business issuer registration forms and Regulation A filings made in those Offices as of October 15, 1996.[19] Rather, filings made in the Regional Offices would be accepted and forwarded promptly for review to the special new Headquarters unit that specializes in small company filings and the needs of small businesses.

II. Purpose of Changes and Effective Dates

The purpose of today's amendments is to require Forms SB–1 and SB–2 relating to initial public offerings and Regulation A material that previously could have been made at the Regional Offices to be filed directly at the Commission's Headquarters in Washington, D.C. On and after the effective date of the rule revisions, new filings on Forms SB–1 and SB–2, as well as Regulation A material, will not be accepted in any of the Commission's Regional or District Offices. Filings pending in the Northeast, Midwest, Central and Pacific Regional Offices, as well as the Atlanta District Office, before the effective date of these rules will continue to be processed there until effectiveness, withdrawal or abandonment unless staffing requirements necessitate transfer to the Commission's Headquarters. Post-effective and post-qualification amendments relating to documents previously filed in the Regional or District Offices should be filed at the Commission's Headquarters in Washington, D.C.

Rule 101(c)(7) of Regulation S–T [20] is being revised to reflect the elimination of filing with the Regional or District Offices of the Commission. Consequently, all Forms SB–1 and SB–2 will be required to be filed via the Commission's Electronic Data Gathering, Analysis and Retrieval system (''EDGAR'') rather than in paper (as was previously allowed for Regional Office filings).[21] In order to allow small businesses time to prepare for this change, until May 5, 1997 filing via EDGAR of Forms SB–1 and SB–2 relating to initial public offerings *only* may be made in paper at the Commission's Headquarters. On or after May 5, 1997, these filings must be made via EDGAR absent a hardship exemption.[22] Regulation A filings will continue to be filed in paper pursuant to Rule 101(c) of Regulation S–T.[23]

The action being taken today is an important feature of a Commission initiative to improve generally the regulatory conditions for small business. As noted, the Commission has created a special new Headquarters unit that specializes in small company filings and the needs of small businesses. The Commission also has appointed a special ombudsman to serve as a liaison and agency spokesman for the concerns of small business. Regional liaisons for small companies have been appointed in each of the Commission's Regional Offices so that a Commission staff member is always available locally for entrepreneurs to contact. Six small business town hall meetings between the Commission and small businesses have been held across the country, and will continue to be held, to convey basic information to small businesses about some of the fundamental requirements that must be addressed when they wish to raise capital through the sale of securities. In addition, the Commission is learning more about the concerns and problems facing small businesses in raising capital so that programs can be designed to meet their needs, consistent with the protection of investors. The Commission also maintains a special selection of relevant information on its World Wide Web site targeted to the interests of and to assist small businesses (http://www.sec.gov).

The rule changes are generally effective January 21, 1997. The change to Regulation S–T, however, is effective May 5, 1997.

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[1] 17 CFR 239.9.

[2] 17 CFR 239.10.

[3] 17 CFR 230.252.

[4] 17 CFR 230.254.

[5] 17 CFR 230.255.

[6] 17 CFR 230.256.

[7] 17 CFR 230.257.

[8] 17 CFR 230.259.

[9] 17 CFR 239.90.

[10] 17 CFR 239.91.

[11] 17 CFR 230.251 *et seq.*

[12] 17 CFR 232.101(c).

[13] This form is available to a small business issuer to raise up to $10 million in a 12 month period, under certain conditions.

[14] The form is available to any small business issuer to raise any dollar amount of funds in cash. It may be used for repeat offerings as long as the definition of small business issuer is applicable.

[15] A small business issuer is a United States or Canadian company that has not had more than $25 million in revenues during its most recent fiscal year provided that the aggregate market value for its outstanding securities held by non-affiliates does not exceed $25 million. *See* Securities Act Rule 405 (17 CFR 230.405) and Rule 12b–2 (17 CFR 240.12b–2) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*).

[16] 15 U.S.C. 77a *et seq.*

[17] 17 CFR 230.251-.263.

[18] Securities Act Rule 252.

[19] *See* SEC Press Release No. 96–123 (October 9, 1996).

[20] 17 CFR 232.101(c)(7).

[21] Since mandated electronic filing commenced in April 1993, small business issuers have been required to file small business registration statement forms via EDGAR if the registrant was subject to electronic filing and chose to file at Headquarters.

[22] For further information regarding hardship exemptions, *see* Rule 202 of Regulation S–T [17 CFR 232.202].

Prior to May 5, 1997, registrants may file these registration statements electronically. Reports filed with the Commission pursuant to Section 13(a) or 15(d) of the Exchange Act [15 U.S.C. 79m(a) and 79o(d)] must be filed electronically. *See* Rule 101(a) of Regulation S–T [17 CFR 232.101(a)].

[23] Current Rule 101(c)(8) of Regulation S–T [17 CFR 232.101(c)(8)]. Under the amendments being adopted today, (c)(7), which prohibits the filing of Regional and District filings via EDGAR, will be removed and the succeeding paragraphs will be renumbered so that Rule 101(c)(8), which pertains to Regulation A filings, will become Rule 101(c)(7) of Regulation S–T.

The Commission finds in accordance with Section 553(b) of the Administrative Procedure Act (''APA'')[24] that this action relates solely to agency organization, procedure or practice and that such section makes unnecessary the notice and prior publication required by that Act. It follows that the Regulatory Flexibility Act is inapplicable. Under 5 U.S.C. 804, this rule is exempt from the definition of the term ''rule'' for purposes of Chapter 8, entitled ''Congressional Review of Agency Rulemaking,'' since the rule is a rule of ''agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.''

III. Statutory Basis

The amendments to the Commission's rules and forms are being made pursuant to Section 19(a) of the Securities Act.

List of Subjects in 17 CFR Parts 230, 232 and 239

Reporting and recordkeeping, Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l, 78m, 78n, 78o, 78w, 78ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. By amending § 230.252 by revising paragraph (e) and the second sentence of paragraph (h)(1) to read as follows:

§ 230.252 Offering statement.

* * * * *

(e) *Number of copies and where to file.* Seven copies of the offering statement, at least one of which is manually signed, shall be filed with the Commission's main office in Washington, D.C.

* * * * *

(h) *Amendments.* (1) * * * Seven copies of every amendment shall be filed with the Commission's main office in Washington, D.C. * * *

* * * * *

3. By amending § 230.254 by revising the first sentence of paragraph (b)(1) to read as follows:

§ 230.254 Solicitation of interest document for use prior to an offering statement.

* * * * *

(b) * * *

(1) On or before the date of its first use, the issuer shall submit a copy of any written document or the script of any broadcast with the Commission's main office in Washington, D.C. (Attention: Office of Small Business Review). * * *

* * * * *

4. By amending § 230.255 by revising the first sentence after paragraph (a)(1) to read as follows:

§ 230.255 Preliminary offering circulars.

(a) * * *

(1) * * *

An offering statement pursuant to Regulation A relating to these securities has been filed with the Securities and Exchange Commission. * * *

* * * * *

5. By amending § 230.256 by revising the introductory text to read as follows:

§ 230.256 Filing of sales material.

While not a condition to an exemption pursuant to this provision, seven copies of any advertisement or written communication, or the script of any radio or television broadcast, shall be filed with the main office of the Commission in Washington, D.C.

* * * * *

6. By amending § 230.257 by revising the first sentence of the introductory text to read as follows:

§ 230.257 Report of sales and use of proceeds.

While not a condition to an exemption pursuant to this provision, the issuer and/or each selling security holder shall file seven copies of a report concerning sales and use of proceeds on Form 2–A (§ 239.91 of this chapter), or other prescribed form with the main office of the Commission in Washington, D.C. * * *

* * * * *

7. By amending § 230.259 by revising the last sentence of paragraph (a) to read as follows:

§ 230.259 Withdrawal or abandonment of offering statements.

(a) * * * The application for withdrawal shall state the reason the offering statement is to be withdrawn, shall be signed by an authorized representative of the issuer and shall be provided to the main office of the Commission in Washington, D.C. * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

8. The authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

§ 232.101 [Amended]

9. By amending § 232.101 by removing paragraph (c)(7) and by redesignating paragraphs (c)(8) through (c)(20) as paragraphs (c)(7) through (c)(19).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

10. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

§ 239.9 [Form SB–1—Amended]

11. By amending Form SB–1 (referenced in § 239.9) by revising General Instruction A.2. and removing General Instruction A.4. and A.5. to read as follows:

Note: The text of Form SB–1 does not and the amendments will not appear in the Code of Federal Regulations.

FORM SB–1

* * * * *

General Instructions

A. Use of Form and Place of Filing

* * * * *

2. The small business issuer shall file the registration statement in the Washington, D.C. office.

* * * * *

§ 239.10 [Form SB–2 amended]

12. By amending Form SB–2 (referenced in § 239.10) by revising General Instruction A.2. and removing General Instruction A.4. to read as follows:

Note: The text of Form SB–2 does not and the amendments will not appear in the Code of Federal Regulations.

FORM SB–2

* * * * *

General Instructions

A. Use of Form and Place of Filing

* * * * *

2. Offerings on Form SB–2 shall be filed in the Washington, D. C. office.

* * * * *

[24] 5 U.S.C. 553(b).

§ 239.90 [Form 1–A Amended]

13. By amending Form 1–A (referenced in § 239.90) by removing the last two sentences of General Instruction II.

Note: The text of Form 1–A does not and the amendments will not appear in the Code of Federal Regulations.

§ 239.91 [Form 2–A amended]

14. By amending Form 2–A (§ 239.91) by revising General Instructions to read as follows:

Note: The text of Form 2–A does not and the amendments will not appear in the Code of Federal Regulations.

FORM 2–A

* * * * *

General Instructions

The report shall be filed in accordance with the provisions of Rule 257 of Regulation A.

Answer each item in the box(es) or spaces provided. If additional space is required for any response, continue the response on an attached sheet.

If the issuer is required to file any report(s) on this form subsequent to its initial filing, each subsequent filing shall be deemed an amendment to the initial filing. Do not report in any amendment responses to Items 3–11 unless the information has changed.

No fee is required to accompany this filing.

Seven copies of the form shall be filed with the main office of the Commission in Washington, D.C. At least one copy of the form shall be manually signed; other copies may bear typed or printed signatures.

* * * * *

Dated: December 16, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–32336 Filed 12–19–96; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AE59

Supplemental Security Income for the Aged, Blind, and Disabled; Dedicated Accounts and Installment Payments for Certain Past-Due SSI Benefits

AGENCY: Social Security Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: These regulations reflect and implement amendments to the Social Security Act (the Act) made by sections 213 and 221 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 213 requires the establishment of accounts in financial institutions for the payment of past-due SSI benefits exceeding 6 months' benefits to representative payees on behalf of children under age 18. These accounts will be dedicated for certain purposes by restrictions on the use of such past-due benefits. Section 221 requires past-due SSI benefits which equal or exceed 12 months' benefits to be paid in installments, with certain exceptions.

DATES: These interim final rules are effective on December 20, 1996. To be sure that your comments are considered, we must receive them no later than February 18, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by E-mail to ''regulations@ssa.gov'', or delivered to the Division of Regulations and Rulings, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Regarding this Federal Register document—Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1758; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (Pub. L.) 104–193, was enacted on August 22, 1996. Section 213 of Pub. L. 104–193 amended section 1631(a)(2) of the Act, effective for payments made after August 22, 1996, by adding a new subparagraph (F) to require the representative payee of an eligible individual under age 18 to establish ''an account in a financial institution'' (which we will refer to as a ''dedicated account'') if the individual is eligible for past-due monthly supplemental security income (SSI) benefits (including any federally administered State supplementary payments) which (after any withholding for interim assistance reimbursement (IAR) to States) exceed six times the Federal Benefit Rate (FBR) plus any federally administered State supplementation. Once the dedicated account has been established by the representative payee for the eligible individual, SSA will direct deposit the past-due benefits into the dedicated account. Any subsequent past-due benefits payable which exceed six times the FBR plus any federally administered State supplementation also must be deposited directly by SSA into the dedicated account. However, if the eligible individual receives subsequent past-due benefits which are less than or equal to six times the FBR plus any federally administered State supplementation, these past-due benefits may be, but are not required to be, deposited into the dedicated account by the representative payee. Other funds representing an SSI underpayment which are equal to or greater than the Federal Benefit Rate also may be deposited into such an account.

Section 213 provides that funds in the dedicated account are to be used only for certain specified purposes, primarily those related to the child's impairment(s). Under the new statutory provision, the use of dedicated account funds for unauthorized items or services is considered a ''misapplication'' of benefits. A representative payee who knowingly misapplies funds from a dedicated account shall be personally liable to the Commissioner of Social Security (the Commissioner) in an amount equal to the amount misapplied. Section 213 also requires SSA to establish a system to monitor representative payee activity with respect to dedicated accounts.

Sections 213(b) and 213(c) of Pub. L. 104–193 also amended sections 1613(a) and 1612(b) of the Act, respectively, to provide an exclusion from resources for funds in a dedicated account established and maintained in accordance with section 1631(a)(2)(F) of the Act, including accrued interest or other earnings thereon, and to provide an exclusion from income for such interest and earnings.

Section 221 of Pub. L. 104–193 also affects the payment of large SSI past-due benefits payable to SSI recipients. This statutory provision, which is effective for past-due benefits paid on December 1, 1996 or later, amended section 1631(a) of the Act by adding a new paragraph (10) which requires payment of large past-due benefit amounts in installments. Prior to this provision, we paid past-due benefits directly to the eligible individual or the representative payee in a lump sum payment. Under the new statutory provision, past-due benefits (including any federally administered State supplementary payments) in an amount that (after reimbursement for IAR) equals or exceeds 12 times the FBR plus any federally administered State

supplementation payable to an eligible individual (or an eligible individual and eligible spouse), generally must be paid in installments. Such past-due benefits will be paid in not more than 3 installments, with the first and second installment not exceeding 12 times the FBR plus any State supplementation. The installment payments will be made at 6-month intervals.

There are two statutory exceptions for which the installment payment requirements do not apply. They are: (1) when the individual has a medically determinable impairment which is expected to result in death within 12 months; or (2) when an individual is ineligible for benefits and it is determined he or she is likely to remain ineligible for the next 12 months.

Section 221 also provides an exception to the limitation on the amount of the first and/or second installment payments when the individual has certain outstanding debts or current or anticipated expenses. The exception applies when there are: (1) outstanding debts due to food, clothing, shelter, or medically necessary services, supplies or equipment, or medicine; or (2) current or anticipated expenses in the near future due to the purchase of a home, or medically necessary services, supplies or equipment, or medicine.

The standard limitation on the first and second installment payments may be increased by the amount of the debts or expenses described above. This increase only applies with respect to debts or expenses that are not subject to reimbursement by a public assistance program, the Secretary of Health and Human Services under title XVIII of the Act, a State plan approved under title XIX of the Act, or any private entity that is legally liable to make payment according to an insurance policy, prepaid plan, or other arrangement.

Explanation of Revisions

We are amending existing regulations at §§ 416.535, 416.538, 416.542, 416.570, 416.640, 416.1124, and 416.1210 and adding new §§ 416.545, 416.546, and 416.1247.

We are amending § 416.535 to refer to §§ 416.545 and 416.546, respectively, on the payment in installments of past-due benefits and the use of dedicated accounts for the deposit of past-due benefits, that exceed amounts determined under statutorily prescribed formulas.

We are amending § 416.538 to explain that a dedicated account must be established for the deposit of past-due benefits for individuals under age 18 who have representative payees if the amount of the past-due benefits meets the formula in § 416.546.

We are amending § 416.542 to refer to § 416.545 on installment payments for large past-due benefits and adding a paragraph to discuss how we will pay past-due benefits when a dedicated account is required to be established.

We are adding a new § 416.545 which explains that when an eligible individual is due past-due benefits which (after reimbursement for IAR) equal or exceed 12 times the FBR plus any federally administered State supplementation, the payments generally are required to be made in installments. This section also explains the exceptions to the installment payment requirements for certain individuals. This section also discusses when the amount of the installment payment may be increased due to certain outstanding debts or current or anticipated expenses.

We also are adding a new § 416.546 which explains that when an individual under age 18 who has a representative payee is eligible for the payment of past-due benefits in an amount (after reimbursement for IAR) that exceeds six times the FBR plus any federally administered State supplementation, these past-due benefits must be deposited into a dedicated account. The new section also reflects that certain subsequent past-due benefits and underpayments may be, but do not have to be, deposited into the dedicated account.

We are adding a statement to the end of § 416.570 that funds in a dedicated account cannot be used to repay an overpayment under title II or title XVI of the Act. This prohibition is based on the fact that overpayment repayment is not among the allowable uses of dedicated account funds listed in § 416.640(e), as it is not related to the individual's impairment.

We are adding a paragraph to § 416.640 explaining when representative payees are required to establish a dedicated account in a financial institution into which certain past-due payments must be deposited as described in § 416.546. We also describe the types of dedicated accounts the representative payee may establish and how they are to be established. The allowable types of accounts are intended to alleviate the risk of loss of principal, ensure accessibility, and ensure representative payee accountability.

We also explain in § 416.640 that funds in these accounts are to be used only for certain specified items or services, primarily those related to the individual's impairment. Limitations on expenditures continue until all funds in the account are depleted or SSI eligibility terminates. If a representative payee knowingly uses funds in the account for unauthorized expenditures, the representative payee will be liable to the Commissioner to repay the amount misapplied. We also state that this amount is not an ''overpayment'' as defined in § 416.537. We also explain that the recordkeeping requirements in §§ 416.635 and 416.665 apply to these accounts.

Based upon the report to Congress of the National Commission on Childhood Disability, issued October 10, 1995, we deemed it best that our regulations not attempt to provide specific guidelines for what items or services would be appropriate as ''impairment-related.'' The report noted the testimony of advocates for disabled children as to the vast array of possible impairment-related items and services. Accordingly, the appropriateness of an expenditure will be decided on a case-by-case basis within the context of each child's needs and impairment(s). Therefore, in this section, we have provided broad guidelines in this area.

We are revising § 416.1124 by adding interest or other earnings on a dedicated account which is excluded from resources to the list of unearned income exclusions in paragraph (c).

We are revising § 416.1210 by adding dedicated accounts to the list of excluded resources.

We are adding a new § 416.1247 explaining the exclusion from resources of dedicated accounts and interest or other earnings on the account.

Under these interim final rules, the dedicated account must be kept separate from all other resources in order for the income and resource exclusions to apply. No commingling of other funds in the account will be permitted. Not only does commingling appear to be precluded by the specified mandatory and discretionary deposits that must or may be made into a dedicated account, but to permit commingling of other funds into the dedicated account would impose unduly burdensome reporting and recordkeeping requirements on representative payees. In addition, such commingling would impose administratively time-consuming and complex monthly proration computations on the part of SSA related to interest and other earnings on the account. Prior administrative experience with allowing commingling in excluded burial fund accounts led us to prohibit commingling in such accounts based on this administrative burden (see § 416.1231(b) and 55 FR 28373 (July 11, 1990)).

We also explain in § 416.1247 that the income and resource exclusions continue during a period of suspension or eligibility for which no payment is due, so long as the individual's eligibility has not been terminated. Once eligibility terminates, previously excluded funds may not be excluded if the individual establishes a subsequent period of eligibility by filing a new application.

Electronic Versions

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of publication in the Federal Register. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Pub. L. 103–296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case.

Public Law 104–193 was signed into law on August 22, 1996. Section 213 was made effective on August 23, 1996, and section 221 was made effective on December 1, 1996. Moreover, sections 215 and 222, respectively, require the Commissioner to issue regulations as may be necessary to carry out the amendments made by sections 213 and 221, respectively, within 3 months after enactment (i.e., by November 22, 1996). Accordingly, to issue these rules to implement sections 213 and 221 as a notice of proposed rulemaking would have delayed issuance of final rules until well past the statutory effective dates and regulatory issuance deadline. Issuing these rules as interim final rules allows us to come as close as possible to the mandated dates.

In light of the immediacy of the effective dates and the Congressional mandate that we issue regulations needed to carry out these statutory provisions within 3 months, we believe that, under the APA, good cause exists for waiver of the prior notice procedures since issuance of proposed rules would be impracticable. While we are issuing these rules as interim final regulations, we are interested in receiving public comments regarding the substance of these interim rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, these regulations reflect and implement statutory provisions, one of which is effective on enactment and one of which is effective December 1, 1996, and for which publication of implementing regulations is required by November 22, 1996. In order for these regulations to be effective as close as possible to the mandated dates, we find that it is in the public interest to make these rules effective upon publication.

Executive Order 12866

These interim final rules reflect and implement the provisions of sections 213 and 221 of Pub. L. 104–193. The Office of Management and Budget (OMB) has reviewed these interim final rules and determined that they meet the criteria for a significant regulatory action under Executive Order 12866.

The administrative cost of each of the provisions is negligible (less than $1 million annually). The provisions of section 213 will have no impact on benefit payments. Under section 221, benefits will be paid in installments over a period up to a year later than they would have been paid in a lump sum.

The provisions establishing dedicated accounts are intended to alleviate the risk of loss of principal, ensure accessibility, and ensure representative payee accountability. The exclusion from resources and income permits families to plan for the needs of the child as authorized in the provisions.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect only the small number of individuals who would receive past-due SSI benefits that exceed the 6-month or 12-month limitation. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These interim final rules contain a recordkeeping requirement in § 416.640(e)(3). We would normally seek approval of this requirement from OMB under 44 U.S.C. 3507 as amended by section 2 of the Paperwork Reduction Act of 1995. However, we are not doing so because we already have clearance of this requirement under OMB Control No. 0960–0068.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: November 25, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set forth in the preamble, part 416, subparts E, F, K, and L of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart E—[Amended]

1. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1601, 1602, 1611 (c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1381a, 1382 (c) and (e), and 1383(a)–(d) and (g)).

2. Section 416.535 is amended by revising the first sentence of paragraph (a) and adding paragraph (c) to read as follows:

§ 416.535 Underpayments and overpayments.

(a) *General.* When an individual receives SSI benefits of less than the correct amount, adjustment is effected as described in §§ 416.542 and 416.543, and the additional rules in § 416.545 may apply. * * *

* * * * *

(c) *Additional rules for eligible individuals under age 18 who have a representative payee.* When an eligible individual under age 18 has a representative payee and receives less than the correct amount of SSI benefits, the additional rules in § 416.546 may apply.

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3. Section 416.538 is amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§ 416.538 Amount of underpayment or overpayment.

* * * * *

(d) *Limited delay in payment of underpaid amount to eligible individual under age 18 who has a representative payee.* When the representative payee of an eligible individual under age 18 is required to establish a dedicated account pursuant to §§ 416.546 and 416.640(e), payment of past-due benefits which are otherwise due will be delayed until the representative payee has established the dedicated account as described in § 416.640(e). Once the account is established, SSA will deposit the past-due benefits payable directly to the account.

* * * * *

4. Section 416.542 is amended by adding a sentence at the end of paragraph (a)(1) and adding paragraph (a)(3) to read as follows:

§ 416.542 Underpayments—to whom underpaid amount is payable.

(a) *Underpaid recipient alive—underpayment payable.* (1) * * * If the underpaid amount meets the formula in § 416.545 and one of the exceptions does not apply, the amount of any past-due benefits will be paid in installments.

* * * * *

(3) If an underpaid individual under age 18 is alive and has a representative payee and is due past-due benefits which meet the formula in § 416.546, SSA will pay the past-due benefits into the dedicated account described in § 416.640(e). If the underpaid individual dies before the benefits have been deposited into the account, we will follow the rules which apply to underpayments for the payment of any unpaid amount due to any eligible survivor of a deceased individual as described in paragraph (b) of this section.

* * * * *

5. A new § 416.545 is added to read as follows:

§ 416.545 Paying large past-due benefits in installments.

(a) *General.* Except as described in paragraph (c) of this section, when an individual is eligible for past-due benefits in an amount which meets the formula in paragraph (b) of this section, payment of these benefits must be made in installments. The amounts subject to payment in installments include:

(1) Benefits due but unpaid which accrued prior to the month payment was effectuated;

(2) Benefits due but unpaid which accrued during a period of suspension for which the recipient was subsequently determined to have been eligible; and

(3) Any adjustment to benefits which results in an accrual of unpaid benefits.

(b) *Installment Formula.* Installment payments must be made if the amount of the past-due benefits including any federally administered State supplementation, after applying § 416.525, equals or exceeds 12 times the Federal Benefit Rate plus any federally administered State supplementation payable in a month to an eligible individual (or eligible individual and eligible spouse). These installment payments will be paid in not more than 3 installments and made at 6-month intervals. Except as described in paragraph (d) of this section, the amount of each of the first and second installment payments may not exceed the threshold amount of 12 times the maximum monthly benefit payable as described in this paragraph.

(c) *Exception—When installments payments are not required.* Installment payments are not required and the rules in this section do not apply if, when the determination of an underpayment is made, the individual is (1) afflicted with a medically determinable impairment which is expected to result in death within 12 months, or (2) ineligible for benefits and we determine that he or she is likely to remain ineligible for the next 12 months.

(d) *Exception—Increased first and second installment payments.* (1) The amount of the first and second installment payments may be increased by the total amount of the following debts and expenses:

(i) Outstanding debt for food, clothing, shelter, or medically necessary services, supplies or equipment, or medicine; or

(ii) Current or anticipated expenses in the near future for medically necessary services, supplies or equipment, or medicine, or for the purchase of a home.

(2) The increase described in paragraph (d)(1) of this section only applies to debts or expenses that are not subject to reimbursement by a public assistance program, the Secretary of Health and Human Services under title XVIII of the Act, a State plan approved under title XIX of the Act, or any private entity that is legally liable for payment in accordance with an insurance policy, pre-paid plan, or other arrangement.

6. A new § 416.546 is added to read as follows:

§ 416.546 Payment into dedicated accounts of past-due benefits for eligible individuals under age 18 who have a representative payee.

For purposes of this section, amounts subject to payment into dedicated accounts (see § 416.640(e)) include the amounts described in § 416.545(a) (1), (2), and (3).

(a) For an eligible individual under age 18 who has a representative payee and who is determined to be eligible for past-due benefits (including any federally administered State supplementation) in an amount which (after § 416.525 is applied) exceeds six times the Federal Benefit Rate plus any federally administered State supplementation payable in a month, this unpaid amount must be paid into the dedicated account established and maintained as described in § 416.640(e).

(b) After the account is established, the representative payee may (but is not required to) deposit into the account any subsequent past-due benefits (including any federally administered State supplementation) which are in an amount less than that specified in paragraph (a) of this section or any other funds representing an SSI underpayment which is equal to or exceeds the maximum Federal Benefit Rate.

(c) If the underpaid individual dies before all the benefits due have been deposited into the dedicated account, we will follow the rules which apply to underpayments for the payment of any unpaid amount due to any eligible survivor as described in § 416.542(b).

7. Section 416.570 is amended by adding a new sentence at the end of the section to read as follows:

§ 416.570 Adjustment—general rule.

* * * No funds properly deposited into a dedicated account (see §§ 416.546 and 416.640(e)) can be used to repay an overpayment while the overpaid individual remains subject to the provisions of those sections.

Subpart F—[Amended]

8. The authority citation for subpart F of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631(a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 902(a)(5) and 1383(a)(2) and (d)(1)).

9. Section 416.640 is amended by adding paragraph (e) to read as follows:

§ 416.640 Use of benefit payments.

* * * * *

(e) *Dedicated accounts for eligible individuals under age 18.* (1) When past-due benefit payments are required to be paid into a separate dedicated account (see § 416.546), the representative payee is required to establish in a financial institution an account dedicated to the purposes described in paragraph (e)(2) of this section. This dedicated account may be a checking, savings or money market

account subject to the titling requirements set forth in § 416.645. Dedicated accounts may not be in the form of certificates of deposit, mutual funds, stocks, bonds or trusts.

(2) A representative payee shall use dedicated account funds, whether deposited on a mandatory or permissive basis (as described in § 416.546), for the benefit of the child and only for the following allowable expenses—

(i) Medical treatment and education or job skills training;

(ii) If related to the child's impairment(s), personal needs assistance; special equipment; housing modification; and therapy or rehabilitation; or

(iii) Other items and services related to the child's impairment(s) that we determine to be appropriate. The representative payee must explain why or how the other item or service relates to the impairment(s) of the child.

(3) Representative payees must keep records and receipts of all deposits to and expenditures from dedicated accounts, and must submit these records to us upon our request, as explained in §§ 416.635 and 416.665.

(4) The use of funds from a dedicated account in any manner not authorized by this section constitutes a misapplication of benefits. These misapplied benefits are not an overpayment as defined in § 416.537; however, if we determine that a representative payee knowingly misapplied funds in a dedicated account, that representative payee shall be liable to us in an amount equal to the total amount of the misapplied funds.

(5) The restrictions described in this section and the income and resource exclusions described in §§ 416.1124(c)(20) and 416.1247 shall continue to apply until all funds in the dedicated account are depleted or eligibility for benefits terminates, whichever comes first. This continuation of the restrictions and exclusions applies in situations where funds remain in the account in any of the following situations—

(i) A child attains age 18, continues to be eligible and receives payments directly;

(ii) A new representative payee is appointed. When funds remaining in a dedicated account are returned to us by the former representative payee, the new representative payee must establish an account in a financial institution into which we will deposit these funds, even if the amount is less than that prescribed in § 416.546; or

(iii) During a period of suspension due to ineligibility as described in § 416.1321, administrative suspension, or a period of eligibility for which no payment is due.

Subpart K—[Amended]

10. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

11. Section 416.1124 is amended by removing the ''and'' at the end of paragraph (c)(18) and the period at the end of paragraph (c)(19), adding ''; and'' at the end of paragraph (c)(19), and adding paragraph (c)(20) to read as follows:

§ 416.1124 Unearned income we do not count.

* * * * *

(c) * * *

(20) Interest or other earnings on a dedicated account which is excluded from resources. (See § 416.1247).

Subpart L—[Amended]

12. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

13. Section 416.1210 is amended by removing the ''and'' at the end of paragraph (p) and the period at the end of paragraph (q), adding ''; and'' at the end of paragraph (q), and adding paragraph (r) to read as follows:

§ 416.1210 Exclusions from resources; general.

* * * * *

(r) Dedicated financial institution accounts as provided in § 416.1247.

14. A new § 416.1247 is added to read as follows:

§ 416.1247 Exclusion of a dedicated account in a financial institution.

(a) *General.* In determining the resources of an individual (or spouse, if any), the funds in a dedicated account in a financial institution established and maintained in accordance with § 416.640(e) will be excluded from resources. This exclusion applies only to benefits which must or may be deposited in such an account, as specified in § 416.546, and accrued interest or other earnings on these benefits. If these funds are commingled with any other funds (other than accumulated earnings or interest) this exclusion will not apply to any portion of the funds in the dedicated account.

(b) *Exclusion during a period of suspension or termination.* (1) *Suspension.* The exclusion of funds in a dedicated account and interest and other earnings thereon continues to apply during a period of suspension due to ineligibility as described in § 416.1321, administrative suspension, or a period of eligibility for which no payment is due, so long as the individual's eligibility has not been terminated as described in §§ 416.1331 through 416.1335.

(2) *Termination.* Once an individual's eligibility has been terminated, any funds previously excluded under paragraph (a) of this section may not be excluded if the individual establishes a subsequent period of eligibility by filing a new application.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 668

[FHWA Docket No. 95–25]

RIN 2125–AD60

Emergency Relief Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation on the emergency relief (ER) program in order to incorporate changes made to 23 U.S.C. 120 and 125 by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240,105 Stat. 1914). The time period in which the Federal share payable for certain eligible emergency repairs is 100 percent will be extended from 90 days to 180 days as a result of this final rule; the limit for total obligations for ER projects in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands will be increased from $5 million to $20 million; and the term ''Federal-aid highway systems'' will be replaced with the term ''Federal-aid highways'' to conform with terminology now used to describe highways eligible for Federal-aid ER assistance. In addition, various statements clarifying eligible uses of ER funding will be incorporated into the regulation.

EFFECTIVE DATE: January 21, 1997.

FOR FURTHER INFORMATION CONTACT: Mohan P. Pillay, Office of Engineering, 202–366–4655, or Wilbert Baccus, Office of the Chief Counsel, 202–366–0780, FHWA, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The changes to the FHWA's ER regulations, which will result from this final rule, were developed based on the comments made to a notice of proposed rulemaking (NPRM) on this subject published in the Federal Register on November 13, 1995, at 60 FR 56962 (FHWA Docket No. 95–25). Interested persons were invited to participate in the development of this final rule by submitting written comments on the NPRM to FHWA Docket 95–25 on or before January 12, 1996. Comments were received from 7 State highway agencies (SHAs). All comments received on the amendments proposed in the NPRM have been considered in adopting this final rule.

The current FHWA regulations implementing the emergency relief program are found primarily at 23 CFR part 668. Subpart A of part 668 sets forth the procedures for the administration of ER funds for the repair or reconstruction of Federal-aid highways. This final rule amends these regulations in the following manner and for the reasons indicated below.

Three of the States expressed support in general for the changes proposed by the NPRM. The other four States supported individual changes and/or presented suggestions on further changes to be made. Amendments to the rule, along with suggested changes by commenters, are discussed below.

In subpart A, the terms ''Federal-aid system'' and ''Federal-aid highway system'' will be replaced with the term ''Federal-aid highways.'' The revision is in accordance with The Dire Emergency Supplemental Appropriations Act (Pub. L. 102–302, 106 Stat. 248) which amended 23 U.S.C. 125(b) by replacing the term ''Federal-aid highway systems including the Interstate System'' with the term ''Federal-aid highways.'' No changes were suggested by commenters.

In § 668.101, the second sentence will be amended by replacing ''Federal roads not on the Federal-aid system'' with ''Federal roads that are not part of Federal-aid highways.'' The NPRM proposal was to replace ''Federal roads not on the Federal-aid system'' with ''roads on Federal lands.'' One commenter recommended changing the words ''roads on Federal lands'' to ''Federal roads that are not part of Federal-aid highways'' to be consistent with the term Federal roads used in Part 668, Subpart B, Procedures for Federal Agencies for Federal Roads, which is cross referenced here. The FHWA agrees with the commenter's recommendation and it was incorporated into this final rule.

Section 668.105(e) will be amended by adding the words ''or by a toll authority for repair of the highway facility'' after the words ''political subdivision'' in the last sentence. This amendment clarifies that any compensation or insurance received by a toll authority whose facility is being repaired with ER funding must be appropriately credited to the ER project. In the case of a toll facility, the credit would be based on that portion of the compensation or insurance attributable to the cost of repair of capital improvements. No comments were received on this amendment.

In § 668.107, paragraph (a) will be amended to extend to 180 days the current 90-day time period following a natural disaster or catastrophic failure in which the Federal share payable for certain eligible emergency repair costs may amount to 100 percent. This amendment is made to conform § 668.107(a) to 23 U.S.C. 120(e) (as amended by section 1022 of the ISTEA, Public Law 102–240, 105 Stat. 1914 (1991)). One State suggested a further extension from 180 days up to 360 days on a case-by-case basis ''where high water levels continue to cause damage and/or cause delays in performing emergency work.'' FHWA does not have any flexibility to extend the 180-day time period for the 100 percent Federal share for emergency repairs. The Federal share, including the 180-day time period, is established by 23 U.S.C. 120(e) and there is no authority to change the time period. Another State requested clarification as to whether 180 days ''after the disaster'' starts on the initial day of the occurrence or 180 days after the last day of the occurrence. The intent is that 180 days starts on the initial day of the occurrence. In certain circumstances, emergency repair work to restore essential traffic, or to protect the remaining facilities, or to minimize the extent of damage cannot be undertaken on the initial day of the occurrence of the disaster. In such circumstances, it is acceptable to consider the date on which the first emergency work was undertaken as the beginning day of the first 180 days. It is emphasized that there is only one 180-day period for the entire disaster.

In § 668.107, the second sentence of paragraph (b) is amended to raise to $20 million the current $5 million limit on the total amount of obligations for emergency relief projects in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. This amendment is made to conform this provision with that set forth in 23 U.S.C. 125(b)(2) (as amended by section 1022(b) of the ISTEA). No changes were suggested by commenters.

One State suggested several minor editorial changes to §§ 668.107 (a) and (b) including revised language that reflects a new definition of ''emergency repairs.'' This new definition for ''emergency repairs'' along with FHWA reasons for not including it as part of the final rule are discussed later in this preamble. Additionally, the minor editorial changes did not significantly clarify or improve the wording in these two sections. As a result, the FHWA is making no further changes to §§ 668.107 (a) and (b) other than those discussed above.

Section 668.109(b) is amended to expand and clarify the eligible uses for ER funds based on recent experiences in administering the ER program. ER funds will now be eligible to participate in:

1. Raising of roadway grades temporarily to maintain essential traffic service during flooding.

This is a new activity considered eligible for ER funding. No changes were suggested by commenters. A new paragraph (b)(7) will be added to § 668.109 by this final rule to incorporate this change.

2. Raising grades of critical Federal-aid highways faced with long-term loss of use due to an unprecedented rising in basin water level.

In the past, reconstruction or repair of highways affected by basin flooding was generally not considered eligible for ER funding. Basin flooding was seen as a gradual rise in water level that could be predicted. Hence, work to prevent potential damage could be anticipated and was not considered eligible for ER funding. Now, basin flooding is an eligible activity under the ER program if it can be shown that (1) there has been an unprecedented rise in water level, both in terms of the magnitude of the increase and the time frame in which the increase occurred; and (2) there will be long-term loss of use of Federal-aid routes. As with any other disaster considered for funding under the ER program, for basin flooding, the Federal share of the estimated cost to raise the grade of critical Federal-aid routes to restore traffic service should exceed the $500,000 minimum threshold. No changes were suggested by the commenters. A new paragraph (b)(8)

will be added to § 668.109 by this final rule to incorporate this change.

3. Repair of toll facilities when the provisions of 23 U.S.C. 129 are met.

This provision clarifies that ER funds can participate in repair of toll facilities on Federal-aid highways provided a toll agreement under 23 U.S.C. 129 is executed. No comments were received on this provision. A new paragraph (b)(9) will be added to § 668.109 by this final rule to incorporate this change.

4. Repair of surface damage by traffic but only on designated detour routes (both Federal-aid highways and non-Federal-aid highways) or on Federal-aid highways where the surface damage has been caused by traffic in route to make repairs to other damaged non-highway transportation facilities. For a more detailed discussion of roadway surface damage caused by this kind of traffic, see the discussion on § 668.109(c)(2) in this preamble.

In addition to the above mentioned items, one State recommended that the regulation be changed to make the following items also eligible for ER funding: (1) The replacement of equipment that is lost while it is being used to protect or open a facility to traffic; (2) the purchase of aeronautical equipment to be used in surveying site damages; (3) the construction of statewide command centers to be used to direct emergency service.

The FHWA is not expanding ER eligibility to include these three items. The ER program is not intended to compensate a State for all the costs it faces in responding to a disaster. For example, although ER funding may pay for the time that equipment is used to make eligible ER repairs, it is expected the State will assume the risks associated with the loss or damage of this equipment. In addition, it is expected that a State highway agency will be responsible for the costs associated with setting up command centers and other actions, such as utilizing aeronautical equipment, it deems necessary for managing its response to a disaster.

Section 668.109(c), which describes activities ineligible for ER funding, will be amended in § 668.109(c)(1) to eliminate the reference to slip-outs in cut or fill slopes which do not extend to the traveled way. This revision will allow ER funding to be used to repair significant slope damage, even if the slope damage does not extend into the traveled way. Two States expressed opposition to this change, although upon further review of their comments it appears they misunderstood the NPRM proposal and, in fact, both States support extending ER funding eligibility to cover this situation. One State suggested adding the words ''off the traveled way '' after the phrase ''mud and debris deposits'' to clarify the paragraph. The FHWA agrees this will help clarify the intent of this provision and the suggested change was included in this final rule.

Section 668.109(c)(2) will be amended to allow limited use of ER funds to repair roadway surface damage caused by traffic on designated detours and by traffic in route to repair other non-highway transportation facilities. In general, repair of traffic damage to roadway surfaces, even if this damage is aggravated by saturated subgrade conditions or by inundation of the roadway, is not eligible for ER fund participation. In the past, one exception was allowed: ER funds could participate in repair of surface damage caused by vehicles making repairs on Federal-aid highways. For example, there may be a need to immediately haul material to a damaged Federal-aid highway facility to begin emergency repairs and in doing so the haul vehicles significantly damage roadway surfaces, either of Federal-aid or non-Federal-aid highways. In these instances, ER funds have been able to participate in repair of the damaged roadway surfaces and this exception is retained in the regulation.

As a result of the amendment to § 668.109(c)(2), ER funds will now be eligible for participation in the repair of surface damage to a designated detour (which may lie on both Federal-aid and non-Federal-aid routes) caused by traffic that has been detoured from a damaged Federal-aid highway. This may include roadway surface repairs to provide reasonable traffic service during the period of time the detour is in use as well as surface repairs to the detour route to restore the detour roadway surface to its predisaster condition after detour traffic has been removed. A designated detour is the officially signed detour that highway officials have established to reroute traffic around the damaged portion of the Federal-aid highway. In addition, ER funds will also be able to participate in the repair of surface damage to Federal-aid highways (only) caused by vehicles making repairs to other damaged non-highway transportation facilities, for example, surface damage caused by vehicles hauling materials to repair a damaged railroad facility.

Two States suggested that ER eligibility be further expanded to include traffic damage to roadways that have saturated bases. If, after periods of heavy rainfall or when flood waters recede, highway officials find that roadbeds are saturated, it is expected that these officials will control subsequent traffic use of these roads in such a manner that this traffic will not damage the facility. Accordingly, the FHWA plans to continue to limit ER eligibility to repair roadway surfaces to those cases where damage has been caused directly by the flood waters, other than those exceptional circumstances listed in amended § 668.109(c)(2).

Section 668.109(c)(6) is amended to cross-reference newly added § 668.109(b)(8) which discusses the extent to which ER funding can participate in raising grades of Federal-aid highways to compensate for an unprecedented rise in basin water levels.

Section 668.109(c)(7) is amended to redefine the term ''scheduled.'' As currently defined, the term signifies permanent repair or replacement of a deficient bridge is included in the approved Federal-aid program, the current or next year's Highway Bridge Replacement and Rehabilitation Program, or in the contract plans being prepared. The current definition refers to an approved Federal-aid program, which is a program incorporating various projects submitted by a State to the FHWA for approval in accordance with the requirements of 23 U.S.C. 105; however, 23 U.S.C. 105 has been superseded by the new requirements of 23 U.S.C. 135 and, as a result, a State now is required to develop a Statewide Transportation Improvement Program (STIP) which is to be submitted to the FHWA for approval. To update and simplify the definition of ''scheduled,'' the amended definition would refer only to the approved STIP. One State suggested that a bridge project be considered scheduled if the construction phase is included in the FHWA approved current annual element of the STIP. The purpose of this provision is to prevent a State from using ER funding to replace or reconstruct a deficient bridge when it was already planning to use other funding sources for that purpose. The FHWA believes that an approved STIP, in which the State has identified a funding source to advance projects during the upcoming 3-year period, reasonably reflects a State's intent to have used non-ER funding source for a bridge project. Therefore, the proposal to limit the term ''scheduled'' to only the first year of the STIP is not being adopted.

A new paragraph (c)(10) will be added to § 668.109 to make clear that the loss of toll revenue is not eligible for reimbursement. No comments were received on this new section.

Section 668.113(a) is amended to remove the outdated reference to the program requirements of 23 CFR part 630. The requirements for a program of ER projects are adequately described in § 668.113; therefore, cross-reference to 23 CFR part 630 is no longer needed. No comments were received regarding this change.

Section 668.113(b)(1) will be amended to reflect the current policy on project review, oversight, and administration as applicable to ER projects. In those cases where a regular Federal-aid project (in a State) similar to the ER project would be handled under the certification acceptance procedures found in 23 U.S.C. 117 or the project oversight exceptions found in 23 U.S.C. 106, the ER project may, as a result of this final rule, be handled under these alternate procedures subject to the following two conditions: (1) Any betterment to be incorporated into the project and for which ER funding is requested must receive prior FHWA approval, and (2) the FHWA reserves the right to conduct final inspections on ER projects as deemed appropriate. No comments were received on this change.

In addition to the changes described above, minor editorial changes in §§ 668.109(b)(3) and 668.111(b)(2) will also be made for clarity.

One State commented on several sections of Part 668, subpart A which were not proposed for change and/or modification in the NPRM. The State suggested revision of the definition for emergency repairs and the addition of several new definitions as well as changes to other provisions of the regulation. These suggestions are discussed below.

The commenter proposed to revise the definition of ''emergency repairs'' to read as follows: those repairs including traffic operations undertaken during or within 180 days after the actual occurrence of a natural disaster or catastrophic failure for the purpose of (1) minimizing the extent of damage (2) protecting remaining facilities, or (3) restoring essential travel.

The major purpose of emergency repairs is to immediately open the road to essential travel. By eliminating the term ''immediate'' from the current definition and also by including the term ''work undertaken within 180 days,'' the revised definition implies that there is no urgency in undertaking repairs. Further, the statutory 180-day limit found in 23 U.S.C. 120(e) defines a time period for a special Federal match and is not related to the definition of what is or is not an emergency repair. The FHWA feels that the existing definition of emergency repairs is adequate and no change is being made.

The commenter also proposed adding new definitions to the regulation for the following terms: actual occurrence, betterments, eligible repair costs, site, and sub-applicant. In some cases, these new definitions were in conjunction with other suggested changes to the regulation. The FHWA believes that most of the new definitions are unnecessary at this time; however, some may be considered during future revisions to the regulation.

The commenter proposed to amend § 668.105(i) to allow application of the small purchase procedures of the Federal common rule regulations in 49CFR18.36(d)(1) to permanent repair and reconstruction work. The common rule regulation may not apply to highway construction grants as provided in 49 CFR 18.36(j) which states that ''23 U.S.C. 112(a) directs the Secretary to require recipients of highway construction grants to use bidding methods that are 'effective in securing competition'.'' Permanent repairs and reconstruction work under the ER program are viewed as construction grants subject to 23 U.S.C. 112(a). Therefore, this proposed change is not acceptable.

The commenter proposed to amend § 668.105(j) to require that the FHWA consider the estimated cost of non-Federal-aid highway damage in determining whether a disaster is of a magnitude to qualify it for assistance under the ER program. The FHWA is not adopting this change. The FHWA believes that in determining whether a disaster has caused enough damage to trigger eligibility under FHWA's ER program, only damage to Federal-aid highways should be considered. If significant damage has occurred to non-Federal-aid highways, typically the Federal government will assist in paying for repair of these non-Federal-aid highways through the Federal Emergency Management Agency's program. The ER program is not intended to take care of all repair costs. When a disaster occurs, State and local highway agencies must expect additional expenditures. The existing requirement that there be at least $500,000 in estimated ER expenditures for Federal-aid highways before a State struck by a disaster will be considered eligible for ER funding is viewed as a reasonable threshold and will be retained.

The commenter proposed to amend § 668.109(a) to read as follows:

(a) the eligibility of all work is contingent upon approval by the Federal Highway Administrator of an application for ER in accordance with the following: (1) prior FHWA approval or authorization is not required for emergency repairs and related preliminary engineering (PE), right of way and construction engineering (CE), and (2) permanent repairs or restoration including PE, right of way and CE must have prior FHWA program approval and authorization unless these activities are carried out in conjunction with emergency repairs.

Although, there is no requirement for prior FHWA approval for emergency repairs, the emergency repair projects including preliminary engineering and right-of-way must be included along with the permanent repair in an approved program of projects according to the existing regulation. This requirement satisfies the planning process requirements of 23 U.S.C. 135 and serves the purpose of keeping an inventory of projects funded with ER funds for subsequent reimbursement of the costs.

Further, the commenter's proposal is more restrictive than the existing regulation. If adopted, prior FHWA approval would be required for preliminary engineering associated with permanent repairs. The existing regulation does not require prior FHWA approval for preliminary engineering regardless of whether it is associated with permanent repair or emergency repair. Thus, the FHWA has decided not to adopt the proposed amendment.

The commenter proposed to add a new paragraph to § 668.109(b) making costs incurred by the State to conduct preliminary field surveys on Federal-aid highways under local jurisdiction eligible for ER reimbursement. As noted previously, it is expected that State and local highway agencies will assume some costs in responding to a disaster. The FHWA believes that it is not unreasonable to expect the State to fund costs associated with preliminary damage surveys necessary for managing its response to a disaster. Accordingly, the FHWA is not making this activity eligible for reimbursement.

The commenter proposed to remove the provision in § 668.109(c)(4) which does not allow ER funds to participate in maintenance of detours. In general, the FHWA does not agree with this proposal. Routine maintenance of a detour similar to routine maintenance of a highway, is the responsibility of the State. Plowing snow, mowing roadsides, maintaining drainage and normal replacement of pre-existing permanent roadway signs, are examples of routine maintenance activities that the State should perform on the detour facility or detour route without ER funding assistance.

However, the FHWA is agreeable to the use of ER funds to perform repairs to the roadway surface of the detour during the time the detour is in use. For example, an interstate route is damaged and closed by a disaster, and the interstate traffic is detoured to a parallel State route. The State route may not have an adequate pavement structure to handle the added traffic, and because of the need to immediately provide traffic service, there is no time to overlay the State route before the interstate traffic is detoured to it. The roadway surface of the detour may begin to suffer failures that require quick repairs, so that the detour can continue to provide reasonable traffic service. These repairs are eligible for ER funding.

As previously discussed in the preamble, § 668.109(c)(2) is amended to allow ER funds to participate in the repair of surface damage to a designated detour. This may include surface repairs while the detour is in use as well as those repairs needed to restore the surface to its predisaster condition after traffic has been removed from the detour.

In addition, § 668.109(c)(4) is amended to clarify that the prohibition against use of ER funds for maintenance of detours is limited to routine maintenance activities not related to the increased traffic volumes.

The commenter proposed to amend § 668.111(c)(1) on application procedures to indicate that a copy of the Presidential declaration itself is an acceptable option. The President's declaration is related to disaster relief under authority of P.L. 93–288, and is in response to a request from the Governor. The proclamation by the Governor as required in title 23 is an entirely separate official action from the declaration by the President of the United States. The FHWA agrees with this revision and the section is amended to read as follows:

''A copy of the Governor's proclamation or request for Presidential declaration or a Presidential declaration.''

The commenter proposed to amend § 668.113(b) to add, for clarification, a cross-reference to FHWA's Environmental Impact and Related Procedures regulation, 23 CFR part 771, where there is a provision stating that emergency repair work is considered a categorical exclusion and normally does not require further approval under the National Environmental Policy Act. The FHWA agrees that such a cross reference would be useful and a new provision is being added to § 668.113(b) to read as follows: ''Emergency repair work meets the criteria for categorical exclusions pursuant to 23 CFR 771.117 and normally does not require any further National Environmental Policy Act (NEPA) approvals.''

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. These changes will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. This rulemaking merely amends current regulations implementing the emergency relief program to incorporate changes made to this program by Congress in the ISTEA. It is not anticipated that these changes will affect the total Federal funding available under the ER program. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. These amendments will only clarify and simplify procedures used for providing emergency relief assistance to States in accordance with the existing laws, regulations, and guidance. The ER funds received by the States will not be significantly affected by these proposed amendments. States are not included in the definition of ''small entity'' set forth in 5 U.S.C. 601. Therefore, this action will not have a significant economic impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. These amendments will not preempt any State law or State regulation, and no additional costs or burdens will be imposed on the States thereby. In addition, this rule will not affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3500.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR 668

Emergency Relief Program, Grant programs—transportation, Highways and roads.

Issued on: December 12, 1996.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending title 23, Code of Federal Regulations, part 668 as set forth below.

PART 668—EMERGENCY RELIEF PROGRAM

1. The authority citation for part 668 is revised to read as set forth below and all other authority citations which appear throughout part 668 are removed:

Authority: 23 U.S.C. 101, 120(e), 125 and 315; 49 CFR 1.48(b).

Subpart A—Procedures for Federal-Aid Highways

§ 668.101 [Amended]

2. In § 668.101, the second sentence is amended by removing the words ''Federal roads not on the Federal-aid system'' and adding in their place the words ''Federal roads that are not part of the Federal-aid highways''.

§ 668.103 [Amended]

3. Section 668.103 is amended by removing the paragraph designations (a) through (i) from the definitions; in the definition for ''Applicant'' by removing the words ''Federal-aid highway system'' and adding in their place the words ''Federal-aid highways''.

§ 668.105 [Amended]

4. In § 668.105, the last sentence of paragraph (e) is amended by adding the words ''or by a toll authority for repair of the highway facility'' after the words ''political subdivision.''

§ 668.107 [Amended]

5. Section 668.107, is amended in paragraph (a) by removing the words ''within 90 days'' and adding in their place the words ''within 180 days'' and in paragraph (b) by removing the figure ''$5 million'' and inserting in its place the figure ''$20 million''.

6. Section 668.109, is amended in paragraph (b)(3) by replacing the misspelled word ''Actural'' with the word ''Actual'; in paragraph (b)(5) by removing the word ''and'' after the semicolon; by replacing the period at the end of paragraph (b)(6) with a semicolon; by adding paragraphs (b)(7), (b)(8), and (b)(9); by revising paragraphs (c)(1), (c)(2), (c)(4), (c)(6), and (c)(7); and by adding paragraph (c)(9) to read as follows:

§ 668.109 Eligibility.

* * * * *

(b) * * *

(7) Temporary work to maintain essential traffic, such as raising roadway grade during a period of flooding by placing fill and temporary surface material;

(8) Raising the grades of critical Federal-aid highways faced with long-term loss of use due to basin flooding as defined by an unprecedented rise in basin water level both in magnitude and time frame; and

(9) Repair of toll facilities when the provisions of 23 U.S.C. 129 are met. If a toll facility does not have an executed toll agreement with the FHWA at the time of the disaster, a toll agreement may be executed after the disaster to qualify for that disaster.

(c) ER funds may not participate in:

(1) Heavy maintenance such as repair of minor damages consisting primarily of eroded shoulders, filled ditches and culverts, pavement settlement, mud and debris deposits off the traveled way, slope sloughing, slides, and slip-outs in cut or fill slopes. In order to simplify the inspection and estimating process, heavy maintenance may be defined using dollar guidelines developed by the States and Divisions with Regional concurrence;

(2) Repair of surface damage caused by traffic whether or not the damage was aggravated by saturated subgrade or inundation, except ER funds may participate in:

(i) Repair of surface damage caused by traffic making repairs to Federal-aid highways;

(ii) Repair of surface damage to designated detours (which may lie on both Federal-aid and non-Federal-aid routes) caused by traffic that has been detoured from a damaged Federal-aid highway; and

(iii) Repair of surface damage to Federal-aid highways caused by vehicles making necessary repairs to other damaged non-highway transportation facilities, ie; railroads, airports, ports, etc.;

* * * * *

(4) Routine maintenance of detour routes, not related to the increased traffic volumes, such as mowing, maintaining drainage, pavement signing, snow plowing, etc.

* * * * *

(6) Repair or reconstruction of facilities affected by long-term, pre-existing conditions or predictable developing situations, such as, gradual, long-term rises in water levels in basins or slow moving slides, except for raising grades as noted in § 668.109(b)(8).

(7) Permanent repair or replacement of deficient bridges scheduled for replacement with other funds. A project is considered scheduled if the construction phase is included in the FHWA approved Statewide Transportation Improvement Program (STIP);

(8) * * *

(9) Reimbursing loss of toll revenue.

* * * * *

§ 668.111 [Amended]

7. In § 668.111, paragraph (b)(2) is amended by removing the words ''receipt of'', and paragraph (c)(1) is revised to read as follows:

§ 668.111 Application Procedures.

* * * * *

(c) * * *

(1) A copy of the Governor's proclamation, request for a Presidential declaration, or a Presidential declaration; and

* * * * *

8. In § 668.113, paragraph (a) is amended by revising the first and second sentences, paragraph (b)(1) is revised, and paragraph (b)(3) is added to read as follows:

§ 668.113 Program and project procedures.

(a) Immediately after approval of an application, the FHWA Division Administrator will notify the applicant to proceed with preparation of a program which defines the work needed to restore or replace the damaged facilities. It should be submitted to the FHWA Division Administrator within 3 months of receipt of this notification. * * *.

(b) *Project Procedures.* (1) Projects for permanent repairs shall be processed in accordance with regular Federal-aid procedures, except in those cases where a regular Federal-aid project (in a State) similar to the ER project would be handled under the certification acceptance procedures found in 23 U.S.C. 117 or the project oversight exceptions found in 23. U.S.C. 106, the ER project can be handled under these alternate procedures subject to the following two conditions:

(i) Any betterment to be incorporated into the project and for which ER funding is requested must receive prior FHWA approval; and

(ii) The FHWA reserves the right to conduct final inspections on ER projects as deemed appropriate.

(2) * * *

(3) Emergency repair meets the criteria for categorical exclusions pursuant to 23 CFR 771.117 and normally does not require any further National Environmental Policy Act (NEPA) approvals.

[FR Doc. 96–32384 Filed 12–19–96; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8699]

RIN 1545–AS19

Credit for Employer Social Security Taxes Paid on Employee Tips

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Removal of temporary regulations.

SUMMARY: This document removes the temporary regulations pertaining to the credit for employer FICA taxes paid with respect to certain tips received by employees of food or beverage establishments. The temporary regulations were published in the Federal Register on December 23, 1993. Statutory changes made by the Small Business Job Protection Act of 1996 have made these temporary regulations obsolete.

EFFECTIVE DATE: The removal of the temporary regulations is effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jean M. Casey at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1993, the IRS published temporary regulations (TD 8503)(58 FR 68033) under section 45B of the Internal Revenue Code of 1986 (Code). Amendments made by sec. 1112(a) of the Small Business Job Protection Act of 1996 (Pub. L. 104–188) render the temporary regulations obsolete. Therefore, temporary regulation § 1.45B–1T is being removed.

On December 23, 1993, the IRS also issued a notice of proposed rulemaking (EE–71–93)(58 FR 68091) under section 45B of the Code. This notice of proposed rulemaking is being withdrawn in a separate document.

Explanation of provisions

Section 45B of the Code describes a business tax credit allowable under section 38 for food and beverage establishments. The credit is equal to the employer's Federal Insurance Contributions Act (FICA) obligation attributable to certain employee tips. The credit is reduced, however, if the nontip wages paid to an employee during a month are less than the amount that would have been payable to the employee at the federal minimum wage rate. The temporary regulations provide that this credit is available only for employer FICA taxes paid after December 31, 1993, with respect to tips received for services performed after December 31, 1993. The temporary regulations also provide that the credit applies only to taxes paid on tips that are reported to the employer by its employees.

Section 1112(a) of the Small Business Job Protection Act of 1996 amended Code section 45B to provide that the credit is available for employer FICA taxes paid after December 31, 1993, regardless of when the services with respect to which the tips are received were performed. Section 1112(a) also provides that the credit is available whether or not the tips on which the employer FICA taxes were paid were reported to the employer by the employee. These provisions are effective as if included in the legislation under which section 45B was originally enacted, and thus render the temporary regulations obsolete.

Drafting Information

The principal author of these regulations is Jean M. Casey of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Penalties, Reporting and recordkeeping requirements.

Removal of Temporary Regulations

PART 1—INCOME TAXES

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

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

§ 1.45B–1T [Removed]

Par. 2. Section 1.45B–1T is removed.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 11, 1996.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 96–32249 Filed 12–19–96; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK–019–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Oklahoma regulatory program (hereinafter referred to as the ''Oklahoma program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma proposed revisions to and additions of regulations pertaining to repair or compensation for material damage resulting from subsidence caused by underground coal mining operations and to replacement of water supplies adversely impacted by underground coal mining operations. The amendment is intended to revise the Oklahoma program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. Background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 19, 1981, Federal Register (46 FR 4902). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 936.15 and 936.16.

II. Submission of the Proposed Amendment

On March 31, 1995, OSM promulgated rules to implement new section 720 of SMCRA, 30 U.S.C. 1201 *et seq.* Section 720, which took effect on October 24, 1992, as part of the Energy Policy Act of 1992, Public Law 102–486, 206 Stat. 2776, requires all underground coal mining operations conducted after October 24, 1992, to promptly repair or compensate for material damage caused by subsidence to noncommercial buildings and occupied residential dwellings and related structures. It also requires the replacement of drinking, domestic, and residential water supplies that have been adversely impacted by underground coal mining operations conducted after that date.

By letter dated July 17, 1996 (Administrative Record No. OK–975), Oklahoma submitted a proposed amendment to its program pursuant to SMCRA. Oklahoma submitted the proposed amendment in response to a May 20, 1996, letter (Administrative

Record No. OK–976) that OSM sent to Oklahoma in accordance with 30 CFR 732.17(c) concerning the changes which resulted from the enactment of section 720 of SMCRA and the promulgation of implementing Federal regulations.

Specifically, Oklahoma proposed to revise the Oklahoma Coal Rules and Regulations at Oklahoma Administrative Code (OAC) 460:20–3–5, Definitions; OAC 460:20–31–7, Hydrologic information; OAC 460:20–31–13, Subsidence control plan; OAC 460:20–45–8, Hydrologic-balance protection; and OAC 460:20–45–47, Subsidence control.

OSM announced receipt of the proposed amendment in the August 2, 1996, Federal Register (61 FR 40369), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on September 3, 1996.

During its review of the amendment, OSM identified a concern relating to OAC 460:20–3–5, Definitions. Oklahoma had not proposed a definition for ''occupied residential dwelling and structures related thereto.'' This definition was required in OSM's May 20, 1996, letter to Oklahoma. OSM notified Oklahoma of this concern by letter dated August 20, 1996 (Administrative Record No. 975.12). Oklahoma responded in a letter dated August 28, 1996 (Administrative Record No. 975.06), by submitting a revised amendment.

Based upon the additional revision to the proposed program amendment submitted by Oklahoma, OSM reopened the public comment period in the September 19, 1996, Federal Register (61 FR 49284). The public comment period closed on October 4, 1996.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

1. Revisions to Oklahoma's Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

The proposed State regulations listed in the table contain language that is the same as or similar to the corresponding sections of the Federal regulations. Differences between the proposed State regulations and Federal regulations are nonsubstantive.

State regulation OAC	Subject	Federal regulation 30 CFR
460:20–3–5	Definition of ''Drinking, domestic or residential water supply''	701.5.
460:20–3–5	Definition of ''Non-commercial building''	701.5
460:20–3–5	Definition of ''Occupied residential dwelling and structures''	701.5.
460:20–3–5	Definition of ''Replacement of water supply''	701.5.
460:20–31–7(e)(3)(D)	Hydrologic information; Probable hydrologic consequences determination	784.14(e)(3)(iv).
460:20–31–13(a)	Presubsidence survey	784.20(a).
460:20–31–13(b)	Subsidence control plan	784.20(b).
460:20–45–8(j)	Hydrologic-balance protection; Drinking, domestic or residential water supply	CFR 817.41(j).
460:20–45–47(a)	Subsidence control; Operator measures to prevent or minimize damage	817.121(a).
460:20–45–47(c)	Subsidence control; Repair of damage to surface lands	817.121(c).

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, the Director finds that Oklahoma's proposed regulations are no less effective than the Federal regulations.

2. Revisions to Oklahoma's Regulations That Are Not Substantively Identical to the Corresponding Provisions of the Federal Regulations

OAC 460:20–3–5, Definition of ''Material Damage'' Oklahoma proposed the following definition for the term ''material damage.''

''Material damage'' means any functional impairment of surface lands, features, structures or facilities. The material damage threshold includes: (A) Any physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses or causes significant loss in production or income; or (B) Any significant change in the condition, appearance or utility of any structure or facility from its pre-subsidence condition. (C) Any situation in which an imminent danger to a person would be created.

The proposed definition contains provisions in the introductory sentence, (A), and (B) that are the same as the three substantive provisions in the Federal definition for ''material damage'' at 30 CFR 701.5. It, also, contains one additional provision at (C) pertaining to imminent danger that is consistent with the March 31, 1995, preamble discussion of the Federal definition (62 FR 16722). In the preamble discussion of the Federal definition, OSM stated that the material damage threshold ''* * * would also include any situation in which an imminent danger to a person would be created.''

Based on the above discussion, the Director finds that Oklahoma's definition of ''material damage'' at OAC 460:20–3–5 is not inconsistent with the Federal definition at 30 CFR 701.5. Therefore, it is no less effective than the Federal definition, and it is approved.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Oklahoma program. By letters dated August 9, 1996, and October 1, 1996 (Administrative Record Nos. OK–975.05 and OK–975.11), the U.S. Army Corps of Engineers responded that its review found the changes to be satisfactory.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i), OSM is required to obtain the written

concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Oklahoma proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. OK–975.03 and OK–975.08). EPA did not respond to OSM's requests.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. OK–975.02 and OK–975.09). Neither SHPO nor ACHP responded to OSM's requests.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Oklahoma on July 17, 1996, and as revised on August 28, 1996.

The Director approves, as discussed in: Finding No. 1, OAC 460:20–3–5, concerning definitions for ''drinking, domestic or residential water supply''; ''non-commercial building''; ''occupied residential dwelling and structures''; and ''replacement of water supply''; OAC 460:20–31–7(e)(3)(D), concerning the probable hydrologic consequences determination; OAC 460:20–31–13(a), concerning a presubsidence survey; OAC 460:20–31(b), concerning the subsidence control plan; OAC 460:20–45–8(j), concerning replacement of drinking, domestic or residential water supply; OAC 460:20–45–47(a), concerning subsidence control measures to prevent or minimize damage; and OAC 460:20–45–47(c), concerning repair of damage to surface lands; finding No. 2, OAC 460:20–3–5, concerning a definition for ''material damage.''

The Director approves the regulations as proposed by Oklahoma with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

The Federal regulations at 39 CFR Part 936, codifying decisions concerning the Oklahoma program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. 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 3 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 corresponding 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 corresponding 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 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 27, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 936 is amended as set forth below:

PART 936—OKLAHOMA

1. The authority citation for part 937 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 936.15 is amended by adding paragraph (s) to read as follows:

§ 936.15 Approval of regulatory program amendments.

* * * * *

(s) Revisions to the following provisions of the Oklahoma Coal Rules and Regulations, as submitted to OSM on July 17, 1996, and as revised on August 28, 1996, are approved effective December 20, 1996.

OAC 460:20–3–5—Definitions

OAC 460:20–31–7(e)(3)(D)—Hydrologic information

OAC 460:20–31–13 (a) & (b)—Subsidence control plan

OAC 460:20–45–8(j)—Hydrologic-balance protection

OAC 460:20–45–47 (a) & (c)—Subsidence control.

[FR Doc. 96–32319 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 943

[SPATS No. TX–031–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Texas regulatory program (hereinafter referred to as the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed revisions to its regulations pertaining to backfilling and grading performance standards for area strip mining operations. The amendment is intended to revise the Texas program to clarify time and distance standards for rough backfilling and grading.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. Background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Proposed Amendment

By letter dated July 11, 1996 (Administrative Record No. TX–617), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment at its own initiative. Texas proposed to revise Texas Coal Mining Regulations (TCMR) 816.384, general requirements for backfilling and grading, by providing rough backfilling and grading time and/or distance standards for two types of area strip mining operations, cyclic excavation and continuous excavation.

OSM announced receipt of the proposed amendment in the July 24, 1996, Federal Register (61 FR 38420), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on August 23, 1996.

On September 12, 1996, OSM called Texas and requested a clarification of the terms ''cyclic excavation'' and ''continuous excavation.'' On September 13, 1996 (Administrative Record No. TX–617.09), Texas responded that its interpretations of these terms are described and discussed in the 1973 and 1992 editions of the ''SME Mining Engineering Handbook,'' Society of Mining Engineers of the American Institute of Mining, Metallurgical, and Petroleum Engineers, Inc.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

TCMR 816.384 (a)(3) and (a)(4) Backfilling and Grading Time and/or Distance Standards for Cyclic Excavation and Continuous Excavation Area Strip Mining Operations

TCMR 816.384(a)(3) Texas revised TCMR 816.384(a)(3) by limiting its provisions to the ''cyclic excavation'' method of area strip mining and by adding a distance variance provision. According to the ''SME Mining Engineering Handbook,'' swing-type excavating units such as power shovels, draglines, clamshells, and backhoes are considered to be cyclical excavators. The cycle functions of these excavators include loading, raising, swinging, dumping, lowering, and positioning. In Texas, draglines are used for most cyclic excavation coal mining operations.

Texas' proposed revision allows it to grant additional distance for completion of rough backfilling and grading for cyclic excavation area strip mining operations if the permittee can demonstrate that such additional distance is necessary. The existing provision allows the State to grant additional time for completion of rough backfilling and grading, but it must be completed within a specified distance limitation off our spoil ridges with no exceptions. The proposed revision will allow Texas to extend the distance limit of four spoil ridges, as well as the time limit of 180 days, upon approval of a detailed analysis submitted by the permittee in the permit application reclamation plan under TCMR 780.145(b)(3).

In the August 6, 1996, Texas Register (21 TexReg 7309), Texas explained that ''[d]ue to the nature of surface coal mining operations active in Texas, the commission believes that more flexibility in meeting backfilling and grading distance requirements should be available to surface mine operators. Factors that may bear on the need for a distance extension, in addition to or in the absence of a time extension, include: The amount of overburden, the length of the pit, the number of coal seams, the weather, the type of equipment used, and the need for lignite.''

TCMR 816.384(a)(4) Texas also proposed a new provision concerning rough backfilling and grading standards for ''continuous excavation'' area strip mining operations at TCMR 816.384(a)(4). According to the ''SME Mining Engineering Handbook,'' a continuous excavator digs and discharges material simultaneously. The two most common continuous excavators used in coal mining are the bucket chain excavator and the bucket wheel excavator. In Texas, bucket wheel excavators are used for most continuous excavation coal mining operations.

Rough backfilling and grading for continuous excavation operations must be completed in accordance with the time schedule approved in the permit application reclamation plan under TCMR 780.145(b)(3). The time schedule is based on a detailed written analysis by the permittee and any additional information required by Texas.

Federal requirements and decision The Federal time and distance standards for specific types of mining, including area mining, at 30 CFR 816.101 were suspended effective August 31, 1992 (57 FR 33875, July 31, 1992). Therefore, OSM must evaluate State time and distance requirements against the general contemporaneous reclamation requirements of section 515(b)(16) of SMCRA and 30 CFR 816.100. Section 515(b)(16) of SMCRA requires that surface coal mining and reclamation operations be conducted so as to insure that all reclamation efforts proceed as contemporaneously as practicable with the surface coal mining operations. The Federal regulation at 30 CFR 816.100 similarly provides that backfilling and grading on all land that is disturbed by surface mining activities occur as contemporaneously as practicable with mining operations.

The effect of the suspension of 30 CFR 816.101 is that regulatory authorities may adopt backfilling and grading time and distance standards for various types

of mining operations that are specific to the coal mining conditions in their states, as long as the standards result in contemporaneously mining and reclamation as required by section 515(b)(16) of SMCRA and 30 CFR 816.100. It is noted that Texas' regulation at TCMR 816.383 requires that backfilling and grading of all land disturbed by surface mining activities occur as contemporaneously as practicable with mining operations.

Since permittees are required to submit a detailed analysis in support of the time and/or distance standards included in their permit application reclamation plans, Texas' proposed distance variance provision at TCMR 816.384(a)(3) for cyclic excavation area strip mining operations and its proposed time schedule provision at TCMR 816.384(a)(4) for continuous excavation area strip mining operations appear to be reasonable and provide additional specificity to Texas' general contemporaneous reclamation requirements at TCMR 816.383. Therefore, based upon the above discussions, the Director finds the proposed revisions at TCMR 816.384 (a)(3) and (a)(4) are not inconsistent with the Federal requirements for contemporaneous reclamation for surface mining activities at section 515(b)(16) of SMCRA and 30 CFR 816.100.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

Comments supporting the proposed amendment were received from the Aluminum Company of America and Texas Utilities Services, Inc. (Administrative Record Nos. TX–617.08 and TX–617.06, respectively). Both commenters supported the Railroad Commission of Texas in its effort to clarify that both time and distance variances may be approved when the permittee demonstrates that additional time and/or distance is necessary for reclamation.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Texas program. On August 9, 1996 (Administrative Record No. TX–617.07), the U.S. Army Corps of Engineers responded that its review found the changes to be satisfactory.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. TX–617.02). EPA did not respond to OSM's request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. TX–617.03). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Texas on July 11, 1996.

The Director approves TCMR 816.384(a)(3), concerning rough backfilling and grading time and distance standards for cyclic excavation area strip mining operations, and TCMR 816.384(a)(4) concerning rough backfilling and grading time standards for continuous excavation area strip mining operations.

The Director approves the regulations as proposed by Texas with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 943, codifying decisions concerning the Texas program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. 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 3 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 the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

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 corresponding 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 corresponding 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 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 2, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

PART 943—TEXAS

1. The authority citation for part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended by adding paragraph (o) to read as follows:

§ 943.15 Approval of regulatory program amendments.

* * * * *

(o) Revisions to and/or the addition of Texas' regulations at TCMR 816.384(a)(3) and TCMR 816.384(a)(4), as submitted to OSM on July 11, 1996, are approved effective December 20, 1996.

[FR Doc. 96–32320 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule describes the amendments consolidated in the transmittal letters for issues 44, 45, 46, 47, 48, and 49 of the Domestic Mail Manual (DMM), which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1). This final rule constitutes a historic record of changes, presented in chronological sequence by issue date of the DMM. As such, any amendment shown in this final rule may have been rescinded or superseded by a later amendment to the same requirement or rule.

EFFECTIVE DATES: DMM issue 44, September 20, 1992; DMM issue 45, December 20, 1992; DMM issue 46, July 1, 1993; DMM issue 47, April 10, 1994; DMM issue 48, January 1, 1995; and DMM issue 49, September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Neil Berger, (202) 268–2859.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual (DMM), incorporated by reference in title 39, Code of Federal Regulations, part 111, contains the basic standards of the U.S. Postal Service governing its domestic mail services; describes the mail classes and special services and conditions governing their use; and provides detailed instructions on the standards for rate eligibility and mail preparation. The DMM is amended and republished about every 6 months, with each issue sequentially numbered.

This final rule shows in historic sequence the amendments to DMM issues 44, 45, 46, 47, 48, and 49. These amendments reflect changes in mail preparation standards and other miscellaneous mailing requirements that occurred during a 4-year interval. These changes were previously announced in the Postal Bulletin, a biweekly document issued to post office personnel and to public subscribers through a service administered by the U.S. Government Printing Office. The Postal Service temporarily ceased publication in the Federal Register of the transmittals for the DMM because any significant amendment or revision to a rate or fee was also issued as a final rule in the Federal Register. With the publication of DMM issue 46 on July 1, 1993, the Postal Service introduced a thoroughly revised document that was reorganized using a new alphanumeric codification system. That issue also introduced a transmittal summary of changes organized by topic.

DMM issue 50, the current edition of the DMM, was released on July 1, 1996. That issue contains substantive changes to mail preparation standards and mail classification as published in the Federal Register on March 12, 1996 (61 FR 10068–10217). These standards were approved on March 4, 1996, by the Postal Service to implement the Decision of the Governors of the Postal Service in Postal Rate Commission Docket No. MC95–1, Classification Reform I. These standards took effect at 12:01 a.m., July 1, 1996.

DMM issue 51, the next edition of the DMM, is scheduled for release on January 1, 1997. That issue will contain substantive changes to mail preparation standards and mail classification for nonprofit rate categories for Periodicals and Nonprofit Standard Mail. These standards were published on August 15, 1996, in the Federal Register (61 FR 42478–42489), as approved on August 6, 1996, by the USPS to implement the Decision of the Governors of the Postal Service in Postal Rate Commission Docket No. MC96–2, Classification Reform II. Those standards took effect at 12:01 a.m., October 6, 1996, aligning the preparation rules adopted on July 1 for commercial mail with those for nonprofit mail.

The following excerpts from the Summary of Changes sections of the transmittals for DMM issues 44, 45, 46, 47, 48, and 49 generally cover the minor changes not previously described in other interim or final rules published in the Federal Register. These changes were first announced in notices in various issues of the Postal Bulletin published by the Postal Service to state or to revise policy and procedure for certain mailing standards.

DMM Issue 44 (September 20, 1992)

Section 111.54 reminds mailers and employees that changes to the Domestic Mail Manual are published not only in the Federal Register but also in the Postal Bulletin. No notice of this revision was published.

Section 119.22 tells customers where and how they can buy Publication 65, National Five-Digit ZIP Code and Post Office Directory. No notice of this revision was published.

Subchapters 120, 310, 320, 340, 350, 360, 380, 410, 420, 440, 510, 520, 530, 550, 570, 610, 620, 640, and 660 provide rules and guidelines for the lower rates for First-, second-, and third-class barcoded flat-size mail. On June 21, 1991, under 39 U.S.C. 3622 and 3623, the Postal Service asked the Postal Rate Commission (PRC) for a recommended decision on these postage discounts. The PRC issued its recommendation on the filing (Docket MC91–1) on March 19, 1992. On May 4, 1992, the Governors of the Postal Service approved the PRC's recommended rate and classification changes to take effect September 20, 1992. The Postal Service published its proposed rules for public comment in the Federal Register on April 21, 1992 (57 FR 14525–14551), and June 1, 1992 (57 FR 23072). (Postal Bulletin (PB) 21819A (7–16–92).)

Exhibits 121.5 and 121.56 are reduced to save space. No notice of these changes was published.

Section 122.412a clarifies that government agencies may omit the addressee's name and street address or post office box number, as well as city, state, and ZIP Code, from the delivery address on official mail with a simplified address format. Agencies using this format must send the mailing to each stop or possible delivery on city carrier routes or to each post office boxholder at a post office with city carrier service. *Effective September 20, 1992* (PB 21818 (6–25–92)).

Section 122.37 rearranges the rules for addresses on parcels. Exhibits 122.37a and 122.37b are renumbered as Exhibits 122.371 and 122.372. No notice of these revisions was published.

Exhibits 122.63a and 122.63c through 122.63t reflect changes in mail processing operations. These changes include the assignment of 3-digit ZIP Code prefixes 344 and 607. Sections 441.321, 446.36, 646.36, and 769.36 reflect changes in label preparation. Exhibits 624.721 and 722.411 are deleted. Sections 624.72 and 722.4 change the references for these deleted exhibits to Exhibit 122.63s. Effective July 9, 1992; mandatory September 20, 1992 (PB 21819 (7–9–92); PB 21820 (7–23–92)).

Exhibits 122.63m and 122.63n indicate that customers may order distribution labels for listed sites in the exhibits from the Postal Service Label Printing Center in Topeka, KS. Set numbers 004 and 005 identify the two exhibits. When customers order labels, the Postal Service supplies them in lots of 300 (minimum) for each label. To order these free labels, customers fill in the header data on Form 1578–B, Requisition for Facing Slips or Labels, and show how many labels they need in the detail data lines. Effective August 6, 1992 (PB 21821 (8–6–92)).

Section 124.336 is added to specify how mailers can obtain authorization to ship cigarette lighters. The authorization includes obtaining approval from the U.S. Department of Transportation. Effective September 20, 1992 (PB 21818 (6–25–92)).

Sections 124.382e and 124.382f are added to define the terms ''sharps'' and ''other medical devices''; sections 124.385 and 124.386 are renumbered as 124.387 and 124.388; new sections 124.385 and 124.386, both effective December 28, 1992, are added to provide mailers advance notice of changes in packaging standards. New sections 124.385a and 124.386a, effective June 30, 1992, require mailers to send sharps and other medical devices at the First-Class or Priority Mail rates. The renumbering of these sections corrects errors published in both the Federal Register and the Postal Bulletin. Exhibits 124.385a and 124.385h are added to illustrate the infectious substance label required on the packaging and the information needed for the manifest. Effective December 26, 1992 (PB 21819 (7–9–92); PB 21820 (7–23–92)).

Section 133.1 permits a mailer to request an expedited oral decision after an acceptance post office issues an adverse classification decision. Postal Bulletin 21794 (7–25–91) had earlier revised section 133.1 on a temporary basis. Effective September 20, 1992 (PB 21819 (7–9–92)).

Sections 143.134 through 143.137 and 144.114 through 144.117 are added to specify the basic requirements for using precanceled or meter stamps on bulk or presort rate mailings of nonidentical-weight pieces or when the amount of postage does not represent the full postage of the mailpieces to which they are affixed. If precanceled or meter stamps are used representing an amount other than the full and correct postage applicable to the piece, or if used in bulk or presort rate mailings of nonidentical-weight pieces, or if used in mailings where pieces qualify for different discounts or rates, the mailer must provide documentation detailing the contents of the mailing. This documentation must be submitted with each mailing, with provisions for the presentation of only the summary portion if the mailer has repeatedly demonstrated the ability to produce accurate information and mailings. Concurrent revisions are made to sections 381.1, 382.1, 382.26, 382.31, 382.33, 382.34, 382.4, 382.44, 661.1, and 661.21. Effective May 14, 1992 (PB 21815 (5–14–92)); effective June 11, 1992 (PB 21817 (6–11–92)).

Part 149, sections 295.22, 295.24, 911.52, and 911.53 simplify the steps and language for filing claims for lost or damaged mail. These revised instructions include guidelines for the new Postal Service Form 1000, Domestic Claim or Registered Mail Inquiry. Sections 295.32, 295.4, 296.2, and 296.3 are deleted; section 295.33 is renumbered as 295.32. Form 1000 replaces Forms 565, 3812, and 5690 for filing claims. Effective September 20, 1992 (PB 21823 (9–3–92)).

Sections 149.21, 149.222, 149.312, 149.333, and 914.18 extend the waiting period from 45 to 60 days before a customer may file a claim for loss of a COD article. Sections 149.312 and 149.333 were renumbered as 149.243 and 149.261. Changes to these procedures also restrict the filing of a claim to the mailer. This change is consistent with filing procedures for insured, registered, COD, and Express Mail. The procedures for addressee filing in section 149.333 are thus eliminated, with changes reflected in renumbered section 149.261. The sections cited in this revision are replaced by the complete reorganization of part 149; however, all revisions are included in that reorganization (see entry for part 149). Effective September 20, 1992 (PB 21821 (8–6–92)).

Sections 153.4, 153.5, and 159.211 clarify that the prohibition on forwarding mail for individuals is applied to all persons and organizations receiving mail at a business address. Such individuals include employees, contractors, clients, and officers of the organization located at that address. Because of the similarity of their provisions, sections 153.4 and 153.5 are combined into 153.4. Effective September 20, 1992 (PB 21821 (8–6–92)).

Section 153.72 and Exhibit 159.14 clarify that accountable mail is not held indefinitely, pending the resolution of a dispute between parties unable to agree upon a receiver of the mail. Instead, Express Mail, registered, insured, certified, and return receipt for merchandise mail is held for the maximum time according to the sender's instructions and, otherwise, as prescribed in DMM 159.323f and 159.324. Effective September 20, 1992 (PB 21821 (8–6–92)).

Exhibits 159.151a through 159.151f reference section 122.17 for the required placement and type size of endorsements mailers may print under return addresses. Effective September 20, 1992 (PB 21822 (8–20–92)).

Section 159.17 is added to clarify that postal employees are not permitted to take undeliverable mail/waste or waste receptacles from postal facilities for personal use or for any use unauthorized by the Postal Service. Effective September 20, 1992 (PB 21822 (8–20–92)).

Section 164.751 allows customers to request replacements for pictorial cancellations up to 60 days after the date of the cancellation. Effective September 20, 1992 (PB 21819 (7–9–92)).

Part 222 expands security measures for the mailing of Express Mail Same Day Airport Service. Effective September 20, 1992 (PB 21821 (8–6–92)).

Part 296 updates the policy for Express Mail postage refunds for shipments not meeting the service commitment marked on Label 11. Originally published numbering was later changed by the complete revision

of part 149. Section 296.2 was deleted and section 296.1 was renumbered as part 296. Effective September 20, 1992 (PB 21820 (7–23–92)).

Exhibits 352 and 752 are renumbered as Exhibits 352.12 and 752.1. No notice of this renumbering was published.

Exhibits 363.33, 441.32, 641.133, and 764.213 are added to illustrate formats for barcoded sack and tray labels. References to these exhibits are added to sections 363.333, 364.11, 365.11, 366.11, 367.211, 441.321g, 447.36, 561.471, 641.133j, 641.224j, 641.423j, 647.225, 764.213g, 767.233g, and 767.333g. No notice of these revisions was published.

Part 369 is amended to permit customers who prepare First-Class Mail to use barcoded sack and tray labels. The revision repeats existing provisions for sacked mailings of second-, third-, and fourth-class mail, although new content identifier codes are added for First-Class Mail. The same set of content identifier codes are used on barcoded tray labels. Exhibit 369.2 is added to show sample tray labels with and without the new zebra code. Parts 446 and 646 are also redesignated as 446.1 and 646.1, respectively, and new sections 446.2 and 646.2 are added to allow preparation of barcoded tray labels for automation-compatible second- and third-class mail, respectively. Exhibits 446.21 and 646.21 are also added to illustrate sample barcoded tray labels. Effective September 20, 1992 (PB 21821 (8–6–92)).

Sections 423.152, 423.232, 423.332, 423.442, 423.532, and 423.632 revise accounting procedures for second-class mail when an application is pending. Effective September 20, 1992 (PB 21818 (6–25–92)).

Sections 423.164a, 423.244a, 423.344a, 423.454a, 423.544a, and 423.644a revise procedures for refunds made to applicants who mail second-class publications while an application is pending and which later becomes authorized. Effective September 20, 1992 (PB 21818 (6–25–92)).

Exhibits 423.221a(3) and 423.431 (p.3) are deleted and replaced with shorter examples in sections 423.221a(3) and 423.422. No notice of these changes was published.

Section 423.621b revises the procedures for news agent registry at an entry post office. No notice of this revision was published.

Sections 424.442, 426.41, 624.717, 722.421, and 722.432 include additional requirements and guidelines for scheduling and depositing second-, third-, and fourth-class drop shipment mailings. Effective September 20, 1992 (PB 21820 (7–23–92)).

Exhibit 424.783 is deleted to conserve space. Previous references of the sample listing of documentation are made to similar Exhibit 624.883. No notice of this deletion was published.

Section 429.14p is added to allow mailers to imprint impersonal messages on the pages and covers of second-class publications after they are printed. Mailers must not use messages that would require the publications to be sent as First-Class Mail. Effective September 20, 1992 (PB 21821 (8–6–92)).

Sections 441.321, 446.36, 646.36, and 769.36 reflect changes in label preparation. Exhibits 624.721 and 722.411 are deleted. Sections 624.72 and 722.4 change the references to Exhibit 122.63s. Effective September 20, 1992 (PB 21819 (7–9–92)).

Section 441.218 eliminates Exhibit 122.63j as the second reference. No notice of this correction was published.

Section 445.243e(2) is corrected to state that extraneous information is not permitted on or between the lines reserved for Postal Service required information. No notice of this correction was published.

Section 531.162 extends to November 30, 1992, the grace period for Coding Accuracy Support System (CASS) certification of address matching software. Effective September 20, 1992 (PB 21821 (8–6–92); PB 21822 (8–20–92)).

Exhibits 551.3, 561.421a, and 561.421b are revised and resized to save space. No notice of these revisions was published.

Section 576.42 allows mailers to place barcoded flats on the same 5-digit pallets with flats claimed at the carrier route presort and walk-sequence rates if the barcoded rates are not claimed. Effective September 20, 1992 (PB 21823 (9–3–92)).

Section 625.522b provides guidelines for determining whether the coverage for a certain insurance policy is generally not available commercially. Effective June 25, 1992 (PB 21819 (7–9–92)).

Sections 626.21 and 626.23 are revised; a new section 626.24 is added; current sections 626.24, 626.25, and 626.26 are renumbered as 626.25, 626.26, and 626.27, respectively; renumbered 626.25 expedites the application process for organizations already authorized to mail at the special bulk third-class rates and wanting to mail at those rates at an additional post office. Effective September 20, 1992 (PB 21818 (6–25–92)).

Exhibits 641.135, 641.22, 641.4, 644.1, 644.2, 767a, and 767b clarify sacking and packaging instructions for third- and fourth-class mail. No notice of these revisions was published.

Sections 641.2, 644.2, 644.3, and Exhibit 641.22 make the preparation of mailings of machinable third-class parcels and combined mailings of machinable third- and fourth-class parcels consistent with those for the destination bulk mail center (DBMC) rate. In general, the revisions specify that BMC sacks and pallets include auxiliary service facility (ASF) sacks and pallets for mailings claimed at the DBMC rate. The mailer must meet existing volume and labeling requirements and must deposit the mailings as specified for the DBMC rate, if claimed. Sections 641.223, 641.232c, and 767.323 also specify that the second (contents) line of labels on mixed BMC sacks or pallets include the words ''Mixed BMC'' to distinguish them from other sacks for the same facility that contain only destinating mail. Section 624.72 also clarifies that presorted sacks or pallets of third-class machinable parcels may contain both pieces eligible for and claimed at the DBMC rate and pieces not eligible for or claimed at that rate. Effective September 20, 1992 (PB 21818 (6–25–92)).

Exhibits 641.22, 644.2, and 767b indicate that auxiliary service facilities (ASFs) are also included with regular bulk mail centers (BMCs) when a destination BMC rate is claimed. No notice of these revisions was published.

Section 723.1 permits a mailpiece to contain more than one bound printed matter piece to meet the minimum 1-pound weight required for mailing at the bound printed matter rates of postage. For example, a mailpiece containing two bound catalogs weighing 8 ounces each or one containing four bound directories weighing 4 ounces each would both meet the minimum 1-pound weight. Effective September 20, 1992 (PB 21818 (6–25–92)).

Section 724.1g clarifies guidelines for mailing educational reference charts at the special fourth-class postage rates. Effective September 20, 1992 (PB 21818 (6–25–92)).

Exhibits 919.5a and 919.5b standardize capitalization and punctuation. No notice of these revisions was published.

Section 941.36d provides customers and employees with a direct telephone number for questions about the status of purchased money orders. No notice of this revision was published.

Exhibit 951.222 adds several ZIP Codes for category 1B post office box

rent. Effective July 23, 1992 (PB 21819 (7–9–92); PB 21820 (7–23–92)).

DMM Issue 45 (December 20, 1992)

Chapters 1, 2, 3, 4, 5, 6, 7, and 9 at the time of printing of Domestic Mail Manual (DMM) issue 45 do not reflect the comprehensive reorganization and realignment of the internal structure of the U.S. Postal Service begun late in the summer of 1992. Organizational units within the Postal Service were renamed, and the functional duties and responsibilities of those units were rearranged. Internal delegations of authority, reporting relationships, and channels of communication were modified as necessary. The authority delegated by statute or regulation to any official or organizational unit of the Postal Service that is renamed or succeeded because of this reorganization is exercised by the renamed or successor official or unit without specific notice of the change. All currently effective rules, regulations, orders, determinations, rulings, permits, contracts, and similar matters issued or approved by a renamed or succeeded official or unit stay in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Postal Service. Regulations in the DMM (39 CFR 111.1) reflect such changes in the transmittal letter from a notice published on October 30, 1992, in the Federal Register (57 FR 49200–49201).

Sections 115.94, 115.95, 115.96, 115.97, and 115.98 reorganize information on customs inspection by subject. No notice of this reorganization was published.

Sections 122.17 and 159.151 and Exhibits 122.17 and 122.33 clarify instructions for mailer endorsements. Duplicated text in section 159.151 is deleted or combined with revised section 122.17. Effective December 20, 1992 (PB 21828 (11–12–92)).

Section 122.442 clarifies that address information obtained from post offices under this section applies only to post office boxes, rural routes, and highway contract routes. Effective December 20, 1992 (PB 21828 (11–12–92)).

Exhibits 122.63c through 122.63e, 122.63h, 122.63l through 122.63o, 122.63s, and 122.63t reflect changes in mail processing operations. Effective October 15, 1992; mandatory December 20, 1992 (PB 21826 (10–15–92)).

Section 122.814 corrects the military organization shown in the address example. No notice of this correction was published.

Section 124.385a adds a note to advise employees and customers that the effective date of the requirements for mailing sharps and other medical devices may change. No notice of this note was published.

Section 125.164 corrects the wording of the mail restriction for military retirees. No notice of this correction was published.

Section 125.2 reflects the actual frequency at which the APO/FPO ZIP Code table is published in the Postal Bulletin. No notice of this revision was published.

Exhibit 137.251a adds to the list of federal agency authorization codes four new agencies: Alaska Natives Commission; National Advisory Council on the Public Service; National Commission on Financial Institution Reform, Recovery and Enforcement; and Presidential Commission on the Assignment of Women in the Armed Forces. The names of three agencies are changed, and two agencies are moved directly under the Executive Office of the President. This amended list reflects other additions, revisions, and deletions of several business reply mail permits, as well as changes to the sampling numbers (RPW) for some agencies. Boldface type indicates these revisions. No notice of these revisions was published.

Section 137.275f(4) permits federal agencies to order smaller quantities of $1 and $5 penalty mail stamps. No notice of this revision was published.

Section 138.4 is renumbered as 138.5 and a new section 138.4 is added to incorporate language omitted with the recent reorganization of part 137 regarding official mail. This revision clarifies that absentee balloting materials must not be detained or treated as unpaid mail. Exhibits 138.41 and 138.42 are renumbered as Exhibits 138.51 and 138.52, respectively. Effective October 15, 1992 (PB 21826 (10–15–92)).

Parts 143, 144, and 147; subchapter 310; parts 324, 325, 327, and 328; subchapter 360; part 382; subchapter 410; parts 424, 441, and 447; subchapters 510, 560, 570, and 580; subchapter 610; and parts 624, 628, 647, and 661 amend requirements for preparing letter-size mail at ZIP+4 and ZIP+4 Barcoded rates. This revision consolidates all requirements for automation-based rates into chapter 5. It also amends and adds presort and documentation options to subchapter 560. In addition, letter-size mailings at ZIP+4 rates or ZIP+4 Barcoded rates are required to be prepared under one of these revised options beginning March 21, 1993. The provisions on preparation of letter-size pieces to qualify for ZIP+4 rates and ZIP+4 Barcoded rates in chapters 3, 4, and 6 are eliminated on March 21, 1993. The revised options in chapter 5 require all letter-size automation rate mailings to be prepared in trays, require the preparation of automated area distribution center (AADC) trays in package-based mailings, and, with ZIP+4 Barcoded rate mailings, require 100 percent ZIP+4 barcoded or delivery point barcoded mail in the part of the mailing sorted to 5-digit ZIP Codes. This revision also moves to chapter 5 the general eligibility and postage payment requirements for both letter-size and flat-size automation rate mailings formerly under chapters 3, 4, and 6. Effective October 5, 1992 (Special Postal Bulletin 21825A (10–8–92)).

Section 144.46 adds the standardized formats for military postage meters. No notice of this addition was published.

Section 153.84 allows mailers of perishable matter to include their own toll-free 1–800 telephone numbers on mailing labels. Mailers endorse the labels ''Postmaster: Perishable. If not delivered in 5 days, call 1–800–XXX–XXXX.'' To ensure that the customer is contacted, a postal employee will prepare a second notice 5 days after the first delivery attempt. In addition, an employee calls the mailer's telephone number printed on the label. The mailer will then notify the addressee by telephone that the item at the post office is perishable and that the customer should pick up the item soon or arrange for delivery. Effective October 29, 1992 (PB 21827 (10–29–92)).

Section 159.441 updates the mailing address for returning undeliverable Canadian mail to the Canada Post Corporation. Effective October 29, 1992 (PB 21827 (10–29–92)).

Sections 164.31 and 164.32 are revised to incorporate new Exhibits 164.31 and 164.32. No notice of this revision was published.

Section 164.77b permits temporary philatelic stations at military post offices overseas on an exceptional basis. No notice of this revision was published.

Section 224.222b eliminates references to Form 3849–C, Express Mail—Notice of Attempted Delivery. That form is incorporated in the revised Form 3849, Delivery Notice/Reminder/Receipt. Effective December 20, 1992 (PB 21824 (9–17–92); PB 21826 (10–15–92)).

Sections 366.15, 531.1, 531.2, 532.22, 532.32, 532.33, 533, 534.4, and 551.12 revise Coding Accuracy Support System (CASS) certification procedures for testing the accuracy of delivery point coding (DPC) software and two-digit DPC utilities rather than address matching software with the limited

capability of verifying and assigning ZIP+4 codes only. Effective October 30, 1992 (PB 21828 (11–12–92)).

Exhibits 441a, 441b, 551.122, 561.422a, 561.422b, 561.431, 561.432, 641.122, and 917.593 are modified or resized to present information in easier-to-follow formats. No notice of these revisions was published.

Exhibits 446.21 and 646.21 show actual barcodes corresponding to the addresses. No notice of this revision was published.

Sections 551.33, 551.34, and 917.533b relax the requirements for the printing of barcode bar widths and horizontal spacing to accommodate mechanical impact printers producing barcodes. No notice of these revisions was published.

Section 551.522 makes the specifications for baseline shift of barcodes consistent for both letter-size and flat-size mail. The baseline shift for the individual bars of a POSTNET barcode on a flat-size mailpiece is 0.015 inch. Exhibit 551.5 is revised to reflect this change. Effective October 15, 1992 (PB 21826 (10–15–92)).

Section 551.732 corrects from 1/25 inch to 3/16 inch the permitted distance between a ZIP+4 barcode and the bottom edge of the mailpiece. No notice of this correction was published.

Part 553 is added to provide manufacturers and vendors with information about optional certification of barcoding software and hardware. Effective December 20, 1992 (PB 21828 (11–12–92)).

Section 573.274b corrects line 2 to read ''Class of contents, followed by FLTS 5D BARCODE WKG'' rather than ''FCM followed by FLTS 5D BARCODE WKG'' to reflect the availability of residual sacking for second- and third-class mail bearing 5-digit barcodes only. No notice of this correction was published.

Sections 611.221 and 663.123 change the breakpoint for nonletter-size special bulk third-class rate mail. Exhibits 611.2a, 611.2e, 611.2f, and 611.2g reflect the increase in special bulk third-class rates for flats. Rates for this category were increased because of the Postal Service Appropriations Act for Fiscal Year 1992. Effective 12:01 a.m., October 4, 1992 (PB 21824 (9–17–92)).

Sections 664.25, 664.431, 664.452, 664.51, 664.53, and part 665 require mailers to use Forms 3602–PV and 8125–PV for plant-verified drop shipments not processed by the Multiple Entry Point Payment System (MEPPS). Effective December 20, 1992 (PB 21823 (9–3–92)).

Sections 917.51, 917.525, 917.527, 917.53, 917.55, and 917.56 incorporate terms commonly used for automation-compatible letter-size mailpiece specifications. This revision also provides consistency between the requirements for automation-based bulk rate mailings and business reply mail (BRM). Effective December 20, 1992 (PB 21828 (11–12–92)).

DMM Issue 46 (July 1, 1993)

General

Except as described below, no substantive changes are intended in this revision of the standards governing domestic mail services. Customers and employees who think that a substantive change has been made in a mailing standard may obtain an interpretation of that standard by using the procedures in I010.

Armed Forces Free Mail Privileges

E030.2.4 (former DMM 134.222) extends free mail privileges for military personnel assigned to the United States Central Command and serving in Somalia, Kenya, Djibouti, and adjacent coastal waters. This privilege also applies to service members hospitalized from wounds or injuries received while deployed with Operation Restore Hope. Effective December 18, 1992 (PB 21832 (1–7–93)).

Barcode Specifications

C840.3.4 (former DMM 551.34) makes specifications for the horizontal spacing of bars within a barcode more compatible with the reading capability of Postal Service automated barcode sorters and multiline optical character readers. Effective April 1, 1993 (PB 21838 (4–1–93)).

Chickens

C023.3.3 and C023.3.4 (former DMM 124.632a) eliminate the rule that adult chickens shipped by Express Mail must be enclosed in biologically secure containers. Effective March 21, 1993 (PB 21829 (11–26–93)).

Claims Adjudication

S010.3.5, S010.4.0, and S010.5.0 (former DMM 149.42, 149.52, 149.53, 149.61, and 149.64) transfer the responsibility for adjudicating indemnity claims appeals from the former Office of Classification and Rates Administration to the Consumer Advocate. No notice of this revision was published.

Congressional Mailings

A040.4.2 (former DMM 122.452a) implements Public Law 102–392, which restricts mailings from members of the House of Representatives that are sent under the congressional frank and alternative address to the district that elected those members. Effective October 1, 1992 (PB 21831 (12–24–92)).

Delivery Point Barcode for Automation Rates

C810, C830, C840, E142, E144, E147, E148, E242, E244, E342, E344, M812, M813, M814, M815, M816, M817, M818, and M819 (former DMM 312.2, 313.7, 313.8, 325, 411.126, 424.843, 514, 515, 517.1, 531.1, 534, 541, 542, 545.4, 546.1, 551, 552.1, 628.21, and related rate charts and tables) require mailers to apply a delivery point barcode to any letter-size mailpiece claimed at the Barcoded rates. This change does not affect mailings prepared for flat-size Barcoded rates, courtesy reply mail, or business reply mail. Business reply mail may not bear a delivery point barcode. The implementing changes include mail sortation standards for both ZIP+4 rate and letter-size Barcoded rate mailings. Effective March 21, 1993 (PB 21837 (3–18–93)).

Labeling List Changes

L002, L003, L004, L101, L201, L202, L203, L701, L702, L703, L704, L705, L706, L707, L708, L801, L802, L803, and L804 (former DMM Exhibits 122.63b through 122.63t) reflect changes in mail processing operations. In L003, Los Angeles, CA 900, was deleted; there were no other deletions. Effective January 7, 1993; mandatory March 21, 1993 (PB 21832 (1–7–93)).

L803 and L804 (former DMM Exhibit 122.63o and Exhibit 122.63t) note that customers may order distribution labels for sites shown in these lists from the USPS Label Printing Center in Topeka, KS. Set numbers 006 and 007 identify L803 and L804. When customers order labels, the Postal Service supplies them in lots of 300 (minimum) for each label. To order these free labels, customers fill in the header data on Form 1578–B, Requisition for Facing Slips or Labels, and write in how many labels they need on the detail data lines. Effective February 4, 1993 (PB 21834 (2–4–93)).

L101, L201, L701, L801, L802, and L803 (former DMM Exhibits 122.63e through 122.63g and 122.63m through 122.63o) reflect additional changes in mail processing operations. There were no deletions. Effective April 1, 1993; mandatory May 30, 1993 (PB 21838 (4–1–93)).

Pallet Weight Minimum

M041.4.2, M042, M043, and M044 (former DMM 445.24, 445.44, 644.14, Exhibit 644.1, 644.22, 644.44, 767.53, and 767.62) allow mailers to use either 500 or 650 pounds as the minimum mail load for all second-, third-, and fourth-class mailings on pallets. The same

minimum (500 or 650 pounds) applies to all pallets in a single mailing, except that up to 10 percent of the pallets may contain less than the 500- or 650-pound minimum. Effective April 1, 1993 (PB 21838 (4–1–93)).

Return Receipts

A010.4.2, A010.4.3, and S915.2.1 (former DMM 932.31) specify that if a return receipt is used, the mailpiece may have the return address of either the mailer or mailer's agent. The name and address of the person or organization to which the receipt is to be returned by mail must be that of the mailer or the mailer's agent. Effective April 15, 1993 (PB 21839 (4–15–93)).

SDC Pallets for Second-Class Copalletization

M042 and M043 (former DMM 424.861 and 445.342) allow mailers who prepare copalletized second-class mailings the option of preparing state distribution center (SDC) pallets. Effective November 26, 1992 (PB 21829 (11–26–92)).

Sexually Oriented Mail Form

C032.4.1 and C032.6.4 (former DMM 123.541, 123.543, and 123.565) require postmasters to send all completed Forms 2201, Application for Listing Pursuant to 39 USC 3010, to the National Customer Support Center. Effective February 18, 1993 (PB 21835 (2–18–93)).

Sharps and Medical Devices

C042.8.5, Exhibit C042.8.5a, and Exhibit C042.8.5h (former DMM section 124.385, Exhibit 124.385a, Exhibit 124.385h, section 124.382e, and section 124.388) incorporate new labeling and manifesting standards for mailing sharps and other medical devices. These standards reduce the paperwork required for mailing this material without compromising safety standards. Effective March 21, 1993 (PB 21829 (11–26–92)).

Stickers on Publications

C200.4.3 (former DMM 429.14) permits stickers as acceptable additions to second-class publications. The stickers may be of any shape, but they must be affixed completely to the front cover. They may be used for any purpose, including advertising. Effective April 1, 1993 (PB 21838 (4–1–93)).

Tray Availability for Automation Rate Mail

M033 (former DMM 561.2) allows mailers to tray pieces more than 4½ inches high or 10½ inches long in standard managed mail (MM) trays if extended MM trays are not available. Mailers are also allowed to use sacks instead of trays for presorted automation rate mailings of First-, second-, and third-class letter-size mail. Effective January 21, 1993 (PB 21833 (1–21–93)).

ZIP+4 Barcoded Flats Option

E145, E245, E345, M823, M825 (former DMM 325.12, 424.62, 445.223, 445.224, 445.233, 445.234, 445.243, 445.25, 445.323, 445.324, 445.333, 445.334, 445.343, 445.35, 445.42, 445.432, 445.433, 516, 571.1, 571.2, 571.3, 572.14, 572.22, 572.231, 574.1, 574.3, 575.2, 575.3, 576.2, 576.3, 576.4, 578.1, 578.2, 578.3, 628.22, 644.1, 644.42, 644.43, and 644.44) add an optional preparation method that requires a finer sort of flat-size ZIP+4 Barcoded rate mailings into 5-digit packages that are 100 percent ZIP+4 barcoded or delivery point barcoded and 5-digit packages that are not barcoded. This option requires that mailers suppress the printing of any barcode on pieces in the nonbarcoded 5-digit packages. Effective January 21, 1993 (PB 21833 (1–21–93)).

ZIP+4 Barcoded Flats, 85 Percent Rule

E145, E147, E245, E345 (former DMM 516.31 and 574.32) temporarily relax the 85 percent ZIP+4 or delivery point barcode standard for barcoded flats mailings. There are two options for preparing these mailings. Under the first option, at least 85 percent of the pieces in a mailing must have a correct ZIP+4 or delivery point barcode. All other pieces must have a 5-digit barcode. Under the first option, mailers may qualify Barcoded flats rate mailings if at least 80 percent of the pieces in the mailing have a ZIP+4 or delivery point barcode and all remaining pieces have 5-digit barcodes. This temporary standard expires on October 1, 1993. Under the second option, flats must be more finely sorted at the 5-digit level and barcodes must be suppressed in certain cases. There is no minimum percentage of ZIP+4 or delivery point barcoded pieces to qualify. Under this second option, mailers must prepare two types of 5-digit packages: 5-digit packages with 100 percent of the pieces ZIP+4 or delivery point barcoded and 5-digit packages with no barcodes of any kind. Under the second option the standards do not change. Effective April 1, 1993 (PB 21838 (4–1–93)).

Zone Chart Exhibit

Exhibit E450.1.5 (former DMM Exhibit 722.44) corrects several zone chart label numbers. Effective March 21, 1993 (PB 21830 (12–10–92)).

DMM Issue 47 (April 10, 1994)

Barcoded Flats, ADC Sacks

M823.4.7e and the title of L101 clarify that second- and third-class flat-size Barcoded rate mailings may be sorted to ADC sacks using the ADC list in L101. Effective November 25, 1993 (PB 21855 (11–25–93)).

Checks for Bulk Mail

P040.5.5 (renumbered as P040.5.6) allows business mail entry units to accept checks for bulk mail. Effective September 2, 1993 (PB 21849 (9–2–93)).

Classroom Publications

E273.1.4 (renumbered as E270.5.4) and P013.3.3 clarify procedures for computing postage for outside-county rate classroom publications. Effective December 9, 1993 (PB 21856 (12–9–93)).

Combined Rate Mailings

E238, E312, M041, M042, M043, M201, M202, M203, M302, M303, P014, and P760 allow second- and third-class mailers to prepare combined mailings of regular rate and special rate mailpieces. Effective November 11, 1993 (PB 21854 (11–11–93)).

Contents Identifier Codes

Exhibit M032.1.3a and Exhibit M032.1.3c are added to show the format and three-digit contents identifier codes for barcoded sack and tray labels. Effective May 13, 1993 (PB 21841 (5–13–93) and 21845 (7–8–93)).

Digest-Size Flats, Barcode Discounts

C820.1.4 is revised to include the dimensions for digest-size flat mail under the processing category of flats to allow mailers to receive discounted rates and enhanced service for this mail. Effective November 1, 1993 (PB 21851 (9–30–93)).

Enclosures, Second-Class Mail

C200.3.0 permits a single sheet of printed matter containing information related exclusively to a receipt or order (or request) for a subscription to a second-class publication to be included with the receipt or order (or request). Effective August 19, 1993 (PB 21848 (8–19–93)).

Facsimiles

P012, P040, P100, P200, P300, and P400 clarify the correct approval and use of facsimile mailing statements. Effective November 25, 1993 (PB 21855 (11–25–93)).

Labeling List Changes

L201, L202, and L203 reflect that all second-class operations for the Chicago area were moved to the Chicago Second-

Class Metro Processing Facility at the Chicago Bulk Mail Center. Effective May 29, 1993; mandatory July 18, 1993 (PB 21841 (5–13–93)).

L001, L003, L004, L101, L201 through L203, L701 through L708, and L801 through L804 reflect changes in mail processing operations. In L203, 995–999 (AK) was deleted; in L705, 006–007, 009 (BMC New Jersey NJ 10000[2]) and 006–007, 009 (BMC Jacksonville FL 32099[3]) were deleted; in L706, 995–999 was deleted; and in L707, 995–999 was deleted. Effective October 14, 1993; mandatory December 18, 1993 (PB 21852 (10–14–93); PB 21855 (11–25–93)).

L002 is revised to consolidate and replace L002, L003, and L004. This list consolidates all labeling requirements for unique 3-digit ZIP Code prefix offices, SCFs serving a single 3-digit ZIP Code area, and SCFs serving more than one 3-digit ZIP Code area. Effective April 10, 1994 (PB 21855 (11–25–93)).

L002, L702, L704, L706, L803, and L804 reflect additional changes in mail processing operations. Effective December 23, 1993; mandatory March 1, 1994 (PB 21857 (12–23–93)).

Mail Security

G011 references Administrative Support Manual 274, which now contains the rules on mail security formerly in G012. Effective January 6, 1994 (PB 21858 (1–6–94)).

Mailing Statements, Third-Class Carrier Route and 3/5 Presort

D300, M302, and M303 allow third-class mailers to report a carrier route presort mailing and a separate 3/5 presort rate mailing on the same mailing statement if (1) the mailings are presented at the same time and are part of the same job; (2) the ''Carrier Route Presort'' or ''CAR-RT SORT'' endorsement is placed only on carrier route rate pieces. Effective November 11, 1993 (PB 21854 (11–11–93)).

Meter Date Corrections, Barcoded Mail

P030.4.12 allows mailers to correct meter dates with ink jet printers on preaddressed letter-size mailpieces in barcoded mailings as an alternative to redating with a .00 postage meter impression. Effective August 19, 1993 (PB 21848 (8–19–93)).

Optional Endorsement Line, EX3C, BBM/SPMS

M013.1.2, M013.2.1, M013.2.4, and M303.1.6 allow format exceptions for mailings in the External Third-Class Mail (EX3C) measurement system or Bulk Business Mail/Service Performance Measurement System (BBM/SPMS). Effective December 9, 1993 (PB 21856 (12–9–93)).

Palletization by Type

M040 allows mailers to palletize all eligible mailings of the same preparation type produced at a single location. Effective September 2, 1993 (PB 21849 (9–2–93)).

Penalty Indicia

E060 revises use of the standard penalty indicia; most agencies may no longer use the indicia. Effective October 1, 1993 (PB 21858 (1–6–94)).

Perforating Stamps

P022 is corrected to restore the standard for marking postage stamps with perforation holes. Effective July 1, 1993 (PB 21852 (10–14–93)).

Permit Imprint, Enclosures

P040.1.7 clarifies that an enclosure may bear a permit imprint if postage for neither the host piece nor the enclosure is paid by that permit imprint, and if the enclosure is not prohibited by other DMM standards. Effective January 6, 1994 (PB 21858 (1–6–94)).

Permit Imprint, Priority Mail Drop Shipment

P072.2.4 allows the Priority Mail portion of a Priority Mail drop shipment to be paid by permit imprint under the Manifest Mailing System, Optional Procedure Mailing System, or Alternate Mailing Systems. Effective August 19, 1993 (PB 21848 (8–19–93)).

Preferred Postage Rate Changes

E419, R200, R300, and R400 reflect changes to some preferred postage rates under the Revenue Forgone Reform Act signed into law on October 28, 1993. These rates changed effective 12:01 a.m., November 21, 1993. Effective November 21, 1993 (PB 21854 (11–11–93)).

Privately Printed Forms

S900 amends requirements for customers who print forms privately for accountable mail. Effective January 6, 1994 (PB 21858 (1–6–94)).

Residual Mail, ZIP+4 and Barcoded

M810, M820, and new L805 revise tray labeling standards for residual mail in letter-size ZIP+4 rate mailings and the tray and sack label standards for letter-size and flat-size Barcoded rate mailings. Effective December 23, 1993 (PB 21857 (12–23–93)).

Rigid Flats

C820.4.1 allows some rigid flat-size mailpieces to qualify for ZIP+4 Barcoded rates for flats. Effective December 23, 1993 (PB 21857 (12–23–93)).

Second-Class Entry

D230 changes procedures for the application for second-class additional entry, reentry, or special rate requests. Effective December 9, 1993 (PB 21856 (12–9–93)).

Stamp Conversion

P014.1.7 revises procedures for converting stamps into metered postage or permit imprint advance deposit accounts. Effective September 16, 1993 (PB 21850 (9–16–93)).

USPS Penalty Mail

E060 revises USPS use of the standard penalty indicia, penalty permit imprint, and penalty business reply mail. Effective January 20, 1994 (PB 21859 (1–20–94)).

DMM Issue 48 (January 1, 1995)

New Postal Rates and Fees

Module R reflects changes in domestic postal rates and fees for various classes and services as directed by the Board of Governors of the United States Postal Service on recommendations from the Postal Rate Commission. As requested by the Board on December 12, 1994, the USPS implemented these changes at 12:01 a.m. on Sunday, January 1, 1995. Special Postal Bulletin 21883A (1–1–95) was the first official document to contain full charts of these new domestic postal rates and fees. Effective January 1, 1995 (PB 21883A (1–1–95)).

Address Adjustments

F010.2.0 clarifies the types of adjustments to mailing addresses that the USPS may make and the time periods for delivering mail improperly addressed because of these adjustments. Effective December 12, 1994 (PB 21882 (12–8–94)).

Barcoded Tray Labels

M032.1.0 shows the correct minimum and maximum length for tray labels. Effective August 4, 1994; mandatory October 8, 1994 (PB 21873 (8–4–94)).

Carrier Route—APO/FPO

M102.3.2, M103.3.2, M203.3.2, M303.3.7, M403.4.2, and M406.2.2 permit mail meeting eligibility standards in E132, E230, E333, or E414 that is addressed to military post offices overseas to be eligible for carrier route presort rates. Effective September 1, 1994 (PB 21875 (9–1–94)).

Carrier Route—Information Codes

M013, M014, and M303 reflect new formats for carrier route identifiers in the Address Management System ZIP+4 Data Base (AMSII). Effective June 9, 1994; mandatory September 2, 1995 (PB 21869 (6–9–94)).

Carrier Route—Sack, Tray, Pallet Labels

M031.5.0, M102.3.0, and M203.3.3 standardize the route abbreviations for the second line of carrier route sack, tray, and pallet labels. The abbreviations are consistent with the format for carrier route identifiers in the new Address Management System ZIP+4 Data Base (AMSII). Effective September 29, 1994; mandatory September 2, 1995 (PB 21877 (9–29–94)).

Controlled Substances

C023.6.8 and C023.6.9 remove a provision that restricts use of the mails to carry prescription medicine containing narcotic drugs. This revision is in accord with the Controlled Substances Act, 21 U.S.C. 801 et seq., and its implementing regulations in 21 CFR 1300 et seq. Effective October 5, 1994 (PB 21879 (10–27–94)).

DBMC Parcels Bedloading

E450.2.1 sets a minimum volume for presenting bedloaded parcels at the destination bulk mail center (DBMC) parcel post rates. Effective March 31, 1994 (PB 21864 (3–31–94)).

Deposit and Delivery of Mail

D042.1.7, D500.4.0, D910, D920, D930, P070.6.2, S911.4. 1, S912.3.0, S913.3.0, S915.3.0, S916.3.0, S917.3.0, S921.4.0 revise standards for the deposit of mail by Express Mail or Priority Mail drop shipment, the delivery of accountable mail, and the conditions of post office box service, general delivery, and firm holdout service. Effective July 3, 1994 (October 2, 1994, for D042.1.7 and D930.2.0) (PB 21870 (6–23–94)).

D042.1.7 and D920.1.0 correct references to the 5-day retention period for Express Mail after notice to the addressee, include a statement affirming the availability of caller service to former firm holdout customers, and include the authority for postmasters to except former firm holdout customers from the otherwise applicable requirement that their mail show a post office box (caller service) number in the address. Effective October 2, 1994 (PB 21873 (8–4–94)).

Destination SCFs

E350.6.1 corrects a reference error to destination sectional center facilities (DSCFs) listed in L002. Effective June 23, 1994 (PB 21870 (6–23–94)).

Detached Address Labels

A060 standardizes the different uses of detached address labels. Effective December 13, 1994 (PB 21877 (9–29–94)).

Drop Shipment Endorsement—Metered Mail

D072.4.2 provides authorized alternative formats for markings on dropshipped metered mail. Customers may print a numeric ZIP Code in place of the mailing office name, or they may abbreviate the endorsement if desired. Effective September 29, 1994 (PB 21877 (9–29–94)).

Express Mail Claims

S010.2.12a(3) corrects the amount shown for the maximum payable indemnity for nonnegotiable documents for Express Mail that cannot be reconstructed from $50,000 to $5,000. Effective with DMM issue 47 (4–10–94) (PB 21869 (6–9–94)).

Label Abbreviations

M031.4.9, M042.5.0, and M043.5.5 eliminate inconsistencies in the abbreviations authorized for the second line information on pallet labels. Effective July 7, 1994 (PB 21871 (7–7–94)).

Labeling List Changes

L203 and L803 correct typographical errors found after the printing of DMM issue 47 (4–10–94). Postal Bulletin 21852 (10–14–93) correctly showed the labeling changes for L203 and L803. Effective October 14, 1993; mandatory December 18, 1993 (PB 21867 (5–12–94)).

L002, L101, L201, L203, L701, L706, L707, L801, L802, L803, and L804 reflect changes in mail processing operations. Effective June 23, 1994; mandatory August 20, 1994 (PB 21870 (6–23–94)).

L102, ADC Labeling List for Presorted Priority Mail, is added to show the area distribution centers (ADCs) handling Presorted Priority Mail. Effective July 7, 1994 (PB 21871 (7–7–94)).

L002 and L102 correct typographical errors published in Postal Bulletin 21870 and 21871, respectively. Effective August 4, 1994 (PB 21873 (8–4–94)).

L002, L101, L102, L701, L702, L703, L704, L705, L708, and L804 reflect changes in mail processing operations. Effective October 1, 1994; mandatory November 12, 1994 (PB 21876 (9–15–94)).

L101 and L701 correct information published in Postal Bulletin 21876 (9–15–94). Effective September 29, 1994; mandatory November 12, 1994 (PB 21877 (9–29–94)).

L002, L101, L201, L203, L701, L706, L801, and L803 reflect changes in mail processing operations. Effective November 10, 1994; mandatory January 7, 1995 (PB 21880 (11–10–94)).

L002 and L701 reflect changes in mail processing operations. Effective November 24, 1994; mandatory January 14, 1995 (PB 21881 (11–24–94)).

Machinable Parcels—3/5 Presort

E332, M302, and M305 clarify language for the rate eligibility standards that apply to machinable parcels prepared to qualify for the third-class 3/5 presort rate. Effective August 4, 1994 (PB 21873 (8–4–94)).

Merchandise Return Service—Pickup Service

D010.2.0, S923.3.2, and S923.5.6 allow shippers using merchandise return service to authorize pickup service for their customers and indicate the applicable pickup fee to be included with the other postage and fees paid when the mail is returned. Effective May 26, 1994 (PB 21868 (5–26–94)).

Military Mail

E060.5.6 and E060.5.7 authorize postage-penalty mail for a military unit engaged in hostile operations or operating under arduous conditions. Effective May 26, 1994 (PB 21868 (5–26–94)).

Money Orders

S020 reorganizes and consolidates existing standards and removes internal postal procedures. Effective January 1, 1995 (PB 21873 (8–4–94)).

Official Mail

E060 reflects the change in postage payment for federal agencies since October 1, 1993 (through January 1, 1995, for a few exempted agencies), that all mail from federal agencies placed in a collection box or presented to a delivery employee must bear stamps, meter strips, or have meter impressions directly on the mail. Effective January 1, 1995 (PB 21882 (12–8–94)).

Palletized Mailings

M042.4.1 and M042.5.3 allow second-class mailers to prepare 5-digit pallets with a minimum load of 250 pounds each in mailings of palletized packages. These pallets need not be considered when determining whether a mailer exceeds the allowable 10 percent limit for all other pallets in a mailing that may weigh less than a minimum of 500 or 650 pounds. Effective January 20, 1994 (PB 21859 (1–20–94)).

E230.1.4 adds information contained in former DMM 424.813 and

inadvertently omitted when DMM issue 46 was released on July 1, 1993. Effective September 15, 1994 (PB 21876 (9–15–94)).

Penalty Meters

E060.8.1 (renumbered as E060.7.1) corrects the internal references because of previous renumbering when DMM issue 46 was released (7–1–93). Effective July 7, 1994 (PB 21871 (7–7–94)).

Priority Mail Presort

L102 and M101.2.0 extend eligibility for Presorted Priority Mail rates to pieces presorted to area distribution center (ADC) destinations. Effective July 7, 1994 (PB 21871 (7–7–94); PB 21873 (8–4–94)).

Private Express Statutes

G011.4.6 and G011.4.7 reflect the shift of administrative responsibilities for the Private Express Statutes from the Postal Inspection Service to the Chicago Rates and Classification Service Center. Effective November 24, 1994 (PB 21881 (11–24–94)).

Second-Class Mail—Postage Payment

P200 removes duplicate information about documentation and the Centralized Postage Payment (CPP) System. Effective January 1, 1995 (PB 21868 (5–26–94)).

Special Rates—Eligibility Restrictions

E370.5.0 retains existing restrictions on advertising for insurance, travel, and financial promotions. The Postal Service will delay implementation of standards for special bulk third-class content-based restrictions enacted in the Revenue Forgone Reform Act published in Postal Bulletin 21867 (5–12–94). Effective August 18, 1994 (PB 21874 (8–18–94)).

Special Rates—Second- and Third-Class Mail

R200.2.0, R200.3.0, R200.4.0, and R300.6.0 were revised to reflect annual changes for special rates as mandated by the Revenue Forgone Reform Act signed into law on October 28, 1993. The Postal Service Board of Governors directed implementation of these changes for 12:01 a.m. on October 2, 1994. Effective October 2, 1994 (PB 21871 (7–7–94)).

Special Rates—Second-Class Publications

E270.2.3 and E270.5.4 include standards defining the rate applicable to the advertising portion of second-class publications authorized to claim nonprofit or classroom rates. Effective October 13, 1994 (PB 21878 (10–13–94); PB 21880 (11–10–94)).

Third-Class Mail—3/5 Presort, Carrier Route, and Walk-Sequence

E332.1.4, E333.1.3, E334.1.4, and P300.2.1 align reporting standards with similar standards revised under Postal Bulletin 21854 (11–11–93). Effective May 26, 1994 (PB 21868 (5–26–94)).

Undeliverable Mail

F010 corrects typographical errors in DMM issue 47 (4–10–94) to show USPS procedures for handling undeliverable First-Class Mail, Priority Mail, and Express Mail during months 13 through 18 after the expiration of a forwarding order. Effective May 26, 1994 (PB 21868 (5–26–94); PB 21869 (6–9–94)).

Voting Registration Officials

E370.3.0 and E370.5.0 are revised as a result of the enactment of Public Law 103–31, the National Voter Registration Act of 1993, and the addition of section 3629 to title 39, United States Code. The revision authorizes voting registration officials to mail certain third-class matter at the special bulk third-class rates. Effective January 1, 1995 (PB 21882 (12–8–94)).

Walk-Sequenced Third-Class Mail

M304.1.3 and M304.3.2 require an identifying marking on each piece of walk-sequenced bulk third-class mail. Effective December 10, 1994 (PB 21875 (9–1–94)).

ZIP+4 Barcoded Mailings—AADC Trays

M815.3.4c changes the position of the term LTRS on the second line of qualifying tray labels for AADC trays to be consistent with other tray labels. Effective June 12, 1994 (PB 21865 (4–14–94)).

ZIP+4 Barcoded Mailings—Residuals

E240, E340, E350, M013, M020, M812, M813, M814, M815, and M816 change the standards for preparing the residual portion of second- and third-class letter-size automation rate mailings. This revision includes an optional procedure for preparing the residual portion of First-Class ZIP+4 and barcoded letter-size mail and changes to Line 2 of AADC tray labels for letter-size mail. Effective May 8, 1994; mandatory June 12, 1994 (PB 21864 (3–31–94); PB 21865 (4–14–94)).

DMM Issue 49 (September 1, 1995)

Addressing—Z4CHANGE

A950.1.3, A950.3.1, and A950.3.2 permit mailers to use a new process called Z4CHANGE for address matching and coding to qualify address lists for automation mailings. Effective May 11, 1995 (PB 21893 (5–11–95)).

Annual Fees—Advance Payment

E110.6.1, E312.2.6, E312.2.7, E411.4.0, E412.4.1, E412.4.2, E416.2.0, S922.3.3, and S923.3.1 clarify the standards for advance payment of annual permit, mailing, and accounting fees. Effective January 5, 1995 (PB 21884 (1–5–95)).

Barcoded Mail—''Heavy'' Letters

C810.1.5, C810.2.3, C840.2.2, C840.2.3, C840.2.9, C840.6.2, C840.6.3, E144.1.2, E144.1.3, E144.1.4, E144.1.5, E144.1.6, E147.1.1, E244.1.2, E244.1.3, E244.1.4, E244.1.5, E244.1.6, E344.1.2, E344.1.3, E344.1.4, E344.1.5, E344.1.6, M814.1.9, M815.1.7, M816.1.7, and R100 reflect changes for USPS testing and accepting barcoded letter mail exceeding 3.0 ounces as follows: First-Class and second-class rates (between 3.0 and 3.4383 ounces), regular bulk third-class rates (between 3.0 and 3.3071 ounces), and special bulk third-class rates (between 3.0 and 3.4383 ounces). Effective January 16, 1995 (PB 21884 (1–5–95); PB 21886 (2–2–95)).

Barcoded Mail—Pieces Without DPBCS

C840.2.2, C840.2.4, C840.6.0, C840.7.1, E142.1.1, E142.1.3, E144.1.1, E144.1.4, E144.2.1, E144.2.2, E144.2.3, E145.1.1, E145.1.2, E145.1.4, E145.2.1, E145.2.2, E147.1.1, E147.1.2, E147.1.3, E147.1.6, E148.1.1, E148.1.3, E149.1.1, E149.1.2, E149.1.4, E242.1.1, E242.1.2, E242.1.3, E242.1.6, E242.2.1, E242.2.2, E244.1.1, E244.1.3, E244.1.4, E244.2.1, E244.2.2, E244.2.3, E245.1.1, E245.1.2, E245.1.4, E245.2.1, E245.2.2, E245.2.3, E342.1.1, E342.1.2, E342.1.3, E342.1.6, E342.2.1, E342.2.2, E344.1.1, E344.1.3, E344.1.4, E344.2.1, E344.2.2, E344.2.3, E345.1.1, E345.1.2, E345.1.4, E345.2.1, and E345.2.2 consolidate and clarify the standards for pieces in Barcoded rate letter-size mailings, particularly for pieces without a delivery point barcode (DPBC) that must have a barcode clear zone. To qualify for any automation rate, any piece with a barcode window must have a DPBC appearing through that window. Lower right ZIP+4 barcodes are permitted only in mailings where the DPBC appears in the lower right corner of the pieces. The abbreviation ''DPBC'' replaces the term ''delivery point barcode[d]'' throughout these revised sections. Effective March 2, 1995 (PB 21888 (3–2–95)).

BRM Format

S922.6.7 shows that the business reply mail (BRM) format element ''FIRST-CLASS MAIL PERMIT NO.'' requires a hyphen between ''FIRST'' and ''CLASS.'' Effective April 13, 1995 (PB 21891 (4–13–95)).

BRMAS Cards

S922.7.2 clarifies the application of the aspect ratio standard to card-size mailpieces prepared for return under the Business Reply Mail Accounting System (BRMAS). Effective February 2, 1995 (PB 21886 (2–2–95)).

Carrier Release Endorsement

D042.7.0, M011.4.1, and M011.4.3 clarify current policy for placing the endorsement used with the carrier release program. Effective February 2, 1995 (PB 21886 (2–2–95)).

Carrier Route Presort—Traying Letters

E230.2.1, E230.7.2, E230.8.2, E333.3.1, E334.1.4, M203.1.4, M203.2.2, M203.3.1, M203.3.2, M203.3.3, M203.3.4, M302.1.2, M302.3.1, M302.4.1, M302.4.2, M302.4.3, M303.1.2, M303.2.2, M303.2.5, M303.3.1, M303.3.2, M303.3.3, M303.3.4, M303.3.5, M303.3.6, and M303.4.2 permit mailers to use trays for second- and third-class carrier route presort mailings of letter-size pieces. The use of trays instead of sacks for carrier route presort letter-size mail does not extend to the provisions in M040 for palletization of sacks. M308 is deleted. Effective March 2, 1995 (PB 21888 (3–2–95)).

Forms 3541–C and 3541–E

Exhibits E216.5.1 and E216.5.2 (Forms 3541–C and 3541–E, respectively) are eliminated and the forms are published in the Postal Bulletin for local reproduction. Effective July 20, 1995 (PB 21898 (7–20–95)).

Forwarding—Official Orders

F020.2.6 clarifies the standards for forwarding mail to persons relocating because of official military orders. Effective February 2, 1995 (PB 21886 (2–2–95)).

Fourth-Class Mail—Commingling Zone-Rated Pieces

M044.3.5, M044.4.6, M401.2.0, M402.1.3, M406.1.2, M407.1.5, M407.2.1, M407.3.1, M407.3.2, and M408.1.0 include consolidated standards under which mailers of zone-rated fourth-class mail may commingle correctly presorted pieces for different zones in the same sack or on the same pallet. The documentation provided with such mailings must enable verification of postage computation and payment. Effective February 2, 1995 (PB 21886 (2–2–95)).

Hazardous Matter

C023 reorganizes and clarifies (without substantive changes) the standards for mailing hazardous matter. Effective April 27, 1995 (PB 21892 (4–27–95)).

Labeling Instructions

M073.3.2, M101.2.9, M102.3.2, M103.3.2, M201.3.2, M202.3.2, M203.3.2, M302.3.7, M303.3.7, M305.2.3, M402.3.2, M403.4.2, M404.3.2, M406.2.2, M812.2.2, M813.3.3, M814.2.2, M815.3.3, M816.3.3, and M823.4.7 consolidate the instructions for Line 1 information on labels for sacks and trays of military mail prepared for carrier route and 5-digit presort levels. A single instruction is added to M031.1.2, which is cited in the above-referenced sections to replace previous detailed wording. Effective March 2, 1995 (PB 21888 (3–2–95)).

Labeling List Changes

L101, L803, and L804 reflect changes in mail processing operations. Effective February 2, 1995; mandatory April 1, 1995 (PB 21886 (2–2–95)).

L102, L201, L202, L203, L701, L702, L703, and L704 reflect changes in mail processing operations. Effective May 25, 1995; mandatory July 22, 1995 (PB 21894 (5–25–95)).

L002, L101, L102, L201, L202, L203, L701, L702, L703, L704, L705, L706, L707, L708, L801, L802, L803, and L804 reflect changes in mail processing operations. Mailers must comply with these changes by July 8, 1995. Effective July 1, 1995; mandatory July 8, 1995 (PB 21895 (6–8–95)).

Merchandise Samples—Bound Printed Matter

E414.1.4b clarifies that merchandise samples mailed with bound printed matter must promote either the sale of such merchandise or the sale of such merchandise and the bound printed matter. Effective February 2, 1995 (PB 21886 (2–2–95)).

Miscellaneous Revisions

C840.2.2 and C840.2.5 exempt address block delivery point barcoded pieces from the requirement of a reserved barcode clear zone in the lower right corner. C840.4.2 corrects the formula for determining print reflectance difference (PRD). S922.7.2 specifies the type of card stock permitted under the Business Reply Mail Accounting System (BRMAS). E147.1.1, M203.1.0, M203.2.0, M203.3.0, M302.3.0, M303.2.0, and M303.3.0 reconcile revisions to those sections made in Postal Bulletin 21888. Effective May 11, 1995 (PB 21893 (5–11–95)).

Money Orders—Payment

S020.1.3 permits automated teller machine (ATM) debit cards as an acceptable payment method for money orders bought at certain post offices. Effective February 2, 1995 (PB 21886 (2–2–95)).

Money Orders—Replacement

S020.1.5 clarifies the requirement for a customer to return both the negotiable portion of the money order and the matching customer receipt in order to replace a spoiled money order at no extra charge. Effective March 2, 1995 (PB 21888 (3–2–95)).

Optional Endorsement Lines

M013.2.3 gives mailers more flexibility in using an optional endorsement line (OEL) to identify package presort. The current standard that nothing may appear above the OEL except an address block barcode remains in force, but this revision allows the barcode to appear above and to the right of the OEL. Address characters, sort marks, and other mailer-applied information are permitted to the right of the OEL on the third and lower lines below the OEL. Effective March 2, 1995 (PB 21888 (3–2–95)).

Palletization Authorization

M041, M042, M043, and M044 revise authorization and preparation standards for mail presented on pallets. Effective July 20, 1995 (PB 21898 (7–20–95)).

Permit Imprint Revocations

P040.1.6 (renumbered as P040.1.8 and amended earlier by Postal Bulletin 21892 (4–27–95)) increases from 12 to 24 months the period of nonuse allowed for a permit imprint before the USPS revokes the authorization. Effective July 9, 1995 (PB 21896 (6–22–95)).

Plant-Verified Drop Shipment

P750.1.0, P750.2.0, and P750.3.0 eliminate the requirement for mailers to submit written requests to mail under a plant-verified drop shipment (PVDS) postage payment system. Effective July 6, 1995 (PB 21897 (7–6–95)).

Polywrapped Barcoded Flats

C820.2.1 is revised to permit authorized mailers to use USPS-certified polywrap materials for Barcoded rate flat mailings. Effective July 8, 1995 (PB 21899 (8–3–95)).

Postage Meters

P030 strengthens administrative controls on postage meters to minimize meter misuse. Effective June 30, 1995 (PB 21896 (6–22–95)).

Priority Mail Rates

Exhibit R100.10.0a and Exhibit R100.10.0b reflect changes in certain Priority Mail rates that were recommended by the Postal Rate Commission on June 7, 1995, and adopted for implementation on August 27, 1995, by the Governors of the Postal Service. Effective August 27, 1995 (PB 21900 (8–17–95)).

Rate Application and Computation

P013.1.1, P013.1.2, P013.1.3, P013.1.4, P013.1.5, P013.1.6, P013.2.1, P013.2.2, P013.2.3, P013.2.4, P013.2.5, P013.4.1, P013.4.2, P013.4.3, P013.5.1, P013.5.2, P013.5.3, P013.5.4, P013.5.5, P013.5.6, P013.5.7, P013.6.0, P013.7.3, P013.7.4, P013.7.5, P013.7.6, P013.7.7, P013.8.1, P013.8.2, P013.8.3, P013.8.4, P013.8.5, P013.9.1, P013.9.2, P013.9.3, P013.9.4, P013.9.5, and P013.9.6 reflect revisions and consolidation. P013.1.2c clarifies the term ''intermediate'' postage figures for purposes of rounding; P013.1.4, P013.1.5, and P013.1.6 consolidate standards for affixing postage; P013.2.1, P013.2.2, P013.2.3, P013.2.4, P013.2.5, and P013.6.0 accommodate standards for Express Mail and flat-rate envelopes; P013.4.1, P013.4.2, and P013.4.3 reflect changes in the third-class single-piece rate structure and bulk rate breakpoints from the January 1, 1995, rate implementation. These revisions make no changes to basic policy on computation or postage payment. Effective March 2, 1995 (PB 21888 (3–2–95)).

RCSC Directory

G042 updates addresses, telephone numbers, and ZIP Code ranges served for several business mail entry units and rates and classification service centers (RCSCs). Effective April 13, 1995 (PB 21891 (4–13–95)).

Second-Class Mail—Contents

A010.7.1, A010.7.2, A010.7.3, and A010.7.4 are added; C200 is revised and reorganized; and E211.3.0, E211.7.3, E211.9.0, E211.11.2, P070.2.0, and P200.1.7 clarify the types of material and supplements mailable at second-class rates. A200 is deleted. Effective March 27, 1995 (PB 21889 (3–16–95)).

Second-Class Mail—Copalletization

M042.5.9 facilitates copalletizing of short-run second-class publications to reduce mailers'' costs and decrease USPS handling. Effective March 16, 1995 (PB 21889 (3–16–95)).

Second-Class Mail—Form 3526, Permit Imprints, Key Rates

E216.4.3 modifies the publishing requirements for Form 3526, Statement of Ownership, Management, and Circulation, to allow flexibility in selecting the issue in which the required information is printed; P040.1.6, P040.1.7, P040.1.8, P040.1.9, P040.2.4, P040.3.5, P040.4.1, P040.4.2, P040.5.3, P040.5.4, and P040.5.6 relax conditions under which a company permit imprint may be used; P200.3.5 eliminates on November 1, 1995, the use of key rates for publications. Effective June 2, 1995 (PB 21892 (4–27–95)).

Special Rates—Content Restrictions

E370.5.0 implements additional requirements on material mailed at the special bulk third-class rates, effecting statutes enacted by the Treasury, Postal Service, and General Appropriations Acts for 1994 and 1995 that establish content-based restrictions on advertisements, promotions, and offers for certain products mailed at the special bulk third-class rates. Effective October 1, 1995 (PB 21893 (5–11–95)).

Special Rates—Form 3623

E370.8.1 and E370.8.3 reflect procedural changes in the filing of Form 3623, Application for Special Bulk Third-Class Rates at Additional Mailing Office. Effective February 2, 1995 (PB 21886 (2–2–95)).

Special Rates—Rate Increases

R200.2.0, R200.3.0, R200.4.0, R300.6.0, R300.7.0, R300.8.0, and R400.6.0 reflect increases in certain special postage rates mandated by the Revenue Forgone Act signed into law on October 28, 1993. Effective October 1, 1995 (PB 21897 (7–6–95); PB 21899 (8–3–95)).

Stamped Envelopes

P022.2.1 deletes Exhibit P022.2.1, Nondenominated Postage (transferred to the DMM Utilities). R000.1.0 and R000.2.0 amend the listing and prices of stamped envelopes. Effective February 16, 1995 (PB 21887 (2–16–95)).

Third-Class Mail—Residual Carrier Route

E333.1.3, E333.3.1, M303.2.0, M303.3.0, M303.4.1, and M303.4.2 clarify the preparation of the residual portion of carrier route presort bulk third-class mailings. Effective January 5, 1995 (PB 21884 (1–5–95)).

Third-Class Mail—SCF Sack

M020.1.4f permits bulk third-class mailers to prepare one sectional center facility (SCF) sack containing fewer than 125 addressed pieces or less than 15 pounds of addressed pieces for a 3-digit ZIP Code area served by the origin SCF. Effective June 22, 1995 (PB 21896 (6–22–95)).

Verified Delivery

S912.1.4 clarifies the use of verified delivery receipts. Effective February 16, 1995 (PB 21887 (2–16–95)).

Walk-Sequence Mail

M020.2.1, M202.1.4, M203.1.4, M203.1.5, M203.2.2, M203.2.6, M203.3.3, M303.1.4, M303.1.7, M303.1.8, M303.2.2, M303.2.5, and M303.3.8 revise walk-sequence mail preparation; new M050.1.1, M050.1.2, M050.2.1, M050.2.2, M050.3.1, M050.3.2, M050.3.3, M050.4.1, M050.4.2, M050.4.3, M050.4.4, M050.4.5, M050.4.6, M050.4.7, and M050.4.8 transfer the basic preparation standards from M204 and M304, which are both deleted. Because walk-sequence mail is a form of carrier route presort, the remaining standards from those deleted units that are specific to second- and third-class mail are transferred to M203 and M303, respectively. These revisions make no changes in rate eligibility or mail preparation. Effective March 2, 1995 (PB 21888 (3–2–95)).

PART 111—[AMENDED]

In consideration of the foregoing, 39 CFR part 111 is amended as set forth below:

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. The table at the end of § 111.3(e) is amended by adding new entries at the end:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

(e) * * *

Transmittal letter for issue	Dated	FEDERAL REGISTER publication
* *	*	* *
44	September 20, 1992.	61 FR [INSERT PAGE NUMBER]
45	December 20, 1992.	61 FR [INSERT PAGE NUMBER]

Transmittal letter for issue	Dated	FEDERAL REGISTER publication
46	July 1, 1993	61 FR [INSERT PAGE NUMBER]
47	April 10, 1994	61 FR [INSERT PAGE NUMBER]
48	January 1, 1995.	61 FR [INSERT PAGE NUMBER]
49	September 1, 1995.	61 FR [INSERT PAGE NUMBER]

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–32280 Filed 12–19–96; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 083–4036a, PA 083–4037a, PA 069–4035a; FRL–5659–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations, and 1990 Baseyear Emissions for One Source

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions establish and require reasonably available control technology (RACT) for three facilities, and make corrections to the 1990 baseyear volatile organic compounds (VOC) and nitrogen oxides (NO_X) emissions for one of the facilities. This action affects a total of three companies. The intended effect of this action is to approve three source-specific RACT determinations, and the 1990 emissions inventory figures for three emissions units at one facility. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective February 21, 1997 unless within January 21, 1997, adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice Bolden, (215) 566–2185, or Carolyn Donahue, (215) 566–2095, at the EPA Region III office, or via E-mail at bolden-janice@epamail.epa.gov or donahue-carolyn@epamail.epa.gov. While information may be requested via E-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On August 1, 1995, December 8, 1995, June 10, 1996, and September 13, 1996, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP), consisting of plan approvals and operating permits for many facilities. The SIP revisions that are the subject of this rulemaking consist of RACT determinations for only three of those facilities and includes one operating permit and one plan approval. These three individual facilities emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) and are located in Mercer and Blair Counties in Pennsylvania. These three facilities are (1) Caparo Steel Company (Mercer Co.)—steel mill, (2) Sharon Steel Company (Mercer Co.)—steel mill, and (3) Pennsylvania Electric Company (Penelec)—Williamsburg Station (Blair Co.)—utility. The remaining plan approvals and operating permits in the August 1, 1995, December 8, 1995, June 10, 1996, and September 13, 1996, submittals will be the subject of a separate rulemaking notice.

Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the ozone nonattainment area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The August 1, 1995, December 8, 1995, June 10, 1996, and September 13, 1996, Pennsylvania submittals that are the subject of this notice are meant to satisfy the RACT requirements for three facilities in Pennsylvania.

Summary of SIP Revisions

This rulemaking approves the operating permit issued to Caparo Steel Company by the Pennsylvania Department of Environmental Protection (PADEP) on November 3, 1995, the plan approval issued to Sharon Steel Company by PADEP on November 3, 1995, and the RACT determination for Pennsylvania Electric Company (Penelec)—Williamsburg Station. In addition, on June 10, 1996, Pennsylvania submitted 1990 baseyear emission inventory figures for Sharon Steel Company for EPA approval into the Pennsylvania SIP. Therefore, this rulemaking also establishes the 1990 baseyear emissions for emissions units at Sharon Steel. The details of the RACT requirements for the source-specific operating permit for Caparo Steel and the plan approval for Sharon Steel can be found in the docket and accompanying Technical Support Document and will not be reiterated in this document.

Caparo Steel RACT

EPA is approving the operating permit (OP 43–285) for Caparo Steel Company, located in Mercer County, which is part of the Youngstown-Warren-Sharon Ohio/Pennsylvania ozone marginal nonattainment area. This operating permit imposes RACT on Caparo Steel and requires compliance by May 31, 1995. Caparo Steel Company is a steel mill and is a major source of NO_X and VOC emissions. In general, the RACT requirements in the permit include operation and maintenance in accordance with manufacturer specifications and good air pollution control practices to minimize NO_X and

VOC emissions in addition to VOC and NO_X emission rate limitations and VOC and NO_X annual emission caps.

In addition to imposing RACT on the currently operating units at Caparo Steel, this revision also establishes RACT for four, now shutdown, emission units at Caparo Steel Company. These four units, which are not addressed in operating permit OP 43–285, are the package boilers, and BW boilers 1 to 3. All of these units ceased operation and were retired on November 30, 1992. EPA is also using this document to recognize the 868.6 tons of NO_x per year and 1.8 tons of VOC per year emission reduction credits created by the shutdown of these four emissions units at Caparo Steel.

Sharon Steel RACT/Baseyear Inventory

EPA is approving the plan approval (PA 43–017) for Sharon Steel Company, which is adjacent to the Caparo Steel facility and is located in Mercer County. This plan approval imposes RACT on Sharon Steel and requires compliance by May 31, 1995. Sharon Steel Company is a steel mill and is a major source of NO_X and VOC emissions. In general, the RACT requirements in the plan approval include operation and maintenance in accordance with manufacturer specifications and good air pollution control practices to minimize NO_X and VOC emissions in addition to VOC and NO_X emission rate limitations and VOC and NO_X annual emission caps.

This revision also establishes RACT for three, now shutdown, emission units at Sharon Steel Company. These three units, not addressed in plan approval PA 43–017, are the Blast Furnace Operations (flame suppression, heaters and torpedo cars, flare stack, tuyeres), Basic Oxygen Furnace Shop (scrap preheating, ladle preheating and heaters), and Blast Furnace Casthouse. All of these emission units ceased operation and were retired on November 30, 1992. Chemical usage units, once maintained by Sharon Steel Company, remain in use and are now operated by Caparo Steel Company. These chemical usage units are included in operating permit OP 43–285.

As previously stated, RACT for the Blast Furnace Operations, Basic Oxygen Furnace Shop, and Blast Furnace Casthouse is determined to be good air pollution control practices. The 1990 baseyear VOC and NO_X emissions for these three emission units are also being approved. The 1990 VOC and NO_X emissions from the Blast Furnace Operations (flame suppression, heaters and torpedo cars, flare stack, tuyeres) are 0.4 tons per year (TPY) and 49.3 TPY, respectively. The 1990 VOC and NO_X emissions from the Basic Oxygen Furnace Shop (scrap preheating, ladle preheating and heaters) are 1.4 TPY and 39.6 TPY, respectively. The 1990 VOC and NO_X emissions from the Blast Furnace Casthouse are 205.4 TPY and 11.0 TPY, respectively. EPA is also using this document to recognize the 469.6 tons of NO_X per year and 215.7 tons of VOC per year emission reduction credits created by the shutdown of the Sharon Steel facility.

Pennsylvania Electric Company (Penelec)—Williamsburg RACT

This revision establishes RACT for three, now shutdown, emission units at Pennsylvania Electric Company (Penelec)—Williamsburg Station, located in Blair County. These units are the unit #11 boiler, auxiliary boiler, and all fugitive VOC sources. All of these emission units ceased operation and were retired on January 18, 1991. In general, the RACT requirements include operation and maintenance in accordance with manufacturer specifications and good air pollution control practices to minimize NO_x and VOC emissions in addition to VOC and NO_X emission rate limitations and VOC and NO_X annual emission caps. EPA is also using this document to recognize the 869 tons of NO_X per year and 3.37 tons of VOC per year emission reduction credits created by the shutdown of the Penelec—Williamsburg facility.

The specific emission limitations and other RACT requirements for these facilities are summarized in the accompanying Technical Support Document, which is available from the EPA Region III office, listed in the **ADDRESSES** section of this notice. The source-specific RACT determinations that are being approved into the Pennsylvania SIP are those that were submitted by PADEP for Caparo Steel, Sharon Steel, and Penelec—Williamsburg on August 1, 1995, December 8, 1995, June 10, 1996, and September 13, 1996.

EPA is approving these SIP revisions without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective February 21, 1997 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on February 21, 1997.

Final Action

EPA is approving the RACT determinations for Caparo Steel Company, Sharon Steel Company, and Pennsylvania Electric Company (Penelec)—Williamsburg Station. EPA is approving an operating permit for Caparo Steel and a plan approval for Sharon Steel, and incorporating them by reference in the Pennsylvania SIP. At 40 CFR 52.2037, EPA is also approving and codifying the RACT determination for Penelec—Williamsburg, and those RACT requirements for Caparo Steel and Sharon Steel not covered by the operating permit and plan approval being approved and incorporated by reference into the Pennsylvania SIP at 40 CFR 52.2020. At 40 CFR 52.2036, EPA is approving 1990 baseyear emissions for three emission units at Sharon Steel.

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

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

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

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 Clean Air 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more.

Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

Under section 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 section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the VOC and NO_X RACT determination for Caparo Steel Company, Sharon Steel Company, and Pennsylvania Electric Company (Penelec)—Williamsburg Station, must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 22, 1996.

Stanley L. Laskowski, Acting

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(113) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(113) Revisions to the Pennsylvania Regulations, Chapter 129.93 pertaining to VOC and NO_X RACT, submitted on August 1, 1995, December 8, 1995, June 10, 1996, and September 13, 1996, by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection):

(i) Incorporation by reference.

(A) Four letters, dated August 1, 1995, December 8, 1995, June 10, 1996, and September 13, 1996, from the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection) transmitting source-specific VOC and/or NO_X RACT determinations for Caparo Steel Company (Mercer Co.)—steel mill, Sharon Steel Company (Mercer Co.)—steel mill, and Pennsylvania Electric Company (Penelec)—Williamsburg Station (Blair Co.)—utility.

(B) Plan approval (PA) and Operating permit (OP):

(*1*) Caparo Steel Company—OP 43–285, effective November 3, 1995, except condition #9 pertaining to non-NO_X and non-VOC pollutants.

(*2*) Sharon Steel Company—PA 43–017, effective November 3, 1995, except condition #9 pertaining to non-NO_X and non-VOC pollutants.

(ii) Additional material.

(A) Remainder of August 1, 1995, December 8, 1995, June 10, 1996, and September 13, 1996, State submittals pertaining to Caparo Steel Company, Sharon Steel Company, and Pennsylvania Electric Company (Penelec)—Williamsburg Station.

3. Section 52.2037 is amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 52.2037 Control Strategy: Carbon monoxide and ozone (hydrocarbons).

* * * * *

(e) Sharon Steel Company—VOC and NO_X RACT determination for three emission units at Sharon Steel Company, not covered by plan approval PA 43–017: Blast Furnace Operations (flame suppression, heaters and torpedo cars, tuyeres), Basic Oxygen Furnace Shop (scrap preheating, ladle preheating and heaters), Blast Furnace Casthouse. NO_X RACT for the Blast Furnace Operations is determined to be good air pollution control practices such that NO_X emissions do not exceed: 100 pounds of NO_X per million cubic feet (lb NO_X/MMft^3) of natural gas and 10.69 tons of NO_X per year (TPY) for flame suppression, heaters, and torpedo cars; and 140 lb NO_X/MMft^3 of natural gas and 0.6 TPY for tuyeres. VOC RACT for the Blast Furnace Operations is determined to be good air pollution control practices such that VOC emissions do not exceed: 3.8 lb VOC/MMft^3 of natural gas and 0.41 TPY for flame suppression, heaters and torpedo cars; and 2.8 lb VOC/MMft^3 of natural gas and 0.01 TPY for tuyeres. NO_X RACT for the Basic Oxygen Furnace Shop is determined to be good air pollution control practices such that NO_X emissions do not exceed: 100 lb NO_X/MMft^3 of natural gas and 1.1 TPY

for scrap preheating; and 140 lb NO_X/$MMft^3$ of natural gas and 10.8 TPY for ladle preheating and heaters. VOC RACT for the Basic Oxygen Furnace Shop is determined to be good air pollution control practices such that VOC emissions do not exceed: 3.8 lb VOC/$MMft^3$ of natural gas and 0.04 TPY for scrap preheating; and 2.8 lb VOC/$MMft^3$ of natural gas and 0.22 TPY for ladle preheating and heaters. NO_X RACT for the Blast Furnace Casthouse is determined to be good air pollution control practices such that NO_X emissions do not exceed 0.03 lb NO_X/ton of steel processed and 11.0 TPY.

(f) Pennsylvania Electric Company—Williamsburg Station—VOC and NO_X RACT determination for three emission units at Pennsylvania Electric Company (Penelec)—Williamsburg Station: unit #11 boiler, auxiliary boiler, fugitive VOC sources. NO_X and VOC RACT for the unit #11 boiler is determined to be good air pollution control practices such that emissions limits shall be 21.7 pounds of NO_X per million British thermal units (lb/MMBtu) and 0.1459 lb/MMBtu of No. 2 oil fired with annual fuel usage records, and no more than 867 tons per year (TPY) of NO_X and 3 TPY of VOC. NO_X and VOC RACT for the auxiliary boiler is determined to be the requirements of 25 Pa Code 129.93 (c)(1), pertaining to units with individual rated gross heat inputs less than 20 million British thermal units per hour (MMBtu/hr) of operation maintenance and operation in accordance with manufacturer's specifications, and the units are operated using good air pollution control practices.

(g) Caparo Steel Company—VOC and NO_X RACT determination for four emission units at Caparo Steel Company, not covered by operating permit OP 43–285: Package boilers, BW boiler #1, BW boiler #2, and BW boiler #3. NO_X RACT for the package boilers is determined to be good air pollution control practices such that NO_X emissions do not exceed 550 pounds of NO_X per million cubic feet (lb NO_X/$MMft^3$) of natural gas and 529.82 tons of NO_X per year (TPY). VOC RACT for the package boilers is determined to be good air pollution control practices such that VOC emissions do not exceed 1.4 lb VOC/$MMft^3$ of natural gas and 1.35 TPY. NO_X RACT for each of the BW boilers is determined to be good air pollution control practices such that NO_X emissions do not exceed 23 lb NO_X/$MMft^3$ of BFG and 80.1 TPY.

4. Section 52.2036 is amended by adding paragraph (f) to read as follows:

§ 52.2036 1990 Baseyear emission inventory.

* * * * *

(f) Sharon Steel Company 1990 VOC and NO_X emissions for three emission units (Blast Furnace Operations, Basic Oxygen Furnace Shop, Blast Furnace Casthouse), submitted June 10, 1996, are approved. Sharon Steel Company is located in Mercer County, Pennsylvania, which is in a marginal ozone nonattainment area. The 1990 VOC and NO_X emissions from the Blast Furnace Operations (flame suppression, heaters and torpedo cars, flare stack, tuyeres) are 0.4 TPY and 49.3 TPY, respectively. The 1990 VOC and NO_X emissions from the Basic Oxygen Furnace Shop (scrap preheating, ladle preheating and heaters) are 1.4 TPY and 39.6 TPY, respectively. The 1990 VOC and NO_X emissions from the Blast Furnace Casthouse are 205.4 TPY and 11.0 TPY, respectively.

[FR Doc. 96–32369 Filed 12–19–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[PA047–4034; FRL–5654–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania, Approval of Lead Implementation Plan for an Area in Northeast Philadelphia, PA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Pennsylvania. This revision establishes and requires the adherence to specified emission limits and operating practices by three sources in northeast Philadelphia. The intended effect of this action is to approve a lead plan for a portion of Philadelphia, Pennsylvania. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on January 21, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104.

FOR FURTHER INFORMATION CONTACT: Denis Lohman, (215) 566–2192, E-Mail address: Lohman.Denny@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On July 30, 1996 (61 FR 39614), EPA published a notice of proposed rulemaking (NPR) for the State of Pennsylvania. The NPR proposed approval of a lead SIP for a portion of northeast Philadelphia, Pennsylvania. The formal SIP revision request was submitted by Pennsylvania on September 30, 1994. Other specific requirements of the plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Final Action

EPA approves the Philadelphia portion of the Pennsylvania lead implementation plan described in more detail in the NPR published on July 30, 1996 (61 FR 39614) as a revision to the Pennsylvania SIP. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. 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 (OMB) has exempted this regulatory action from E.O. 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 Clean Air 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). [605B__APP.BPT]

C. Unfunded Mandates

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

EPA has determined that the approval action proposed/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 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).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 1997. Filing a petition for reconsideration by the Administrator of this final rule approving the Pennsylvania lead implementation plan for a portion of northeast Philadelphia does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 7, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(112) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(112) Revisions to the Pennsylvania Regulations—Philadelphia Lead Implementation Plan—submitted on September 30, 1994, by the Commonwealth of Pennsylvania:

(i) Incorporation by reference.

(A) Letter of September 30, 1994 from the Pennsylvania Department of Environmental Resources transmitting a revision to the Philadelphia portion of the Pennsylvania State Implementation Plan for lead.

(B) Licenses to operate (permits) effective September 21, 1994, for:

(*1*) Franklin Smelting and Refining Corporation;

(*2*) MDC Industries, Inc.; and

(*3*) Anzon, Inc.

(ii) Additional information. Remainder of September 30, 1994 submittal.

[FR Doc. 96–32383 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5667–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Sand Creek Industrial Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Sand Creek Industrial Site (Site) in Colorado, from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Colorado have determined that the Site poses no significant threat to public health or the environment as long as Operation & Maintenance (O & M) is implemented as necessary and Institutional Controls are implemented and effective. Therefore, no further remedial measures pursuant to CERCLA are appropriate. Further, EPA and the State of Colorado have determined that all appropriate response actions have been implemented at the Site and that no further cleanup by responsible parties is appropriate.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Erna Acheson, Site Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mail Stop 8EPR–SR, Denver, Colorado 80202–2466, (303) 312–6762.

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is: Sand Creek Industrial Site, Colorado.

A Notice of Intent to Delete for this Site was published August 28, 1996 (61 FR 44275 (1996)). The closing date for comments on the Notice of Intent to Delete was September 27, 1996. No comments have been received.

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

List of Subjects in 40 CFR Part 300

Environmental protection, Hazardous waste.

Dated: November 27, 1996.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

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

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

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

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site ''Sand Creek Industrial, Commerce City, Colorado''.

[FR Doc. 96–32089 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5667–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Cal West Metals Superfund Site (Site) from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 6, announces the deletion of the Cal West Metals Superfund site in Lemitar, New Mexico from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the State of New Mexico through the New Mexico Environment Department (NMED) have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State of New Mexico have determined that remedial actions conducted at the Site to date is Protective of public health, welfare, and the environment.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Williams, New Mexico Team Leader, U.S. EPA, Region 6 (6SF–LN), 1445 Ross Avenue, Dallas, Texas 75202–2733, Telephone: (214) 665–2197 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is Cal West Metals, Socorro County, Lemitar, New Mexico. A Notice of Intent to Delete for this site was published in the Federal Register on November 5, 1996, (61 FR 56931). The closing date for comments on the Notice of Intent to Delete was December 5, 1996. EPA received no comments.

The EPA identifies sites that appear to present a significant risk to the public health, welfare, or the environment, and maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future. NCP section 300.425(e)(3) of the NCP, provides that in the event of a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the Hazard Ranking System. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Hazardous waste.

Dated: December 10, 1996.

Lynda Carroll,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 6.

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

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 11735, 38 FR 21243; E.O. 12580; 52 FR 2923; E.O. 12777, 56 FR 54757.

Appendix B—[Amended]

2. Table 2 of Appendix B to part 300 is amended by removing the site Cal West Metals (USSBA), Lemitar, New Mexico.

[FR Doc. 96–32088 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–70

[RIN NO. 3090–AG18]

Program Fraud Civil Remedies Act of 1986, Civil Monetary Penalties Inflation Adjustment

AGENCY: Office of General Counsel, General Services Administration.

ACTION: Final rule.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), this final rule incorporates the penalty inflation adjustments for the civil monetary penalties set forth in 31 U.S.C. 3802(a)(1) and (a)(2), as codified in 41 CFR Part 105–70.

DATES: This rule is effective January 21, 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Domber, Senior Assistant General Counsel, General Law Division (LG), General Services Administration, 18th & F Streets, NW, Washington, DC 20405. Telephone No. (202) 501–1460.

SUPPLEMENTARY INFORMATION:

I. The Debt Collection Improvement Act of 1996

To maintain the remedial impact of civil monetary penalties (CMPs) and to promote compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410) was amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) to require Federal agencies to regularly adjust certain CMPs for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable CMPs, and to make further adjustments at least once every four years thereafter for these penalty amounts. The Debt Collection Improvement Act of 1996 further stipulates that any resulting increases in

a CMP due to the calculated inflation adjustments shall apply only to violations which occur after the date the increase takes effect, *i.e.,* thirty (30) days after date of publication in the Federal Register, and shall not exceed ten percent of such penalty for the initial inflation adjustment. Under the Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by the cost-of-living adjustment. The ''cost-of-living'' adjustment is defined as the percentage of each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of the CMP was last set or adjusted in accordance with the law. Any calculated increase under this adjustment is subject to a specific rounding formula set forth in the Act.

II. The Program Fraud Civil Remedies Act of 1986

In 1986, sections 6103 and 6104 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–501) set forth the Program Fraud Civil Remedies Act of 1986 (PFCRA). Specifically, this statute imposes a CMP and an assessment against any person who, with knowledge or reason to know, makes, submits, or presents a false, fictitious, or fraudulent claim or statement to the Government. The General Services Administration's regulations, published in the Federal Register (52 FR 45188, November 25, 1987) and codified at 41 CFR Part 105–70, set forth a CMP of up to $5,000 for each false claim or statement made to the agency. Based on the penalty amount inflation factor calculation, derived from dividing the June 1995 CPI by the June 1986 CPI, after rounding and the ten percent maximum ceiling, we are adjusting the maximum penalty amount for this CMP to $5,500 per violation.

III. Waiver of Proposed Rulemaking

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures set forth in the Administrative Procedure Act, 5 U.S.C. 553 (APA). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking comports and is consistent with the statutory authority set forth in the Debt Collection Improvement Act of 1996, with no issues of policy discretion. Accordingly, we believe that opportunity for prior comment is unnecessary and contrary to the public interest, and we are issuing these revised regulations as a final rule that will apply to all future cases under this authority.

The Office of Management and Budget (OMB) has reviewed this final rule in accordance with the provisions of Executive Order 12866 and has determined that it does not meet the criteria for a significant regulatory action. As indicated above, the provisions contained in this final rulemaking set forth the inflation adjustments in compliance with the Debt Collection Improvement Act of 1996 for specific applicable CMPs. The great majority of individuals, organizations and entities addressed through these regulations do not engage in such prohibited conduct, and as a result, we believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who may engage in prohibited conduct in violation of the statute. As such, this final rule and the inflation adjustment contained therein should have no effect on Federal or state expenditures.

The Administrator of General Services certifies that this final rule will not have a significant economic impact on a substantial number of small business entities. While some penalties may have an impact on small business entities, it is the nature of the violation and not the size of the entity that will result in an action by the agency, and the aggregate economic impact of this rulemaking on small business entities should be minimal, affecting only those few who have engaged in prohibited conduct in violation of statutory intent.

This final rule imposes no new reporting or recordkeeping requirements necessitating clearance by OMB.

List of Subjects in 41 CFR Part 105–70

Administrative hearing, Claims, Program fraud.

Accordingly, 41 CFR Part 105–70 is amended as set forth below:

PART 105–70—[AMENDED]

1. The authority citation for 41 CFR Part 105–70 continues to read as follows:

Authority: 40 U.S.C. 486(c); 31 U.S.C. 3809.

§ 105–70.003 [Amended]

2. Section 105–70.003 is amended in paragraph (a)(1)(iv) by removing the amount ''5,000'' and inserting in its place, the amount ''5,500''.

3. Section 105–70.003 is amended in paragraph (b)(1)(ii) by removing the amount ''5,000'' and inserting in its place, the amount ''5,500''.

Dated: November 4, 1996.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 96–32279 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–38–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 301, 302, 303, 304, 306 and 307

RIN 0970–AB57

Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation, Optional Cooperative Agreements for Medical Support Enforcement and Computerized Support Enforcement Systems

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This final rule revises or removes regulations, in part or whole, in response to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate burdens on States, other governmental agencies or the private sector. This rule also implements Public Law 104–35 which extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988.

EFFECTIVE DATE: The final rule is effective December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Division of Policy and Planning, OCSE, specifically: Marilyn R. Cohen, (202) 401–5366.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule does not require information collection activities and, therefore, no approvals are necessary under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Statutory Authority

This regulation is issued under the authority granted to the Secretary by section 1102 of the Social Security Act (The Act). Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act. In accordance with the Presidential directive to executive branch regulatory agencies to identify existing regulations that are redundant or obsolete, OCSE has examined Chapter III of Title 45, Code of Federal Regulations to evaluate those areas where regulations should be removed.

Background

The Child Support Enforcement Amendments of 1984 (Pub. L. 98–378) featured provisions that required critical improvements in State and local child support enforcement programs. We are continuing this improvement by responding to the President's Memorandum of March 4, 1995 to heads of Departments and Agencies which announced a government-wide Regulatory Reinvention Initiative to reduce or eliminate mandated burdens on States, other governmental agencies or the private sector.

The Presidential Memorandum required Agencies, by June 1, 1995, to conduct a page-by-page review of all regulations to eliminate or revise those that are outdated or otherwise in need of reform. OCSE conducted such a review, resulting in the revisions set forth in this document. Both substantive and technical changes are made including recodification such as renumbering and terminology revisions. We consider the changes in this final rule as only the first part of our response to the President's Regulation Reinvention Initiative. We are working with our partners to identify additional regulations which should be reevaluated given the new direction of regulatory reinvention.

We deferred recommending any changes in existing rules which are impacted by enactment of the Personal Responsibility and Work Act Opportunity Reconciliation Act of 1996 (PRWORA). The deferred regulations will be reviewed in light of the PRWORA. At such time we will also determine whether the new requirements will be implemented by regulation or by other means. Because of enactment of the PRWORA, we have withdrawn the proposed changes in the requirements on making information available to consumer reporting agencies. The requirements in PRWORA on consumer reporting agencies supersede those in the NPRM and will be implemented along with the other new requirements.

Description of Regulatory Provisions

This rule makes technical revisions, including recodification, to the various regulations, governing the child support program, as follows:

Section 301.1 General Definitions

We are removing the specified years for Applicable matching rate of ''1983 through 1987, 70 percent, FY 1988 and FY 1989, 68%,'' referenced in section 301.1 as such dates have passed.

Section 301.15 Grants

We are making two technical revisions in this section. Part of the mailing address in paragraph (a)(1) is updated by replacing, ''Social and Rehabilitation Service, Attention: Finance Division, Washington, DC 20201'' with ''Administration for Children and Families, Office of Program Support, Division of Formula, Entitlement and Block Grants, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.'' In addition, we are replacing the phrase, ''Subpart G Matching and Cost Sharing'' with ''45 CFR 74.23 Cost Sharing or Matching'' and replacing the phrase ''Subpart I Financial Reporting Requirements'' with ''45 CFR 74.52 Financial Reporting'' in paragraph (e). This latter revision coincides with substantial revisions of 45 CFR Part 74 by DHHS August 25, 1994 (59 FR 43760).

Section 302.15 Reports and Maintenance of Records

This rule implements section 454(10) of the Act which does not specify use of microfilm for record retention. We are removing paragraph (b) ''Conditions for Optional Use of Microfilm Copies,'' because microfilm use is obsolete due to automatic case tracking and electronic filing capability. This change results in the following: Paragraph (a) is without designation, paragraphs (a)(1) and (a)(2) are redesignated (a) and (b), and roman numerals (i) through (vii) are redesignated as arabic numbers (1) through (7), respectively. Removal of the microfilm reference does not preclude States from continuing to use microfilm as an information storage medium.

Section 302.33 Services to Individuals Not Receiving AFDC or Title IV–E Foster Care Assistance

We are removing paragraph (c)(1), Application Fee, as it refers to requirements in effect prior to October 1, 1985, which date has passed. Thus, paragraph (2) is renumbered as paragraph (1) and paragraph (3) is renumbered as paragraph (2). In addition, we are removing paragraph (e), Assignment, in order to eliminate unnecessary regulations. A State is not required to take an assignment but has discretion to do so. Removal of this subsection does not preclude a State from taking an assignment of rights from a non-AFDC recipient of IV–D services if necessary under State law or practice in order to deliver program service.

Section 302.34 Cooperative Arrangements

The authorities for this rule are sections 1102 and 454(7) of the Act. Paragraph (b) specifies that cooperative arrangements existing prior to October 1, 1989, or entered into on or after October 1, 1989, must meet the criteria prescribed under § 303.107 of this chapter by October 1, 1990. Therefore, we are removing paragraph (b) as the result of the passage of time. This revision leaves paragraph (a) without designation. We are also revising the first sentence of the remaining paragraph by adding ''under § 303.107'' after ''cooperative arrangements.''

Section 302.36 Provision of Services in Interstate IV–D Cases

The authorities for this rule are section 454(9) of the Act which addresses standards prescribed by the Secretary and section 1102 of the Act which addresses the Secretarial authority to issue regulations necessary for program administration. These requirements were originally placed in regulation to clarify that States are required to provide all necessary IV–D services in interstate cases. However, we are removing paragraphs (a)(1) through (a)(5), to eliminate repetition as § 303.7(c)(7) also provides explicit provisions which specify the various functional responsibilities by the responding State. This does not alter the requirement for provision of services; it merely removes unnecessary text referenced elsewhere. This revision also removes the word, ''for:'' at the end of paragraph (a), thus leaving paragraph (a) without designation and ending the paragraph with the word, ''chapter.''

Section 302.37 Distribution of Support Payments

This rule implements section 454(11) of the Act. We are removing this section in an effort to reduce unnecessary rules because it references §§ 302.32 and 302.51 which duplicate this section.

Section 302.54 Notice of Collection of Assigned Support

This rule implements section 454(5) of the Act which does not specify dates. We are removing paragraph (a) which is obsolete as it specifies requirements in effect until December 31, 1992, which date has now passed. Thus, paragraph (b) is redesignated paragraph (a) and paragraph (c) is redesignated paragraph (b), respectively.

We are also revising redesignated paragraph (a)(2) by adding the word, ''collected'' after the second mention of ''support'' to read as follows: ''The monthly notice must list separately payments collected from each absent parent when more than one absent parent owes support to the family and must indicate the amount of current support collected, the amount of arrearages collected and the amount of support collected which was paid to the family.'' This addition is made to clarify that it is the amount actually collected, not the amount owed that must be included in the notice, and will be consistent with the statutory language at section 454(5)(A) of the Act.

Redesignated section 302.54(b)(1)(i) specifies one of the grounds upon which a State may be granted a waiver to permit the issuance of quarterly, rather than monthly, notices of the amount of support collected. Waivers granted under this criterion were based upon the State's lack of a computerized support enforcement system consistent with Federal requirements or the lack of an automated system that is able to generate monthly notices. Such waivers were valid through September 30, 1995.

On October 12, 1995, Public Law 104–35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because operating automated statewide systems are vital to a State's ability to issue monthly notices, we are revising the date clause to read ''Until September 30, 1997,'' in recognition of the additional time needed for States to have operational systems. Any automated system developed to meet the Federal requirements for a certified comprehensive Statewide system must produce mandated monthly notices of collections.

States with previous waivers that expired September 30, 1995 can apply for extension of the waiver if the State does not have a computerized support enforcement system consistent with Federal requirements or lacks an automated system that is able to generate monthly notices. Extension of waivers will be granted as part of the State plan approval process.

Section 302.80 Medical Support Enforcement

We are revising § 302.80 by removing the reference to ''Part 306 of this chapter'' in paragraph (a) and replacing it with ''§§ 303.30 and 303.31 of this chapter''. We are making this revision as Part 306 is being removed with this final regulation.

Section 302.85 Mandatory Computerized Support Enforcement System

On October 12, 1995, Public Law 104–35 was signed into law, which revises section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States must have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because the deadline by which States must have operational automated systems has been changed, we are removing the date in paragraph (a)(2) ''October 1, 1995'' and replacing it with ''October 1, 1997.''

Section 303.10 Procedures for Case Assessment and Prioritization

This rule was issued under authority of section 1102 of the Act, as part of implementation of the Child Support Enforcement Amendments of 1984 (Pub.L. 98–378). We are removing this section because case assessment and prioritization procedures are permissive and standards for an effective program at 45 CFR Part 303 require the State to provide necessary IV–D services in all cases in an efficient and effective manner. Therefore, it is not necessary to place this information in regulation.

Section 303.31 Securing and Enforcing Medical Support Obligations

This rule implements section 452(f) of the Act. We are replacing references to ''§ 306.50(a)'' with ''§ 303.30(a)'' in paragraphs (b)(6) and (b)(7). This technical change is required to correct a clerical error. Revisions to §§ 303.30 and 303.31 set forth in the final rule issued March 8, 1991 (56 FR 7988) did not make these technical changes.

Section 303.73 Applications To Use the Courts of the United States To Enforce Court Orders

This regulation is based on sections 452(a)(8) and 460 of the Act. We are significantly streamlining this section in order to remove unnecessary regulatory language. An Action Transmittal (AT) issued February 6, 1976 (OCSE–AT–76–1) and revised May 12, 1976 (OCSE–AT–76–8) covers paragraphs (a) and (b) of the regulation. Since the procedures in this regulation are infrequently used, and their use is discretionary, it is sufficient for users to follow guidance in the AT. The AT, widely available to State child support agencies, gives express instructions for submitting cases for consideration for referral to Federal court. It is unnecessary to place paragraph (c) in regulation as it merely specifies internal instructions to the Regional Office.

Therefore, we are revising the end of the introductory portion of paragraph (a) by removing, ''to demonstrate that'' and completing the paragraph by adding, ''in accordance with instructions issued by the Office,'' thus deleting paragraphs (a)(1) through (c).

Section 303.100 Procedures for Wage or Income Withholding

In the administration of wage or income withholding, § 303.100(g)(3) requires that effective October 1, 1995, States must be capable of receiving withheld amounts and accounting information which are electronically transmitted by the employer to the State. This effective date for electronic funds transfer capability was directly linked to the date by which States are required to have operational automated child support enforcement systems. On October 12, 1995, Public Law 104–35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because the deadline by which States must have operational automated systems has been changed, we are revising the introductory clause in

paragraph (g)(3) to remove the phrase ''Effective October 1, 1995,'' and replacing it with ''Effective October 1, 1997,''.

Section 304.10 General Administrative Requirements

We have replaced the parenthetical phrase, ''(with the exception of Subpart G, Matching and Cost Sharing and Subpart I, Financial Reporting Requirements)'' with ''(with the exception of 45 CFR 74.23, Cost Sharing or Matching and 45 CFR 74.52, Financial Reporting).'' This revision is being made to coincide with substantial revisions of 45 CFR Part 74 by DHHS August 25, 1994 (59 FR 43760).

Section 304.20 Availability and Rate of Federal Financial Participation

We have made several technical revisions to update and correct this section. In paragraph (b)(1)(iii), we are replacing the phrase ''Subpart P'' with ''... in accordance with the Procurement Standards found in 45 CFR 74.40 et. seq.'' We are making this revision to coincide with substantial revisions of 45 CFR Part 74 by DHHS August 25, 1994 (59 FR 43760) because the regulation is applicable to the Child Support Enforcement program .

In paragraph (b)(1)(vi), we are changing the reference from ''§ 302.16'' to ''§ 304.15.'' We are making this technical revision because § 304.15 is a cross-reference to the DHHS regulations on cost allocation at 45 CFR Part 95, Subpart E which replaced 45 CFR 302.16. In paragraph (b)(3)(iv), we are replacing ''attachment'' with ''withholding'', in order to make the terminology consistent with the enactment of the Child Support Enforcement Amendments of 1984 (Pub. L. 98–378).

In paragraph (b)(8), we are correcting a clerical error by replacing ''§ 302.2'' with ''§ 303.2.'' Finally, in paragraph (b)(11), we are removing ''Part 306, Subpart B, of this chapter'' and replacing it with ''§§ 303.30 and 303.31 of this chapter''. We are making this technical fix to update this section to reflect the revision made in 1990 to redesignate Part 306 Subpart B as §§ 303.30 and 303.31.

Section 304.23 Expenditures for which Federal Financial Participation Is Not Available

In paragraph (g), we are removing ''Part 306 of this chapter'' and replacing it with ''§§ 303.30 and 303.31 of this chapter''.

Section 304.95 State Commissions on Child Support

This rule was required by section 15 of Public Law 98–378 to be implemented by December 1, 1984 with a report of findings and recommendations to the Governor by October 1, 1985. We are removing this section as the requirement for a State to have a Commission on Child Support as a condition of eligibility for Federal funding expired on October 1, 1985. Although it is no longer mandatory, nothing precludes a State from having such a Commission.

Part 306 Optional Cooperative Agreements for Medical Support Enforcement; Section 306.0 Scope of This Part, Section 306.2 Cooperative Agreement, Section 306.10 Functions To Be Performed Under a Cooperative Agreement, Section 306.11 Administrative Requirements of Cooperative Agreements, Section 306.20 Prior Approval of Cooperative Agreements, Section 306.21 Subsidiary Cooperative Agreements With Courts and Law Enforcement Officials, Section 306.22 Purchase of Service Agreements, and Section 306.30 Source of Funds

Cooperative agreements for medical support enforcement was first added to the IV–D regulations (Part 306) in the February 11, 1980 joint final rule by the Health Care Financing Administration (HCFA) and OCSE implementing section 11 of Public Law 95–142 which added a new section 1912 to the Social Security Act. Section 1912 authorized the Third Party Liability (TPL) program in the Medicaid agency and required the State to require Medicaid recipients, as a condition of Medicaid eligibility, to assign their support rights to any medical support and to cooperate with the State in establishing paternity and obtaining third party payments. Section 1912 also required the State plan to provide for the State Medicaid agency to make cooperative agreements with the State IV–D agency, and other appropriate agencies, courts, and law enforcement officials to assist in the TPL program, with an incentive payment to political subdivision, other State, or other entity that makes the TPL collection.

As a result of an increasing degree of responsibility for IV–D agencies to perform medical support functions, very few of the functions listed in § 306.10 continue to be optional. Many of the requirements listed as ''optional'' for IV–D agencies to perform under agreements with State Medicaid agencies have become mandatory under title IV–D (e.g., obtain sufficient health insurance information, § 303.30; secure health insurance coverage, § 303.31). This leaves only two optional procedures in § 306.10 ((f) file insurance claims and (h) take direct action to recover TPL).

We are removing and reserving Part 306. This will give States flexibility to enter into cooperative agreements with Medicaid agencies to perform activities which are beyond the mandatory medical support activities of the IV–D program. Cooperative agreements for medical support enforcement is a statutory requirement mandated on the Health Care Financing Administration (HCFA) which was placed in regulation at 42 CFR 433.152 but optional for IV–D. This removal will not affect the continuation of existing cooperative agreements or formulation of future agreements between State child support agencies and State Medicaid agencies.

Section 307.5 Mandatory Computerized Support Enforcement Systems

On October 12, 1995, Public Law 104–35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Because the deadline by which States must have operational automated systems has been changed, we are removing the date in paragraph (a) ''October 1, 1995'' and replacing it with ''October 1, 1997.''

Section 307.15 Approval of Advance Planning Documents for Computerized Support Enforcement Systems

On October 12, 1995, Public Law 104–35 was signed into law, which revised section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Therefore, we are removing the date in paragraph (b)(2) ''October 1, 1995'' and replacing it with ''October 1, 1997.''

Response to Comments

We have received over 55 comments from representatives of State and local

agencies, national organizations, advocacy groups, and private citizens on the proposed rule published January 29, 1996 in the Federal Register (61 FR 2774). Comments received and our responses are as follows:

Services to Individuals Not Receiving AFDC or Title IV–E Foster Care Assistance (Assignment)—Section 302.33(e)

1. Comment: We received one comment supporting removal of this paragraph and a number of comments suggesting removal would allow States to require assignments from non-AFDC cases which would violate Federal policy. The commenters indicated that it would deter custodial parents from requesting help.

Response: Having non-AFDC cases assign their right to support is a State law issue, not a Federal issue. For non-AFDC cases, States cannot require the kind of assignment that gives them the authority to retain support, or any other assignment under State law as a condition of eligibility for IV–D services. The type of assignment that was specified in § 302.33(e) is used by some States as an administrative technique to provide services. In such States, legal authority must be given to them in order to collect money on behalf of the family. Assignment for this purpose is not the same as the usual definition of assignment set forth in Federal regulations at 45 CFR 301.1. We are not changing policy but merely removing the citation because it is unnecessary.

2. Comment: A number of commenters took the position that by deleting this paragraph, States would not be required to inform the custodial parents that assignments are not required.

Response: We encourage States to inform custodial parents when such assignment is required and clearly explain the reason for this type of assignment. However, as indicated above, this is an issue of State law and procedures, and this notice should not be a Federal mandate in the current environment of having as few Federal regulations as possible.

Notice of Collection of Assigned Support (Grant a Waiver)—302.54(b)(1)(i), Formerly (c)(1)(i)

1. Comment: One commenter supports us in extending the date for the waiver to use a quarterly notice rather than a monthly notice to October 1, 1997 and a number of commenters are against this extension.

Response: Congress provided authority for a waiver recognizing the importance of an automated system to generate monthly notices. On October 12, 1995, Public Law 104–35 was signed into law which revised Section 454(24) of the Social Security Act. The revised statute extends the date from October 1, 1995 to October 1, 1997 by which States will have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system meeting all requirements of Federal law enacted on or before the date of enactment of the Family Support Act of 1988. Although most States have made significant progress in their Statewide systems development efforts, most States do not have certified systems and will be helped by this extension. Because waivers available under this paragraph are linked to the existence of an operational automated system, we extended this date accordingly.

2. Comment: A few commenters urged that States who already have a waiver should not have to reapply for a waiver but should have the waiver extended automatically.

Response: States with previous waivers that expired September 30, 1995 can apply for extension of the waiver if the State does not have a computerized support enforcement system consistent with Federal requirements or lacks an automated system that is able to generate monthly notices. Extension of waivers will be granted as part of the State plan approval process.

3. Comment: One commenter asked that we clarify that a waiver from monthly reporting will be available after October 1, 1997 for States that include an Automated Voice Response System with their Statewide system that provides the required notice information.

Response: We believe the regulation is clear at section 302.54(b)(1)(ii) that waivers may be granted indefinitely to provide quarterly notices if a State has a toll-free automated voice response system. In addition, as specified in the preamble to the final monthly notice regulation issued July 10, 1992 (57 FR 30666), indefinite waivers of the monthly notice requirement are allowed if States send quarterly notices and have an automated voice response system which provides all required information in § 302.54(b)(2).

4. Comment: Another commenter thought notices were unnecessary for former AFDC recipients when the State only has assigned arrears to collect as they have no interest in this information and are difficult to locate.

Response: Section 454(5) of the Act and the implementing regulations at 45 CFR 302.54(a)(1) require that notice must be given to any custodial parent who has made an assignment to the State under section 402(a)(26) of the Act, and a collection applied to assigned arrears was made during the month unless they cannot be located.

Procedures for Case Assessment and Prioritization—Section 303.10

1. Comment: We received several comments favoring removal of this section as it is difficult to implement and removal will give State programs the flexibility to manage their caseloads efficiently and effectively. Other commenters indicated that retaining this section would insure States know they can set priorities within the timeframes if they wish and allow IV–D agencies to operate more efficiently. One commenter indicated that removal would allow States to ignore cases in certain status/priorities regardless of staff limitations.

Response: States are allowed discretion in the management of their program and we do not believe that regulating such discretion offers a benefit. IV–D agencies may set priorities without specific reference to such discretion in Federal regulations. The Standards for Program operations at 45 CFR Part 303 require the States to work all cases within specified timeframes. States will continue to have discretion to prioritize their work providing these program standards are met.

Applications to Use the Courts of the United States To Enforce Court Order—303.73

1. Comment: A number of commenters indicated that removal of this section would limit further the number of cases using this enforcement technique as requestors would not have access to the Action Transmittal (AT) and that ATs are less easily accessed than CFRs.

Response: Program instructions for this enforcement technique are clearly laid out in Action Transmittals OCSE–AT–76–1 and OCSE–AT–76–8 which are accessible to the public on the Internet. AT–76–1 includes the application form with instructions on how to fill out each blank and AT–76–8 includes a corrected citation.

Procedures for Wage or Income Withholding—303.100

1. Comment: Several commenters requested that we do not extend the deadline for accepting wage withholding collections through Electronic Funds Transfer from October 1, 1995 to October 1, 1997 as wage

withholding is an important tool for collecting child support.

Response: Electronic Funds Transfer (EFT) is directly linked to automation. Extension of the deadline for EFT does not delay wage withholding, but rather delays the requirements for States to accept wage withholding collections from employers through EFT. Because Public Law 104–35 extends the date by which States must have in effect, and approved by the Secretary, an operational automated data processing and information retrieval system by two years, this conforming change regarding the use of EFT is necessary.

Optional Cooperative Agreements for Medical Support Enforcement—Part 306

1. Comment: One commenter questioned where it would be stated in regulations that a State IV–D agency may enter into a cooperative agreement with a Medicaid agency to provide services not mandated by title IV–D if section 306.10 is removed. The commenter further questioned whether a IV–D agency may enter into cooperative agreements to perform functions beyond those now listed in section 306.10.

Response: Cooperative agreements were never required under title IV–D of the Act, and OCSE regulations. A IV–D agency may, at its discretion, enter into cooperative agreements with Medicaid agencies to perform functions beyond those mandated by title IV–D so long as the Medicaid agency pays for the costs of such activities. Since the optional cooperative agreements for medical support enforcement activities are not required by the statute, and few States have entered into these agreements, we are deleting these provisions from the regulations.

2. Comment: A commenter asked whether FFP will become available for all medical support enforcement services performed under a cooperative agreement with Medicaid when section 306.30 is removed.

Response: According to section 304.23(g), medical support services performed under cooperative agreement with title XIX Medicaid agencies are not eligible for FFP from OCSE. Activities performed by the IV–D agency under a cooperative agreement with the Medicaid agency must be funded by the Medicaid agency.

3. Comment: A number of commenters pointed out two additional references to be deleted with this removal (i.e. 45 CFR Part 306 from sections 302.80 and 304.23(g)) in addition to our proposed removal from section 304.20(b)(11).

Response: We appreciate this being brought to our attention and have deleted these references.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals and results from restating the provisions of the statute. State governments are not considered small entities under the Act.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. No costs are associated with this rule as it merely ensures consistency between the statute and regulations.

List of Subjects

45 CFR Part 301

Child support, Grant programs/social programs.

45 CFR Part 302

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Parts 303 and 304

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Part 306

Child support, Grant programs/social programs, Medicaid.

45 CFR Part 307

Child support, Grant programs/social programs, Computerized support enforcement systems.

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program)

Dated: November 22, 1996.

Olivia A. Golden,

Acting Assistant Secretary for Children and Families.

For the reasons discussed above, title 45 chapter III of the Code of Federal Regulations is amended as follows:

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

1. The authority citation for Part 301 continues to read as set forth below:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1301, and 1302.

2. Section 301.1 is amended by revising the definition for ''applicable matching rate'' to read as follows:

§ 301.1 [Amended]

* * * * *

Applicable matching rate means the rate of Federal funding of State IV–D programs' administrative costs for the appropriate fiscal year. The applicable matching rate for FY 1990 and thereafter is 66 percent.

* * * * *

§ 301.15 [Amended]

3. In 301.15, paragraph (a)(1) is amended by revising ''Social and Rehabilitation Service, Attention: Finance Division, Washington, DC 20201'' to read ''Administration for Children and Families, Office of Program Support, Division of Formula, Entitlement and Block Grants, 370 L'Enfant Promenade, S.W., Washington, DC 20447'' and paragraph (e) is amended by revising ''Subpart G Matching and Cost Sharing'' with ''45 CFR 74.23 Cost Sharing or Matching'' and revising ''Subpart I Financial Reporting Requirements'' to read ''45 CFR 74.52 Financial Reporting.''

PART 302—STATE PLAN REQUIREMENTS

4. The authority citation for Part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396(k).

§ 302.15 [Amended]

5. In § 302.15, paragraph (b) is removed and paragraphs (a), introductory text, (a)(1) introductory text, (a)(1) (i) through (vii) and (2) are redesignated as § 302.15, introductory text, (a) introductory text, (a)(1) through (7) and (b) respectively.

§ 302.33 [Amended]

6. In § 302.33, paragraph (c)(1) is removed, paragraphs (c)(2) and (c)(3) are redesignated as (c)(1) and (c)(2), and paragraph (e) is removed.

§ 302.34 [Amended]

7. In § 302.34, paragraph (b) is removed, paragraph (a) is amended by removing the paragraph designation and the first sentence is amended by adding ''under § 303.107'' after ''cooperative arrangements'' in the first sentence.

§ 302.36 [Amended]

8. In § 302.36, paragraph (a) introductory text is amended by removing ''for:'' and inserting a period

in its place at the end of the paragraph and removing paragraphs (a)(1) through (a)(5).

§ 302.37 [Removed and Reserved]

9. Section 302.37 is removed and reserved.

10. In § 302.54, paragraph (a) is removed, paragraphs (b) and (c) are redesignated (a) and (b), respectively, the reference to ''Until September 30, 1995'' in newly designated paragraph (b)(1)(i) is revised to read ''Until September 30, 1997'', and newly designated paragraph (a)(2) is revised to read as follows:

§ 302.54 Notice of collection of assigned support.

* * * * *

(a) * * *

(2) The monthly notice must list separately payments collected from each absent parent when more than one absent parent owes support to the family and must indicate the amount of current support collected, the amount of arrearages collected and the amount of support collected which was paid to the family.

* * * * *

§ 302.80 [Amended]

11. Section 302.80 is amended by revising the reference to ''Part 306 of this chapter'' in paragraph (a) to read ''§§ 303.30 and 303.31 of this chapter.''

§ 302.85 [Amended]

12. In section 302.85, reference to ''October 1, 1995'' in paragraph (a)(2) is revised to read ''October 1, 1997.''

PART 303—STANDARDS FOR PROGRAM OPERATIONS

13. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 303.10 [Removed and Reserved]

14. Section 303.10 is removed and reserved.

§ 303.31 [Amended]

15. In § 303.31, reference to ''§ 306.50(a)'' is revised to read ''§ 303.30(a)'' in paragraphs (b)(6) and (b)(7).

16. Section 303.73 is revised to read as follows:

§ 303.73 Applications to use the courts of the United States to enforce court orders.

The IV-D agency may apply to the Secretary for permission to use a United States district court to enforce a support order of a court of competent jurisdiction against an absent parent who is present in another State if the IV–D agency can furnish evidence in accordance with instructions issued by the office.

§ 303.100 [Amended]

17. In § 303.100, reference to ''October 1, 1995'' in paragraph (g)(3) is revised to read ''October 1, 1997.''

PART 304—FEDERAL FINANCIAL PARTICIPATION

18. The authority citation for Part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396(p), and 1396(k).

§ 304.10 [Amended]

19. In § 304.10, the parenthetical phrase ''(with the exception of Subpart G, Matching and Cost Sharing and Subpart I, Financial Reporting Requirements)'' is replaced with ''(with the exception of 45 CFR 74.23, Cost Sharing or Matching and 45 CFR 74.52, Financial Reporting).''

§ 304.20 [Amended]

20. In § 304.20, paragraph (b)(1)(iii) introductory text is amended by replacing ''Subpart P, Procurement Standards, 45 CFR Part 74'' with ''in accordance with the Procurement Standards found in 45 CFR 74.40 et seq.'', paragraph (b)(1)(vi) is amended by revising reference to ''§ 302.16 of this chapter'' to read ''§ 304.15'', paragraph (b)(3)(iv) is amended by revising the term ''attachment'' to read ''withholding;'', paragraph (b)(8) is amended by revising the reference ''§ 302.2'' to read ''§ 303.2'' and, paragraph (b)(11) is amended by revising ''Part 306, Subpart B, of this chapter'' with ''§§ 303.30 and 303.31 of this chapter''.

§ 304.23 [Amended]

21. In § 304.23, paragraph (g) is amended by replacing ''Part 306 of this chapter'' with ''§§ 303.30 and 303.31 of this chapter''.

§ 304.95 [Removed and Reserved]

22. Section 304.95 is removed and reserved.

PART 306—OPTIONAL COOPERATIVE AGREEMENTS FOR MEDICAL SUPPORT ENFORCEMENT [REMOVED AND RESERVED]

23. Part 306 is removed and reserved.

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

24. The authority citation for part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666, 667, and 1302.

§ 307.5 [Amended]

25. In § 307.5, reference to ''October 1, 1995'' in paragraph (a) is revised to read ''October 1, 1997.''

§ 307.15 [Amended]

26. In § 307.15, reference to ''October 1, 1995'' in paragraph (b)(2) is revised to read ''October 1, 1997.''

[FR Doc. 96–32085 Filed 12–19–96; 8:45 am]

BILLING CODE 4184–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 6104

RIN 3090–AG29

Board of Contract Appeals; Rules of Procedure for Travel and Relocation Expenses Cases

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Interim rule.

SUMMARY: This document specifies the procedures the GSA Board of Contract Appeals will apply to the Board's review of a request from an agency disbursing or certifying official, or agency head, for a Board decision on a question involving a payment the official will make, or a voucher presented to a certifying official for certification, which concerns a claim against the agency for reimbursement of expenses incurred by a federal civilian employee while on official temporary duty or in connection with relocation to a new duty station.

DATES: This rule is effective December 20, 1996, and will expire on July 26, 1997. Comments must be submitted on or before January 22, 1997.

ADDRESSES: Written comments concerning this interim rule may be mailed to Margaret S. Pfunder, GSA Board of Contract Appeals, 18th & F Streets, N.W., Washington, DC 20405, or sent electronically by using the following Internet address: Margaret.Pfunder@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, (202) 501–0272.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The General Services Administration certifies that this revision will not have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revision does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 et seq.

C. Background

Until recently amended by section 204 of the General Accounting Office Act of 1996 (Pub. L. 104–316)(GAO Act), 31 U.S.C. 3529 provided that, upon the request of a disbursing or certifying official or the head of an agency, the Comptroller General would issue a decision on a question involving a payment to be made by the disbursing official or head of the agency, or a voucher to be certified by a certifying official. Those decisions issued by the Comptroller General were commonly known as ''advance decisions,'' since the Comptroller General's decision was sought by agency officials before making payments or certifying vouchers for payment.

Section 204 of the GAO Act amends 31 U.S.C. 3529 by referencing an earlier transfer of functions from the Comptroller General to the Director of the Office of Management and Budget authorized by section 211 of the Legislative Branch Appropriation Act, 1996 (Pub. L. 104–53) (LBAA). Section 211 of the LBAA also authorized the Director to delegate any of those functions to another agency or agencies. On June 30, 1996, the Director delegated some of the functions contained in 31 U.S.C. 3702—the authority to review claims made against the United States for reimbursement of expenses incurred by federal civilian employees while on official temporary duty travel or in connection with relocation to a new duty station—to the Administrator of General Services, who redelegated that function to the Chairman of the GSA Board of Contract Appeals.

With respect to a function transferred to OMB under section 211 of the LBAA and delegated by OMB to another agency, section 204 of the GAO Act provides that the head of that agency has the authority to issue the ''advance decisions'' authorized by 31 U.S.C. 3529 on questions involving such functions. Thus, the Administrator of General Services is authorized to issue ''advance decisions'' on questions involving reimbursement of expenses incurred by federal civilian employees while on official temporary duty travel or in connection with relocation to a new duty station. The Administrator has redelegated that function to the Chairman of the GSA Board of Contract Appeals, along with the authority to adopt and issue rules necessary for the issuance of these decisions. This interim rule has been approved by majority vote of the Board's members.

List of Subjects in 48 CFR Part 6104

Administrative practice and procedure, Government procurement, Travel and relocation expenses.

PART 6104—RULES OF PROCEDURE FOR TRAVEL AND RELOCATION EXPENSES CASES

1. The authority citation for part 6104 is revised to read as follows:

Authority: Secs. 202(n), 204, Pub. L. 104–316, 110 Stat. 3826; Sec. 211, Pub. L. 104–53, 109 Stat. 535; 31 U.S.C. 3529; 31 U.S.C. 3702; 41 U.S.C. 601–613.

2. Section 6104.9 is added effective December 20, 1996 until July 26, 1997 to read as follows:

§ 6104.9 Decisions authorized under 31 U.S.C. 3529 [Rule 409].

(a) *Request for decision.* (1) A disbursing or certifying official of an agency, or the head of an agency, may request a decision from the Board on a question involving a payment the disbursing official or head of the agency will make, or a voucher presented to a certifying official for certification, which concerns a matter specified in 6104.1. Such a decision is referred to as a ''Section 3529 decision.''

(2) A request for a Section 3529 decision shall be in writing; no particular form is required. The request must refer to a specific payment or voucher; it may not seek general legal advice. The request should—

(i) Explain why the official is seeking a Section 3529 decision, rather than taking action on his or her own regarding the matter;

(ii) State the question presented and include citations to applicable statutes, regulations, and cases; and

(iii) Include—

(A) The name, address, telephone number, and facsimile machine number (if available) of the official making the request;

(B) The name, address, telephone number, and facsimile number (if available) of the employee affected by the specific payment or voucher; and

(C) Any other information which the official believes the Board should consider.

(b) *Notice of docketing.* A request for a Section 3529 decision will be docketed by the Office of the Clerk of the Board. A written notice of docketing will be sent promptly to the official and the affected employee. The notice of docketing will identify the judge to whom the request has been assigned.

(c) *Service of copy.* The official submitting a request for a Section 3529 decision shall send to the affected employee copies of all material provided to the Board.

(d) *Additional submission.* If the affected employee wishes to submit any additional information to the Board, he or she must so inform the Board within 10 calendar days after receiving the copy of the request for decision and supporting material. The judge will establish the time frame for any such submission.

(e) *Proceedings and decisions.* 6104.5 and 6104.6 govern proceedings relating to requests for Section 3529 decisions and the issuance of such decisions.

Dated: December 16, 1996.

Stephen M. Daniels,

Chairman, GSA Board of Contract Appeals.

[FR Doc. 96–32278 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–34–P

Proposed Rules

Federal Register
Vol. 61, No. 246
Friday, December 20, 1996

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 96N–0421 and 94P–0453/CP1]

Food Labeling: Nutrient Content Claims Pertaining to the Available Fat Content of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its food labeling regulations to provide for the use of nutrient content claims on the food label or in labeling based on the reduced availability of fat to the body from the food because of the use of a fat substitute ingredient in the food. This proposal responds, in part, to a citizen petition on the use of digestibility coefficients in determining the quantity of fat declared on a food label. FDA is undertaking this action to encourage innovation on the part of food manufacturers and to foster a situation that will provide increased product choices for consumers in achieving dietary goals.

DATES: Submit written comments by April 21, 1997. Submit written comments on the information collection requirements by January 21, 1997. The agency is proposing that any final rule that may issue based upon this proposed rule become effective 30 days after its date of publication in the Federal Register.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, ATTN: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Virginia L. Wilkening, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5763.

SUPPLEMENTARY INFORMATION:

I. Background

A. The 1990 Amendments and Implementing Regulations

The Nutrition Labeling and Education Act of 1990 (the 1990 amendments) and the final regulations that implement the 1990 amendments (58 FR 2066, January 6, 1993, as modified at 58 FR 44020, August 18, 1993) provided for a number of fundamental changes in how food is labeled, including requiring that nutrition labeling appear on most foods and establishing that terms that characterize the level of a nutrient in a food may not be used in food labeling unless defined by FDA.

The 1990 amendments added section 403(q) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(q)), which requires that most food bear nutrition labeling. In response to this provision, in the January 6, 1993, final rule on nutrition labeling (entitled ''Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label,'' (the nutrition labeling final rule (58 FR 2079)), FDA prescribed how nutrition labeling is to be provided on the foods that are regulated by the agency. Among other things, the agency required that the nutrition label include information on total calories and calories from fat and on the quantitative amounts of specified nutrients (e.g., total fat, saturated fat, total carbohydrate, and dietary fiber) per serving.

In the nutrition labeling final rule (58 FR 2079 at 2110), FDA recognized that many food ingredients have caloric values substantially different from the general factors of 4, 4, and 9 calories per gram (g) for protein, carbohydrate, and fat, respectively. Therefore, the agency provided a number of options for calculating the energy value of foods. For example, FDA stated that calories may be calculated, under § 101.9(c)(1)(i)(A) (21 CFR 101.9(c)(1)(i)(A)), by using specific Atwater factors given in Table 13 ''Energy Value of Foods-Basis and Derivation,'' U.S. Department of Agriculture (USDA) Handbook No. 74; under § 101.9(c)(1)(i)(C), by multiplying the general factor of 4 calories per g by the amount of total carbohydrate less the amount of insoluble dietary fiber; under § 101.9(c)(1)(i)(D), by using data for specific energy factors for particular foods or ingredients approved by FDA through the food additive or generally recognized as safe (GRAS) petition processes in parts 170 and 171 (21 CFR parts 170 and 171) and provided in parts 172 or 184 (21 CFR parts 172 or 184); or under § 101.9(c)(1)(i)(E), by using bomb calorimetry data.

FDA also defined the basic nutrients that are to be declared as part of the nutrition label (58 FR 2079 at 2086). In particular, FDA defined ''total fat'' as total lipid fatty acids expressed as triglycerides (§ 101.9(c)(2)) and ''saturated fat'' as the sum of all fatty acids containing no double bonds (§ 101.9(c)(2)(i) (58 FR 2079 at 2089)).

In addition to adding section 403(q) on nutrition labeling to the act, the 1990 amendments added section 403(r) on nutrient-related claims and, in particular, section 403(r)(1)(A) of the act, which states that a food is misbranded if it bears a claim in its label or labeling that expressly or implicitly characterizes the level of any nutrient of the type required to be declared in nutrition labeling unless the claim is made in accordance with section 403(r)(2) of the act. Section 403(r)(2)(A)(i) of the act states that a claim may be made only if the characterization of the level made in the claim uses terms that are defined in regulations of the Secretary of the Department of Health and Human Services.

In the Federal Register of January 6, 1993 (58 FR 2302), FDA published a final rule (entitled ''Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definitions of Terms; Definitions of Nutrient Content Claims for the Fat, Fatty Acid, and Cholesterol Content of Food,'' hereinafter referred to as ''the nutrient content claims final rule'') that implemented the nutrient content claims provisions of the act by establishing general rules for how such claims are to be made and defining various terms (e.g., ''high,'' ''low,'' ''free,'' and ''reduced'') that could be used to characterize the level of various nutrients in the food.

FDA noted that its approach to developing a system of nutrient content claims emphasized three objectives: (1) Consistency among definitions, (2) claims that are consistent with public health goals, and (3) claims that will help consumers to maintain healthy dietary practices (58 FR 2302 at 2319). The agency stated that it is important for effective consumer education to establish consistent definitions for descriptive terms whenever possible to limit the possibility of consumer confusion (58 FR 2302 at 2319).

B. Citizen Petition

Nabisco Group (Nabisco) (hereinafter ''the petitioner'') submitted a citizen petition (filed December 21, 1994, Docket No. 94P–0453/CP1) requesting that FDA amend its food labeling regulations to permit the use of a ''digestibility coefficient'' or ''food factor'' in determining the quantity of fat to be declared on the nutrition label and to permit nutrient content claims to be based on the quantity of fat declared. According to the petitioner, this action would permit claims on a class of products that contain significantly less available fat compared to an appropriate reference food but that may not qualify to bear a calorie claim or a fat claim based on the total analytically-determined amount of fat in the food. The petitioner asserted that the nutritional benefit of foods with reduced available fat is similar to that of foods with reduced total fat, and that providing for claims on foods that contain significantly less available fat would further FDA's goal of promoting healthier diets by encouraging product innovation. The petitioner noted that the costs of development and reformulation for the use of manufactured fat substitutes, such as salatrim, make them much more expensive to use than fats from traditional sources. The petitioner maintained that, unless manufacturers are able to promote the beneficial aspects of products containing these ingredients, they would have no incentive to develop or use them. Thus, the petitioner continued, it is imperative that manufacturers be able to make claims for foods containing fat substitutes with reduced availability.

Specifically, the petitioner requested that FDA amend§ 101.9(c)(2) by inserting the following language at the end of the first paragraph in that section:

Fat content may be calculated by applying a food factor to the actual amount of fat present per serving, using specific food factors for particular foods or ingredients approved by FDA and provided in parts 172 or 184 of this chapter, or by other means as appropriate.

The requested change would allow the amount of total fat present per serving to be multiplied by a specific factor approved by FDA, to yield the quantity of fat that is to be declared in nutrition labeling, even though the declared value may be less than the actual amount of fat in the food. The approach suggested by the petitioner, that the factor used to calculate available fat content be approved by FDA, is similar to the approach taken by FDA in § 101.9(c)(1)(i)(D), which provides that specific food factors may be used to calculate total caloric content declared in nutrition labeling if they have been approved by FDA and provided for in part 172, part 184, or by other means as appropriate. The petitioner also suggested that the agency could permit self-determination of a food factor for calculating nutrient availability by a manufacturer, pending agency review of a GRAS petition for the ingredient to which the factor applies.

The petitioner noted, for example, that it had filed a GRAS petition for salatrim (GRASP 4G0404) that proposed a food factor of 5/9 for this ingredient.[1] The petitioner maintained that the amount of available (i.e., absorbed/digestible) fat in an ingredient should be reflected in the ''food factor'' or ''digestibility coefficient'' for that ingredient. The petitioner went on to suggest that manufacturers be permitted to make fat reduction claims for products that claim the amount of available fat as opposed to the chemically analyzed quantity of fat in the food.

[1] Dietary fats consist of one, two, or three fatty acid molecules attached to a glycerol backbone (i.e., mono-, di-, or triglycerides). Salatrim is a manufactured fat substitute in which the manufacturer controls the fatty acid composition of the triglyceride. Salatrim is the trade name for a family of triglycerides that contain one or two long chain fatty acids, primarily stearic acid (C18:0, 50 to 60 percent by weight), and one or two short chain fatty acids, primarily acetic acid (C2:0) and propionic acid (C3:0), randomly attached to the glycerol backbone. The stearic acid component is incompletely absorbed, as addressed in the current petition. The short chain fatty acids are fully absorbed, but they have a lower energy value than long chain fatty acids that comprise dietary fats. Thus, the reduction in energy from salatrim compared to conventional dietary fats is derived in part from the incomplete absorption of stearic acid and, in part, from the low energy value of the short chain fatty acids. In combination, these two factors have been estimated by the petitioner to result in a caloric value that is approximately 55 percent (5/9) of the energy value of conventional fats (i.e., a food factor of 55 percent, according to the definition of terms in section II.A. of this document). The digestibility coefficient, which addresses only the availability of fat, would consider only the incomplete absorption of stearic acid from this ingredient.

Additionally, the petitioner requested that FDA amend § 101.9(c)(2) to provide that a food factor be used to calculate the quantity of all fatty acids (i.e., saturated fat, polyunsaturated fat, and monounsaturated fat) declared on the nutrition label.

II. Agency Response

A. Definition of Terms

To understand the issues raised by the petition, and the agency's response to those issues, it is important to distinguish among three terms, ''bioavailability'' or ''availability,'' ''food factor,'' and ''digestibility coefficient.'' These terms are often used interchangeably but have substantially different meanings. The agency's approach to how energy and nutrient values are declared in nutrition labeling is determined by the differences among these terms.

FDA notes that bioavailability is the result of a series of complex events, i.e., digestion, absorption, and metabolism (Ref. 1). Digestion refers to the chemical and physical breakdown of food and its macromolecular components in the gastrointestinal tract (e.g., the breakdown of triglycerides (fats) into fatty acids and glycerol). Absorption refers to the intestinal absorption of the component molecules (e.g., fatty acids). The mechanisms of reduced availability of a fat substitute may vary for different ingredients. Some products are less available because they are resistant to chemical (e.g., enzymatic) digestion (e.g., olestra). Other products exploit less efficient absorption of certain compounds, such as long chain and very long chain fatty acids (e.g., salatrim and caprenin).

FDA will use the term ''available'' to refer to the portion of a fat substitute that is physiologically available from a food, i.e., that portion that is digested, absorbed, and metabolized, or, more simply, the proportion of the consumed fat substitute that can be utilized. The prefix ''bio'' in ''bioavailable'' denotes that a biological attribute is being discussed as opposed to, some other type of availability, e.g., availability within the marketplace. However, based on the context in which the agency expects the term to be used (i.e., fat availability), FDA does not anticipate that the term ''availability'' will be confused with other forms of availability. Thus, for the purposes of this rulemaking, and consistent with current scientific literature, the term ''available'' will be used as a synonym to the term ''bioavailable'' to describe the effects of different mechanisms in

reducing the digestion and absorption of fat substitutes.

The term ''food factor'' will be used to refer to those factors (i.e., Atwater factor, general food factor, and specific food factor) that are used to calculate energy value (total caloric content) of a food or ingredient (§ 101.9(c)(1)(i)) or to calculate the amount of calories in a food that it derives from the fat component of the food (§ 101.9(c)(1)(ii)). It is important to note that energy values vary for different classes of nutrients or ingredients and for ingredients within a class (e.g., different fats). The general factors of 4, 4, and 9 calories per g for carbohydrates, protein, and fat, respectively, are general factors (i.e., a rule of thumb) that may be used to approximate the energy content of foods containing common dietary carbohydrates, protein, and fats. The use of more specific factors to calculate the energy value of a food increases the accuracy of the value (Ref. 2).

The term ''digestibility coefficient'' is used extensively in scientific literature to refer to the multiplicand used to calculate the amount of a nutrient that is physiologically available (Refs. 3 and 4). In this document, FDA will use the term ''digestibility coefficient'' to represent the factor used to calculate fat availability.

Food factors and digestibility coefficients do not necessarily refer to the same thing. As noted above, when food factors for specific ingredients are available that are more accurate than the general factors, their use increases the accuracy of the calculation of the total energy value for the food. Specific food factors reflect the different parameters, including but not limited to availability, that affect the amount of energy that may be derived from a particular food or ingredient. It may be possible, under certain circumstances (e.g., when a 50 percent reduction in availability of a fat substitute results in a proportionate reduction in the energy value of the ingredient), to use the same number to calculate both energy value and fat availability for a food or an ingredient. However, the energy values of different food components may vary because of parameters unrelated to reduced availability, such as differences in molecular weight and heat of combustion.

Reduced availability will reduce the amount of calories that derive from a particular food component because only part of the component can be absorbed. However, different nutrients (e.g., fat, carbohydrate, and protein) and different food components within a class (e.g., fats composed of different fatty acids) may be essentially 100 percent available and still have different energy values. Very short chain fatty acids, for example, are at the lower end of the energy value range compared to longer chain fatty acids. In fact, a reduced calorie fat ingredient can be made by combining fat components that have a lower energy value because of reduced availability with components that are naturally lower in energy but that are fully available (as is the case with salatrim). Therefore, when the energy value and the nutrient availability of a fat substitute are reduced, but not proportionately (such as when the fat substitute depends on two different mechanisms to achieve a lower energy value compared to the average value for fat, but only one of the mechanisms relates to the availability of the nutrient), the food factor used to calculate available calories would be expected to differ from the digestibility coefficient used to calculate the availability of the fat.

Comments are requested on these definitions of terms and the tentative conclusions resulting from their use.

B. Current Position

In its discussion of total fat in the nutrition labeling final rule (58 FR 2079 at 2087), FDA responded to a number of comments that requested that fat be defined to exclude various types of long chain fatty acids because of their poor availability. These comments asserted that ''total fat'' should be defined as ''total digestible fat'' to allow for the use of fat-type ingredients that have reduced digestibility and, therefore, provide fewer calories per g than the fats that they replace.

In response to these comments, FDA acknowledged the effect that the use of fats that contain very long chain (longer than 18 carbons) fatty acids with reduced digestibility have on the available fat and calorie content of foods. FDA stated that, in an effort to encourage innovation in the creation of products that provide lower fat and calorie contents, it was willing to consider the digestibility of novel fat compounds (58 FR 2079 at 2087). In fact, as stated above, § 101.9(c)(1)(i)(D) provides for calculating the caloric content of foods and ingredients, including fat substitutes, using a specific food factor approved by FDA. However, FDA concluded that, because of the diversity of possible products, it was not appropriate to modify the definition of ''total fat'' in § 101.9(c)(2) (58 FR 2079 at 2087). That definition, i.e., ''total lipid fatty acids expressed as triglycerides,'' represents all fatty acids obtainable from a total lipid extraction (58 FR 2079 at 2087), and, by maintaining this definition, FDA not only included all sources of fatty acids that provide energy in the amount of fat to be declared in nutrition labeling but the nondigestible fatty acids as well.

Rather than modifying the definition, the agency stated that it would address the digestibility of novel fat compounds on a case-by-case basis. Because the digestibility of a substance is one of the identifying characteristics of the substance, the agency requested that manufacturers who wish to declare adjusted values of total fat based on reduced digestibility include information on the digestibility of the compound, analytical assay procedures for the compound, and data on interference with required methods of analysis, in food additive petitions (part 171) on such substances or in petitions for affirmation that the use of such substances is GRAS (§ 170.35) (58 FR 2079 at 2087).

The agency anticipated including the specific digestibility coefficients that could be used in determining the quantitative declaration of fats and the caloric contribution from fats as part of the statement of identity for the substances in the listing regulations for them in part 172 or in the GRAS affirmation regulations in part 184 for those whose use is affirmed as GRAS. However, FDA also recognized that mechanisms other than food additive or GRAS petitions may be appropriate to bring issues involving the digestibility of a substance to the attention of the agency. Thus, it suggested the mechanism in § 101.9(g)(9) as a possible means of requesting the use of specific digestibility coefficients (58 FR 2079 at 2087).

The agency also responded to a number of comments that stated that fatty acids with carbon chains longer than 18 (i.e., C20–C24) should not be categorized together with those having chain lengths of 12 to 18 carbons as saturated fatty acids because very long chain fatty acids are poorly absorbed and have little or no physiological effect, e.g., they will not contribute to raising serum cholesterol. After reviewing all the comments, FDA was not persuaded to exclude any fatty acids from the definition of saturated fat on the basis of their physiologic effects. Rather, FDA defined saturated fat as ''the sum of all fatty acids containing no double bonds'' (58 FR 2079 at 2089). FDA did not address the issue of digestibility or availability of individual fatty acids in its discussion, but the agency noted that an inclusive chemical definition avoids controversy about which saturated fatty acids are associated with increases in blood

cholesterol, is consistent with general dietary guidelines recommending reduced saturated fat consumption, avoids under-reporting of saturated fat, and is more consistent with international definitions (58 FR 2079 at 2089).

Thus, while FDA's final regulations provide for the use of food factors and other options to calculate more accurately the total energy value of a food (§ 101.9(c)(1)), they do not provide for the use of a mechanism to calculate available fat or available saturated fat for nutrition labeling. The regulations require that nutrition labeling and claims reflect the total amount of fat and saturated fat in a food (i.e., ''all fatty acids obtainable from a total lipid extraction'' (58 FR 2079 at 2087)). The only exceptions to this general requirement are provided in: (1) The voluntary nutrition labeling final rule for raw fruit, vegetables, and fish (61 FR 42742, August 16, 1996) with respect to total fat in orange roughy and (2) the olestra final rule in § 172.867(e)(5).

In regard to orange roughy, FDA notes that this fish is one of the few foods that contains wax esters (i.e., single fatty acids esterified to long chain alcohols). Because wax esters are extracted along with lipids during analysis, under § 101.9(c)(2), nutrition labeling for orange roughy should reflect these wax esters in the total fat declaration. However, the value for fat in cooked orange roughy in Agricultural Handbook 8–15 (1990 Supplement), upon which FDA relied in developing the interim nutrition labeling values for this food, does not include the wax esters in the value of total fat because, as stated in the Handbook, the wax esters do not provide a metabolizable source of energy for humans (Ref. 5). In the Federal Register of July 18, 1994 (59 FR 36379), FDA proposed to revise its guidelines for the voluntary nutrition labeling of raw fruit, vegetables, and fish, stating its intention to revise the total fat value for orange roughy to include the wax esters should it receive acceptable information in comments on its proposal. While such a revision would have made the orange roughy declaration of total fat consistent with declarations for other foods, FDA did not receive any information that would enable it to change the value of fat for orange roughy to include the wax esters. Accordingly, the nutrient values for orange roughy in part 101 (21 CFR part 101), appendix D continue to exclude the wax esters (61 FR 42742).

With regard to olestra, FDA recently published a final rule establishing conditions of safe use for this substance as a replacement for fats and oils (hereinafter referred to as the ''olestra final rule'' (61 FR 3118, January 30, 1996)). FDA specified that olestra, a sucrose polyester composed of six to eight fatty acids bound to sucrose by ester bonds, need not be considered as a source of fat or calories for purposes of nutrition labeling or nutrient content claims (§ 172.867(e)(5)). This holding was based on the fact that nearly all ingested olestra remains intact and is not absorbed, but is excreted intact in the feces (61 FR 3118 at 3126). Because the fatty acids in olestra are not absorbed and, therefore, are unavailable to the body, FDA decided not to require that the fatty acids be included in the declaration of total fat.

C. Proposal to Allow Nutrient Content Claims Based on Fat Availability

Having carefully considered the Nabisco petition, FDA tentatively concludes that there is merit in providing a generic means of allowing for the digestibility of fat substitutes, rather than in addressing this issue on a case-by-case basis as stated in the nutrition labeling final rule (58 FR 2079 at 2087) and as implemented in the olestra final rule (61 FR 3118).

As noted in the nutrition labeling and nutrient content claims final rules, dietary guidance given in various reports, such as the Surgeon General's ''Report on Nutrition and Health'' (Ref. 6), the National Academy of Sciences' ''Diet and Health: Implications for Reducing Chronic Disease Risk'' (Ref. 7), the National Cholesterol Education Program's ''Report of the Expert Panel on Population Strategies for Blood Cholesterol Reduction'' (Ref. 8), and the ''Dietary Guidelines for Americans'' (Ref. 9), recommends reducing the consumption of fat (especially saturated fat) and cholesterol by choosing foods that are relatively low in fat and high in carbohydrates. These recommendations have been carried forward in the recent publication of the fourth edition of the ''Dietary Guidelines for Americans'' (Ref. 10). Read together, these dietary guidance reports make clear that reducing the fat content of the American diet is an important public health goal.

The issue presented by the petitioner thus becomes whether fat-based fat substitutes with reduced availability will play a useful role in helping consumers to construct a healthy diet, and, if so, whether it is appropriate to authorize nutrient content claims based on the amount of available fat from such ingredients. To answer these questions, it is useful to understand the physiological functions of dietary fats and the metabolic processes necessary to achieve these functions. The physiological functions of fats include transporting fat soluble vitamins within the body, serving as structural components in cell membranes, serving as a source of essential fatty acids, and acting as precursors of certain hormones, prostaglandins, and other active substances. While dietary fats are insoluble in water, the digestion processes convert them into free fatty acids and monoglycerides, in which forms they are absorbed from the digestive tract. Products of digestion are absorbed from the intestinal lumen into the enterocytes (i.e., intestinal cells). The form of transport and ultimate fate of fatty acids depends to a large extent on chain length and extent of unsaturation (Refs. 11 and 12).

Long chain fatty acids (>C12) are formed into new triglycerides and transported, bound to protein (i.e., lipoproteins), into intercellular spaces and thus into the lymphatic system. To pass through the capillaries of the organs in which they will ultimately be used or stored (e.g., adipose tissue, heart, skeletal muscle, or mammary gland), triglycerides must be hydrolyzed into fatty acids and glycerol. Shorter chain fatty acids (<C10), which primarily serve as an energy source, are transported from the intestine to the liver as unesterified fatty acids, bound to albumin. Medium chain length fatty acids (C8–C12) may be transported through either mechanism (Ref. 11).

Each of the above processes serves as a gateway or hurdle to the ultimate use or storage of ingested fat. Thus, the availability of a fat will depend on whether, and to what extent, it and its component fatty acids are able to participate in each of these processes (i.e., digestion, absorption, and use or storage). For example, to function as a source of fatty acids, a fat must first be digested to release the fatty acids from the one and three positions on the glycerol molecule. However, even if the fat is digested, not all the resulting free fatty acids may be absorbed (e.g., long chain and saturated fatty acids are less soluble than shorter chain and unsaturated fatty acids and have lower rates of absorption). Also, other dietary components can combine with the free fatty acids to prevent their absorption. The evidence shows that some fats or fatty acids are either not digested or, if digested, are not absorbed into the intestinal tract (Ref. 13). These fats and fatty acids are less available to the body than those that are more efficiently digested and absorbed.

If the fat or its fatty acid components are digested and absorbed (as are most naturally occurring fats), they are available for use by the body (Ref. 11).

Conversely, if an ingested fat, or the fatty acid components of that fat, cannot be absorbed or digested, then the fat or fatty acids are not available for use or storage and thus pass through the gastrointestinal tract and are excreted.

FDA is aware that several manufacturers have started to formulate fat-based fat substitutes that are structured to minimize the amount of fat and fatty acids that will be available to the body but that have other characteristics that allow them to be substituted for other fats that are more available. The agency tentatively concludes that foods that contain these less available fat-based fat substitutes will have an impact on many physiological processes that is similar to that of foods that contain less total fat. Because less fat is available for use or storage from these ingredients, less fat will be available to have the physiological effects that increase risk of disease. Consequently, consuming less available fats appears to be consistent with the public health goal of reducing dietary fat intake.

Based on the tentative conclusion that, for most consumers, substituting foods made with fat-based ingredients that have reduced availability for foods whose fats have normal availability is effectively the same as reducing total fat intake, the agency tentatively concludes that claims based on declared levels of available fat will be truthful and not misleading and will assist consumers in maintaining healthy dietary practices. Such claims will help consumers to identify foods that will help them to achieve the public health goal of reducing their level of fat intake. For most consumers, the need for information about the fat content of the diet is related to weight control and to increased risk of chronic diseases, such as cardiovascular disease, diabetes, stroke, and cancer. As stated above, to a large extent, fat must be available to the body to affect the risk of these diseases, i.e., it must be digested and absorbed. Therefore, FDA tentatively concludes that it is appropriate to authorize claims that describe the level of available fat in a food product.

In its final rules to implement the 1990 amendments, the agency acknowledged the possible usefulness of novel fat compounds in enabling the consuming public to have a healthier diet and to meet dietary recommendations for reducing fat consumption (58 FR 2079 at 2987). However, as stated earlier, the agency concluded that, because of the diversity of possible products, it was not appropriate to modify the definition of total fat in § 101.9(c)(2), but that the agency would address the digestibility of new ingredients (e.g., fat substitutes) on a case-by-case basis. Tight time constraints and resource limitations precluded FDA from taking further action at that time.

FDA is aware that food technology pertaining to fat-based fat substitutes is advancing, and that more companies are developing ingredients formulated to limit the availability of fat to the body (e.g., olestra and salatrim). These products appear to offer significant advantages to consumers in that they should result in more foods appearing in the marketplace with less available fat, leading to the consumption of diets lower in fat. However, the petitioner has stated that it is imperative to the commercial viability of fat substitutes that manufacturers be permitted to make reduced fat claims based on the use of such products.

Because of the apparent advantages to consumers, FDA has tentatively decided that it is appropriate to foster the development and use of fat-based fat substitutes and to authorize nutrient content claims based on their use. To do this, FDA is proposing to add a new § 101.63 *Nutrient content claims for fat and fatty acids based on use of ingredients formulated to reduce amount of available fat.* This provision, if adopted, will define nutrient content claims for fat and fatty acids in a way that will allow such claims to be made for foods containing fat-based fat substitutes that have been formulated to limit the amount of fat and fatty acids that can be absorbed and digested from them by the body, thereby reducing the availability of the fat.

1. Coverage

In proposed § 101.63(a), FDA states that this new section defines the circumstances in which claims can be made for foods that contain manufactured fat-based fat substitutes that have been formulated to provide functional characteristics of fat and to reduce or eliminate absorption and digestion of fat from the substance by the body. The agency recognizes that providing for claims based on availability raises the question of whether claims for all fats should be based on availability. FDA is aware that certain conventional food fats are less available than others (e.g., fats rich in stearic acid, e.g., cocoa butter, are not well absorbed relative to other fats (Refs. 14 and 15)). However, the agency is reluctant to include conventional fats under proposed § 101.63(a) because few, if any, such fats have undergone testing to determine a digestibility coefficient, i.e., availability. Moreover, including such fats in the coverage of the proposed regulation would create inconsistencies among nutrition label values, standard food composition tables, and data bases used by consumers and health professionals. In addition, if some food products continue to declare total analytically determined levels of fat, while other similar food products chose to declare only the amount of available fat, additional inconsistencies would become apparent. The agency tentatively concludes that these inconsistencies could lead to so much consumer confusion that it would outweigh any benefits from providing this information.

FDA requests comment on whether the declaration of available, rather than total, fat from conventional fat ingredients that contain less available fat without the benefit of special processing (e.g., cocoa butter) would be beneficial to consumers and should be allowed. What would be the effect of doing so on standard food composition tables and on data bases? What would be the effect of doing so on dietary guidance? What will be the affect of any inconsistencies created by limiting the foods for which fat content is determined by availability? While FDA will consider comments on this issue, it considers the inclusion of conventional fats under proposed § 101.63 outside the scope of this rulemaking. Thus, if FDA were to be convinced by the comments that it is appropriate to declare all fats based on availability, it would institute a new rulemaking to effect this change.

2. Proposed Method for Providing for Claims Based on Availability

In the nutrition labeling final rule (58 FR 2079 at 2111), FDA recognized that innovations in food technology have resulted in reduced calorie foods that utilize various soluble dietary fibers and other modified carbohydrates, proteins, and fats to achieve the calorie reduction. As noted above, the agency stated that manufacturers or users of ingredients with reduced availability may petition the agency for use of alternative energy factors in nutrition labeling through established procedures for food additive or GRAS petitions. FDA also stated that the burden for establishing the actual energy value for the food is appropriately with the manufacturer. FDA determined (58 FR 2079 at 2112) that the petition process was an appropriate mechanism for establishing specific food factors (energy values) for these ingredients. The regulations require that the factor for calorie determination be approved by the agency (§ 101.9(c)(1)(i)(D)) and provided

for in parts 172 or 184, or by other means, as appropriate.

The petitioner requested that FDA amend its regulations to specifically provide that data on fat availability may be submitted as part of a food additive or GRAS petition or ''by other means as appropriate,'' similar to the agency's treatment of specific food factors in § 101.9(c)(1)(i)(D). The petitioner also requested that the agency provide for self-determination of digestibility coefficients pending agency review of data submitted.

It would be most useful to the public if factors such as food factors and digestibility coefficients were listed in the food additive or GRAS affirmation regulations in parts 172 or 184 of the Code of Federal Regulations so that all information about a compound is located in one place. However, not all ingredients that are used in food are listed in the food additive or GRAS regulations (see § 182.1(a)). The statute does not preclude the use of an ingredient based on a manufacturer's self-determination that the use is GRAS. In some cases, manufacturers have started using an ingredient based on such a determination, even though they have also filed a petition for GRAS affirmation. Furthermore, based in part on limited agency resources, final FDA action on such petitions may take a significant amount of time. For this reason, even though the recent final rule on olestra did include a statement of the digestibility coefficient for this substance (in § 172.867(e)(5), FDA states that olestra shall not be considered as a source of fat for purposes of nutrition labeling or nutrient content claims), FDA recognizes that there may not be a regulation in part 172 or part 184 in which to list the digestibility coefficient.

Therefore, FDA recognizes that, at least under the current state of affairs, it may not be possible to list all digestibility coefficients for fat and fatty acids in parts 172 and 184. Nonetheless, FDA considers that there should be some method by which digestibility coefficients are brought to FDA's attention before these coefficients are used in labeling food. Consequently, under its authority in sections 403(r)(2)(A)(i) and 701(a) of the act (21 U.S.C. 371(a)), FDA is proposing in § 101.63(b) to provide that claims based on the amount of available fat and fatty acids may be made in food labeling if: (1) Appropriate notification procedures are followed and the agency has not objected to the digestibility coefficient suggested by the manufacturer, (2) the food meets the criteria for the claim as specified in § 101.62, and (3) the food bears nutrition labeling in accordance with provisions in § 101.63(e), as proposed.

3. Notification Procedure

In § 101.63(c), the agency is proposing to require that a manufacturer of a fat-based fat substitute notify the agency of its intention to market the ingredient. FDA tentatively concludes that a notification requirement is necessary for a number of reasons. First, notification will enable the agency to identify foods that bear fat or fatty acid claims based on the use of a manufactured fat-based fat substitute. Thus, the agency will not be alarmed if it finds in a compliance check conducted in accordance with § 101.9(g) that the food contains more fat and fatty acids than is declared on the label. Second, notification will enable FDA to evaluate the basis for the reduced availability claim and to object if it appears that the claim is not valid.

One of the objectives of the 1990 amendments was to ensure that when nutrient content claims are made in food labeling, they provide consumers with useful information that will assist them in maintaining healthful dietary practices. For FDA to ensure that the digestibility coefficient for a fat does not underestimate the amount of fat that will be absorbed into the body, and thereby contribute to the fat intake that Americans are encouraged to limit (Ref. 10), FDA must be able to review the data that support the digestibility coefficient that the manufacturer believes should be used in calculating the amount of fat available from the ingredient.

To do this, the agency must have sufficient time to evaluate the evidence that supports the claim of reduced availability and to decide whether there is any reason to object to the suggested digestibility coefficient. FDA tentatively concludes that the 120-day notification procedure in proposed § 101.63(c) will satisfy FDA's needs while imposing a minimal burden on manufacturers who will be able to proceed to market with products that bear the claims unless FDA objects.

Finally, as stated above, FDA may not have reviewed the safety of some manufactured fat substitutes. A notification requirement will mean that the agency will have an opportunity to ensure that the evidence supports the claim of reduced availability without passing on the use of the ingredient. Thus, a notification requirement provides a nonintrusive way for the agency to protect the public trust in nutrition label information and in nutrient content claims without creating the unwarranted impression that the ingredient is necessarily safe.

In § 101.63(c)(1) through (c)(5), FDA is proposing the elements that must be included in the notification to the agency. The agency is proposing to require in § 101.63(c)(1) through (c)(3) that the manufacturer provide the firm's name and address, the identity of the substance, and descriptive information about the substance. This descriptive information must include the method of analysis for quantifying the amount of the fat-based fat substitute in the food and should include appropriate information on validation. Also, where the fat substitute is not a single compound, but a family of similar structured fats, a statement about the possible need for separate values for the availability of each of the various formulations would help the agency review the data in a timely fashion.

These elements of the notification are necessary to: (1) Allow unambiguous communications between the manufacturer and the agency about the substance, (2) assist the agency in understanding the data provided in support of the digestibility coefficient, and (3) allow the agency to determine whether the data were obtained using adequate analytical methodology. In situations where analytical methodologies have been supplied to FDA as a part of a food additive or GRAS petition, or through some other means, it would be sufficient to state where the information may be found in the agency's records.

In § 101.63(c)(4) and (c)(5), the agency is proposing that the manufacturer specify the digestibility coefficient that is expected to be used for the fat and fatty acids present in the fat substitute and provide FDA with data that it believes establish the appropriateness of the digestibility coefficient. As explained above, FDA must be assured that there is strong scientific support for the appropriateness of a digestibility coefficient to ensure that any claims made on the basis of the declared amounts of fat and fatty acids are not false or misleading or are not contrary to the stated public health objectives.

The value specified for the digestibility coefficient is critical because it will determine the amount of fat and fatty acids declared on the label and thus the claims that can be made for the foods in which the product is used. If a digestibility coefficient is incorrectly calculated, or if its use is inappropriate for a particular ingredient or food application, the amount of fat or fatty acids in a food could be over- or underreported by a large margin. Underreporting the amount of available fat or fatty acids in a food would seriously misbrand the food because the

consequences of consuming the food would be misrepresented by the label. Overreporting of fat or saturated fat content would not be as big a problem, because it would mean that consumers who structure their diets based on nutrition label values will have an extra measure of assurance that their diets contain the level of these nutrients that they wish to receive. Thus, if this proposal is adopted as proposed, FDA intends to work with manufacturers to arrive at digestibility coefficients for fat substitutes that do not underestimate the amount of fat or saturated fat that will be available to most consumers from consuming the product in question.

While FDA tentatively agrees with the petitioner that the available level of fatty acids, as well as of fat, should be declared on the nutrition label when a manufactured fat-based fat substitute is used, the agency does not expect that the same digestibility coefficient will necessarily apply to all types of fatty acids in a fat substitute. For example, it is possible that the entire reduction in total fat could reside in one subcategory of fat, e.g., saturated fat. An approach that involves applying an appropriate digestibility coefficient to each fatty acid is consistent with the approach embodied in the agency's statement in the August 18, 1993, technical amendment to the nutrition labeling final rule (58 FR 44063 at 44073). This approach involved applying a specific energy value to component fats to the extent that the fatty acids that constitute the fat ingredient in question belong to that specific subcategory (e.g., saturated fat) to which the value applies. Accordingly, the agency expects that manufacturers who wish to declare adjusted values of saturated fat, polyunsaturated fat, or monounsaturated fat based on reduced availability of a fat substitute will submit information on the digestibility coefficients for each of those fatty acids in addition to the digestibility coefficient for fat.

FDA seeks comments, with supporting data, on its tentative conclusion that digestibility coefficients need to be specified and applied to each type of fatty acid if the amounts declared in the nutrition label for those fatty acids are to represent only the available amounts.

In proposed § 101.63(c)(5), the agency outlines the types of information that will need to be submitted to establish the digestibility coefficients for total fat and for the fatty acids. FDA has drafted this provision to suggest the types of questions that the agency is likely to raise in its evaluation of data submitted in support of digestibility coefficients. It is based on the concerns that have arisen when the agency has considered digestibility coefficients and on the types of evidence from adequate and well-controlled studies that would be useful in addressing them. It is also based on what the agency learned in evaluating the food additive petition for olestra.

In proposed § 101.63(c)(5)(i), FDA is proposing to require that the data submitted demonstrate the reduced absorption of the substance. The agency is not proposing to prescribe specific types of evidence that need to be submitted because it wants to provide a degree of flexibility, and because it recognizes that fat availability is a relatively new matter. There is no commonly accepted method (e.g., an Association of Official Analytical Chemists International validated method) for measuring availability in humans or for determining a digestibility coefficient for fat in a particular food or ingredient. To enable it to evaluate availability, FDA considers it important for the agency to have information on factors such as: Individual variability in absorption; the relationship between the amount of the fat substitute ingested and the rate of absorption of components of the fat (i.e., dose-response); the relative usefulness of animal data for the determination of availability of an unconventional fat source; the representativeness of the sample of subjects tested to the general population for whom the fat substitute is intended; the need for special testing in vulnerable subpopulations; the completion rate in clinical studies; and any adverse events occurring during the study.

As stated above, it is important that the declared value for fat not underestimate the amount of fat that is available. Thus, the range of responses reported for various individuals, described in proposed § 101.63(c)(5)(i)(A), is of particular concern. The agency has traditionally considered safety assessments based on estimates of consumption at the 90th percentile of exposure. For nutrition labeling modifications based on changed availability, however, it is not clear that the 90th percentile of absorption should be used. The agency welcomes comments on these elements for determining the digestibility coefficient.

Proposed § 101.63(c)(5)(ii) requests information about foods or diets that may affect the digestibility coefficient. Responses to this request would be information about possible interactions between the ingredient and other components of the food or diet that could affect the digestibility coefficient, steps in processing the types of foods expected to contain the fat substitute that could affect the digestibility coefficient, the impact of the amount of substance used in feeding studies on the digestibility of the substances in the study, and the duration of feeding studies and any changes in the digestibility coefficient over time. As the agency has gained experience with the determination of the availability of fat, it has found the types of information highlighted in proposed § 101.63(c)(5)(ii) to be important. Research suggests that a number of factors, including the food matrix, the percent fat in the food, and the processing conditions and temperatures affect the availability of fat (and other nutrients) (Refs. 4 and 16). Tristearin, for example, has reduced availability when food is ''cold processed,'' but its availability goes up dramatically if the food is heated at temperatures of 80 to 85 °C (Ref. 14). When there is reason to believe that the amount of the fat substitute used in the food, the food matrix, or the processing method may bear on the availability of fat from the fat substitute, FDA may find it necessary to limit the application of the digestibility coefficient to only those conditions for which reliable data are provided.

Other factors also appear to affect the digestibility coefficient. For example, a comment to the docket of the subject petition suggests that high levels of calcium and magnesium in experimental diets may contribute to a reduced absorption of some fats (Ref. 17). In addition, FDA's evaluation of the data submitted in the petitioner's GRAS petition suggests an important inverse dose-response relationship between the amount of stearic acid in a food and the fraction of stearic acid that is absorbed (Ref. 18). Consequently, the level of feeding of a fat substitute in a diet may materially affect the digestibility coefficients. Similarly, FDA has determined that there is substantial variability among individuals (animals or humans) in the amount of stearic acid that they absorb from a particular diet (Ref. 18). The agency requests comment on additional factors that may affect digestibility and on how digestibility coefficients should be adjusted to reflect these factors and the other factors mentioned.

Because of the tight time constraints that will be on FDA if it is to review the notification within 120 days, the agency is proposing in § 101.63(c)(6) to require that the notification include a certification that the manufacturer is

submitting all data of which it is aware that pertain to the digestibility of the fat substitute that is the subject of the notice. With this certification in hand, FDA can begin its review immediately, without having to spend time searching for all available materials on the compound.

FDA is also proposing in § 101.63(c)(6) to require that the manufacturer certify that, for as long as it markets the ingredient, it will submit any new data about the digestibility of the ingredient as it becomes available. Most fat substitutes that will be the subject of a notice are quite new, and thus it seems likely that at least some additional information about them and their availability to the body will be forthcoming after their introduction into the marketplace.

Proposed § 101.63(c)(7) states that the materials being submitted in the notification are to be sent to the Office of Food Labeling (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

The agency welcomes comments on issues that it is proposing be addressed, and on the material that it is proposing to require be included in the notification. Are there other types of studies that should be required as a part of the notification? If so, are there validated methodologies for those studies?[2]

4. FDA Review

Proposed § 101.63(d) provides that FDA will review the notifications of digestibility coefficients that it receives, and that, if the agency does not object in writing within 120 days of its receipt of a notification, the firms that use that fat substitute in their products may begin to make nutrient content claims based on the specified digestibility coefficients. To ensure that both FDA and the firm are clear on that date, FDA will notify the firm submitting the notification of the date on which it received the notification.

The agency anticipates that 120 days will be sufficient time for it to determine whether there is reason to question the scientific basis for a digestibility coefficient. While FDA anticipates that the information to be reviewed will be complex because of the inclusion of clinical studies, the scope of the task is limited to the demonstration of the appropriateness of the digestibility coefficients without concerns for other factors, such as safety or toxicity. Therefore, the agency expects that the information in the notification can be reviewed expeditiously.

Even with premarket review, the agency recognizes that new information may become available, or that there may be a new understanding of data of which the agency is already in receipt, that could show that a particular digestibility coefficient is in error. In such a case, what mechanism should be used to respond to such developments? Is it sufficient to notify the manufacturer, who would then be responsible for notifying all users of the product? Should FDA publish a notice in the Federal Register? What amount of time should be provided for making label corrections before products introduced into interstate commerce would be considered misbranded?

There is likely to be considerable interest from a broad segment of the public (including members of the regulated industry; other Federal, State, and local government agencies; international government agencies; and public interest groups) in information submitted. Such groups may wish to review the data and offer comments to the agency. The agency tentatively concludes that making the information publicly available is the most direct and administratively efficient way of informing the public, including the scientific community, of the data that support a particular digestibility coefficient. FDA requests comment on this tentative judgment.

To meet the expected public interest and to provide guidance about the contents of a notification found acceptable by the agency, FDA is considering establishing a procedure in which it will place all notifications about which it has not objected in a file at Dockets Management Branch once the 120-day review period has passed. Is there a need to call attention to material placed in a docket, perhaps through a mechanism such as a notice of availability published in the Federal Register? Should the information be made available before the completion of FDA's review? Are there reasons why any of these materials should not be made publicly available? Should FDA review be based only on published research on the digestibility coefficient? FDA is also interested in comments on whether there is a need for a compiled listing of digestibility coefficients, including those that may be included in a regulation in part 172 or 184, in a format that is readily available to the public.

5. Levels of Fat or Saturated Fat

As stated above, proposed § 101.63(b) specifies that nutrient content claims for fat and saturated fat may be made on a food product label or labeling if, based on the digestibility coefficient, the amount of available fat or saturated fat meets the quantitative level requirements for the claim in § 101.62.

While the petition spoke only of ''reduced fat'' claims, its premise that nutrient content claims can be based on the quantity of available fat would permit use of ''fat free,'' ''low fat,'' and similar saturated fat claims when the digestibility coefficient for the fat substitute is small enough to result in amounts of available fat or available saturated fat that meet the criteria for the claim (e.g., because olestra is unavailable, foods that contain olestra as the only source of analytically measured fat may be eligible to bear a ''fat free'' claim). Accordingly, proposed § 101.63(b) provides for the use of all fat and saturated fat claims defined in § 101.62 to be based on available fat or available saturated fat.

To provide for claims based on availability of fat and saturated fat, FDA is proposing to revise § 101.62(b)(1)(i), (b)(2)(i)(A) and (b)(2)(i)(B), (b)(3)(i), (b)(4)(i), and (b)(5)(i) by revising the term ''fat'' to state ''total fat or, as provided in § 101.63, available fat'' and § 101.62(c)(1)(i), (c)(2)(i), (c)(3)(i), (c)(4)(i), and (c)(5)(i) by revising the term ''saturated fat'' or ''saturated fatty acids'' to state ''saturated fat or, as provided in § 101.63, available saturated fat''.

Although the petitioner did not specifically address cholesterol nutrient content claims, there are a number of references to ''total fat'' and ''saturated fat'' in § 101.62(d). Section 101.62(d) defines when cholesterol nutrient content claims can be made for products containing specific levels of total fat (e.g., 13 g or less per reference amount customarily consumed) and includes limits on the amounts of saturated fat that may be in a product for it to bear a cholesterol nutrient content claim. FDA requests comment on whether, for consistency, the terms ''total fat'' and ''saturated fat'' in § 101.62(d) should be revised to specify ''available fat'' or ''available saturated fat.'' The agency also requests comment on the implications of such revisions. Specifically, the agency is interested in whether such changes are appropriate,

[2] FDA's review of the extensive data in the olestra food additive petition led the agency to conclude that nearly all of the ingested olestra remains intact and is not absorbed (61 FR 3118 at 3127). Given the extensive data in the olestra petition and given the agency's tentative conclusion above that unabsorbed fats are not available for use or storage in the body, and therefore are consistent with public health goals of reducing dietary fat intake, if the agency adopts proposed § 101.63, it will consider the notification requirements to have been met for olestra, and its evaluation of the information to have been completed.

and in whether such changes will facilitate the wider use of cholesterol nutrient content claims. The paragraphs in § 101.62(d) under consideration for revision include the following: § 101.62(d)(1)(i) and (d)(1)(i)(C); (d)(1)(ii), (d)(1)(ii)(C) and (d)(1)(ii)(D); (d)(2)(i) and (d)(2)(i)(B); (d)(2)(ii) and (d)(2)(ii)(B); (d)(2)(iii), (d)(2)(iii)(B), and (d)(2)(iii)(C); (d)(2)(iv), (d)(2)(iv)(B), and (d)(2)(iv)(C); (d)(3); (d)(4)(i) and (d)(4)(i)(B); (d)(4)(ii), (d)(4)(ii)(B), and (d)(4)(ii)(C); (d)(5)(i) and (d)(5)(i)(B); and (d)(5)(ii), (d)(5)(ii)(B) and (d)(5)(ii)(C). Should the agency conclude after its review of the comments that these changes are consistent with the goals of the nutrient content claims provisions, it will include such changes in the final rule.

Similarly, the disclosure levels for the nutrient content claims provisions found in § 101.13(h)(1), (h)(2), and (h)(3); the health claims disqualification levels found in § 101.14(a)(5), (a)(5)(i), and (a)(5)(ii); the criteria for fiber claims found in § 101.54(d)(1); and the criteria for ''light'' and ''lite'' nutrient content claims in § 101.56 also include references to total fat and saturated fat. The agency requests comment on the implications of changing these sections of the regulations to reflect ''available fat'' and ''available saturated fat.'' Again, the agency will revise these sections of the regulations if it concludes, based on comments, that such changes are useful in helping consumers to construct healthy diets.

6. Nutrition Labeling

Nutrient content claims based on fat availability could be confusing unless § 101.9 is modified so that the levels of fat and fatty acids declared in the nutrition label reflect the basis for claims. Accordingly, FDA is proposing to require in § 101.63(e) that, when a claim is made for fat or saturated fat under § 101.63, the nutrition label declare the amount of available fat or fatty acids in accordance with the format requirements in proposed § 101.9(d)(15). In addition, to provide the necessary flexibility FDA is proposing to add § 101.9(d)(15), which is discussed below, and to modify § 101.9(c)(2), (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) to provide that foods that bear a claim that is made in compliance with § 101.63 may declare the grams of available fat, saturated fat, polyunsaturated fat, or monounsaturated fat, respectively, in lieu of the usual declaration in the nutrition label. This proposed action will provide consistency between the amount of available fat or saturated fat that is the basis for the claim and the amount of fat and saturated fat that is declared in the nutrition label, thereby preventing the consumer confusion that would likely occur if declared amounts do not meet the criteria for claims made. Additionally, if poly- or monounsaturated fat is declared on the label, it will ensure that the sum of all fatty acid subcomponents does not exceed the declared amount of total fat.

FDA has considered, but tentatively rejected, the option of allowing claims based on levels of available fat and saturated fat, while continuing to require that the analytically-determined amount of total fat and saturated fat be declared in the nutrition label, with a footnote outside of the nutrition label explaining that the product contains a fat substitute that is only partially used by the body, thereby reducing the amount of available fat and saturated fat. While FDA is aware of two products on the market that are using this approach (Ref. 19), the agency is concerned that this approach is cumbersome and confusing to consumers and may reduce consumer confidence in the accuracy of the values declared in the nutrition label. In addition, this approach is internally inconsistent in that it provides for nutrient content claims based on the premise that fat affects the body only to the extent that it is available but does not use the same basis for the declaration of fat in nutrition labeling. FDA requests comment on its tentative judgment.

a. *Terminology.* The agency is proposing to continue to use the term ''total fat'' within the nutrition label of products containing a fat substitute and for which the amount of fat declared has been calculated in accordance with proposed § 101.63 using a digestibility coefficient. FDA considered proposing to require the use of a different term, such as ''available fat,'' with a footnote stating that the product contains a specified fat substitute that is not absorbed (or is poorly absorbed) and possibly listing the amount of fat present in the food that is not used by the body. However, the agency is concerned about consumers' reactions to the introduction of a new term on the nutrition label and about their ability to understand and use the additional information. Consumers have had just over 2 years to adjust to new food labels that resulted from the implementation of the 1990 amendments. While recent consumer studies have shown a very positive consumer response and increased use of nutrition labeling (Ref. 20), this consumer confidence and trust in the nutrition facts panel needs to be nurtured rather than challenged by the introduction of new terms and concepts.

The agency is concerned that some persons may believe that the term ''total fat'' is misleading if the amounts declared represent only the amounts of available fat, not analytically determined levels of total fat. However, when scientific studies show that a fat substitute is not absorbed or metabolized by the body, the resulting declared value for fat would represent the total fatty acids providing energy. In the nutrition labeling final rule, FDA stated that the definition of ''fat'' that it had adopted included all sources of fatty acids providing energy (58 FR 2079 at 2087). Additionally, the Food and Agriculture Organization of the United Nations and the World Health Organization Expert Consultation on Fats and Oils in Human Nutrition, consistent with guidelines provided by the Codex Alimentarius Commission, recommends that fat be defined for nutrition labeling purposes as the ''sum of all fatty acids providing energy'' (Ref. 21). Because the portion of the fat source that is not available to the body is not providing energy, FDA tentatively concludes that it is not misleading to use the term ''total fat'' to represent the amount of fat available for use by the body. FDA seeks comment on this tentative conclusion. For example, what are its implications for how the amount of fat from other, natural sources is declared?

b. *Declaration of percent of Daily Value (DV) for fat.* Current § 101.9(d)(7)(ii) states that the percent DV shall be calculated ''by dividing either the amount declared on the label for each nutrient or the actual amount of each nutrient (i.e., before rounding) by the DRV [Daily Reference Value] for the nutrient * * *.'' Inasmuch as FDA is proposing to revise § 101.9(c)(2) to allow for the declaration of available fat, the agency does not consider it necessary to modify § 101.9(d)(7)(ii) to allow the percent DV declaration to represent the available amount of fat.

c. *Footnote and format requirements.* The agency is proposing that, when a digestibility coefficient has been used to calculate the amount of fat declared in nutrition labeling, a footnote be included within the nutrition label stating that the declared amount of fat represents an adjusted amount based on the digestibility of the fat source. The footnote will serve the purpose of informing both consumers and FDA that the amount declared has been adjusted to account for digestibility. During a compliance check, this notification will alert the agency to adjust analytically determined values for fat and fatty acids

according to digestibility coefficients submitted in compliance with the notification procedure in proposed § 101.63.

A number of different possible footnote statements could be used to signal the fact that ''total fat'' and any fatty acid content declarations have been adjusted to reflect reduced availability. For example, direct reference to the adjustment could be made with statements such as ''Fat content adjusted for reduced availability of fat from [*name of ingredient*],'' ''Adjusted for reduced absorption of [*name of ingredient*],'' or ''Represents an amount adjusted for absorption of [*name of ingredient*].'' It may be that mention of the fat substitute and the fact that it has limited availability would be sufficient to alert consumers to the fact that total fat and any fatty acid contents have been adjusted. Such a statement might be ''This product contains [*name of ingredient*], which is only partly available.'' Alternatively, consumers may be better informed by statements that include the quantitative amount of the fat substitute and the digestibility coefficient, through use of statements such as ''Each serving contains 9 g of [*name of ingredient*], which is only ____% absorbed by the body.'' FDA is seeking comment on the type of statement that will most simply and understandably communicate the fact that the declared values for total fat and any fatty acids have been adjusted to represent the amount of fat and fatty acids available to the body. The agency urges commenters to test the utility of a variety of possible statements and to submit the results of such tests during the comment period.

To assist consumers in locating the footnote, FDA is proposing in § 101.9(d)(15) that the declaration of the number of grams of available fat and of any fatty acids each be followed by an asterisk or other symbol that refers consumers to the footnote. To increase its prominence, the agency is proposing that this footnote be placed above the percent DV footnote required by § 101.9(d)(9) and separated from that footnote by a hairline (see FIGURE 1 sample label).

BILLING CODE 4160–01–F

Figure 1

Fudge Covered Sandwich Cookies

Reduced Fat
25% less fat than leading fudge covered sandwich cookie

These cookies: 4.5g fat
Leading brand: 6g fat

Nutrition Facts

Serving Size 1 cookie (25g)
Servings Per Container 24

Amount Per Serving

Calories 100	Calories from Fat 40
	% Daily Value**
Total Fat 4.5g*	**7%**
Saturated Fat 3g*	**15%**
Polyunsaturated Fat 0g*	
Monounsaturated Fat 1g*	
Cholesterol 0mg	**0%**
Sodium 65mg	**3%**
Total Carbohydrate 13g	**4%**
Dietary Fiber 1g	**4%**
Sugars 8g	
Protein 1g	

Vitamin A 0%	•	Vitamin C 0%
Calcium 0%	•	Iron 2%

*Fat content adjusted for reduced availabilty of fat from *(name of ingredient)*.

**Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

BILLING CODE 4160–01–C

Short phrases, such as those discussed above, should be sufficient to inform both consumers and FDA that the amount declared has been adjusted to account for digestibility. However, it is likely that health professionals and some knowledgeable consumers may wish to obtain more information, such as the percent digestibility of the fat substitute or the amount of that ingredient in a serving of the food. The agency requests comments on how such information could best be provided if this proposed rule is adopted. Should the additional information be contained in the footnote? If not, is it sufficient for manufacturers of products containing such fat substitutes to provide a phone number or address for consumers and health professionals to use to obtain desired information?

In regard to the calorie conversion footnote provided for in § 101.9(d)(10) (i.e., ''Calories per gram: fat 9, carbohydrate 4, protein 4''), the petitioner argued that the requested action, i.e., allowing a digestibility coefficient to be applied to total fat and to other labeled fat values, would resolve an inconsistency in the nutrition label that could exist when manufacturers use a food factor other than 9 to calculate the calories from declared levels of total fat. FDA agrees that the proposed action could resolve this inconsistency. However, the agency points out that, in the August 18, 1993, technical amendments to the nutrition labeling final rule (58 FR 44063 at 44067), FDA amended § 101.9(d)(10) to make the calorie conversion footnote voluntary. Therefore, the petitioner's concerns about inconsistency in the nutrition label are easily addressed by omitting the calorie conversion footnote from the nutrition label. The agency requests comment on whether, to prevent any confusion on the consumer's part, the optional calorie conversion footnote, in fact, should be prohibited where the amount of fat declared is adjusted to reflect availability, and attention is drawn to

that fact by the presence of an explanatory footnote.

7. Compliance

FDA notes that this proposal would require that manufacturers provide the agency with data in support of a digestibility coefficient for a specific fat-based fat substitute. However, if the proposal is adopted, the basis for calculating declared amounts of available fat and fatty acids in a food in which a fat substitute is used in combination with other conventional fat ingredients will be known only by the manufacturer of the finished food. If FDA is to be able to determine whether the amount of available fat declared in nutrition labeling accurately reflects the amount of fat actually available from the food, the agency will need to know the amount of the fat substitute in the finished food.

Accordingly, FDA is proposing in § 101.9(g)(10) to require that, when a food bears a claim in accordance with proposed § 101.63 and declares available fat and fatty acids in nutrition labeling, records and underlying data that support the amounts declared in nutrition labeling be made available by the manufacturer of the finished food to appropriate regulatory officials upon request. This requirement is similar to that proposed by FDA on February 2, 1996 (61 FR 3885) which, if finalized as proposed, would require, in specified circumstances, that records be retained and be made available for inspection when certain nutrient content and health claims are made.

Such records inspection would allow the agency to evaluate the declared amounts of available fat by using company records, identifying the amount of the fat substitute in the product, subtracting that amount from analytically determined amounts of total fat, and applying the digestibility coefficient to the amount of the fat substitute present in a serving of the food. The sum of the amount of total fat remaining after subtraction of the weight of the fat substitute plus the amount of the digestible portion of the fat substitute should equal the weight of available fat declared on the label.

FDA notes that it has, on a number of occasions, determined that adequate enforcement of labeling rules would be possible only if the agency can review the information that a manufacturer has developed to support the statements on its food labels. For example, in the January 6, 1993, final rule on serving sizes (58 FR 2229 at 2271), FDA provided that manufacturers of aerated foods could substitute a volume-based measure for a weight-based reference amount as the basis for determining a product's serving size. However, manufacturers who choose this approach must make available upon request certain information, including a detailed protocol and records of all data used to arrive at the density-adjusted reference amount (58 FR 2272, § 101.12(e)). In the nutrient content claims final rule, FDA also imposed a records requirement on firms that use a broad based reference nutrient value for claims such as ''light'' (58 FR 2302 at 2365, § 101.13(j)(1)(ii)(A)).

The agency tentatively concludes that a similar records requirement for foods declaring available fat in the nutrition label is necessary for efficient enforcement of the act. Compliance with this records inspection provision would not entail the creation of any new information or the compilation of any special records. Rather, firms would simply need to provide the agency with access on request to information that they should already possess.

FDA advises that if information on the amount of the fat substitute in a serving of food is not forthcoming because, for example, firms believe the agency has no authority to obtain this information, it may well decide not to adopt this proposal. Without this information, FDA cannot ensure that the quantitative claims are valid. Without such assurance, the risks of consumer deception would outweigh any gain from the availability of claims based on the amount of available fat.

8. Misbranding

Proposed § 101.63(f) provides that a food product will be deemed to be misbranded under section 403(r)(1)(A) of the act if it bears a claim based on availability of fat or fatty acids from a fat substitute, and FDA has written an objection based on its review of the notification submitted under § 101.63(c), or if a product is marketed bearing claims based on the available level of fat or fatty acids without the fat substitute having been the subject of a notification procedure in § 101.63. Section 403(r)(1)(A) of the act requires that claims that characterize the level of nutrients in a food use terms that are defined in regulations. In this proposal, FDA has structured the definition of fat and fatty acid claims that are based on fat availability to include compliance with the notification procedures in § 101.63(c). In addition, proposed § 101.63(f) reflects the fact that products that make a claim based on fat availability, but for which there has not been compliance with § 101.63, would be misbranded under section 403(a) of the act because their label would be misleading.

D. Conforming Amendment

The agency is proposing to revise § 101.13(o) to clarify that, when a fat source is used in compliance with proposed § 101.63, under which FDA is notified of the digestibility coefficient, compliance with the requirements for nutrient content claims for fat and fatty acids may take the coefficient into account rather than just the fat measured by the analytical methodologies prescribed for determining compliance under§ 101.9(g).

E. Overview of Issues Related to Availability

While FDA has decided to grant the petition in part and to proceed with this rulemaking to provide for the use of claims based on available fat content and the declaration of available fat in nutrition labeling, an opportunity for public comment is being provided to address wider issues regarding the use of availability as the basis for nutrient content claims and nutrition labeling as follows: (1) Will the proposed action discourage innovation in the development of nonfat fat substitutes (i.e., protein- and carbohydrate-based fat substitutes)? (2) Are there greater health benefits in replacing all or part of the fat in a traditional food with a protein- or carbohydrate-based fat substitute? (3) How will the replacement of conventional fats with a fat substitute with reduced availability affect dietary goals, such as encouraging consumers to choose foods that are high in complex carbohydrates? (4) Will providing for the declaration of amounts of available fat on the nutrition label promote a significant increase in the use of very long chain (>C18) fatty acids in place of common dietary fatty acids (C12–C18)? (5) Are there any safety concerns associated with such a shift?

Additionally, if the proposed action does not become a final rule because of objections to the principle of providing for claims and nutrition labeling based on availability, are there other, more appropriate ways to inform consumers of the amount of available fat in a food product? Comments are requested on these issues.

FDA has, on a number of occasions, raised the issue of nutrient availability. For example, in the Federal Register of August 29, 1978 (43 FR 38575 at 38576), the agency stated that it intended to publish a proposal on availability requirements of iron sources used to fortify foods. At the time, however, FDA did not have sufficient information on

availability of iron from different sources or on how to best measure iron availability in foods. Consequently, the agency did not publish a proposal. Since that time, significant research has been done to evaluate availability of different nutrients and food components. Basing fat claims on amounts of available fat could set a precedent for doing so with other nutrients, such as iron and calcium. Is there sufficient data to consider labeling issues based on the availability of nutrients other than fat, and, if so, how might consumers be affected?

III. Analysis of Impacts

FDA has examined the economic implications of the proposed rule as required by Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select the regulatory approach that maximizes net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. If a rule has a significant impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze options that would minimize the economic impact of that rule on small entities. FDA finds that this proposed rule is not a significant rule as defined by Executive Order 12866. Similarly, it has been determined that this rule is not a major rule for the purpose of congressional review (Pub. L. 104–121).

FDA is proposing to allow the declaration of available amounts of fat and fatty acids in nutrition labeling when fat-based fat substitutes are used. FDA also is providing for definitions for claims based on amounts of available fat and fatty acids in a food. Currently available fat-based fat substitutes include such substances as salatrim, caprenin, and olestra. This rule will not result in any changes for manufacturers of products containing olestra because, in the food additive approval, FDA determined that olestra will not be counted as a fat.

A. Benefits

If finalized, the proposal to provide an expanded definition of fat claims based on available fat would give manufacturers a way to promote products containing novel fat ingredients, thereby encouraging innovation and increasing consumers' product choices in planning healthy diets.

B. Costs

There are two different ways in which the rule imposes costs: (1) Revising existing labels to reflect the new regulations; and (2) data gathering and premarket notification.

Any food manufacturer currently using claims based on available fat for foods containing fat-based fat substitutes may have to change their labels to reflect the new regulations. Such labels may be changed to reflect proper wording of the claim as allowed by FDA. To continue to use the claims, manufacturers will have to alter the nutrition facts panel on their products so that the amount of fat that is reported reflects the amount that is available. FDA is aware of very few products containing fat-based fat substitutes on the market. FDA is aware of two manufacturers marketing products containing a fat-based fat substitute (other than olestra) for which claims are made. However, because of recent emphasis on reducing intakes of fat, FDA expects that many products containing fat-based fat substitutes will be marketed in the future. Because of the small number of such products currently in existence, few if any labels will be modified as a result of this proposed regulation if made final. Therefore, the label revision costs of this proposed regulation will be minimal.

The second way in which the rule imposes costs is in the premarket notification requirements for the digestibility coefficient. If this proposal is adopted, producers of fat substitutes will be required to notify FDA of their intent to market fat substitutes that could provide the basis for nutrient content claims based on availability and to provide the agency with data supporting a digestibility coefficient. Thus, the fat substitute will be tested to determine the digestibility coefficient. FDA estimates that the cost of testing a fat substitute to determine digestibility will be in excess of $100,000 and perhaps as high as $1 million. It is not clear that the costs of the initial notification will be significantly more than the current cost of FDA approval of a substitute. However, FDA is also proposing to require the notifier to continue to submit any information related to the availability of the fat substitute of which it becomes aware to FDA as long as the ingredient is marketed. Therefore, producers will continue to bear the costs of informing FDA of any new information pertaining to the digestibility of the fat substitute that becomes available. FDA is not proposing to require that firms continue to generate or actively seek out new data, only that they provide FDA with any data of which they become aware. Therefore, although not zero, the costs will not be significant.

C. Regulatory Options

1. Approval of the Nutrient Content Claim

One option available to FDA is to deny the petition for nutrient content claims based on the availability of fat. Because the marketability of fat-based fat substitutes depends on the manufacturers ability to market the food containing them as lower in fat, if FDA were to select this option, firms would not have any reason to develop fat substitutes that are less bioavailable. Therefore, FDA would be stifling innovation. Also, if FDA were to deny the petition, consumers would not benefit from the availability of lower available fat foods.

2. Premarket Approval

As an alternative to premarket notification, FDA considered the options of premarket approval of the digestibility coefficient and postmarket notification. A premarket approval of the digestibility coefficient would result in the manufacturer not being able to market a food containing a fat-based substitute until FDA has published in the Federal Register its approval of the coefficient. This option could result in great delays in marketing a product and would be more costly to all parties involved—the firms, the consumer, and the government. However, this option would provide all parties with greater certainty about the information provided on the label.

3. Postmarket Notification

In contrast to a premarket notification, under a postmarket notification requirement the manufacturer can market the food prior to notifying FDA. However, although a postmarket notification clearly does not cause a delay in placing the product in the marketplace, it is not clear that a premarket notification requirement would cause any delay in marketing the food because manufacturers would account for the FDA review period in their timeframes. FDA requests comments on whether the options of postmarket notification and premarket notification are significantly different

with respect to delays in marketing foods.

A postmarket notification might result in greater uncertainty about the nutritional content of the food. Also, if FDA were to determine that the digestibility coefficient is inaccurate or inappropriate after the product is marketed, then the manufacturer will incur significant costs to remove the product from the market, reanalyze the digestibility, revise the labeling, and try again to market the product. Similarly, if the digestibility coefficient is wrong, then consumers could be harmed if the foods they believe are low fat are not in fact low fat.

4. Sunset Provision

Another regulatory option available to FDA would be to limit the length of the time for which the notifier is required to continually submit information to FDA. This option would reduce costs by reducing the amount of information that must be provided to FDA. Although significant information may be generated with experience in marketing the product, at some point in time, the marginal cost of that information may exceed the marginal benefit. FDA requests comments on this option, including how long the manufacturer should be required to update the notification.

5. Multiple Digestibility Coefficients

FDA is raising questions about whether it is appropriate to establish one digestibility coefficient for fat and its fatty acid subcomponents for all approved uses of a fat substitute, or whether different digestibility coefficients should be established for each fatty acid subcomponent and for different uses. If different food components and different processing methods significantly affect the digestibility of fat, then different coefficients may be appropriate for different foods or different conditions of use. If one digestibility coefficient is appropriate for all approved uses, then the necessary tests will be conducted once as a part of the initial development and approval of the fat substitute.

The ability to make a nutrient content claim based on the availability of the fat then will apply to all producers of foods that include the fat substitute. However, if FDA determines that one digestibility coefficient for all uses is not appropriate, then the digestibility of the fat substitute will need to be tested, and a new notification submitted, as appropriate when the fat substitute is used under conditions that would change its digestibility. Because there are no official methods for determining the digestibility of a fat substitute, FDA cannot estimate the costs of performing new tests for each use. The agency is aware however that, animal tests are relatively costly, in excess of $100,000 per test and perhaps as high as $1 million. The digestibility of the fat substitute is likely to be tested only for those uses for which the expected revenues will exceed the costs of the tests and premarket notification. Because testing is a high fixed cost, digestibility coefficients would only be determined for products with a sufficiently high volume.

D. Regulatory Flexibility

FDA has also considered the impact of the premarket notification on small entities. None of the firms currently marketing fat-based fat substitutes, or the foods that contain them, are small. Therefore, the only potential for impact on small entities would be if this rule creates barriers to entry into markets for either fat-based fat substitutes or the products that contain them. The incremental cost of developing digestibility data and submitting it to FDA is not expected to be large relative to the cost of seeking approval for fat substitutes. In fact, because fat-based fat substitutes are developed specifically because of their reduced digestibility, digestibility testing for the initial intended uses may be a part of the development of the fat substitute. FDA requests comments on whether the incremental costs of the notification requirements themselves are likely to create barriers for the ability of small firms to develop or manufacture fat-based fat substitutes.

However, whether or not the notification requirements will create barriers for the ability of small entities to develop or manufacture foods that contain fat-based fat substitutes depends on whether or not one digestibility coefficient is determined to be appropriate for all approved food uses. If one coefficient is appropriate, then this rule is not expected to create any significant difficulties for small firms. However, if a separate digestibility coefficient is required for each approved use of a fat substitute, then this rule may create barriers to entry for small firms. As stated previously, the cost of testing the fat-based fat substitute for a particular use and submitting a notification will be prohibitive if the potential use is of sufficiently low volume. This situation will primarily occur in niche markets, which are dominated by small firms. Certain small firms might not be able to take advantage of the opportunity to market their product based on the amount of available fat. FDA cannot predict how many small firms, if any, might be prevented from using nutrient content claims based on available fat should different digestibility coefficients be required for each approved use of a fat substitute. However, given recent interest in reducing intakes of fat, it is likely that many small firms will have a desire to use fat-based fat substitutes and make claims based on available fat.

FDA requests comments, especially from small firms, on the economic implications of this proposal, specifically with respect to barriers to entry that might be created by a provision for different coefficients for each approved use.

Because of concerns regarding potential barriers to entry, if different digestibility coefficients are necessary for different uses of a fat-based fat substitute, it may cause a significant impact on small entities.

IV. The Paperwork Reduction Act of 1995

This proposed rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 and 3507). Therefore, in accordance with 5 CFR part 1320, a description of the information collection requirement is given below with an estimate of the annual collection of information burden. Included in the estimate is the time for reviewing instructions, gathering necessary information, and completion and submission of the notice. Also included is the time necessary for retaining records and making them available to appropriate regulatory officials.

FDA is soliciting comments to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) evaluate 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 automated collection techniques or other forms of information technology, when appropriate.

Title: Notification of fat substitute digestibility coefficient.

Description: Section 403(r) of the act requires that food bearing nutrient content claims be labeled in compliance with regulations issued by FDA. FDA

has issued regulations in § 101.62(b) and (c) for nutrient content claims that may be used to characterize the level of fat and fatty acids in food products. Among other things, § 101.62(b) and (c) define specific levels of fat that may not be exceeded for a food product to bear specific nutrient content claims concerning fat or fatty acids.

The regulations set forth in this proposed rule provide that the digestibility of fat or fatty acids can be used as a basis for determining whether a food complies with the level requirements established in § 101.62(b) and (c) for nutrient content claims for fat or fatty acids. The proposed rule requires that manufacturers that intend to market a fat-based substitute whose reduced availability can be relied upon as the basis for nutrient content claims for fat or fatty acids notify FDA at least 120 days before marketing the substance. Such notification shall include data and other appropriate information to establish the appropriateness of the digestibility coefficients to be used for the substance and a certification that all data of which the firm is aware that pertains to the digestibility of the fat-based fat substitute is being submitted, with assurances that any new data will also be promptly submitted as it becomes available. Firms that use the substance in their food products may proceed to use claims based on the digestibility coefficient for the substance if FDA does not object to the digestibility coefficient within the 120-day review period. The proposed rule also requires that manufacturers of food products whose labeling bears nutrient content claims based in part or whole on digestibility of a fat-based fat substitute retain the all records that support the quantitative declaration of fat and any fatty acid components declared for as long as the product is marketed. The manufacturer of such a food product would be required to make those records available for review and copying by appropriate regulatory officials upon request.

Descriptions of Respondents: Persons and businesses, including small businesses.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
101.63(c)	2	1	2	100	200
101.9(g)(10)	25	1	25	1	25
Total					225

There are no capital costs or operating and maintenance costs associated with this collection.

FDA believes that the information that would be submitted in a notification would be that information that a prudent business would obtain as a normal part of doing business.

The agency has submitted copies of the proposed rule to OMB for its review of these requirements. Interested persons are requested to submit written comments regarding information collection requirements by January 21, 1997, to the Office of Information and Regulatory Affairs, OMB (address above), ATTN: Desk Officer for FDA.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) 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.

VI. Comments

Interested persons may by April 21, 1997, submit to the Dockets Management Branch (address above) written comments regarding this proposal and may by January 21, 1997, submit comments on the information collection requirements. 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.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Bender, A. E., ''Nutritional Significance of Bioavailability,'' in *Nutrient Availability: Chemical & Biological Aspects*, edited by D. Southgate, I. Johnson, and G. R. Fenwick, The Royal Society of Chemistry, Thomas Graham House, Cambridge, England, pp. 3 to 9, 1989.

2. Merrill, A. L., and B. K. Watt, ''*Energy Value of Foods—Basis and Derivation*,'' U.S. Department of Agriculture, Agriculture Handbook No. 74, U.S. Government Printing Office, Washington, DC, revised February 1973.

3. Allison, R. G., and F. R. Senti, ''A Perspective on the Application of the Atwater System of Food Energy Assessment,'' Life Sciences Research Office, FASEB, Bethesda, MD, 1983.

4. Apgar, J. L., C. A. Shively, and S. M. Tarka, ''Digestibility of Cocoa Butter and Corn Oil and Their Influence on Fatty Acid Distribution in Rats,'' *Journal of Nutrition*, 117:660–665, 1987.

5. U.S. Department of Agriculture, ''Composition of Foods: Finfish and Shellfish Products,'' Agriculture Handbook Number 8–15, Human Nutrition Information Service, USDA, page 91, 1987.

6. U.S. Department of Health and Human Services, *The Surgeon General's Report on Nutrition and Health*, DHHS (Public Health Service) Publication No. 88–50210 (Government Printing Office Stock N. 017–001–00465–1), U.S. Government Printing Office, Washington, DC, 1988.

7. National Research Council, *Diet and Health—Implications for Reducing Chronic Disease Risk*, National Academy Press, Washington, DC, pp. 206–210, 654–656, 669–672, 1989.

8. National Heart, Lung, and Blood Institute, ''Report of the Expert Panel on Population Strategies for Blood Cholesterol Reduction,'' NCEP, PHS, National Institutes of Health, DHHS, Washington, DC; NIH Publication No. 90–3046, 1990.

9. U.S. Department of Agriculture and U.S. Department of Health and Human Services, ''Nutrition and Your Health, Dietary Guidelines for Americans,'' Washington, DC, Home and Garden Bulletin No. 232, 3d edition, U.S. Government Printing Office, 1990.

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11. Brindley, D. N., ''Absorption and Metabolism of Fats,'' in *Health Effects of Dietary Fatty Acids*, edited by G. L. Nelson, The American Oil Chemists' Society, Champaign, IL, pp. 35–47, 1991.

12. Carey, M. C., D. M. Small, and C. M. Bliss, ''Lipid Digestion and Absorption,'' *Annual Review of Physiology*, 45:651–677, 1983.

13. Vanderveen, J. E., N. D. Heidelbaugh, and M. J. O'Hara, ''Study of Man During a 56-day Exposure to an Oxygen-Helium

Atmosphere at 258 mm. Hg Total Pressure IX. Nutritional Evaluation of Feeding Bite-size Foods,'' *Aerospace Medicine*, 37:591–594, 1966.

14. Emken, E. A., R. O. Adolf, W. K. Rohwedder, and R. M. Gulley, ''Influence of Linoleic Acid on Desaturation and Uptake of Deuterium-labeled Palmitic and Stearic Acids in Humans,'' *Biochimica et Biophysica Acta*, 1170:173–181, 1993.

15. Chen, I. S., S. Subramaniam, G. V. Vahouny, M. M. Cassidy, I. Ikeda, and D. Kritchevsky, ''A Comparison of the Digestion and Absorption of Cocoa Butter and Palm Kernel Oil and Their Effects on Cholesterol Absorption in Rats,'' *Journal of Nutrition*, 1569–1573, 1989.

16. Erdman, J. W., C. L. Poor, and J. M. Dietz, ''Factors Affecting the Bioavailability of Vitamin A, Carotenoids, and Vitamin E,'' *Journal of Food Technology*, 42(10):214–221, 1988.

17. Letter from Stephen A. Brown to Dr. F. Edward Scarborough, Office of Food Labeling, FDA, May 29, 1996.

18. Memo from John Wallingford, Office of Special Nutritionals to the Director, Office of Food Labeling, FDA, September 30, 1996.

19. Labels of Hershey's Reduced Fat Baking Chips and Snackwell's Fudge Dipped Granola Bars.

20. The American Dietetic Association, ''1995 Nutrition Trends Survey, Executive Summary,'' Chicago, IL, 1995.

21. Food and Agriculture Organization of the United Nations and the World Health Organization, ''Fats and Oils in Human Nutrition, Report of a Joint Expert Consultation,'' FAO Food & Nutrition Paper 57, Rome, October 19 to 26, 1993.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

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

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

2. Section 101.9 is amended by revising paragraph (c)(2), and by adding new paragraphs (d)(15) and (g)(10) to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(c) * * *

(2) ''Fat, total'' or ''Total fat'': A statement of the number of grams of total fat in a serving defined as total lipid fatty acids and expressed as triglycerides, except that, for a food that bears a claim that is made in compliance with § 101.63, a statement of the grams of available fat may be declared instead in accordance with paragraph (d)(15) of this section. Amounts shall be expressed to the nearest 0.5-gram increment below 5 grams and to the nearest gram increment above 5 grams. If the serving contains less than 0.5 gram, the content shall be expressed as zero.

(i) ''Saturated fat'' or ''Saturated'': A statement of the number of grams of saturated fat in a serving defined as the sum of all fatty acids containing no double bonds, except that, for a food that bears a claim that is made in compliance with § 101.63, a statement of the grams of available saturated fat may be declared instead in accordance with paragraph (d)(15) of this section. However, a label declaration of saturated fat content is not required for products that contain less than 0.5 gram of total fat in a serving if no claims are made about fat or cholesterol content, and if ''calories from saturated fat'' is not declared. Except as provided for in paragraph (f) of this section, if a statement of the saturated fat content is not required and, as a result, not declared, the statement ''Not a significant source of saturated fat'' shall be placed at the bottom of the table of nutrient values in the same type size. Saturated fat content shall be indented and expressed as grams per serving to the nearest 0.5-gram increment below 5 grams and to the nearest gram increment above 5 grams. If the serving contains less than 0.5 gram, the content shall be expressed as zero.

(ii) ''Polyunsaturated fat'' or ''Polyunsaturated'' (VOLUNTARY): A statement of the number of grams of polyunsaturated fat in a serving defined as cis,cis-methylene-interrupted polyunsaturated fatty acids may be declared voluntarily, except that when monounsaturated fat is declared or when a claim is made on the label or in labeling about fatty acids or cholesterol, label declaration of polyunsaturated fat is required. When a food bears a claim that is made in compliance with § 101.63, the grams of available polyunsaturated fat may be declared, in accordance with paragraph (d)(15) of this section, as the amount of polyunsaturated fat. Polyunsaturated fat content shall be indented and expressed as grams per serving to the nearest 0.5-gram increment below 5 grams and to the nearest gram increment above 5 grams. If the serving contains less than 0.5 gram, the content shall be expressed as zero.

(iii) ''Monounsaturated fat'' or ''Monounsaturated'' (VOLUNTARY): A statement of the number of grams of monounsaturated fat in a serving defined as cis-monounsaturated fatty acids may be declared voluntarily except that when polyunsaturated fat is declared or when a claim is made on the label or in labeling about fatty acids or cholesterol, label declaration of monounsaturated fat is required. When a food bears a claim that is made in compliance with § 101.63, the grams of available monounsaturated fat may be declared, in accordance with paragraph (d)(15) of this section, as the amount of monounsaturated fat. Monounsaturated fat content shall be indented and expressed as grams per serving to the nearest 0.5-gram increment below 5 grams and to the nearest gram increment above 5 grams. If the serving contains less than 0.5 gram, the content shall be expressed as zero.

* * * * *

(d) * * *

(15) For food products that bear a claim that is made in compliance with § 101.63, and that contain an ingredient for which a digestibility coefficient is used to calculate the number of grams of total fat or fatty acids that are available from the ingredient, there shall be, in the nutrition label, following the quantitative declaration of fat (and saturated fat, polyunsaturated fat, or monounsaturated fat, if declared) and again immediately preceding the footnote required by paragraph (d)(9) of this section, an asterisk (*) or other similar cross-reference symbol. The asterisk or other symbol shall be followed by a statement that the declared amount of ''total fat'' has been adjusted to reflect reduced digestibility of the ingredient (e.g., ''*Total fat content adjusted for reduced availability of fat from [name of ingredient]''). The footnote required by paragraph (d)(9) of this section shall be separated by a hairline from the footnote required under this paragraph.

* * * * *

(g) * * *

(10) Each person responsible for the labeling of a food that bears a claim that is made in compliance with § 101.63, and for which available fat is declared in accordance with paragraph (d)(15) of this section, shall retain, for as long as the food is marketed, all records that support the quantitative declaration of fat and any fatty acid subcomponents declared. Such records shall be made available for authorized inspection and copying by appropriate regulatory officials and shall be submitted to those regulatory officials upon request.

* * * * *

3. Section 101.13 is amended by revising paragraph (o) to read as follows:

§ 101.13 Nutrient content claims—general principles.

* * * * *

(o) Except as provided in §§ 101.10 and 101.63, compliance with requirements for nutrient content claims in this section and in the regulations in subpart D of this part will be determined using the analytical methodology prescribed for determining compliance with nutrition labeling in § 101.9.

* * * * *

4. Section 101.62 is amended by revising paragraphs (b)(1)(i), (b)(2)(i)(A), (b)(2)(i)(B), (b)(3)(i), (b)(4)(i), (b)(5)(i), (c)(1)(i), (c)(2)(i), (c)(3)(i), (c)(4)(i), and (c)(5)(i) to read as follows:

§ 101.62 Nutrient content claims for fat, fatty acid, and cholesterol content of foods.

* * * * *

(b) * * *

(1) * * *

(i) The food contains less than 0.5 g of total fat or, as provided in § 101.63, available fat per reference amount customarily consumed and per labeled serving or; in the case of a meal product or main dish product, less than 0.5 g total fat, or as provided in § 101.63, available fat per labeled serving; and

* * * * *

(2) * * *

(i)(A) The food has a reference amount customarily consumed greater than 30 g or greater than 2 tablespoons and contains 3 g or less of total fat or, as provided in § 101.63, available fat per reference amount customarily consumed; or

(B) The food has a reference amount customarily consumed of 30 g or less, or 2 tablespoons or less, and contains 3 g or less of total fat or, as provided in § 101.63, available fat per reference amount customarily consumed and per 50-g of food (for dehydrated foods that must be reconstituted before typical consumption with water or a diluent containing an insignificant amount, as defined in § 101.9(f)(1), of all nutrients per reference amount customarily consumed, the per 50-g criterion refers to the ''as prepared'' form); and

* * * * *

(3) * * *

(i) The product contains 3 g or less of total fat or, as provided in § 101.63, available fat per 100 g and not more than 30 percent of calories from fat; and

* * * * *

(4) * * *

(i) The food contains at least 25 percent less total fat or, as provided in § 101.63, available fat per reference amount customarily consumed than an appropriate reference food as described in § 101.13(j)(1); and

* * * * *

(5) * * *

(i) The food contains at least 25 percent less total fat or, as provided in § 101.63, available fat per 100 g of food than an appropriate reference food as described in § 101.13(j)(1); and

* * * * *

(c) * * *

(1) * * *

(i) The food contains less than 0.5 g of saturated fat or, as provided in § 101.63, available saturated fat and less than 0.5 g *trans* fatty acid per reference amount customarily consumed and per labeled serving, or in the case of a meal product or main dish product, less than 0.5 g of saturated fat or, as provided in § 101.63, available saturated fat and less than 0.5 g *trans* fatty acid per labeled serving; and

* * * * *

(2) * * *

(i) The food contains 1 g or less of saturated fat or, as provided in § 101.63, available saturated fat per reference amount customarily consumed and not more than 15 percent of calories from saturated fat; and

* * * * *

(3) * * *

(i) The food contains 1 g or less of saturated fat or, as provided in § 101.63, available saturated fat per 100 g and less than 10 percent of calories from saturated fat; and

* * * * *

(4) * * *

(i) The food contains at least 25 percent less saturated fat or, as provided in § 101.63, available saturated fat per reference amount customarily consumed than an appropriate reference food as described in § 101.13(j)(1); and

* * * * *

(5) * * *

(i) The food contains at least 25 percent less saturated fat or, as provided in § 101.63, available saturated fat per 100 g of food than an appropriate reference food as described in § 101.13(j)(1); and

* * * * *

5. New § 101.63 is added to subpart D to read as follows:

§ 101.63 Nutrient content claims for fat and fatty acids based on use of ingredients formulated to reduce amount of available fat.

(a) *Coverage.* This regulation defines the circumstances in which nutrient content claims for fat and fatty acids can be made for foods that contain manufactured fat-based fat substitutes that have been formulated to provide functional characteristics of fat but to limit or eliminate absorption and digestion of the fat from the substance by the body, thereby restricting the availability of the fat to the body.

(b) *Claims.* The terms defined in § 101.62 may be used on the label or in the labeling of foods that contain an ingredient that is covered under this paragraph, provided that:

(1) There has been compliance with the notification provisions of paragraph (c) of this section, and FDA has not objected (see paragraph (d) of this section);

(2) The level of available fat or available saturated fat in the food meets the applicable level in § 101.62; and

(3) The food is nutrition labeled in accordance with paragraph (e) of this section.

(c) *Notification.* The manufacturer of an ingredient covered under paragraph (a) of this section shall notify FDA at least 120 days before such ingredient is introduced into or delivered for introduction into interstate commerce. Such notification shall be signed by a responsible person and shall include:

(1) The name and address of the manufacturer and a contact person;

(2) The common or usual name of the fat substitute that is the subject of the claim (i.e., the notified substance);

(3) Descriptive information that characterizes the substance, including its chemical structure and physical characteristics, its purity and homogeneity, and a detailed description of the analytical methodology for determining the amount of the substance present in a food or a statement that refers the agency to where this analytical methodology can be found in its records (e.g., in a filed food additive petition or in a petition for affirmation that use of a substance is generally recognized as safe). Where the substance is part of a family of similar structured fats, information should be submitted on the applicability of the digestibility coefficient to other forms of the substance;

(4) The digestibility coefficient that is expected to be used to adjust the amount of total fat or of fatty acids contributed by such an ingredient to reflect the amount of fat and fatty acids available from the finished food product;

(5) Data that establish the appropriateness of the digestibility coefficient to be used including, but not limited to:

(i) Evidence demonstrating the reduced absorption of the substance or its components, such as:

(A) An estimate of the biologic variability in the availability of the substance in humans and in the relationship between the amount of the substance ingested and the rate of absorption (i.e., dose-response);

(B) A statement of the relevance, and limit to relevance to the human, of any animal model used to estimate human digestion and absorption of the substance; and

(C) For any clinical studies that are relied on to demonstrate reduced absorption or digestion, information on the characteristics of the subjects studied and the manner in which they are representative of the population for whom the substance is intended. For example:

(*1*) An accounting of subjects enrolled in the study including those who did not complete the study, reasons for any noncompletion, and an assessment of the effect that noncompletion of subjects had on the results of the study; and

(*2*) A description of any adverse events that occurred during the study, and a comparison of the frequency and type of effects as a function of the feeding of the substance;

(ii) Information about foods or diets that may affect the digestibility coefficient, such as:

(A) Interactions of the substance with other components of foods or the diet that could significantly affect the digestibility coefficient;

(B) Steps in processing of the types of foods expected to contain the fat substitute that could affect the digestibility coefficient;

(C) The amount of the substance used in feeding studies, the relationship of that amount to expected levels of intake, and the dose-response relationship between the amount of the substance and the digestibility coefficient; and

(D) The duration of feeding studies and changes in the digestibility coefficient with continued exposure;

(6) A certification that all data of which the firm is aware that pertain to the digestibility of the fat substitute have been submitted, and that any new data will be promptly submitted as it becomes available for as long as the ingredient is marketed; and

(7) Such notification shall be submitted to the Office of Food Labeling (HFS–150), Food and Drug Administration, 200 C St., SW., Washington, DC 20204.

(d) *FDA review.* Upon receipt, FDA will notify the submitting firm that it has received the notification and will commence its review. If firms do not receive written objections from FDA within 120 days of FDA's receipt of the notification, nutrient content claims based on the digestibility coefficient submitted may be used.

(e) *Nutrition labeling.* When a claim is made for fat or saturated fat under this section, the nutrition label shall declare the amount of available fat or saturated fat in accordance with § 101.9(d)(15).

(f) *Misbranding.* Any food product containing ingredients that are covered under paragraph (a) of this section that bears a claim based on available levels of fat for which supporting data have not been provided to FDA in accordance with this section or to which FDA has objected in response to the notification filed in accordance with paragraph (c) of this section will be deemed to be misbranded under section 403(a) and (r)(1)(A) of the Federal Food, Drug, and Cosmetic Act.

Dated: December 11, 1996.

William B. Schultz,

Deputy Commissioner for Policy

[FR Doc. 96–32124 Filed 12–19–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209672–93]

RIN 1545–AS16

Credit for Employer Social Security Taxes Paid on Employee Tips

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to the credit for employer FICA taxes paid with respect to certain tips received by employees of food or beverage establishments. The proposed regulations were published in the Federal Register on December 23, 1993. Changes to the law made by the Small Business Job Protection Act of 1996 have made these proposed regulations obsolete.

FOR FURTHER INFORMATION CONTACT: Jean M. Casey at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1993, the IRS issued proposed regulations (EE–71–93) (58 FR 68091) under section 45B of the Internal Revenue Code relating to the credit for employer FICA taxes paid with respect to certain tips received by employees of food or beverage establishments. Amendments made by section 1112(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188) render the proposed regulations obsolete. Therefore, proposed regulation § 1.45B–1 is being withdrawn.

On December 23, 1993, the IRS also published temporary regulations (TD 8503) (58 FR 68033) under section 45B of the Code. These temporary regulations are being removed in a separate document.

List of Subjects in 26 CFR Part 1

Income taxes, Penalties, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking that was published in the Federal Register on December 23, 1993 (58 FR 68091) is withdrawn.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–32250 Filed 12–19–96; 8:45 am]

BILLING CODE 4830–01–P

Financial Crimes Enforcement Network Proposed Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping by Card Clubs

31 CFR Part 103

RIN 1506–AA18

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Financial Crimes Enforcement Network (''FinCEN'') is proposing to amend the regulations implementing the statute generally referred to as the Bank Secrecy Act to include certain gaming establishments, commonly called ''card clubs,'' ''card rooms,'' ''gaming clubs,'' or ''gaming rooms'' within the definition of financial institution subject to those regulations.

DATES: Written comments must be received on or before March 20, 1997.

ADDRESSES: Written comments should be submitted to: Office of Regulatory Policy and Enforcement, Financial Crimes Enforcement Network, Department of the Treasury, 2070 Chain Bridge Road, Vienna, Virginia 22182, Attention: NPRM—Card Clubs.

SUBMISSION OF COMMENTS: Comments on all aspects of the proposed regulation are welcome and will be considered if submitted in writing prior to March 20,

1997. An original and four copies of any comments must be submitted. All comments will be available for public inspection and copying, and no material in any such comments, including the name of any person submitting comments, will be recognized as confidential. Accordingly, material not intended to be disclosed to the public should not be submitted.

INSPECTION OF COMMENTS: Comments may be inspected at the Department of the Treasury between 10:00 a.m. and 4:00 p.m., in the Financial Crimes Enforcement Network (''FinCEN'') reading room, on the third floor of the Treasury Annex, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. Persons wishing to inspect the comments submitted should request an appointment by telephoning (202) 622–0400.

FOR FURTHER INFORMATION CONTACT: Leonard C. Senia, Senior Financial Enforcement Officer, Office of Regulatory Policy and Enforcement, Financial Crimes Enforcement Network (703) 905–3931, or Joseph M. Myers, Attorney-Advisor, Office of Legal Counsel, Financial Crimes Enforcement Network, (703) 905–3557.

SUPPLEMENTARY INFORMATION:

Introduction

This document proposes (i) to add a definition of ''card club,'' in a new paragraph (8) of 31 CFR 103.11(n), as a component of the definition of ''financial institution'' for purposes of the Bank Secrecy Act rules, (ii) to provide, by means of a new paragraph (7)(iii) in section 103.11(n), for treatment of card clubs generally in the same manner as casinos under the Bank Secrecy Act, (iii) to renumber paragraphs (8) and (9) of section 103.11(n) as paragraphs (9) and (10), respectively, and (iv) to add a new paragraph (11), applicable only to card clubs, to 31 CFR 103.36(b), to require retention by card clubs of records of a customer's currency transactions, and records of all activity at card club cages or similar facilities, maintained in the ordinary course of a club's business. The proposed changes reflect the authority contained in section 409 of the Money Laundering Suppression Act of 1994 (the ''Money Laundering Suppression Act''), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325.

Background

The statute popularly known as the ''Bank Secrecy Act,'' Titles I and II of Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330), appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The range of financial institutions to which the Bank Secrecy Act applies is not limited to banks and other depository institutions. It also includes securities brokers and dealers, money transmitters, and the other non-bank businesses that offer customers one or more financial services.

State licensed gambling casinos were generally made subject to the Bank Secrecy Act as of May 7, 1985, by regulation issued early that year. *See* 50 FR 5065 (February 6, 1985).[1] Gambling casinos authorized to do business under the Indian Gaming Regulatory Act became subject to the Bank Secrecy Act on August 1, 1996. *See* 61 FR 7054–7056 (February 23, 1996).[2]

In recognition of the importance of application of the Bank Secrecy Act to the gaming industry, section 409 of the Money Laundering Suppression Act codified the application of the Bank Secrecy Act to gaming activities by adding casinos and other gaming establishments to the list of financial institutions specified in the Bank Secrecy Act itself.[3] The statutory specification reads:

(2) financial institution means—

* * * * *

(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act) * * *

31 U.S.C. 5312(a)(2)(X). Treasury has previously indicated that it is in the process of rethinking the application of the Bank Secrecy Act to gaming establishments. *See* 59 FR 61660–61662 (December 1, 1994) and 61 FR 7054, 7055 (February 23, 1996). This notice of proposed rulemaking is a step in that process.

Explanation of Provisions

A. Overview

The proposed regulations would expand the range of gaming establishments to which the Bank Secrecy Act applies to include card clubs. Generally card clubs would be subject to the same rules as casinos (a matter on which comment is specifically requested below), unless a specific provision of the rules in 31 CFR Part 103 applicable to casinos explicitly required a different treatment for card clubs.

B. Definition of Card Club

The definition of card club itself is proposed to be added as a component of the definition of ''financial institution'' in a new paragraph 31 CFR 103.11(n)(8).[4] Under the proposed amendment, the term would include, *inter alia*, any establishment of the type commonly referred to as a ''card club,'' ''card room,'' ''gaming club'' or ''gaming room,'' that is duly licensed or authorized to do business either under state law, under the laws of a particular political subdivision within a state, or under the Indian Gaming Regulatory Act or other federal, state, or tribal law or arrangement affecting Indian lands. Card clubs licensed by U.S. territories or possessions would also fall within the definition.

The general need for and appropriateness of treatment of casinos as financial institutions for purposes of the Bank Secrecy Act have been accepted, as indicated above, since the mid-1980s. Treasury has made clear the need to prevent casinos, which both deal in cash and cash-equivalent chips

[1] Casinos with gross annual gaming revenue of $1 million or less were, and continue to be, excluded from coverage.

[2] Treasury has issued four sets of rules in all relating to the application of the Bank Secrecy Act to casino gaming establishments. *See*, in addition to the two rules cited in the text, 54 FR 1165–1167 (January 12, 1989), and 59 FR 61660–61662 (December 1, 1994) (modifying and putting into final effect the rule originally published at 58 FR 13538–13550 (March 12, 1993)).

[3] The 1985 action initially making casinos subject to the Bank Secrecy Act had been based on Treasury's statutory authority to designate as financial institutions (i) businesses that engage in activities ''similar to'' the activities of the businesses listed in the Bank Secrecy Act, as well as (ii) other businesses ''whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.'' *See* 31 U.S.C. 5312(a)(2)(Y) and (Z) (as renumbered by the Money Laundering Suppression Act).

[4] As indicated, no language in the financial institution definition is being deleted; present paragraphs 103.11(n)(8) and (n)(9) would simply become paragraphs (n)(9) and (n)(10), respectively.

and can offer a variety of other financial services to customers, from being used to avoid the effect of the Bank Secrecy Act.[5]

Although application of the Bank Secrecy Act to gaming establishments has heretofore been limited to casinos, that limitation is not a statutory one. As noted, the statutory definition of financial institution includes any establishment licensed as a ''gaming establishment,'' whether the licensing authority is a state, a municipality or other state subdivision, or one of the licensing authorities recognized by the Indian Gaming Regulatory Act. *See* 31 U.S.C. 5311(a)(2)(X)(quoted above).

Card clubs are a fast-growing segment of the gaming industry, primarily in California. Although card club operations differ, the establishments generally offer facilities for gaming by customers who bet against one another, rather than against the establishment. Most large card clubs run the games, but the clubs earn their revenue by receiving a fee from customers (for example a per table charge) rather than from, as in a classic casino, running games *and* effectively ''banking'' the games offered so that customers bet against the house.

While the scope of casinos and card club operations may have differed in the past, they no longer necessarily do so. California and some other states in which card clubs operate do not permit casino gaming (or only permit such gaming in limited forms). But, for example, customers at California card clubs wagered about $8.9 billion in 1995. Against that background, there are two primary reasons that card clubs, like other gaming establishments, require coverage under the Bank Secrecy Act.

First, many card clubs, like casinos, now offer their customers a wide range of financial services. As it indicated when it proposed extension of the Bank Secrecy Act to tribal casinos, the Treasury has generally sought to apply the Bank Secrecy Act to gaming establishments that provide their customers with a financial product—gaming—and as a corollary offer a broad array of financial services, such as customer deposit or credit accounts, facilities for transmitting and receiving funds transfers directly from other institutions, and check cashing and currency exchange services, that are similar to those offered by depository institutions and other financial firms. The fact that the gaming at card clubs does not directly involve the wagering of house monies in no way alters the fact that vast sums of currency and other funds pass through such establishments, or the fact that card clubs are coming to offer their customers corollary financial services to facilitate the movement of funds.

Second, card clubs are at least as vulnerable as other gaming establishments to use by money launderers and those seeking to commit tax evasion or other financial crimes, both because of their size and because those institutions lack many of the controls found at casinos. Given their growth, their prevalence in the nation's most populous state, and their potential for expansion, there is no basis for distinguishing card clubs from casinos for purposes of the Bank Secrecy Act.[6]

There is also some indication that the line between card clubs and casinos may be blurring in practice. Thus, FinCEN noted in the preamble to the final rule extending the Bank Secrecy Act to tribal casinos that:

> [A]n establishment that claimed to be a gambling ''club'' rather than a casino because it simply offered customers an opportunity to gamble with one another, but that in practice funded certain customers so that other customers were in effect gambling against ''house'' money, and that offered its customers financial services of various kinds, is arguably a casino under present law. Thus, for example, if such a ''club'' failed to file currency transactions reports or allowed a customer to deposit funds in a player bank account in the name of the customer without requiring the customer to provide identifying information, the club would arguably be operating in violation of the Bank Secrecy Act.

61 FR 7055 note 1.

Given the growth of card clubs and their potential for offering a venue for money launderers, the application of the Bank Secrecy Act to such establishments should not depend on whether games are banked or otherwise backed with house funds.[7] Similarly, the fact that some card clubs operating under the terms of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq*, may be Class II rather than Class III establishments for purposes of the regulatory provisions of that legislation (so that card clubs are subject to tribal regulation rather than to regulation pursuant to state-tribal compact), does not provide a relevant distinction for Bank Secrecy Act purposes.[8] (As was the case with tribal casinos, a card club that operates on Indian lands under a view that compliance with the Indian Gaming Regulatory Act is unnecessary or inconsistent with inherent tribal rights would not for that reason be exempted from the terms of the Bank Secrecy Act, to the extent that those terms would otherwise apply to the card club's operations.)

Card clubs, like casinos, will only become subject to the Bank Secrecy Act once they generate more than $1 million in ''gross annual gaming revenue.'' Treasury believes that as applied to card clubs the term includes revenue derived from or generated by customer gaming

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[5] The preamble to the final rule bringing casinos within the Bank Secrecy Act stated that

> [i]n recent years Treasury has found that an increasing number of persons are using gambling casinos for money laundering and tax evasion purposes. In a number of instances, narcotics traffickers have used gambling casinos as substitutes for other financial institutions in order to avoid the reporting and recordkeeping requirements of the Bank Secrecy Act.
>
> Inclusion of casinos in the definition of financial institution[s] in 31 CFR Part 103 was among the specific recommendations in the October 1984 report of the President's Commission on Organized Crime, ''The Cash Connection: Organized Crime, Financial Institutions, and Money Laundering.'' The problem was also the subject of hearings in 1984 before the House Judiciary Subcommittee on Crime entitled ''The Use of Casinos to Launder the Proceeds of Drug Trafficking and Organized Crime.''
>
> In order to prevent the use of casinos in this fashion, Treasury is amending the regulations in 31 CFR Part 103 to require gambling casinos to file the same types of reports [and maintain the same types of records] that it requires from financial institutions currently covered by the Bank Secrecy Act.

50 FR 5065, 5066, (February 6, 1985); *see also* 49 FR 32861, 32862 (August 17, 1984) (corresponding language in notice of proposed rulemaking).

[6] Federal and state law enforcement authorities have expressed concern for several years about card clubs as venues for criminal activity. *See, e.g.,* Asian Organized Crime, Part I, S. Rep. 102–346, 101st Cong., 1st Sess. (1991); Asian Organized Crime: the New International Criminal, S. Rep. 102–940, 101st Cong., 2nd. Sess. (1992); Office of the Attorney General of California, ''Status of Cardroom Gambling in California and the Proposed Gambling Control Act'' (Public Document, February 1995); *cf.* Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs, Hearings: Asset Forfeiture Program—A Case Study of the Bicycle Club Casino, 104th Cong., 2nd. Sess. (March 19, 1996).

[7] At present, the *receipt* of cash in excess of $10,000 by card clubs in a single transaction (or multiple related transactions) is required to be reported under section 6050I of the Internal Revenue Code. The limited cash transaction reporting rules of section 6050I (which apply to currency received in all non-financial trades or businesses) are not as extensive as the reporting rules of the Bank Secrecy Act (which apply both to receipts and payments of currency and are not matched by recordkeeping, suspicious transaction reporting, and anti-money laundering compliance program rules).

[8] The National Indian Gaming Commission has taken the position that games banked by players, rather than the house, are nonetheless ''banked card games'' whose operation is required to occur in a Class III facility. Thus it appears that some percentage of card clubs on tribal lands will be, or will be operated within, Class III facilities that will generally become subject to the Bank Secrecy Act on August 1, 1996. *See* National Indian Gaming Commission Bulletin 95–1 (April 10, 1995). FinCEN understands that certain Asian card games (whose rules employ a betting formula in which a player does not offer to take on all competitors), may be permitted to be offered in Class II facilities for purposes of the Indian Gaming Regulatory Act.

activity (whether in the form of per-game or per-table fees, fees based on winnings, rentals, or otherwise) and received by an establishment.

C. Treatment of Card Clubs Under the Bank Secrecy Act

Under the proposed regulations, card clubs would be treated under the Bank Secrecy Act in the same manner as casinos unless specific provisions of the rules in 31 CFR Part 103 explicitly require a different treatment. Thus, card clubs would become subject not simply to the Bank Secrecy Act's currency transaction reporting rules but to the full set of provisions (described by the Congress as ''a comprehensive currency reporting and detailed recordkeeping system with numerous anti-money laundering safeguards'' [9]) to which casinos in the United States are subject.

Treatment of card clubs on a par with casinos would generally impose on such clubs the Bank Secrecy Act rules that apply to casinos. Thus, each card club would be required to file with the Department of the Treasury a report of each receipt or disbursement of more than $10,000 in currency in its operations during any gaming day; aggregation of multiple currency transactions is required in a number of situations. *See* 31 CFR 103.22(a)(2). The requirement would apply to all receipts or disbursements of currency in connection with gaming activities at the card club, including, but not limited to, transfers of currency for chip purchases or redemptions, exchanges of bills of one denomination for bills of another denomination, exchanges of one currency for another currency, transfers to or from player accounts or deposit facilities, payments or advances on credit, wagers of currency or payments of currency to settle wagers, and transfers intended for conversion to other forms of negotiable instruments or for electronic funds transfer or transmittal out of, or as a result of such transfer or transmittal into, the card club.[10]

It is particularly important to understand that the requirements would apply regardless of where the transfers occur at the card club. Thus no distinction is to be made between, for example, transactions at a cage, cashier, or other central facility, and chip purchases or redemptions from club runners or from dealers or other operators of specific games.

Each card club would also be required, like a casino, to maintain, and to retain, certain records relating to its operation, including records identifying account holders (*see* 31 CFR 103.36(a)), records showing transactions for or through each customer's account (*see, generally,* 31 CFR 103.36(b)), and records of transactions involving persons, accounts or places outside the United States. *See* 31 CFR 103.36(b)(5). Records of transactions of more than $3,000 involving checks or other monetary instruments and records that are prepared or used by a card club to monitor a customer's gaming activity are also among the types of records that would be required to be maintained. *See* 31 CFR 103.36 (b)(8) and (b)(9). (A specific record retention requirement, applicable only to card clubs, is discussed below.) Finally, card clubs would be required to institute training and internal control programs to assure and monitor compliance with the Bank Secrecy Act. *See* 31 CFR 103.36(b)(10) and 103.54(a).[11]

Card clubs within the scope of the proposed rule will in any event remain subject to the filing requirements of section 6050I of the Internal Revenue Code, with respect to their gaming and financial services operations, until the proposals made by this document become effective as a final rule. *See* section 6050I (a) and (c) of the Internal Revenue Code, 26 U.S.C. 6050I(a) and (c), and Treas. Reg. 1.6050I–1(d)(2). Section 6050I of the Code will continue to apply to any non-gaming and non-financial services operations (for example restaurant service), at card clubs that become subject to the Bank Secrecy Act.

D. Additions to Record Retention Requirements

The proposed rule contains one new record retention requirement, applicable only to card clubs. A proposed new paragraph (11) of 31 CFR 103.36(b) would require card clubs to retain, for five years, all currency transaction logs, multiple currency transaction logs, and cage control logs that the clubs maintain in their business operations. This requirement is proposed to assure an adequate basis for the audit of compliance or review of compliance by card clubs with the Bank Secrecy Act; the restriction of the requirement to card clubs reflects the absence for such clubs of a state regulatory scheme under whose terms similar records would already be required to be maintained.

E. Request for Comments on Specific Subjects

FinCEN recognizes that card club operations are not uniform throughout the United States, and it is keenly aware of the need to proceed thoughtfully in adopting the rules of the Bank Secrecy Act to the realities of those operations. FinCEN specifically seeks comment on the following questions:

1. Are there particular parts of the Bank Secrecy Act regulations applicable to casinos generally that cannot or should not be applied to card clubs?

2. What types of financial services, other than gaming, are offered by card clubs?

3. Do any elements of the operation of card clubs on tribal lands justify different treatment for such clubs than for other card clubs? Are specific rules necessary to take account of situations in which card clubs operate in Class II facilities that offer several different Class II gaming activities?

4. How can compliance with the Bank Secrecy Act by tribal card clubs best be examined and enforced?

In seeking guidance on these and other issues raised by this notice of proposed rulemaking, FinCEN is interested in hearing from all parties potentially affected by the proposed rules, including operators of card clubs, officials of jurisdictions in which card clubs are located, and Indian tribes on whose lands card club gaming is conducted.

Treasury is continuing to consider issues affecting the application of the Bank Secrecy Act to the gaming industry generally. Those issues include whether special rules should be applicable to small gaming establishments, and how best to implement with respect to gaming establishments the general provisions added to the Bank Secrecy Act by the Annunzio-Wylie Anti-Money Laundering Act of 1992, Title XV of the Housing and Community Development Act of 1992, Pub. L. 102–550, and the Money Laundering Suppression Act.

Proposed Effective Date

The amendments to 31 CFR Part 103 proposed in this notice of proposed rulemaking will become effective 90 days following publication in the

[9] *See* H.R. Rep. No. 652, 103rd Cong., 2nd Sess. 193 (1994).

[10] Legislation recently enacted in California adds gaming clubs to the list of financial institutions in that state that are required to report transactions in currency of more than $10,000 to the California Department of Justice. See Assembly Bill 3183 (signed September 28, 1996), amending Cal. Penal Code 14161. The new reporting requirement becomes effective on January 1, 1997. It is anticipated that the California and Bank Secrecy Act currency transaction reporting requirements will be coordinated (as is done in other situations in which Bank Secrecy Act and state reporting rules overlap) to reduce regulatory burden and costs of compliance.

[11] In addition, Treasury intends to issue regulations to require classes of non-bank financial institutions, including gaming establishments, to file reports of suspicious transactions. *See* 31 U.S.C. 5318(g)(1).

Federal Register of the final rule to which this notice of proposed rulemaking relates.

Special Analyses

It has been determined that this notice of proposed rulemaking (i) is not subject to the ''budgetary impact statement'' requirement of section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and (ii) is not a significant regulatory action as defined in Executive Order 12866. It is not anticipated that this proposed rule, if adopted as a final rule, will have an annual effect on the economy of $100 million or more. Nor will it, if so adopted, affect adversely 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. The proposed rule is neither inconsistent with, nor does it interfere with, actions taken or planned by other agencies. Finally, it raises no novel legal or policy issues.

A ''description of the reasons why action by the agency is being considered'' and a ''succinct statement of the objectives of, and legal basis for, the proposed rule''—all as required by 5 U.S.C. 553(b)—are found elsewhere in this preamble.

Paperwork Reduction Act

The proposed rule would add a new paragraph (b)(11) to section 103.36 to require card clubs to retain records, created in the ordinary course of business, (i) of currency transactions (for example, currency transaction logs and multiple currency transaction logs) and (ii) of all activity at card club cages or similar facilities, including, without limitation, cage control logs. FinCEN believes that, as a matter of usual and customary business practice, card clubs collect and maintain information about currency and cage transactions conducted by their customers; proposed paragraph (b)(11) would require simply that such records be retained for at least five years (the generally applicable Bank Secrecy Act record retention period). FinCEN thus believes that the retention requirement of proposed 103.36(b)(11), the only new retention requirement in the proposed rule, would impose a minimal additional burden on the card club industry. Nevertheless, because proposed 103.36(b)(11) is a recordkeeping obligation not presently found in 31 CFR Part 103, FinCEN hereby presents the following information concerning the retention of information on currency and cage transactions, in accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, to assist those persons wishing to comment on the proposed information retention requirement.

Proposed Collection Retention Requirement

Description of Respondents: All card clubs conducting transactions in currency and cage transactions with their customers and creating records of such transactions in the ordinary course of business.

Frequency: Each time a currency or cage transaction is recorded.

Estimated Number of Currency and Cage Transactions: Unknown.

Estimate of Total Annual Burden on Card Clubs: Recordkeeping burden estimate = approximately 686 hours per year.

Estimate of Total Annual Cost to Card Clubs for Hour Burdens: Based on $20 per hour, the total cost of compliance with the proposed recordkeeping rule is estimated to be approximately $14,000.

Estimate of Total Other Annual Costs to Respondents: None.

FinCEN specifically invites comments on the following subjects: (a) Whether the proposed collection of information is necessary to further the purposes of the Bank Secrecy Act, including whether the information retained shall have practical utility; (b) the accuracy of FinCEN'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 retained; and (d) ways to minimize the burden of the collection of information on the affected industry, including through the use of automated storage and retrieval techniques or other forms of information technology.

In addition, the Paperwork Reduction Act of 1995, *supra*, requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the retention of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the retention of the information covered by the requirement.

The information collection in the proposed rule has been submitted to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995. Comments on the proposed collection may be directed to the Office of Information and Regulatory Affairs of OMB, attention: Desk Officer for the Treasury Department. Responses to this request for comments from FinCEN will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Drafting Information

This notice of proposed rulemaking was prepared in FinCEN's Office of Legal Counsel, with the participation of staff members of FinCEN's Office of Regulatory Policy and Enforcement.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks, banking, Currency, Foreign banking, Gambling, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Proposed Amendments to the Regulations

Accordingly, 31 CFR Part 103 is proposed to be amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. Section 103.11 is amended by redesignating paragraphs (n)(8) and (n)(9) as paragraphs (n)(9) and (n)(10), respectively, and by adding new paragraphs (n)(7)(iii) and (n)(8) to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(n) * * *

(7) * * *

(iii) Any reference in this Part, other than in this paragraph (n)(7) and in paragraph (n)(8), to a casino shall also include a reference to a card club, unless the provision in question contains specific language varying its application to card clubs or excluding card clubs from its application.

(8)(i) *Card club.* A card club, gaming club, card room, gaming room, or similar gaming establishment that is duly licensed or authorized to do business as such in the United States, whether under the laws of a State, of a Territory or Insular Possession of the United States, or of a political subdivision of any of the foregoing, or under the Indian Gaming Regulatory Act or other federal, state, or tribal law or arrangement affecting Indian lands (including, without limitation, an establishment operating on the assumption or under the view that no such authorization is required for

operation on Indian lands for an establishment of such type), and that has gross annual gaming revenue in excess of $1,000,000. The term includes the principal headquarters and every domestic branch or place of business of the establishment. The term ''casino,'' as used in this Part shall include a reference to ''card club'' to the extent provided in paragraph (n)(7)(iii).

(ii) For purposes of this paragraph (n)(8), ''gross annual gaming revenue'' means the gross revenue derived from or generated by customer gaming activity (whether in the form of per-game or per-table fees, however computed, rentals, or otherwise) and received by an establishment, during either the establishment's previous business year or its current business year. A card club that is a financial institution for purposes of this Part solely because its gross annual revenue exceeds $1,000,000 during its current business year, shall not be considered a financial institution for purposes of this Part prior to the time in its current business year when its gross annual revenue exceeds $1,000,000.

3. Section 103.36 is amended by adding a new paragraph (b)(11) to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(11) In the case of card clubs only, records of all currency transactions by customers, including without limitation, records in the form of currency transaction logs and multiple currency transaction logs, and records of all activity at cages or similar facilities, including, without limitation, cage control logs.

* * * * *

Dated: December 16, 1996.

Stanley E. Morris,

Director, Financial Crimes Enforcement Network.

[FR Doc. 96–32396 Filed 12–19–96; 8:45 am]

BILLING CODE 4820–03–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Danger Zones and Restricted Areas

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Proposed rule.

SUMMARY: The Corps proposes to amend most of the regulations promulgated in 33 CFR Part 334, which establish danger zones and restricted areas in waters of the United States. This minor editorial amendment to the regulations clarifies that persons, as well as vessels or other listed watercraft, are subject to the restrictions placed on the use of and entry into the areas established by the danger zone and restricted area regulations. This clarification does not affect the size, location or further restrict the public's use of the areas. The danger zones and restricted areas continue to be essential to the safety and security of Government facilities, vessels and personnel and protect the public from the hazards associated with the operations at the Government facilities.

DATES: Comments should be received on or before February 18, 1997.

ADDRESS: Send comments to: HQUSACE, CECW–OR, Washington, D.C. 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Eppard, Regulatory Branch, CECW–OR at (202) 761–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps proposes to amend danger zone and restricted area regulations in 33 CFR Part 334, by inserting the word ''person'', or similar verbiage that clarifies, as appropriate, that the regulations affect persons in a vessel, as well as persons outside of vessels in the water, engaged in activities such as, swimming, diving, floating, waterskiing, and snorkeling. The addition of the word ''person'' to existing danger zone/restricted area regulations is necessary due to a recent lawsuit which involved a person trespassing (swimming) into a restricted area where the existing regulations prohibited entry by vessels or other craft but did not specifically prohibit entry by persons. We are taking this opportunity to change all danger zone and restricted area regulations in 33 CFR Part 334, which have a stated restriction or prohibition on vessels, watercraft and the like, but do not specifically address entry into the area(s) by persons swimming, floating, waterskiing, diving, or by any means allowing them entry into the area by water. Clearly, since the intent of the regulations when promulgated was to restrict the public's use of a designated water area, the changes proposed today will have no additional effect on the public.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the changes to the danger zones would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal is adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

We have concluded, based on the minor nature of the editorial changes that these amendments to danger zones and restricted areas will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required.

d. Unfunded Mandates Act

This rule, if established, does not impose an enforceable duty among the private sector and therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger Zones.

For the reasons set out in the preamble, we propose to amend 33 CFR Part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.10 is amended by revising the first sentence of paragraph (b)(5), to read as follows:

§ 334.10 Gulf of Maine off Seals Island, Maine; naval aircraft bombing target area.

* * * * *

(b) *The regulations.* * * *

(5) Prior to the conducting of each bombing practice, the area will be patrolled by a non-participating naval aircraft to ensure that no persons or watercraft are within the danger zone and to warn any such person or watercraft seen in the vicinity by means of a signal that bombing practice is about to take place. * * *

* * * * *

3. Section 334.30 is amended by revising paragraph (b)(3), to read as follows:

§ 334.30 Gulf of Maine off Pemaquid Point, Maine; Navalsonobuoy test area.

* * * * *

(b) *The regulations.* * * *

(3) Prior to and during the period when sonobuoys are being dropped, an escort vessel from the U.S. Naval Air Station will be in the vicinity to ensure that no persons or vessels are in the testing area. Vessels may be requested to veer off when sonobuoys are about to be dropped; however, drops will be made only when the area is actually clear of persons and vessels as ascertained by the project aircraft and the surface vessel.

4. Section 334.40 is amended by revising paragraph (b)(1), to read as follows:

* * * * *

§ 334.40 Atlantic Ocean in vicinity of Duck Island, Maine, Isles of Shoals; naval aircraft bombing target area.

* * * * *

(b) *The regulations.* (1) No person or vessel shall enter or remain in the danger zone from 8:00 a.m. to 5 p.m. (local time) daily, except as authorized by the enforcing agency.

* * * * *

5. Section 334.50 is amended by revising paragraph (b), to read as follows:

§ 334.50 Piscataua River at Portsmouth Naval Shipyard, Kittery, Maine; restricted areas.

* * * * *

(b) *The regulations.* All persons, vessels and other craft, except those vessels under the supervision of or contract to local military or naval authority, are prohibited from entering the restricted areas without permission from the Commander, Portsmouth Naval Shipyard or his/her authorized representative.

6. Section 334.60 is amended by revising paragraph (b)(1), to read as follows:

§ 334.60 Cape Cod Bay south of Wellfleet Harbor, Mass.; naval aircraft bombing target area.

* * * * *

(b) *The regulations.* (1) No person or vessel shall enter or remain in the danger zone at any time, except as authorized by the enforcing agency.

* * * * *

7. Section 334.70 is amended by revising paragraph (a)(2), to read as follows:

§ 334.70 Buzzards Bay, and adjacent waters, Mass.; danger zones for naval operations.

(a) *Atlantic Ocean in vicinity of No Man's Land.*

* * * * *

(2) *The regulations.* No vessel or person shall at any time enter or remain within a rectangular portion of the area bounded on the north by latitude 41°16′00″, on the east by longitude 70°47′30″, on the south by latitude 41°12′30″, and on the west by longitude 70°50′30″, or within the remainder of the area between November 1, and April 30, inclusive, except by permission of the enforcing agency.

* * * * *

8. Section 334.75 is amended by revising the third sentence in paragraph (b)(1), to read as follows:

§ 334.75 Thames River, Naval Submarine Base New London, restricted area.

* * * * *

(b) *The regulations.* (1) * * * However, all persons, vessels and watercraft, except U.S. military personnel and vessels must leave the restricted area when notified by personnel of the New London Submarine Base that such use will interfere with submarine maneuvering, operations or security.

* * * * *

9. Section 334.78 is amended by revising paragraph (b)(1), to read as follows:

§ 334.78 Rhode Island Sound, Atlantic Ocean, approximately 4.0 nautical miles due south of Lands End in Newport, R.I.; restricted area for naval practice minefield.

* * * * *

(b) *The regulations.* (1) No persons, vessels or other watercraft will be allowed to enter the designated area during minefield training.

* * * * *

10. Section 334.90 is amended by revising paragraph (b)(2), to read as follows:

§ 334.90 Waters of Atlantic Ocean; National Guard Training Center, Sea Girt, N.J.

* * * * *

(b) *The regulations.* * * *

(2) No person or vessel shall enter or remain in the danger zone during the operation of the firing range, excepting vessels of the United States or the State of New Jersey.

* * * * *

11. Section 334.100 is amended by revising paragraph (b)(1), to read as follows:

§ 334.100 Atlantic Ocean off Cape May, N.J.; Coast Guard Rifle Range.

* * * * *

(b) *The regulations.* (1) No person or vessel shall enter or remain in the danger area between sunrise and sunset daily, except as authorized by the enforcing agency.

* * * * *

12. Section 334.130 is amended by revising paragraphs (b)(1) and the first sentence of paragraph (b)(2), to read as follows:

§ 334.130 Atlantic Ocean off Wallops Island and Chincoteague Inlet, Va.; danger zone.

* * * * *

(b) *The regulations.* (1) Persons and vessels may enter and operate in the danger zone at all times when warning signals are not displayed.

(2) When warning signals are displayed, all persons and vessels in the danger zone, except vessels entering or departing Chincoteague Inlet, shall leave the zone promptly by the shortest possible route and shall remain outside the zone until allowed by a patrol boat to enter or the danger signal has been discontinued. * * *

* * * * *

13. Section 334.170 is amended by revising paragraphs (b)(1) and (b)(2), to read as follows:

§ 334.170 Chesapeake Bay, in the vicinity of Chesapeake Beach, Md.; firing range, Naval Research Laboratory.

* * * * *

(b) *The regulations.* (1) No person or vessel shall enter or remain in Area A at any time.

(2) No person or vessel shall enter or remain in Area B or Area C between the hours of 1:00 p.m. and 5:00 p.m. daily except Sundays, except that through navigation of commercial craft will be permitted in Area C at all times, but such vessels shall proceed on their normal course and shall not delay their progress.

* * * * *

14. Section 334.190 is amended by revising paragraphs (b)(1) and (b)(2), to read as follows:

§ 334.190 Chesapeake Bay, in vicinity of Bloodsworth Island, Md.; shore bombardment, air bombing, air strafing, and rocket firing area, U.S. Navy.

* * * * *

(b) *The regulations.* (1) Persons, vessels or other craft shall not enter or remain in the prohibited area at any time unless authorized to do so by the enforcing agency.

(2) No person, vessel or other craft shall enter or remain in the danger zone when notified by the enforcing authority to keep clear or when firing is or will soon be in progress, except as provided in paragraph (b)(5) of this section.

* * * * *

15. Section 334.210 is amended by revising paragraphs (b)(1), (b)(2), and (b)(5), to read as follows:

§ 334.210 Chesapeake Bay, in vicinity of Tangier Island; naval guided missiles test operations area.

* * * * *

(b) *The regulations.* (1) Persons, vessels or other craft shall not enter or remain in the prohibited area at any time unless authorized to do so by the enforcing agency.

(2) Except as otherwise provided in paragraph (b)(6) of this section, persons, vessels or other craft shall not enter or remain in the restricted area when firing is or will soon be in progress unless authorized to do so by the enforcing agency. * * *

(5) Upon observing the warning flag or upon receiving a warning by any of the patrol vessels or aircraft, persons, vessels or other craft shall immediately vacate the restricted area and remain outside the area until the conclusion of firing for the day.

* * * * *

16. Section 334.230 is amended by revising the first sentence of paragraph (a)(2)(ii), and paragraph (b)(2)(iii), to read as follows:

§ 334.230 Potomac River

(a) *Naval Surface Weapons Center, Dahlgren, Va.*

* * * * *

(2) *The regulations.* * * *

(ii) When firing is in progress, no person, or fishing or oystering vessels shall operate within the danger zone affected unless so authorized by the Naval Surface Weapons Center's patrol boats. * * *

* * * * *

(b) *Accotink Bay, Accotink Creek, and Pohick Bay; U.S. Military Reservation, Fort Belvoir, Va.* * * *

* * * * *

(2) *The regulations.* * * *

(iii) The Post Commander is hereby authorized by using such agencies and equipment necessary to stop all persons and boats at the boundary of the danger zone and prohibit their crossing the area until convenient to the firing schedule to do so.

17. Section 334.240 is amended by revising paragraph (b)(3), and (b)(5), to read as follows:

§ 334.240 Potomac River, Mattawoman Creek and Chicamuxen Creek; U.S. Naval Propellant Plant, Indian Head, Md

* * * * *

(b) *The regulations.* * * *

(3) No persons or vessels except vessels of the United States or vessels authorized by the enforcing agency shall enter or remain in the danger zone while lights are flashing, when warning horns are in operation, or when warned or directed by a patrol vessel. * * *

(5) Except as prescribed in paragraph (b)(3) of this section, persons and vessels may enter and proceed through the danger zone without restriction; however, accidental explosions may occur at any time and persons and vessels entering the area do so at their own risk.

* * * * *

18. Section 334.310 is amended by revising paragraph (b)(2), to read as follows:

§ 334.310 Chesapeake Bay, Lynnhaven Roads; navy amphibious training area.

* * * * *

(b) *The regulations.* * * *

(2) No person or vessel shall approach within 300 years of any naval vessel or within 600 years of any vessel displaying the red ''baker'' burgee.

* * * * *

19. Section 334.330 is amended by revising paragraph (b)(1), to read as follows:

§ 334.330 Atlantic Ocean and connecting waters in vicinity of Myrtle Island, Va.; Air Force practice bombing, rocket firing, and gunnery range.

* * * * *

(b) *The regulations.* (1) No person or vessel shall enter or remain in the danger zone except during intervals specified and publicized from time to time in local newspapers or by radio announcement.

* * * * *

20. Section 334.340 is amended by revising paragraph (b)(2), to read as follows:

§ 334.340 Chesapeake Bay off Plumtree Island, Hampton, Va.; Air Force precision test area.

* * * * *

(b) *The regulations.* * * *

(2) No person or vessel shall enter or remain in the danger zone during periods of firing or bombing or when the zone is otherwise in use.

* * * * *

21. Section 334.370 is amended by revising paragraph (a)(2), to read as follows:

§ 334.370 Chesapeake Bay, Lynnhaven Roads; danger zones, U.S. Naval Amphibious Base.

(a) *Underwater demolitions area (prohibited)* * * *

(2) *The regulations.* Persons or vessels, other than those vessels owned and operated by the United States, shall not enter the prohibited area at any time unless authorized to do so by the enforcing agency.

* * * * *

22. Section 334.400 is amended by revising paragraph (b)(1), to read as follows:

§ 334.400 Atlantic Ocean south of entrance to Chesapeake Bay off Camp Pendleton, Virginia; naval restricted area.

* * * * *

(b) *The regulations.* (1) Persons or vessels, other than those vessels owned and operated by the United States shall not enter the area except by permission of the Commanding Officer, U.S. Naval Amphibious Base, Little Creek, Norfolk, Virginia.

* * * * *

23. Section 334.410 is amended by revising the fourth sentence in paragraph (d)(1), the fifth sentence in paragraph (d)(2) and paragraph (d)(3), to read as follows:

§ 334.410 Albermarle Sound, Pamlico Sound, and adjacent waters, NC; danger zones for naval aircraft operations.

* * * * *

(d) *The Regulations.* (1) *Target areas.* * * * No persons or vessels shall enter this area during the hours of daylight without special permission from the enforcing agency. * * *

(2) *Target and bombing area.* * * * The area will be patrolled and persons and vessels shall clear the area under patrol upon being warned by the surface patrol craft or when ''buzzed'' by patrolling aircraft. * * *

(3) *Naval Aviation Ordnance test area.* The area described in paragraph (c) of this section shall be closed to persons and navigation except for such military personnel and vessels as may be directed by the enforcing agency to enter on assigned duties.

* * * * *

24. Section 334.430 is amended by revising paragraph (b)(1), to read as follows:

§ 334.430 Neuse River and tributaries at Marine Corps Air Station, Cherry Point, N.C.; restricted area.

* * * * *

(b) *The regulations.* (1) Except in cases of extreme emergency, all persons or vessels, other than those vessels operated by the U.S. Navy or Coast Guard are prohibited from entering this area without prior permission of the enforcing agency.

* * * * *

25. Section 334.440 is amended by adding a new sentence at the beginning of paragraph (c)(1), revising the fifth sentence in paragraph (d)(2), redesignating paragraphs (e)(2)(i) through (e)(2)(vi) as (e)(2)(ii) through (e)(2)(vii) respectively, and adding a new subparagraph (e)(2)(i), to read as follows:

§ 334.440 New River, N.C., and vicinity; Marine Corps firing ranges.

* * * * *

(c) *The regulations.* (1) No person shall enter or remain in the water in any closed sector after notice of firing therein has been given. * * *

* * * * *

(d) *Target and bombing area in Atlantic Ocean in vicinity of Bear Inlet.* (2) * * * Upon being so warned, all persons and vessels shall leave the area as quickly as possible by the most direct route.

(e) *Inland Waters in the Browns Inlet area between Bear Creek and Onslow Beach Bridge over the Atlantic Intracoastal Waterway.*

* * * * *

(2) *The regulations.* (i) No person shall enter or remain in the waters of this area due the possibility of unexploded projectiles.

* * * * *

26. Section 334.450 is amended by revising paragraph (b), to read as follows:

§ 334.450 Cape Fear River and tributaries at Sunny Point Army Terminal, Brunswick County, N.C.; restricted area.

* * * * *

(b) Except in cases of extreme emergency, all persons or vessels of any size or rafts other than those authorized by the Commander, Sunny Point Army Terminal, are prohibited from entering this area without prior permission of the enforcing agency.

* * * * *

27. Section 334.470 is amended by adding a new sentence at the beginning of paragraph (b)(2), to read as follows:

§ 334.470 Cooper River and Charleston Harbor, S.C.; restricted areas.

* * * * *

(b) *The regulations.* * * *

(2) No person shall enter or remain in the water within the restricted areas. * * *

* * * * *

28. Section 334.480 is amended by revising the first sentence in paragraph (c), to read as follows:

§ 334.480 Archers Creek, Ribbon Creek and Broad River, S.C.; U.S. Marine Corps Recruit Depot rifle and pistol ranges, Parris Island.

* * * * *

(c) No person, vessel and other watercraft shall enter the restricted waters when firing is in progress. * * *

* * * * *

29. Section 334.490 is amended by revising paragraph (b)(2), to read as follows:

§ 334.490 Atlantic Ocean off Georgia Coast; air-to-air and air-to-water gunnery and bombing ranges for fighter and bombardment aircraft, U.S. Air Force.

* * * * *

(b) *The regulations.* * * *

(2) Prior to conducting each practice, the entire area will be patrolled by aircraft to warn any persons and watercraft found in the vicinity that such practice is about to take place. The warning will be by ''buzzing,'' (i.e., by flying low over the person or watercraft.) Any person or watercraft shall, upon being so warned, immediately leave the area designated and shall remain outside the area until practice has ceased.

* * * * *

30. Section 334.500 is amended by revising paragraph (b)(1), to read as follows:

§ 334.500 St. Johns River, Fla., Ribault Bay; restricted area.

* * * * *

(b) *The regulations.* (1) All persons, vessels and craft, except those vessels operated by the U.S. Navy or Coast Guard are prohibited from entering this area except in cases of extreme emergency.

* * * * *

31. Section 334.510 is amended by revising paragraph (b)(1), to read as follows:

§ 334.510 U.S. Navy Fuel Depot Pier, St. Johns River, Jacksonville, Fla., restricted area.

* * * * *

(b) The regulations. (1) The use of waters as previously described by private and/or commercial floating craft or persons is prohibited with the exception of vessels or persons that have been specifically authorized to do so by the Officer in Charge of the Navy Fuel Depot.

* * * * *

32. Section 334.520 is amended by revising paragraph (b)(2), to read as follows:

§ 334.520 Lake George, Fla.; naval bombing area.

* * * * *

(b) *The regulations.* * * *

(2) Prior to each bombing operation the danger zone will be patrolled by naval aircraft which will warn all persons and vessels to leave the area by ''zooming'' a safe distance to the side and at least 500 feet above the surface. Upon being so warned, such persons and vessels shall leave the danger zone immediately and shall not re-enter the danger zone until bombing operations have ceased.

* * * * *

33. Section 334.540 is amended by revising paragraph (b)(1), to read as follows:

§ 334.540 Banana River at Cape Canaveral Missile Test Annex, Fla., restricted area.

* * * * *

(b) *The regulations.* (1) All unauthorized persons and craft shall stay clear of the area at all times.

* * * * *

34. Section 334.550 is amended by revising paragraph (b)(1), to read as follows:

§ 334.550 Banana River at Cape Canaveral Air Force Station, Fla; restricted area.

* * * * *

(b) *The regulations.* (1) All unauthorized persons and craft shall stay clear of this area at all times.

* * * * *

35. Section 334.560 is amended by revising paragraph (b)(1), to read as follows:

§ 334.560 Banana River at Patrick Air Force Base, Fla; restricted area.

* * * * *

(b) *The regulations.* (1) All unauthorized persons and watercraft shall stay clear of the area at all times.

* * * * *

36. Section 334.590 is amended by revising paragraph (b)(1), (b)(3), and revising the first sentence in paragraph (b)(2), to read as follows:

§ 334.590 Atlantic Ocean off Cape Canaveral, Fla.; Air Force missile testing area, Patrick Air Force Base, Fla.

* * * * *

(b) *The regulations.* (1) All unauthorized persons and vessels are prohibited from operating within the danger zone during firing periods to be

specified by the Commander, Air Force Missile Test Center, Patrick Air Force Base.

(2) Warning signals will be used to warn persons and vessels that the danger zone is active. * * *

(3) When the signals in paragraph (b)(2) of this section are displayed, all persons and vessels, except those authorized personnel and patrol vessels, will immediately leave the danger zone by the most direct route and stay out until the signals are discontinued.

* * * * *

37. Section 334.600 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.600 TRIDENT Basin adjacent to Canaveral Harbor at Cape Canaveral Air Force Station, Brevard County, Fla.; danger zone.

* * * * *

(b) *The regulations.* (1) No unauthorized person or vessel shall enter the area. * * *

* * * * *

38. Section 334.610 is amended by revising paragraphs (b)(1) and (b)(3), to read as follows:

§ 334.610 Key West Harbor, at U.S. Naval Base, Key West, Fla.; naval restricted areas and danger zone.

* * * * *

(b) *The regulations.* (1) Entering or crossing Restricted Areas #1 and #4 and the Danger Zone (Area #6) described in Paragraph (a) of this section, by any person or vessel, is prohibited.

* * * * *

(3) Stopping or landing by other than Government-owned vessels and specifically authorized private craft or any person in any of the restricted areas or danger zone described in Paragraph (a) of this section is prohibited.

* * * * *

39. Section 334.630 is amended by revising paragraph (b)(1), to read as follows:

§ 334.630 Tampa Bay south of MacDill Air Force Base, Fla.; small arms firing range and aircraft jettison, U.S. Air Force, MacDill Air Force Base.

* * * * *

(b) *The regulations.* (1) All persons, vessels and other watercraft are prohibited from entering the danger zone at all times.

* * * * *

40. Section 334.640 is amended by revising the first sentence in paragraph (b)(2) and paragraph (b)(3), to read as follows:

§ 334.640 Gulf of Mexico south of Apalachee Bay, Fla.; Air Force rocket firing range.

* * * * *

(b) *The regulation.* * * *

(2) Prior to the conduct of rocket firing, the area will be patrolled by surface patrol boat and/or patrol aircraft to insure that no persons or watercraft are within the danger zone and to warn any such persons or watercraft seen in the vicinity that rocket firing is about to take place in the area. * * *

(3) Any such person or watercraft shall, upon being so warned, immediately leave the area, and until the conclusion of the firing shall remain at such a distance that they will be safe from the fallout resulting from such rocket firing.

* * * * *

41. Section 334.660 is amended by revising paragraph (b)(2), to read as follows:

§ 334.660 Gulf of Mexico and Apalachicola Bay, south of Apalachicola, Fla.; Drone Recovery Area, Tyndall Air Force Base, Fla.

* * * * *

(b) *The regulations.*

(2) Patrol boats and aircraft will warn all persons and navigation out of the area before each testing period.

* * * * *

42. Section 334.670 is amended by revising paragraph (b)(2), to read as follows:

§ 334.660 Gulf of Mexico and Apalachicola Bay, south and west of Apalachicola, San Blas, and St. Joseph bays; air-to-air firing practice range, Tyndall Air Force Base, Fla.

* * * * *

(b) *The regulations.* * * *

(2) All persons and vessels will be warned to leave the danger area during firing practice by surface patrol boat and/or patrol aircraft. When aircraft is used to patrol the area, low flight of the aircraft overhead and/or across the bow will be used as a signal or warning. Upon being so warned all persons and vessels shall clear the area immediately.

* * * * *

43. Section 334.680 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.680 Gulf of Mexico, southeast of St. Andrew Bay East Entrance, small-arms firing range, Tyndall Air Force Base, Fla.

* * * * *

(b) *The regulations.* (1) No person, vessel or other watercraft shall enter or remain in the areas during periods of firing. * * *

* * * * *

44. Section 334.700 is amended by revising the first and second sentences in paragraph (b)(1)(i) and paragraph (b)(1)(ii), to read as follows:

§ 334.700 Choctawhatchee Bay, aerial gunnery ranges, Air Proving Ground Center, Air Research and Development Command, Eglin Air Force Base, Fla.

* * * * *

(b) *The regulations.* (1) Aerial gunnery ranges. (i) The aerial gunnery range in the west part of Choctawhatchee Bay (described in paragraph (a)(1) of this section), may be used by persons and watercraft except during periods when firing is conducted. During these periods firing will be controlled by observation posts, and persons and watercraft will be warned by patrol boats. * * *

(ii) No person, vessel or other craft shall enter or remain within the aerial gunnery range along the north shore of Choctawhatchee Bay (described in paragraph (a)(2) of this section) at any time.

* * * * *

45. Section 334.710 is amended by revising second sentence in paragraph (b)(1), to read as follows:

§ 334.710 The Narrows and Gulf of Mexico adjacent to Santa Rosa Island, Air Proving Ground Command, Eglin Air Force Base, Fla.

* * * * *

(b) *The regulations.* (1) * * * During periods of use entry into the area will be prohibited to all persons and navigation.

* * * * *

46. Section 334.720 is amended by revising paragraph (b)(3), to read as follows:

§ 334.720 Gulf of Mexico, south from Choctawhatchee Bay; guided missiles test operations area, Headquarters Air Proving Ground Command, U.S. Air Force, Eglin Air Force Base, Fla.

* * * * *

(b) *The regulations.* * * *

(3) All persons and vessels exclusive of those identified in paragraph (b)(2) of this section, will be warned to leave the immediate danger area during firing periods by surface patrol craft. Upon being so warned, such persons and vessels shall clear the area immediately. Such periods normally will not exceed two hours.

* * * * *

47. Section 334.730 is amended by revising the first sentence in paragraph (b)(2) and paragraph (b)(3), to read as follows:

§ 334.730 Waters of Santa Rosa Sound and Gulf of Mexico adjacent to Santa Rose Island, Air Force Proving Ground Command, Eglin Air Force Base, Fla.

* * * * *

(b) *The regulations.* * * *

(2) No person, vessel or other watercraft shall enter the prohibited area, except to navigate the Gulf Intracoastal Waterway. * * *

(3) During periods when experimental test operations are underway no person, vessel or other watercraft shall enter or navigate the waters of the restricted area.

* * * * *

48. Section 334.740 is amended by revising paragraph (b)(1), to read as follows:

§ 334.740 Weekley Bayou, an arm of Boggy Bayou, Fla., Eglin Air Force Base; restricted area.

* * * * *

(b) *The regulations.* (1) No person or vessel shall enter the area without the permission of the Commander, Eglin Air Force Base, Florida, or his authorized representative.

* * * * *

49. Section 334.750 is amended by revising paragraph (b)(1), to read as follows:

§ 334.750 Ben's Lake, a tributary of Choctawhatchee Bay, Fla., at Eglin Air Force Base; restricted area.

* * * * *

(b) *The regulations.* (1) No person or vessel shall enter the area or navigate therein, without the permission of the Commander, Eglin Air Force Base, Florida, or his authorized representative. * * *

50. Section 334.778 is amended by revising paragraph (b)(1) and adding a sentence at the beginning of paragraph (b)(2), to read as follows:

§ 334.778 Pensacola Bay and waters contiguous to the Naval Air Station, Pensacola, FL; restricted area.

* * * * *

(b) *The regulations.* (1) All persons are prohibited from entering the waters for any reason and all vessels including pleasure (sailing, motorized, and/or rowed), private and commercial fishing vessels, barges, and all other craft except United States military vessels are restricted from transiting, anchoring, or drifting within the above-described area when required by the Commanding Officer of the Naval Air Station Pensacola (N.A.S.), to safeguard the installation, its personnel and property in times of an imminent security threat, as required by a national emergency situation, natural disaster, or as directed by higher authority.

(2) All persons are prohibited from entering the water described in this section. * * *

* * * * *

51. Section 334.780 is amended by revising paragraph (b)(2) to read as follows:

§ 334.780 Pensacola Bay, Fla.; seaplane restricted area.

* * * * *

(b) *The regulations.* * * *

(2) All persons, vessels and small craft, except crash boats, plane rearming boats, and similar craft ordered into the area on specific missions in connection with the servicing of planes or patrol of the area, are prohibited from entering or being in the area at any time.

* * * * *

52. Section 334.786 is amended by adding a new sentence at the beginning of paragraph (b)(1), and revising paragraph (b)(2), to read as follows:

§ 334.786 Pascagoula Naval Station, Pascagoula, Mississippi; restricted area

* * * * *

(b) *The regulations.* (1) All persons are prohibited from entering the waters within the restricted area for any reason. * * *

(2) Mooring, anchoring, fishing, recreational boating or any activity involving persons in the water shall not be allowed at any time within 500 feet of any quay, pier, wharf, or levee along the Naval Station northern shoreline.

* * * * *

53. Section 334.790 is amended by revising paragraph (b)(1), to read as follows:

§ 334.790 Sabine River at Orange, Tex.; restricted area in vicinity of the Naval and Marine Corps Reserve Center.

* * * * *

(b) *The regulations.* (1) No person, vessel or other craft, except personnel and vessels of the U.S. Government or those duly authorized by the Commanding Officer, Naval and Marine Corps Reserve Center, Orange, Texas, shall enter, navigate, anchor or moor in the restricted area.

54. Section 334.800 is amended by revising paragraph (b)(1), to read as follows:

§ 334.800 Corpus Christi Bay, Tex.; seaplane restricted area, U.S. Naval Air Station, Corpus Christi.

* * * * *

(b) *The regulations.* (1) No person, vessel or watercraft shall enter or remain in the area at any time, day or night, except with express written approval of the enforcing agency or as a result of force majeure.

* * * * *

55. Section 334.802 is amended by revising the first sentence in paragraph (b)(1) to read as follows:

§ 334.802 Ingleside Naval Station, Ingleside, Texas; restricted area.

* * * * *

(b) *The regulations.* (1) Mooring, anchoring, fishing, recreational boating or any activity involving persons in the water shall not be allowed within the restricted area. * * *

* * * * *

56. Section 334.810 is amended by revising paragraph (b)(1), to read as follows:

§ 334.810 Holston River at Holston Ordnance Works, Kingsport, Tenn.; restricted area.

* * * * *

(b) *The regulations.* (1) Except in cases of extreme emergency, all vessels other than those owned or controlled by the U.S. Government and any activity involving persons in the water, are prohibited from entering the area without prior permission of the enforcing agency.

* * * * *

57. Section 334.820 is amended by revising paragraph (b), to read as follows:

§ 334.820 Lake Michigan; naval restricted area, U.S. Naval Training Center, Great Lakes, Ill.

* * * * *

(b) *The regulations.* (1) No person or vessel of any kind, except those engaged in naval operations, shall enter, navigate, anchor, or moor in the restricted area without first obtaining permission to do so from the Commander, U.S. Naval Training Center, Great Lakes, Illinois, or his authorized representative.

58. Section 334.830 is amended by revising paragraph (b)(2), to read as follows:

§ 334.830 Lake Michigan; small-arms range adjacent to U.S. Naval Training Center, Great Lakes, Ill.

* * * * *

(b) *The regulations.*

(2) The enforcing agency is hereby authorized to use such agencies as shall be necessary to prohibit all persons and vessels from entering the area until such time as shall be convenient.

* * * * *

59. Section 334.850 is amended by revising paragraph (d)(1), to read as follows:

§ 334.850 Lake Erie, west end, north of Erie Ordnance Depot, Lacarne, Ohio.

* * * * *

(d) *Restrictions.* (1) No person or vessel shall enter or remain in a danger zone during a scheduled firing period announced in a special firing notice unless specific permission is granted in

each instance by a representative of the enforcing officer.

* * * * *

60. Section 334.920 is amended by revising paragraph (b)(1) to read as follows:

§ 334.920 Pacific Ocean off the east coast of San Clemente Island, Calif.; Naval restricted area.

* * * * *

(b) *The regulations.* (1) No person or vessels, other than Naval Ordnance Test Station craft, and those cleared for entry by the Naval Ordnance Test Station, shall enter the area at any time except in an emergency, proceeding with extreme caution.

* * * * *

61. Section 334.930 is amended by revising paragraph (b)(3), to read as follows:

§ 334.930 Anaheim Bay Harbor, Calif.; Naval Weapons Station, Seal Beach.

* * * * *

(b) *The regulation.* * * *

(3) Recreational craft, such as water skis, jet skis (personal water craft), row boats, canoes, kayaks, wind surfers, sail boards, surf boards, etc., and any activity involving persons in the water, are specifically prohibited within the restricted area.

* * * * *

62. Section 334.938 is amended by revising the first sentence in paragraph (b), to read as follows:

§ 334.938 Federal Correctional Institution, Terminal Island, San Pedro Bay, California; restricted area.

* * * * *

(b) *The regulations.* No person or vessel of any kind shall enter, navigate, anchor or moor within the restricted area without first obtaining the permission of the Warden, Federal Correctional Institution, Terminal Island. * * *

* * * * *

63. Section 334.940 is amended by revising the fifth sentence in paragraph (b)(2), to read as follows:

§ 334.940 Pacific Ocean in vicinity of San Pedro, Calif.; practice firing range for U.S. Army Reserve, National Guard, and Coast Guard Units.

* * * * *

(b) *The regulations.*

(2) * * * No person shall enter the water and no vessel, fishing boat, or recreational craft shall anchor in the danger zone during an actual firing period.

* * * * *

64. Section 334.950 is amended by revising the first and second sentences in paragraph (b)(1) and paragraph (b)(2), to read as follows:

§ 334.950 Pacific Ocean at San Clemente Island, California; Navy shore bombardment areas.

* * * * *

(b) *The regulations.* (1) All persons and all vessels shall promptly vacate the areas when ordered to do so by the Navy or the Coast Guard. Persons and vessels shall not enter the areas during periods scheduled for firing.

(2) All persons in the area are warned that unexploded ordinance exists within the shore bombardment area on San Clemente Island and in the surrounding waters. All persons should exercise extreme caution when operating in the area.

* * * * *

65. Section 334.960 is amended by revising the second sentence in paragraph (b)(4), to read as follows:

§ 334.960 Pacific Ocean, San Clemente Island, Calif; Naval danger zone off West Cove.

* * * * *

(b) *The regulations.* * * *

(4) * * * When so notified, all persons and vessels shall leave the immediately by the shortest route.

* * * * *

66. Section 334.961 is amended by adding a new sentence at the beginning of paragraph (b)(1), to read as follows:

§ 334.961 Pacific Ocean, San Clemente Island, California, Naval danger zone off the northwest shore.

* * * * *

(b) *The regulations.* (1) No person shall enter this area during closure periods unless authorized to do so by the enforcing agency. * * *

* * * * *

67. Section 334.990 is amended by revising paragraph (b)(1), to read as follows:

§ 334.990 Long Beach Harbor, Calif.; Naval restricted area.

* * * * *

(b) *The regulations.* (1) The area is reserved exclusively for use by naval vessels. Permission for any person or vessel to enter the area must be obtained from the enforcing agency.

* * * * *

68. Section 334.1010 is amended by revising paragraph (b), to read as follows:

§ 334.1010 San Francisco Bay in vicinity of Hunters Point; Naval restricted area.

* * * * *

(b) *The regulations.* No person may enter the area and no vessel or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commander, San Francisco Naval Shipyard, shall navigate, anchor or moor in this area.

69. Section 334.1020 is amended by revising paragraph (b), to read as follows:

§ 334.1020 San Francisco Bay and Oakland Inner Harbor; restricted areas in vicinity of Naval Air Station, Alameda.

* * * * *

(b) *The regulations.* (1) No person shall enter this area and no vessel or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commanding Officer, U.S. Naval Air Station, Alameda, California, shall navigate, anchor or moor in the area described in paragraph (a)(1) of this section.

(2) No person shall enter this area and no vessel without special authorization of the Commander, twelfth Coast Guard District, shall lie, anchor or moor in the area described in paragraph (a)(2) of this section.

70. Section 334.1030 is amended by revising paragraph (a)(2), to read as follows:

§ 334.1030 Oakland Inner Harbor adjacent to Alameda Facility, Naval Supply Center, Oakland; restricted area.

(a) * * *

(2) *The regulations.* No persons and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commanding Officer, Naval Supply Center, Oakland, shall enter this area.

71. Section 334.1040 is amended by revising paragraph (a)(2)(i), to read as follows:

§ 334.1040 Oakland Harbor in vicinity of Naval Supply Center, Oakland; restricted area and navigation.

* * * * *

(2) *The regulations.* (i) No persons and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commanding Officer, Naval Supply Center, Oakland, shall enter this area.

* * * * *

72. Section 334.1050 is amended by revising paragraph (a)(2), to read as follows:

§ 334.1050 Oakland Outer Harbor adjacent to the Military Ocean Terminal, Bay Area, Pier No. 8 (Port of Oakland Berth No. 10); restricted area.

* * * * *

(2) *The regulations.* No persons and no vessels or other credit, except vessels of the U.S. Government or vessels duly authorized by the Commander, Oakland Army Base, shall enter this area.

73. Section 334.1060 is amended by revising paragraph (a)(2), to read as follows:

§ 334.1060 Oakland Outer Harbor adjacent to the Oakland Army Base; restricted area.

* * * * *

(2) *The regulations.* No persons and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commander, Oakland Army Base, shall enter this area.

74. Section 334.1070 is amended by revising paragraph (a)(2), to read as follows:

§ 334.1070 San Francisco Bay between Treasure Island and Yerba Buena Island; naval restricted area.

* * * * *

(2) *The regulations.* No person and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commanding Officer, Naval Station, Treasure Island, shall enter the restricted area.

75. Section 334.1080 is amended by adding a new sentence at the beginning of paragraph (a)(2), to read as follows:

§ 334.1080 San Francisco Bay adjacent to northeast corner of Treasure Island; naval restricted area.

(a) * * *

(2) *The regulations.* No person shall enter the restricted area.

76. Section 334.1090 is amended by revising paragraph (a)(2), to read as follows:

§ 334.1090 San Francisco Bay in the vicinity of the NSC Fuel Department, Point Molate restricted area.

(a) * * *

(2) *The regulations.* Persons and vessels not operating under supervision of the local military or naval authority or public vessels of the United States, shall not enter this area except by specific permission of the Commanding Officer, Naval Supply Center.

77. Section 334.1100 is amended by revising paragraph (a)(2), to read as follows:

§ 334.1100 San Pablo Bay, Carquinez Strait, and Mare Island Strait in vicinity of U.S. Naval Shipyard, Mare Island; restricted area.

* * * * *

(2) *The regulations.* No persons shall enter this area and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commander, Mare Island Naval Shipyard, Vallejo, California, shall navigate, anchor or moor in this area.

78. Section 334.1120 is amended by revising paragraph (b)(5), to read as follows:

§ 334.1120 Pacific Ocean in the Vicinity of Point Mugu, Calif.; Naval small arms firing range.

* * * * *

(b) *The regulations.* * * *

(5) Persons, vessels or other craft shall not enter or remain in the danger zone when the warning flag is being displayed unless authorized to do so by the range officer in the control tower.

* * * * *

79. Section 334.1130 is amended by revising paragraphs (b)(2) and (b)(5), to read as follows:

§ 334.1130 Pacific Ocean, Western Space and Missile Center (WSMC), Vandenberg AFB, Calif.; danger zones.

* * * * *

(b) *The regulations.* * * *

(2) The stopping or loitering by any person or vessel is expressly prohibited within Danger Zone 4, between the mouth of the Santa Ynez River and Point Arguello, unless prior permission is obtained from the Commander, Western Space and Missile Center (WSMC) at Vandenberg AFB, California.

* * * * *

(5) When a scheduled launch operation is about to begin, radio broadcast notifications will be made periodically, starting at least 24 hours in advance. Additional contact may be made by surface patrol boats or aircraft equipped with a loudspeaker system. When so notified, all persons and all vessels shall leave the specified zone or zones immediately by the shortest route.

* * * * *

80. Section 334.1140 is amended by revising paragraph (c)(2) and the first sentence in paragraph (c)(6), to read as follows:

§ 334.1140 Pacific Ocean at San Miguel Island, Calif.; naval danger zone.

* * * * *

(c) *The regulations.* * * *

(2) The anchoring, stopping or loitering by any person, vessel, fishing boat or recreational craft within the danger zone during scheduled firing/drop hours is expressly prohibited.

* * * * *

(6) Landing by any vessel or going ashore by any person on San Miguel Island is specifically prohibited without prior permission of the Superintendent, Channel Islands National Park. * * *

* * * * *

81. Section 334.1150 is amended by revising paragraph (a)(2)(i) and the fourth (last) sentence in paragraph (b)(2) to read as follows:

§ 334.1150 Monterey Bay, Calif.

(a) * * *

(2) *The regulations.* (i) The 5,000 yard short range is prohibited to all persons, vessels and craft, except those authorized by the enforcing agency, each week, between dawn and midnight from Monday through Friday and between dawn and dusk on Saturday and Sunday.

* * * * *

(b) *Naval mining operations area.* * * *

(2) *The regulations.* * * * In each case when moored or bottom obstructions are laid a notice to mariners will be issued giving notice of their approximate location within the danger zone and all persons and vessels shall keep clear.

82. Section 334.1160 is amended by revising the second sentence in paragraph (b) to read as follows:

§ 334.1160 San Pablo Bay, Calif.; target practice area, Mare Island Naval Shipyard, Vallejo.

* * * * *

(b) *The regulations.* * * * At such times all persons and vessels shall stay clear.

83. Section 334.1170 is amended by revising the second sentence in paragraph (b) to read as follows:

§ 334.1160 San Pablo Bay, Calif.; gunnery range, Naval Inshore Operations Training Center, Mare Island, Vallejo.

* * * * *

(b) *The regulations.* * * * No persons or vessels shall enter or remain in the danger zone during the above stated periods except those persons and vessels connected with the gunnery practice operations. * * *

* * * * *

84. Section 334.1180 is amended by revising the first sentence in paragraph (b)(1) and the second sentence in paragraph (b)(2), to read as follows:

§ 334.1180 Strait of Juan de Fuca, Wash.; air-to-surface weapon range, restricted area.

* * * * *

(b) *The regulations.* (1) No person, vessel or other watercraft shall enter or remain within the designated restricted area between 0700 and 1200 hours daily, local time except as authorized by the enforcing agency and as follows: The area will be open to commercial gill net fishing during scheduled fishing periods from June 15 to October 15, annually. * * *

(2) * * * Those persons and vessels found within the restricted area will be overflown by the aircraft at an altitude of not less than 300′ in the direction in which the unauthorized person and

vessel are to proceed to clear the area.
* * *

* * * * *

85. Section 334.1200 is amended by revising paragraph (a)(3) (i) and (ii), to read as follows:

§ 334.1200 Strait of Juan de Fuca, eastern end off the westerly shore of Whidbey Island; naval restricted areas.

(a) * * *

(3) *The regulations.* (i) Persons and vessels shall not enter these areas except at their own risk.

(ii) All persons and vessels entering these areas shall be obliged to comply with orders received from naval sources pertaining to their movements while in the areas.

* * * * *

86. Section 334.1270 is amended by revising the first sentence in paragraph (a)(2) to read as follows:

§ 334.1270 Port Townsend, Indian Island, Walan Point; naval restricted area.

(a) * * *

(2) *The regulations.* No person or vessel shall enter this area without permission from the Commander, Naval Base, Seattle, or his/her authorized representative. * * *

* * * * *

87. Section 334.1310 is amended by revising paragraph (b)(1), to read as follows:

§ 334.1310 Lutak Inlet, Alaska; restricted areas.

* * * * *

(b) *The regulations.* (1) No person, vessel or other watercraft shall enter or remain in the Army POL dock restricted area when tankers are engaged in discharging oil at the dock.

* * * * *

88. Section 334.1340 is amended by redesignating paragraph (b)(1) as (b) and revising it to read as follows:

§ 334.1340 Pacific Ocean, Hawaii; danger zones.

* * * * *

(b) *The regulations.* No person, vessel or other craft shall enter or remain in any of the areas at any time except as authorized by the enforcing agency.

* * * * *

89. Section 334.1350 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.1350 Pacific Ocean, Island of Oahu, Hawaii; danger zone.

* * * * *

(b) *The regulations.* (1) The area will be closed to the public and all shipping on specific dates to be designated for actual firing and no person, vessel or other craft shall enter or remain in the area during the times designated for firing except as may be authorized by the enforcing agency. * * *

* * * * *

90. Section 334.1410 is amended by revising the second sentence in paragraph (b)(1), to read as follows:

§ 334.1410 Pacific Ocean at Makapuu Point, Waimanalo, Island of Oahu, Hawaii, Makai Undersea Test Range.

* * * * *

(b) *The regulations.* (1) * * * During the display of signals in the restricted area, all persons and surface craft will remain away from the area until such time as the signals are withdrawn. * * *

* * * * *

91. Section 334.1420 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.1420 Pacific Ocean off Orote Point, Apra Harbor, Island of Guam, Marianas Islands; small arms firing range.

* * * * *

(b) *The regulations.* (1) The danger zone shall be closed to the public and shipping on specific dates to be designated for actual firing and no person, vessel or other craft shall enter or remain in the danger zone designated for firing except as may be authorized by the enforcing agency. * * *

* * * * *

92. Section 334.1450 is amended by rvising paragraph (b)(1), to read as follows:

§ 334.1450 Atlantic Ocean off north coast of Puerto Rico; practice firing areas, U.S. Army Forces Antilles.

* * * * *

(b) *The regulations.* (1) The danger zones shall be open to navigation at all times except when practice firing is being conducted. When practice firing is being conducted, no person, vessel or other craft except those engaged in towing targets or patrolling the area shall enter or remain within the danger zones: *Provided,* that any vessel propelled by mechanical power at a speed greater than five knots may proceed through the Camp Tortuguero artillery range at any time to and from points beyond, but not from one point to another in the danger zone between latitudes 18° 31′ and 18° 32′, at its regular rate of speed without stopping or altering its course, except when notified to the contrary.

* * * * *

93. Section 334.1460 is amended by revising the third sentence in paragraph (b)(1), to read as follows:

§ 334.1460 Atlantic Ocean and Vieques Sound in vicinity of Culebra Island; bombing and gunnery target area.

* * * * *

(b) *The regulations.* (1) * * * At such times, no person or surface vessels, except those patrolling the area, shall enter or remain within the danger area. * * *

* * * * *

94. Section 334.1470 is amended by revising the second sentence in paragraph (b)(1), to read as follows:

§ 334.1470 Caribbean Sea and Viegues Sound, in vicinity of eastern Vieques; bombing and gunnery target area.

* * * * *

(b) *The regulations.* (1) * * * At such times, no persons or surface vessels, except those patrolling the area, shall enter or remain within the danger area. * * *

* * * * *

95. Section 334.1480 is amended by revising paragraph (b), to read as follows:

§ 334.1480 Vieques Passage and Atlantic Ocean, off east coast of Puerto Rico and coast of Vieques Island; naval restricted areas.

* * * * *

(b) *The regulations.* No person or vessel shall enter or remain within the restricted areas at any time unless on official business. Fishing vessels are permitted to anchor in Playa Blanca, passing through the restricted area described in (a)(1) of this section, to and from anchorage on as near a north-south course as sailing conditions permit. Under no conditions will swimming, diving, snorkeling, other water related activities or fishing, be permitted in the restricted area.

Dated: December 3, 1996.

Russell L. Fuhrman,

Major General, USA, Director of Civil Works.

[FR Doc. 96–31828 Filed 12–19–96; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Alaska Federal Subsistence Regional Advisory Council Meetings; Subsistence Management Regulations for Public Lands in Alaska

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice informs the public of the Regional Council meetings identified above. The public is invited to attend and observe meeting proceedings. In addition, the public is invited to provide oral testimony before the Councils on proposals to change Subsistence Management Regulations for Public Lands in Alaska for the 1997–98 regulatory year as set forth in a proposed rule on August 7, 1996 (61 FR 41060–41108). A booklet of proposed regulation changes was distributed to the public by mail on December 6, 1996.

The following agenda items will be discussed at each Regional Council meeting: (1) Introduction of Regional Council members and guests; (2) Old business; (3) New business; Member recruitment, Update on status of regulations and environmental assessment for implementing Federal Fisheries Management Program (''Katie John'' litigation), and development of recommendations on proposals to change Subsistence Management Regulations (1997–1998) for Public Lands in Alaska.

DATES: The Federal Subsistence Board announces the forthcoming public meetings of the Federal Subsistence Regional Advisory Councils. The Regional Council meetings may last two—three days and will be held in the following Alaska locations, and begin on the specified dates:

Region 1 (Southeast)—Sitka—Feb. 11, 1997
Region 2 (Southcentral)—Anchorage—Feb. 6, 1997
Region 3 (Kodiak/Aleutians)—Kodiak—Feb. 25, 1997
Region 4 (Bristol Bay)—Naknek—Feb. 18, 1997
Region 5 (Yukon-Kuskokwim Delta)—Bethel—Feb. 5, 1997
Region 6 (Western Interior)—Holy Cross—Feb. 19, 1997
Region 7 (Seward Peninsula)—Unalakleet—Feb. 4, 1997
Region 8 (Northwest Arctic)—Kotzebue—Feb. 13, 1997
Region 9 (Eastern Interior)—Tanana—Feb. 4, 1997
Region 10 (North Slope)—Barrow—Jan. 28, 1997

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3888. For questions related to subsistence management issues on National Forest Service lands, inquiries may also be directed to Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802–1628; telephone (907) 586–7921.

SUPPLEMENTARY INFORMATION: The Regional Councils have been established in accordance with Section 805 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and Subsistence Management Regulations for Public Lands in Alaska, 36 CFR Part 242 and 50 CFR Part 100, Subparts A, B, and C (57 FR 22940–22964). The Regional Councils advise the Federal Government on all matters related to the subsistence taking of fish and wildlife on public lands in Alaska and operate in accordance with provisions of the Federal Advisory Committee Act.

The identified Regional Council meetings will be open to the public. The public is invited to attend these meetings, observe the proceedings, and provide comments to the Regional Councils.

Dated: December 12, 1996.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

[FR Doc. 96–32302 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AD–FRL–5668–7]

RIN 2060–AE11

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR); Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking; reopening of comment period.

SUMMARY: The EPA is hereby reopening for 30 days the public comment period regarding EPA's proposed rulemaking, known as the NSR Reform Rulemaking, published Tuesday, July 23, 1996 (61 FR 38249). This action is to allow interested parties to review the corrected and final transcripts of the September 16, 1996 public hearing on the proposed rule and the September 17, 1996 meeting of the NSR Reform Subcommittee of the Clean Air Act Advisory Committee. These documents were placed in the Docket on December 3, 1996.

DATES: *Comments.* All public comments in response to the July 23, 1996 proposed rulemaking must be received by EPA on or before the close of business January 21, 1997.

ADDRESSES: *Comments.* All comments should be addressed to the EPA Air Docket No. A–90–37, EPA Air Docket (6102), Room M–1500, 401 M Street, SW, Washington, DC 20460. Copies of comments on the information collection requirements should also be sent to the Director, Office of Policy, Planning, and Evaluation, Regulatory Information Division, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and a copy to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the Information Collection Request number (ICR No. 1230.08) in any correspondence.

FOR FURTHER INFORMATION CONTACT: Dennis Crumpler, Information Transfer and Program Integration Division (MD–12), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541–0871, telefax (919) 541–5509.

SUPPLEMENTARY INFORMATION:

INSPECTION OF DOCUMENTS: Documents related to the NSR Reform Rulemaking, are available for public inspection in EPA Air Docket No. A–90–37. The docket is available for public inspection and copying between 8:30 a.m. to 4:30 p.m. Monday through Friday at the EPA's Air Docket (6102), Room M–1500, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

Dated: December 10, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96–32355 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[PA 083–4036b, PA 083–4037b, PA 069–4035b; FRL–5659–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations, and 1990 Baseyear Emissions For One Source

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing VOC and NO_X RACT for three facilities. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying Technical Support Document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by January 21, 1997.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box, 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice Bolden, (215) 566–2185, or Carolyn Donahue, (215) 566–2095, at the EPA Region III office or via e-mail at bolden-janice@epamail.epa.gov or donahue-carolyn@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information, pertaining to this action (VOC and NO_x RACT approval) affecting three facilities in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 22, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–32370 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21, 73 and 76

[MM Docket No. 94–150, 92–51, 87–154; FCC 96–436]

Multipoint Distribution Services

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This Further Notice of Proposed Rule Making (''FNPRM'') seeks additional comment in our ongoing proceeding to review our broadcast attribution rules, the rules by which we define what constitutes a ''cognizable interest'' in applying the multiple ownership rules. We seek comment as to how the relaxation of our ownership rules resulting from the passage of the Telecommunications Act of 1996 (''1996 Act'') should affect our review of the attribution rules. We also seek comment on new proposals, including a provision to attribute the otherwise nonattributable interests of holders of equity and/or debt in a licensee or media entity subject to the broadcast cross-ownership rules where the interest holder is a program supplier to a licensee or a same-market media entity subject to the broadcast cross-ownership rules and where the equity and/or debt holding exceeds a specified threshold. Additionally, we seek renewed comment on a proposal to attribute Local Marketing Agreements (''LMAs''). We also invite comment on whether we should revise our approach to joint sales agreements (''JSAs'') in specified circumstances. We also seek comment on a study conducted by Commission staff, appended to this FNPRM, on attributable interests in television broadcast licensees and on the implications of this study for our attribution rules, particularly on the voting stock benchmarks. Finally, we invite comment as to whether we should amend the cable/Multipoint Distribution Service (''MDS'') cross-ownership attribution rule. The proposed rules are necessary to promote our goals of maximizing the precision of the attribution rules, avoiding disruption in the flow of capital to broadcasting, affording clarity and certainty to regulatees, and facilitating application processing, and the proposed rules are intended to effect those results. This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

DATES: Written comments by the public on the proposed and/or modified information collections are due February 7, 1997, and reply comments are due March 7, 1997. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before February 11, 1997.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain$_X$t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's FNPRM in MM Docket No. 94–150, 92–51, 87–

154; FCC 96–436, adopted November 5, 1996 and released November 7, 1996. The full text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may 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.

Synopsis of Further Notice of Proposed Rule Making

1. The attribution rules seek to identify those interests in or relationships to licensees that confer on their holders a degree of influence or control such that the holders have a realistic potential to affect the programming decisions of licensees or other core operating functions. Our current broadcast attribution rules are set out in the Notes to Section 73.3555 of the Commission's rules, and, insofar as the broadcast-cable cross-ownership rule is involved, in the Notes to 47 CFR 76.501.[1] We issued the NPRM in this proceeding, 60 FR 6483, (February 2, 1995) broadly to review the attribution rules. In this FNPRM, we do not specifically discuss a number of issues raised in the NPRM, including treatment of Limited Liability Companies (''LLCs'') and treatment of limited partnerships. Nonetheless, these issues remain outstanding, and we intend to resolve the entire set of issues raised in the NPRM and in this FNPRM, together, after the comments received in response to this FNPRM are received and reviewed.

Paperwork Reduction Act

2. This NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due 60 days from date of publication of this NPRM in the Federal Register. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: None
Title: FNPRM—Attribution
Form No.: FCC 301, FCC 314, FCC 315, FCC 323
Type of Review: Revision of existing collections
Respondents: Businesses or other for-profit
Number of Respondents: 12,216
Estimated Time Per Response: These proposals could cause an increase in burden of an additional 3.5 hours per respondent
Total Annual Burden: 42,756 hours
Needs and Uses: This Further NPRM seeks comments as to how the relaxation of the Commission's ownership rules resulting from the passage of the Telecommunications Act of 1996 should affect our review of the attribution rules. The attribution rules define what interests are cognizable for purposes of applying the multiple ownership rules to specific situations. The multiple ownership rules limit the number of broadcast stations that a single person or entity, directly or indirectly, is permitted to own, operate, or control. In its Further Notice, the Commission invited comment on a proposal to add a new ''equity or debt plus'' attribution standard to its Rules. Under this proposed standard, where the interest holder is a program supplier or same-market broadcaster or media entity subject to the broadcast cross-ownership rules (i.e., cable systems and newspapers), the Commission would attribute its otherwise nonattributable equity and/or debt interest in a licensee or other media entity subject to the cross-ownership rules, if the equity and/or debt holding is greater than 33%. The Commission also sought comment on: (1) Whether it should attribute television Local Marketing Agreements (LMAs) and radio or television joint sales agreements (JSAs) among licensees in the same market, tentatively concluding that television LMAs should be attributed where they involve more than fifteen percent of the brokered station's weekly broadcast hours; (2) a staff study of the attributable interests in commercial broadcast television licensees, as reported in ownership reports, particularly with respect to the voting and nonvoting stock attribution benchmarks; and (3) grandfathering/transition issues (except for LMAs, which will be resolved in the television local ownership proceeding). With respect to grandfathering, the Commission tentatively concluded that (1) any grandfathering should apply only to the current holder and should not be transferable; and (2) any interests acquired on or after December 15, 1994, the date of adoption of the Notice of Proposed Rulemaking in this proceeding, should be subject to the final rules adopted in the Report and Order in this proceeding. Finally, the Commission invited comment on whether to modify the cable/MDS cross-ownership attribution rules to apply broadcast attribution criteria, as modified in the attribution proceeding, in determining cognizable interests in MDS licensees and cable systems for purposes of applying the ownership restrictions of Section 21.912 of its Rules.

3. The FCC 301 (OMB Control #3060–0027), FCC 314 (OMB Control #3060–0031), FCC 315 (OMB Control #3060–0032) and the FCC 323 (OMB Control #3060–0010) are the data collection devices used to identify those interests that are counted for purposes of applying the multiple ownership rules. Depending on the outcome of this proceeding, these forms may need to be modified to reflect new reportable interest standards and could cause an increase in burden. In addition, relaxation of the present attributable interests standards could result in a reduction in the number of interest-holders required to disclose their ownership interests in broadcast licensees and permittees. The overall impact, however, cannot be determined until resolution of the outstanding rulemaking. The attribution rules seek to identify those interests in or relationships to licensees or media entities that confer on their holders a degree of influence or control such that the holders have a realistic potential to affect programming decisions of licensees or other core operating functions. The attribution rules are used to implement the Commission's broadcast multiple ownership rules.

Initial Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603

[1] We recognize that the attribution standards used in a number of other cable rules are implicitly or explicitly based on Section 76.501. For example, the attribution standards in the cable television horizontal ownership, channel occupancy and program access rules are derived from these attribution Notes. We are considering initiating a separate proceeding to address whether to modify the attribution criteria for these rules. In the instant proceeding, we are addressing only the attribution criteria that would apply to Section 76.501(a), the cable-broadcast cross-ownership rule. Additionally, we will consider changes to the cable/MDS cross-ownership attribution rule.

(''RFA''), the Commission is incorporating an Initial Regulatory Flexibility Analysis (''IRFA'') of the expected impact on small entities of the policies and proposals in this FNPRM of Proposed Rule Making in MM Docket Nos. 94–150, 92–51, & 87–154 (''FNPRM'').[2] Written public comments concerning the effect of the proposals in the FNPRM, including the IRFA, on small businesses are requested. Comments must be identified as responses to the IRFA and must be filed by the deadlines for the submission of comments in this proceeding. The Secretary shall send a copy of this FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.[3]

Reasons Why Agency Action is Being Considered

After the issuance of the NPRM in this Docket, the Telecommunications Act of 1996 (''1996 Act'') was signed into law.[4] The FNPRM seeks comment as to how the multiple ownership rule revisions resulting from passage of the 1996 Act should affect our review of the attribution rules. The FNPRM also seeks comment on our new proposal to attribute the otherwise nonattributable interests of holders of equity and or debt in a licensee or other media entity subject to the cross-ownership rules where the interest holder is a program supplier to a licensee or a same-market broadcaster and where the equity and/or debt holding meets or exceeds specified thresholds. This proposal is intended to address the concerns expressed in the NPRM that the current attribution rules may not precisely or fully identify all the interests in or relationships to broadcast stations that should be counted in applying the multiple ownership rules. Additionally, the FNPRM seeks comment on proposals concerning attribution of Local Marketing Agreements (''LMAs'') and joint sales agreements (''JSAs'') in specified circumstances. Also, the FNPRM seeks comment on a study conducted by Commission staff, appended to this FNPRM, on attributable interests in television broadcast licensees and on the implications of this study for our attribution rules, particularly on the voting stock benchmarks. Finally, we invite comment as to whether we should amend the cable/MDS cross-ownership attribution rule.

Need for and Objectives of the Proposed Rules

The attribution rules seek to identify those interests in or relationships to licensees or media entities that confer on their holders a degree of influence or control such that the holders have a realistic potential to affect the programming decisions of licensees or other core operating functions. The attribution rules are used to implement the Commission's broadcast multiple ownership rules. Our goals in commencing this proceeding and in formulating the proposals in the FNPRM are to be to maximize the precision of the attribution rules, avoid disruption in the flow of capital to broadcasting, afford clarity and certainty to regulatees, and ease application processing.

Legal Basis

Authority for the actions proposed in this FNPRM is contained in Sections 4(i), 303, 307 and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 307, & 310.

Recording, Recordkeeping, and Other Compliance Requirements

If our attribution rules are made more restrictive so as to attribute interests not now currently attributable, our ownership reporting form, FCC Form 323, will need to be modified accordingly so that such attributable interests will then be reportable on the form. We invite comment as to whether any additional professional skills would be needed to complete this form.

Federal Rules that Overlap, Duplicate or Conflict With the Proposed Rules

The rules proposed in the FNPRM will modify the current attribution rules, and, similarly to the Commission's current attribution rules, will be used to implement the multiple ownership rules. Thus, the proposed rules are intended to promote the same diversity and competition goals also fostered by the multiple ownership rules. However, the proposed rules do not overlap, duplicate or conflict with the multiple ownership rules.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.''[5]

The proposed rules and policies will apply to television broadcasting licensees, radio broadcasting licensees and potential licensees of either service. The Small Business Administration defines a television broadcasting station that has no more than $10.5 million in

[2] An IRFA pursuant to Public Law Notice 96–354, section 603, 94 Stat. 1165 (1980) was incorporated into the Notice of Proposed Rule Making in MM Docket Nos. 94–150, 92–51 & 87–154, 10 FCC Rcd 3606 (1995), 60 FR 3606, February 2, 1996 (''NPRM'').

[3] 5 U.S.C. 603(a).

[4] Public Law Notice 104–104, 110 Stat. 56 (1996).

[5] While we tentatively believe that the SBA's definition of ''small business'' greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this FNPRM, we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply, but we reserve the right to adopt a more suitable definition of ''small business'' as applied to radio and television broadcast stations or other entities subject to the proposed rules in this FNPRM and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities in the future. See Report and Order in MM Docket No. 93–48 (Children's Television Programming), 11 FCC Rcd 10660, 10737–38 (1996), citing 5 U.S.C. 601(3). We have pending proceedings seeking comment on the definition of and data relating to small businesses. In our *Notice of Inquiry* in GN Docket No. 96–113 (In the Matter of Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses), FCC 96–216, released May 21, 1996, 61 FR 33066, June 26, 1996, we requested commenters to provide profile data about small telecommunications businesses in particular services, including television, and the market entry barriers they encounter, and we also sought comment as to how to define small businesses for purposes of implementing Section 257 of the Telecommunications Act of 1996, which requires us to identify market entry barriers and to prescribe regulations to eliminate those barriers. Additionally, in our *Order* and *Notice of Proposed Rule Making* in MM Docket No. 96–16 (In the Matter of Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines), 11 FCC Rcd 5154 (1996), 61 FR 9964, March 12, 1996, we invited comment as to whether relief should be afforded to stations: (1) Based on small staff and what size staff would be considered sufficient for relief, e.g., 10 or fewer full-time employees; (2) based on operation in a small market; or (3) based on operation in a market with a small minority work force.

annual receipts as a small business.[6] Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.[7] Included in this industry are commercial, religious, educational, and other television stations.[8] Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.[9] Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.[10] There were 1,509 television stations operating in the nation in 1992.[11] That number has remained fairly constant as indicated by the approximately 1,550 operating television broadcasting stations in the nation as of August, 1996.[12] For 1992 [13] the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.[14]

Additionally, the Small Business Administration defines a radio broadcasting station that has no more than $5 million in annual receipts as a small business.[15] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[16] Included in this industry are commercial, religious, educational, and other radio stations.[17] Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.[18] However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.[19] The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than $5 million in revenue in 1992.[20] Official Commission records indicate that 11,334 individual radio stations were operating in 1992.[21] As of August, 1996, official Commission records indicate that 12,088 radio stations were operating.[22]

Thus, the proposed rules will affect approximately 1,550 television stations; approximately 1,194 of those stations are considered small businesses.[23] Additionally, the proposed rules will affect 12,088 radio stations, approximately 11,605 of which are small businesses.[24] These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. We recognize that the proposed rules may also impact minority and women owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0%) of 1,221 commercial television stations and 293 (2.9%) of the commercial radio stations in the United States.[25] According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9%) of 1,342 commercial and non-commercial television stations and 394 (3.8%) of 10,244 commercial and non-commercial radio stations in the United States.[26] We recognize that the numbers of minority and women broadcast owners may have changed due to an increase in license transfers and assignments since the passage of the 1996 Act. We seek comment on the current numbers of minority and women owned broadcast properties and the numbers of these that qualify as small entities. To assist us with our responsibilities under the amended Regulatory Flexibility Act, we specifically request comments concerning our assessment of the number of small businesses that will be impacted by this rule making proceeding, the type or form of impact, and the advantages and disadvantages of the impact.

In addition to owners of operating radio and television stations, any entity who seeks or desires to obtain a television or radio broadcast license may be affected by the proposals contained in this item. The number of entities that may seek to obtain a television or radio broadcast license is unknown. We invite comment as to such number.

Additionally, the proposed changes to the cable/MDS cross-ownership attribution rule will apply to cable and MDS entities. SBA has developed a definition of small entities for cable and other pay television services under Standard Industrial Classification 4841

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[6] 13 CFR 121.201, Standard Industrial Code (SIC) 4833 (1996).

[7] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1, Appendix A–9 (1995).

[8] *Id.* See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes ''Television Broadcasting Stations (SIC Code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

[9] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1, Appendix A–9 (1995).

[10] Id. SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 Theatrical Producers and Miscellaneous Theatrical Services (producers of live radio and television programs).

[11] FCC News Release No. 31327, January 13, 1993; Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 42, Appendix A–9.

[12] FCC News Release No. 64958, September 6, 1996.

[13] Census for Communications' establishments are performed every five years ending with a ''2'' or ''7''. See Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 42.

[14] The amount of $10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at $9,999,999 and began at $10,000,000. No category for $10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[15] 13 CFR 121.201, SIC 4832.

[16] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 42, Appendix A–9.

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

[21] FCC News Release No. 31327, January 13, 1993.

[22] FCC News Release No. 64958, September 6, 1996.

[23] We use the 77 percent figure of TV stations operating at less than $10 million for 1992 and apply it to the 1996 total of 1,550 TV stations to arrive at 1,194 stations categorized as small businesses.

[24] We use the 96% figure of radio station establishments with less than $5 million revenue from the Census data and apply it to the 12,088 individual station count to arrive at 11,605 individual stations as small businesses.

[25] *Minority Commercial Broadcast Ownership in the United States,* U.S. Dep't of Commerce, National Telecommunications and Information Administration, The Minority Telecommunications Development Program (''MTDP'') (April 1996). MTDP considers minority ownership as ownership of more than 50% of a broadcast corporation's stock, voting control in a broadcast partnership, or ownership of a broadcasting property as an individual proprietor. *Id.* The minority groups included in this report are Black, Hispanic, Asian, and Native American.

[26] *See* Comments of American Women in Radio and Television, Inc. in MM Docket No. 94–149 and MM Docket No. 91–140, at 4 n.4 (filed May 17, 1995), citing 1987 Economic Censuses, Women-Owned Business, WB87–1, U.S. Dep't of Commerce, Bureau of the Census, August 1990 (based on 1987 Census). After the 1987 Census report, the Census Bureau did not provide data by particular communications services (four-digit Standard Industrial Classification (SIC) Code), but rather by the general two-digit SIC Code for communications (#48). Consequently, since 1987, the U.S. Census Bureau has not updated data on ownership of broadcast facilities by women, nor does the FCC collect such data. However, we sought comment on whether the Annual Ownership Report Form 323 should be amended to include information on the gender and race of broadcast license owners. *Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities,* Notice of Proposed Rule Making, 10 FCC Rcd 2788, 2797, 60 FR 06068 (January 12, 1995).

(SIC 4841), which covers subscription television services, which includes all such companies with annual gross revenues of $11 million or less.[27] This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau, there were 1,323 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992.[28] This figure is overinclusive since it includes other pay television services, not only cable and MDS.

The Communications Act contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [29] The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers is deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate.[30] Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1,450.[31] Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. We are likewise unable to estimate the number of these small cable operators that serve 50,000 or fewer subscribers in a franchise area.

The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company,'' is one serving fewer than 400,000 subscribers nationwide.[32] Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.[33] Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the proposal adopted in this NPRM. Under the Commission's rules, a small cable system is a cable system with 15,000 or fewer subscribers owned by a cable company serving 400,000 or fewer subscribers over all of its cable systems. We are unable to estimate the number of small cable systems nationwide, and we seek comment on the number of small cable systems.

The Commission refined the definition of ''small entity'' for the auction of MDS as an entity that together with its affiliates has average gross annual revenues that are not more than $40 million for the preceding three calendar years.[34] This definition of a small entity in the context of MDS auctions has been approved by the SBA.[35]

The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities. Five bidders indicated that they were minority-owned and four winners indicated that they were women-owned businesses. MDS is a service heavily encumbered with approximately 1,573 previously authorized and proposed MDS facilities and information available to us indicates that no MDS facility generates revenue in excess of $11 million annually. We tentatively conclude that for purposes of this IRFA, there are approximately 1,634 small MDS providers as defined by the SBA and the Commission's auction rules. We seek comment on this tentative conclusion.

Some of the proposals delineated above may also apply to daily newspapers that hold or seek to acquire an interest in a broadcast station that would be treated as attributable under the proposals. A newspaper is an establishment that is primarily engaged in publishing newspapers, or in publishing and printing newspapers.[36] The SBA defines a newspaper that has 500 or fewer employees as a small business.[37] Based on data from the U.S. Census Bureau, there are a total of approximately 6,715 newspapers, and 6,578 of those meet the SBA's size definition.[38] However, we recognize that some of these newspapers may not be independently owned and operated and, therefore, would not be considered a ''small business concern'' under the Small Business Act.[39] We are unable to estimate at this time how many newspapers are affiliated with larger entities. Moreover, the proposal would apply only to daily newspapers, and we are unable to estimate how many newspapers that meet the SBA's size definition are daily newspapers. Consequently, we estimate that there are fewer than 6,578 newspapers that may be affected by the proposed rules in this FNPRM. We invite comment on this estimate.

Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis of the 1995 NPRM of Proposed Rule Making

There were no comments submitted specifically in response to the IRFA. We have, however, taken into account all issues raised by the public in response to the proposals raised in this proceeding. In particular, Association of Independent Television Stations, Inc. (now known as the Association of Local Television Stations, Inc.), among others, generally notes that, given the plethora of other media investment opportunities, relaxation of the attribution rules will attract capital to broadcasting while tightening of the attribution rules may restrict capital flow to broadcasting. We note that access to capital is an issue of profound concern to small entities, and, accordingly, as discussed in the

[27] 13 CFR 121.201.

[28] 1992 Census, *supra,* at Firm Size 1–123. See *Memorandum Opinion and Order and Notice of Proposed Rule Making* in MM Docket No. 92–266 and CS Docket No. 96–157, 11 FCC Rcd 9517, 9531, 61 FR 45356 (August 8, 1996).

[29] 47 U.S.C. § 543(m)(2).

[30] 47 CFR § 76.1403(b).

[31] Paul Kagan Associates, Inc., *Cable TV Investor,* February 29, 1996 (based on figures for December 30, 1995).

[32] 47 CFR § 76.901(e). The Commission developed this definition based on its determinations that a small cable system operator is one with annual revenues of $100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration,* 10 FCC Rcd 7393, 60 FR 35854 (June 5, 1995).

[33] Paul Kagan Associates, Inc., Cable TV Investor, February 29, 1996 (based on figures for December 30, 1995).

[34] 47 CFR 21.961(b)(1).

[35] See *Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding,* MM Docket No. 94–31 and PP Docket No. 93–253, Report and Order, 10 FCC Rcd 9589, 60 FR 36524 (June 30, 1995).

[36] 13 CFR 121.201 (SIC 2711).

[37] *Id.*

[38] U.S. Small Business Administration 1992 Economic Census Industry and Enterprise Report, Table 3, SIC Code 2711 (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

[39] 15 U.S.C. 632.

FNPRM, *supra,* ¶1, one of our goals in this proceeding has been to avoid disruption in the flow of capital to broadcasting. National Association of Black Owned Broadcasters argues that additional relaxation of the attribution rules will allow increased concentration of control of the media industry, which works against minority ownership. Our goal is neither specifically to relax or to tighten the attribution rules, but rather to maximize their precision. FNPRM, *supra,* ¶1. Additionally, Big Horn Communications, Inc., which notes that it is a small market television station in Montana, argues that LMAs and time brokerage agreements allow cost efficiencies in small markets that increase service to small markets and promote the economic viability of small and financially weak stations. Local Station Ownership Coalition also urges the Commission not to make television station LMAs attributable unless it permits ownership of two television stations in a market because LMAs help financially troubled stations achieve economic viability. We recognize that LMAs can promote economic efficiencies, and our proposal is designed to permit those benefits while providing for attribution of those television station LMAs that should be counted under our multiple ownership rules.

Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives

This FNPRM solicits comment on a variety of alternatives discussed herein. Any significant alternatives presented in the comments will be considered. In the NPRM, we invited comment on whether to restrict or eliminate current attribution exemptions for nonvoting shares and for minority voting shareholders in a corporation with a single majority shareholder. In addition, we requested comment on whether we should adopt new attribution rules or policies when multiple financial or business relationships were held in combination in a licensee. The ''equity or debt plus'' approach discussed in the FNPRM is a specifically tailored approach, narrower than that discussed in the NPRM. We seek comment on whether there is a significant economic impact on any class of small licensee or permittee as a result of our proposed ''equity or debt plus'' approach.

We seek comment on whether there would be a significant economic impact on small stations resulting from the proposed attribution rules for LMAs or from the possible application of the attribution rules to JSAs.

We seek comment on whether there would be a significant economic impact on small entities from the changes we have proposed to the cable/MDS cross-ownership attribution rules.

Staff Study of the 1994/95 FCC Annual TV Ownership Reports
Policy and Rules Division
Mass Media Bureau
FCC

Executive Summary

This study collected and analyzed ownership information from the Commission's 1994/1995 annual ownership reports on the majority (1,009 out of 1,043) of for-profit TV stations. The study draws the following conclusions.

- 64.6 percent of broadcast TV stations are closely-held, where majority control is held by 5 or fewer owners.
- As well, 74.9 percent of TV stations are held by group-owners.
- Increasing the attribution benchmark for active stockholders from 5 percent to 10 percent of voting control would decrease the number of currently-attributable owners by approximately one-third. As well, the number of licensees with no attributable owners (excluding directors and officers) would increase from 81 to 134, or by 65.4 percent.
- Broadcast investment by mutual funds, life insurance companies and other passive investors is relatively small. The proposed change from a 10 percent to 20 percent passive investor benchmark would affect 5 of 15 currently-attributable passive investors, and impact 5 stations currently with attributable passive investors. Most reported passive investment is now in the range of 5 percent to 10 percent voting control.
- Non-passive institutional investment is also small, with only 57 such interests reported in total. The proposed increase from a 5 percent to 10 percent benchmark would decrease by 16, or 33.3 percent, the number of institutional interests that are currently attributable.
- Only 10 instances of reported limited liability corporations (LLCs) were found among the stations sampled.

I. Purpose of the Study

The present study was undertaken in conjunction with the attribution notice to analyze the potential impact of proposed rule changes on the cognizable and non-cognizable interests in broadcast TV stations.

II. Study Population of Interest

The scope of the data collection and analysis effort was limited to for-profit broadcast television stations. Data for non-profit TV stations, radio stations and low power stations were not collected for several reasons. With non-profit stations only directors and officers (D&O) are cognizable, and they remain cognizable under proposed changes. The choice to focus on broadcast TV station attribution was made to maximize the use of limited resources.

III. Study Design

Broadcast TV station licensees are required to report cognizable ownership interests in the form of an annual ownership report. These ownership interests include

(i) ''active'' stockholders of 5 percent voting interest or greater in the licensee,

(ii) ''passive'' shareholders, including mutual funds, bank trust departments and life insurance companies holding 10 percent or greater voting interest in the licensee,

(iii) single-majority stockholders holding greater than 50 percent interest (in which cases all other voting interests are not attributable),

(iv) all general partnership interests,

(v) limited partnership interests that are not ''sufficiently insulated'' and

(vi) all directors and officers (D&O) involved in the licensee.

Data collection focused on collecting data on all attributable interests, with the exception of directors and officers with less than 1 percent voting interest in the licensee. Because of their direct operational involvement with the licensee, this latter group is held attributable, regardless of the extent of their ownership stake in the station.

The annual ownership reports also frequently and voluntarily report ownership percentages for owners not attributable under current rules, in particular voting shareholders with interests in the 1 percent to 5 percent ownership range. To expand the scope of our analysis, data collection was extended to include all ''reported'' voting ownership claims of 1 percent or greater.

IV. Overall TV-Station Results

Ownership information was obtained from the annual ownership reports required by the Commission. Information from the most recent report on file was used. Essentially, data was collected manually and then computer-coded from virtually all of the for-profit broadcast TV ownership filings, except with group-owned stations where a single ownership report was filed for the entire group.

Of the total 1542 licensed TV stations, for-profit stations numbered 1043 and

non-profit stations numbered 499. Of the for-profit stations, 781 stations or 74.8% were held by group owners, defined as 2 or more stations owned by the same corporate holding company. The remaining 262 stations were singly-owned stations. The breakdown between for-profit and non-profit stations, and group-owned versus singly-owned stations is shown in Table I, presented at the end of this report.

Table II categorizes TV stations by owner type. Of the for-profit TV stations censused, 64.6 percent are closely-held stations, either (1) by a sole proprietor, (2) by a single-majority shareholder, (3) majority family-owned or (4) majority-owned by a small (less than six) number of individual shareholders. Family-owned stations are those where five or fewer family members hold more than 50 percent ownership interest in a particular station. Closely-held stations are similarly defined but without the family-membership requirement. In contrast, only 20.1 percent of for-profit stations are categorized as widely-held, where typically any one shareholder would hold only a small percent of ownership in the station. These percentages exclude stations which may be closely or widely held in the context of a general partnership (GP), limited partnership (LP) or limited liability corporation (LLC) ownership structure. As well, 4.2 percent of TV stations are organized as GPs, 8.8 percent as LPs and 1.0 percent as LLCs. Finally of the remaining stations, 5 are international TV stations and 8 are currently in receivership.

Separate results for group-owned and singly-owned stations are given in Table III. As shown in the table, group-owned stations tend to have less concentrated ownership, with 20.4 percent of these stations widely held, while only 6.8% of singly-owned stations are widely-held.

V. Voting Shareholders as Cognizable Interests

The Commission currently attributes ownership to stockholders with 5 percent or more of voting rights in a broadcast station. Under consideration in the NPRM is a proposed increase in the attribution benchmark for voting stockholders from its current level at 5 percent to a 10 percent benchmark. Of interest is the impact of a change in the attribution benchmark on the number of attributable owners.

The distribution of ownership interests that are attributable under the 5 percent rule is given next. The number of equity holders in the 1 percent to 5 percent range is also given, although with the caveat that non-attributable interests are voluntarily reported and may undercount the true number. The table excludes ''passive'' shareholders, single-majority shareholders, and partnership interests, which are governed by separate attribution rules. These groups will be separately analyzed below.

I. Issue Analysis

A. Impact of the 1996 Act

4. The 1996 Act relaxed our broadcast station multiple ownership rules. Section 202 of the 1996 Act directed the Commission to eliminate national radio multiple ownership limits, to relax significantly local radio ownership rules, to eliminate the limit on the number of television stations that a person or entity may directly own nationwide, and to raise the national television audience reach cap to 35 percent. The 1996 Act also directed the Commission to extend its one-to-a-market waiver policy, 47 CFR 73.3555(c), to the top 50 markets, consistent with the public interest, convenience, and necessity, and to review its television duopoly rule, 47 CFR 73.3555(b).

5. In two Orders released on March 8, 1996 (61 FR 10689, March 15, 1996 and 61 FR 10691, March 15, 1996), the Commission amended its ownership rules to reflect: (1) The elimination of the numerical national television ownership caps and the increase in the national television ownership audience reach cap to 35 percent; and (2) the elimination of national radio ownership limits and the relaxation of the local radio ownership limits.[40] In a companion *Second Further Notice of Proposed Rule Making* in MM Docket Nos. 91–221 & 87–8, adopted today, the Commission invites further comment on a number of issues concerning the local television ownership rules, including extension of the one-to-a-market waiver policy and possible grandfathering of existing television LMAs, should we ultimately determine that these arrangements are attributable.[41]

6. We invite comment in this proceeding as to whether the changes resulting from passage of the 1996 Act should affect our discussion of the attribution and cross-interest issues raised by the NPRM, and, if so, how. The relaxation of our multiple ownership rules does not itself require either a relaxation or tightening of the attribution rules. It does, however, reinforce our belief that the attribution rules must function effectively and accurately to identify all interests that are relevant to the underlying purposes of the multiple ownership rules and that should therefore be counted in applying those rules. As importantly, we seek to identify clearly those interests that do not and should not implicate concerns raised by the multiple ownership rules and that should not, therefore, be counted. We invite comment on these issues, and we specifically invite commenters to update the record on the impact of the 1996 Act on the issues raised in the NPRM, including those not discussed again in this FNPRM, such as LLCs and the cross-interest policy.

B. New Attribution Issues and Proposals

7. In this FNPRM, we explore additional issues and proposals to increase the precision of our attribution rules. First, we invite comment on whether we should add a new ''equity or debt plus'' attribution rule to the current rules. If adopted, such a new rule would limit, but not eliminate, the single majority shareholder and nonvoting stock attribution exemptions and would address our concerns, expressed in the NPRM, about whether certain multiple business interests should be attributable when held in combination. Under such a rule, where the interest holder is a program supplier or same-market broadcaster or media entity subject to the broadcast cross-ownership rules, 47 CFR 73.3555(c), 73.3555(d), & 76.501(a), we would attribute its otherwise nonattributable equity and/or debt interest in a licensee or other media entity subject to the cross-ownership rules if the equity and/or debt holding is greater than a specified benchmark.[42] Second, we incorporate into this proceeding our proposal to attribute television time brokerage agreements (or LMAs) based on the same principles that currently apply to radio LMAs.[43] Thus, we

[40] *Implementation of Sections 202(a) and 202(b)(1) of the Telecommunications Act of 1996 (Broadcast Radio Ownership)*, FCC 96–90, 61 FR 10689 (March 15, 1996); *Implementation of Sections 202(c)(1) and 202(e) of the Telecommunications Act of 1996 (National Broadcast Television Ownership and Dual Network Operations)*, FCC 96–91, 61 FR 10691 (March 15, 1996).

[41] FCC 96–438, released November 7, 1996 (''*TV Ownership Second FNPRM*'').

[42] We will refer herein to such media entities or outlets proposed to be subject to the ''equity or debt plus'' approach as ''same-market broadcasters'' simply as a shorthand. Thus, when we refer to a ''same-market broadcaster'' in this FNPRM in the context of discussing the ''equity or debt plus'' approach, we include daily newspapers and cable operators.

[43] We earlier raised this proposal in the television ownership proceeding, *Further Notice of Proposed Rule Making* in MM Docket Nos. 91–221 & 87–8, 10 FCC Rcd 3524, ¶¶ 138–40 , 60 FR 6483, (February 2,1995) (''*TV Ownership FNPRM*''), but now intend to resolve the issue of treatment of LMAs in this attribution proceeding. We will

Continued

tentatively conclude that we should treat time brokerage of another television station in the same market for more than fifteen percent of the brokered station's weekly broadcast hours as being attributable, and therefore as counting toward the brokering licensee's national and local ownership limits. Third, we invite comment as to whether we should attribute joint sales agreements among broadcasters in the same markets, at least under certain circumstances, and as to what factors should make such contractual relationships attributable. With respect to television stations, the definition of what is the same ''market'' for purposes of applying the ''equity or debt plus'' attribution standard, if adopted, as well as for applying the proposals to attribute LMAs and JSAs, will be resolved in the television local ownership proceeding. For radio stations and other entities covered by our broadcast attribution rules, we would define the same ''market'' by reference to the definition of the market used in the underlying multiple ownership rule that is implicated.

1. ''Equity or Debt Plus''

8. *Background.* In the NPRM, ¶ 51, we expressed concern that our earlier conclusion that a minority shareholder could not exert significant influence on a licensee where there is a single majority shareholder may not be a valid conclusion in all circumstances. Therein, ¶ 53, we also noted our concern that nonvoting shareholders could, in certain circumstances, carry appreciable influence that is not now attributed. Accordingly, we invited comment on whether to restrict or eliminate current attribution exemptions for nonvoting shares and for minority voting shareholders in a corporation with a single majority shareholder. In addition, we requested comment on whether we should adopt new attribution rules or policies when multiple financial or business relationships were held in combination in a licensee. We noted that such multiple relationships could in combination with equity or debt interests create sufficient influence to warrant attribution. While we expressed these concerns, we did not delineate specific proposals to address them.

9. We received several comments concerning these issues. Most commenters urged us to retain the single majority shareholder and nonvoting stock exemptions from attribution. However, network affiliates have expressed concerns that the exemptions have allowed networks to extend their nationwide reach by structuring nonattributable deals in which the networks effectively exert significant influence if not control over licensees.[44] In addition, while most parties were generally opposed to a case-by-case attribution approach, several parties agreed that there is a need to adopt new policies with respect to multiple business interests, or at least to clarify our existing policies in this regard.[45] One commenter was generally opposed to relaxing the attribution rules, commenting that ''[a]ny relaxation of the attribution rules will allow an increase in the concentration of control of the industry,'' and adding that an increased concentration of control ''works against diversity of viewpoints and works against minority ownership.''[46]

10. In light of the broad divergence of opinion in the comments, we believe it would be desirable to explore a balanced, specifically-tailored approach that would focus the rules more precisely on those relationships that potentially permit significant influence such that they should be attributed. Accordingly, based in part on our review of the comments, which underscore the concerns expressed in the NPRM, and in response to recent cases, we invite comment on a new ''equity or debt plus'' attribution rule. Many of the concerns sought to be addressed by the proposed ''equity or debt plus'' attribution approach have traditionally been dealt with under the cross-interest policy. A chief benefit of the new proposed approach, as discussed further below, is that it would permit greater certainty and predictability in deciding future cases than the cross-interest policy, which has traditionally been applied on an *ad hoc,* case-by-case basis.

11. *Overview of Approach.* The new rule would operate in addition to other attribution standards and would attempt to increase the precision of the attribution rules, address the foregoing concerns about multiple nonattributable relationships, and respond to concerns about abuses of the single majority shareholder and nonvoting stock attribution exemptions. This approach would not eliminate the nonvoting and single majority shareholder exemptions from attribution, but would limit their availability in certain circumstances. Under this approach, we would attribute the otherwise nonattributable debt or equity interests in a licensee where: (1) The interest holder also holds certain other significant interests in or relationships to a licensee or other media outlet subject to the cross-ownership rules that could result in the ability to exercise significant influence; and (2) the equity and/or debt holding exceeds specified thresholds. We seek to apply bright line attribution tests wherever possible. Accordingly, we invite comment on what the appropriate threshold(s) for these purposes should be and specifically whether we should set the threshold at 33 percent where the interest holder is: (1) A program supplier to the licensee, as will be discussed below, or (2) a same-market broadcaster or other media outlet subject to the broadcast cross-ownership rules, including newspapers and cable operators. We emphasize that, under the ''equity or debt plus'' approach delineated herein, a finding that an interest is attributable would result in that interest being counted for all applicable multiple ownership rules, local and national.

12. The ''equity or debt plus'' approach is narrower than that discussed in the NPRM with respect to resolving our concerns that multiple nonattributable business interests could be combined to exert influence over licensees. It also does not go so far as to repeal the current nonvoting stock and single majority shareholder attribution exemptions; except in cases involving a same-market broadcaster or a program supplier or any other relationship category that we delineate, the single majority shareholder and nonvoting stock exemptions would continue to apply as they do now. This approach reflects our current judgment as to the appropriate balance between our goal of maximizing the precision of the attribution rules by attributing all interests that are of concern, and only those interests, and our equally significant goals of not unduly disrupting capital flow and of affording ease of administrative processing and reasonable certainty to regulatees in planning their transactions. To the extent that it misses some situations that might be of concern, we, of course, would reserve the right to address extraordinary cases on an *ad hoc* basis and in a manner consistent with the public interest. We invite comment as to whether the ''equity or debt plus'' option should be adopted, and, if so,

resolve the issue of possible grandfathering of LMAs in the television ownership proceeding.

[44] See Consolidated Comments of AFLAC Broadcast Group (''AFLAC'') at 15–19; Consolidated Reply Comments of AFLAC at 3–4; Reply Comments of Network Affiliated Stations Alliance at 2–3, 6–7.

[45] See, *e.g.,* Consolidated Comments of AFLAC at 15, 21–23.

[46] Comments of National Association of Black Owned Broadcasters at 10, 13.

whether the 33 percent benchmark is appropriate and whether other relationships to or interests in a licensee should also trigger attribution under an ''equity or debt plus'' approach.

13. *Triggering Relationships.* The ''equity or debt plus'' approach would focus directly on those relationships that may trigger situations in which there is significant incentive and ability for the otherwise nonattributable interest holder to exert influence such that the interest may implicate diversity and competition concerns and should be attributed. As noted above, we seek comment as to whether the application of the equity and/or debt benchmarks discussed below should be triggered where the interest holder is either: (1) A broadcaster or other media entity in any service implicated by any of the current cross-ownership rules, which operates in the same market; or (2) a program supplier.

14. The approach of focusing on specified triggering relationships would extend the Commission's current recognition that the category or nature of the interest holder is important to whether an interest should be attributed. For example, under the current broadcast attribution rules, passive investors are subject to a higher voting stock attribution benchmark, 47 CFR 73.3555 Note 2(c), since these parties are subject to fiduciary and other restraints on their exercise of influence over licensees and are, by their nature, principally concerned with investment returns rather than direct influence over the licensee.

15. Same-market broadcasters and certain other same-market media entities may raise particular concerns because of our goal of protecting local diversity and competition. Firms with existing local media interests could use financing or contractual arrangements, such as LMAs, to obtain a degree of horizontal integration within a particular local market that should be subject to local multiple ownership limitations. Indeed, the Commission's cross-interest policy reflects its concern for competition and diversity where an entity has an attributable interest in one media outlet and a ''meaningful relationship'' with another media outlet serving substantially the same area, *i.e.*, in the same market.[47] In such cases, if the ''equity or debt plus'' approach is adopted, an attributable investment in one broadcast or other media outlet subject to the broadcast cross-ownership rules (*i.e.*, cable systems and newspapers), combined with a substantial non-attributable investment in a second station or media outlet subject to the cross-ownership rules in the same market, would trigger attribution of both stations or media interests to the interest holder, where common ownership of the two entities involved would be barred by the broadcast cross-ownership rules. We seek comment on this option. Certainly, television broadcasters should be included as ''same-market broadcasters,'' as should radio stations. We also believe that other media entities captured by the cross-ownership rules (*i.e.*, daily newspapers and cable operators) should be subject to the ''equity or debt plus'' approach, just as they are subject to our broadcast cross-ownership rules, but we seek comment on the implications of including daily newspapers and cable operators within the scope of this proposal. In particular, how should we define what is the ''same market'' for purposes of applying the ''equity or debt plus'' proposal to these latter entities?

16. We also invite comment on whether we should include program suppliers under the ''equity or debt plus'' attribution test to address our concern and that of some commenters that program suppliers such as networks could use nonattributable interests to exert influence over critical station decisions, including programming and affiliation choices. In recent transactions involving program suppliers, it has appeared that nonattributable investors can be granted rights over licensee decisions that might afford them significant influence over the licensee. We note that radio and television time brokerage agreements or LMAs are program supply contracts and would be encompassed under the ''equity or debt plus'' attribution approach, if we specify program suppliers as a triggering category. Thus, under the ''equity or debt plus'' approach, such agreements might result in attribution in specific cases if the brokering station holds a financial interest in or acts as a creditor of the brokered station. Television time brokerage agreements might also be attributable under the *per se* LMA attribution approach discussed below.

17. One recent transaction, for example, required us to decide whether to attribute complex and substantial financial interests that a national television network held in the proposed assignee of a television station and associated translator station.[48] The proposed assignee was a multiple station owner whose stations were affiliated with the network investor. We found that the collective interests and relationships in that case ''do not squarely fall within any of the cases * * * in which the Commission has previously found multiple relationships between a network and its affiliate nonattributable.'' [49] We therefore granted the application conditioned upon the outcome of this rulemaking proceeding.[50] Other recent cases have raised similar concerns and are also conditioned on the outcome of this proceeding.[51]

18. We tentatively conclude that there is the potential for certain substantial investors or creditors to have the ability to exert significant influence over key licensee decisions through their contract rights, even though they are not granted a direct voting interest or may only have a minority voting interest in a corporation with a single majority shareholder, which may undermine the diversity of voices we seek to promote. They may, through their contractual rights and their ongoing right to communicate freely with the licensee, exert as much or more influence or control over some corporate decisions as voting equity holders whose interests are attributable. We seek specific comment on this issue.

19. If we were to apply this new attribution approach to program suppliers, we would need to decide how to define the category of ''program supplier.'' We seek comment on how

[47] For a recent application of the policy and statement of this justification, see *Roy M. Speer*, FCC 96–258, ¶¶ 124–25, released June 14, 1996.

[48] *BBC License Subsidiary L.P (WLUK–TV)*, 10 FCC Rcd 7926 (1995).

[49] *Id.* at ¶ 43.

[50] *Id.* at ¶ 44.

[51] These include *Roy M. Speer*, FCC 96–258, released June 14, 1996; *BBC License Subsidiary L.P. (KHON–TV et. al)*, 10 FCC Rcd 10968 (1995); *BBC License Subsidiary L.P (WLUK–TV)*, 10 FCC Rcd 7926 (1995); *Quincy D. Jones*, 11 FCC Rcd 2481 (1995); Letter to Heritage Media, Inc. et al. from Roy J. Stewart, Chief, Mass Media Bureau, dated January 18, 1996 (FCC File Nos. BTCCT–950911KF–KG and BALCT–950628KJ–KL); Letter of Roy J. Stewart, Chief, Mass Media Bureau, dated May 8, 1995, Re File Nos. BALH–940323GE and BAL–940330EA (Cincinnati, Ohio); Letter of Larry D. Eads, Chief, Audio Services Division, Mass Media Bureau, Ref. 1800B2, 8910–BD, dated June 8, 1995, Re File Nos. BAL–940525EA, BALH–940525EB (Wellington and Fort Collins, Colorado). Additionally, on March 27, 1996, the staff, acting pursuant to delegated authority, conditioned the grant of applications seeking authorization for the transfer of control of Noble Broadcast Licenses, Inc., licensee of radio stations serving communities in Ohio, Missouri, Illinois, and Colorado, to Jacor Communications, Inc., on the outcome of this proceeding. We do not seek nor will we consider in this proceeding comments on the merits of the decisions in these particular cases. If necessary, we will issue separate orders to apply any new rules resulting from the instant proceeding to the cases that have been conditioned on its outcome. We mention these cases here only to illustrate the kinds of relationships and interests that have aroused concerns about the need to revise our attribution rules and invite comment, as discussed below, on these relationships and interests in general.

the definition should be set. One potential definition would include all entities from which a broadcast licensee obtains programming, including program producers, syndicators and networks. As noted above, these entities in particular may have inherent interests in influencing programming decisions. Alternatively, should we limit the definition to networks or only to program suppliers that supply significant or substantial quantities of programming to the licensee? If we limit the definition to networks, how should we define a network for these purposes? Alternatively, if we were to adopt a criterion based on the amount of programming supplied, what amount of programming would be sufficient for us to classify an entity as a program supplier for purposes of applying the ''equity or debt plus'' approach? In addition, where the program supplier is an entity in which other persons or entities hold interests, how great an interest in a program supplier can a person or entity hold without being deemed to be a program supplier for purposes of applying the debt or equity plus rule? Should we treat as program suppliers only those persons or entities that hold a controlling interest (*de facto* or *de jure*) in a program supplier? Alternatively, should we apply our broadcast attribution rules in answering this question? Under such an approach, for example, applying the current attribution rules, the holder of five percent of the voting stock in a program supplier would be considered to be a program supplier for purposes of applying the ''equity or debt plus'' approach. As another alternative, should we establish a separate benchmark to be applied in making this determination? If the last, what should that benchmark be?

20. Finally, if we include programming suppliers among the cognizable relationships that would trigger the equity or debt thresholds discussed above, we nonetheless wish to avoid disrupting the flow of capital to television stations to fund, among other things, the conversion to digital television, which we anticipate will be costly. We invite comment as to whether the ''equity or debt plus'' approach would significantly hinder networks or other telecommunications entities from helping stations to fund the conversion to digital television, and, if so, if this is a significant problem.

21. *Investment Thresholds.* Under the foregoing approach, where the creditor or equity interest holder is a same-market broadcaster or a program supplier to the station in question, in addition to applying the existing attribution criteria, we would attribute any financial interest or investment in the station or other media outlet that exceeds specified equity or debt thresholds. We would aggregate the equity interests of such an investor (including both non-voting stock in whatever form it is held and voting stock) in a licensee or other media outlet for purposes of applying the equity threshold and would apply the same approach with respect to aggregating all debt holdings in applying the debt threshold. We seek comment as to whether preferred stock should be treated as equity or as debt for purposes of applying the threshold. Additionally, when the investor's total investment in the licensee or other media outlet, aggregating all debt and equity interests, exceeds a specified threshold percentage of all investment in the licensee (the sum of all equity plus debt), attribution would also be triggered. In aggregating the different classes of investment, equity and debt, we propose to use total capitalization as a base. We invite comment on these views. Is the approach proposed workable? Would aggregating different classes of investment pose difficulties, and, if so, how can these difficulties be avoided?

22. We invite comment on what specific percentage threshold(s) we should set for purposes of applying the foregoing approach, and we specifically request commenters to provide factual and empirical data to support the threshold or benchmark they advocate. We are inclined to set the equity and debt thresholds at the same level because the rationale for including such investments, *i.e.*, those affording the ability to influence important station decisions, is the same for all such forms of investment. A 33 percent benchmark might be reasonable for these purposes. We invite comment on whether a higher or lower benchmark would be more effective in achieving our diversity and competition goals, while not unduly disrupting capital flow. We believe that the threshold should be at least as high as the passive investor benchmark, whether that benchmark be 10 percent, as under the current rules, or 20 percent, as proposed in the NPRM in this proceeding. Additionally, we do not want to set the limit so low as to unduly disrupt capital flow to broadcasting. Finally, we note that, in the context of its cross interest policy, the Commission has permitted a nonattributable equity interest as large as 33 percent. See Cleveland Television Corp., 91 FCC 2d 1129, 1132–35 (Rev. Bd. 1982), *review denied,* FCC 83–235 (May 18, 1983), aff'd, Cleveland Television Corp. v. *FCC,* 732 F.2d 962 (D.C. Cir. 1984) (''*Cleveland Television*''). *Accord, Roy M. Speer,* FCC 96–258, ¶¶ 124–26, released June 14, 1996. In *Cleveland Television,* 91 FCC 2d at 1132–35, the Commission held that a one-third non-voting preferred stock interest by a broadcaster in another station in the same market conferred ''insufficient incidents of contingent control'' to violate the multiple ownership rules or the cross-interest policy, and that the holders, by virtue of ownership of the non-voting preferred stock interest would not retain the means to directly or indirectly control the station. We invite comment on the validity of this conclusion in the context of the ''equity or debt plus'' approach. Additionally, we seek comment on the impact of a 33 percent threshold on small business entities, particularly on whether there would be a disproportionate effect on small or minority entities.

23. With respect to the specific benchmark proposed, the comments reveal that the networks have substantial nonattributable investments in affiliated stations and that group owners have nonattributable investments in other stations.[52] We invite commenters to give us current data as to the typical nonattributable interests held by networks and group owners in other stations and how those relationships might be affected by the proposed changes. We ask commenters to designate whether the station is a small business as defined by the Small Business Administration (''SBA''),[53] and/or is minority or woman-owned. Such information would be useful in weighing the probable impact of setting the threshold at the 33 percent level or another level. Finally, we note that nonvoting shares, debt, and voting minority shares in a corporation with a single majority shareholder are not reported under current ownership

[52] For example, according to the Network Affiliated Stations Alliance Comments, Exhibit 1, filed in May 1995: ABC had a 14.7 percent nonattributable interest in 10 stations in addition to the stations in which it owned a 100 percent interest; CBS had a 49 percent nonattributable interest in one station in addition to transactions pending to acquire other nonattributable interests in connection with a station swap with NBC; Fox had a 20 percent nonattributable interest in the stations attributed to New World, a 25 percent nonattributable interest in the stations attributed to SF/Savoy, and a proposed 20 percent nonattributable interest in the Blackstar stations; and NBC had a 49 percent nonattributable interest in one station. Of course, this information is over one year old. Indeed, in the interim, both CBS and ABC have been sold to other entities that are group owners.

[53] The SBA defines a small television station as one that has no more than $10.5 million in annual receipts. 13 CFR § 121.201.

report forms, and, if we adopt the ''equity or debt plus'' proposal, we would need to modify our ownership forms accordingly. We invite comment as to how we should modify our ownership report form, FCC Form 323, for this purpose.

24. We also invite comment as to whether the targeted approach outlined above would be preferable to a case-by-case approach that determines whether an interest should be attributed based directly on the kinds of powers granted to an interest holder in contract language. For example, in some recent transactions, currently nonattributable investments have been accompanied by contractual provisions that essentially give the investor veto power over decisions normally made by the board of directors under the authority of the voting shareholders.[54] Such combined provisions could give the investor undue power to influence operational decisions. One approach to handling these cases might be to base attribution on the type of contract language that yields control over decisions of concern to us. Although such an *ad hoc* approach is more tailored than a generic rule, it also might lead to complicated interpretation and processing difficulties and might add uncertainty to resolution of attribution cases. Thus, a bright line approach, such as the ''equity or debt plus'' approach, which clearly defines those business relationships that cause the greatest concern, could provide certainty and minimize regulatory costs. We invite comment as to whether a bright line test, where attribution would be linked to the size of an investor's interest, can serve as a proxy for these concerns, based on the assumption that the degree of contractual rights an investor may hold is typically related to the level of his investment. Also, would the ''equity or debt plus'' approach capture those cases where currently nonattributable investments are accompanied by contractual provisions that have aroused the foregoing concerns?

2. Attribution of Time Brokerage Agreements or LMAs

25. An LMA or time brokerage agreement is a type of contract that generally involves the sale by a licensee of discrete blocks of time to a broker that then supplies the programming to fill that time and sells the commercial spot announcements to support the programming.[55] In the radio context, time brokerage of another radio station in the same market for more than fifteen percent of the brokered station's weekly broadcast hours results in attribution of the brokered station to the brokering licensee for purposes of applying our multiple ownership rules. See 47 CFR § 73.3555(a)(4)(i).

26. In our *TV Ownership FNPRM,* we tentatively proposed to attribute television LMAs based on the same principles that apply to radio time brokerage agreements. Thus, time brokerage of another television station in the same market for more than fifteen percent of the brokered television station's weekly broadcast hours would be held to be attributable, and therefore would count toward the brokering television licensee's national and local ownership limits.[56] We specifically propose here that LMAs, if attributable, would also count in applying our other ownership rules, including, for example, the broadcast-newspaper cross-ownership rule (47 CFR 73.3555(d)), the broadcast-cable cross-ownership rule (47 CFR 76.501(a)) and the one-to-a-market rule (or radio-television cross-ownership rule) (47 CFR 73.3555(c)). We request comment on these tentative proposals. We also note that if we adopt this proposal for television LMAs, the radio LMA rules (47 CFR 73.3555(a)(3)) would have to be modified accordingly, since radio LMAs are currently considered only for purposes of applying the radio contour overlap rule (47 CFR 73.3555(a)(1)), and invite comment on how the radio LMA attribution rules should be modified in this regard. We also incorporate the tentative proposal that attributable television LMAs be filed with the Commission in addition to being kept at the stations involved in an LMA.[57] We note that we asked in the *TV Ownership FNPRM*, ¶ 139, whether the program duplication or simulcasting limits that apply to commonly owned or time brokered radio stations should apply to TV LMAs. We will also resolve that issue in this proceeding.

27. The proposed *per se* LMA attribution standard would apply whether or not the LMA holder has other multiple business relationships with the brokered station or otherwise has a financial investment in the brokered station. While time brokerage agreements not involving a television station in the same market would not fall under this *per se* LMA attribution standard, as discussed above, such time brokerage agreements could be attributable under the ''equity or debt plus'' approach, if adopted, where the brokering station has an equity and/or debt interest in the brokered station that exceeds the specified investment threshold.[58] We invite updated comments on all aspects of the foregoing tentative conclusions and proposals.

28. In making this proposal to attribute television LMAs in the *TV Ownership FNPRM,* we also recognized the need to deal with pre-existing television LMAs and asked whether we should grandfather television LMAs entered into prior to December 15, 1994, the date of adoption of the *TV Ownership FNPRM,* and whether we should subject such existing LMAs to renewability and transferability guidelines similar to those governing radio LMAs.[59] However, if we do decide to attribute LMAs as we propose here,

[54] For example, in *BBC License Subsidiary L.P (WLUK–TV),* 10 FCC Rcd 7926 (1995), in addition to holding 45 percent of the cash equity in the licensee and other contractual rights, the investor had approval rights over certain major decisions of the licensee, such as expansion of operations into new business areas, mergers, consolidations and acquisition of other businesses, the sale of assets, the sale of securities and issuance of stock, the amendment of the corporate by-laws and dividend payment decisions.

[55] *TV Ownership FNPRM,* ¶ 133. In this FNPRM, we refer to LMAs or time brokerage agreements. For purposes of applying the radio LMA rules, the Commission's rules define time brokerage as ''the sale by a licensee of discrete blocks of time to a 'broker' that supplies the programming to fill that time and sells the commercial spot announcements in it.'' 47 CFR § 73.3555(a)(4)(iii). While we have generally used the terms interchangeably, we will refer herein to LMAs as those time brokerage agreements involving a broker that is a licensee of one or more stations in the same market as the brokered station.

[56] TV Ownership FNPRM, ¶ 138. When the *TV Ownership FNPRM* was released, we applied national multiple ownership limits to radio stations, and the brokered station was attributed to the brokering station for purposes of applying both those national limits and the local limits. *See Revision of Radio Rules and Policies*, 7 FCC Rcd 2755, 57 FR 18089 (April 29, 1992), *on reconsideration*, 7 FCC Rcd 6387, 6400–01 (''*First Radio Ownership Reconsideration Order*'') 57 FR 42701 (September 16, 1992), *on further reconsideration*, 9 FCC Rcd 7183, 7191, 59 FR 62609 (December 6, 1994). Subsequently, the national ownership limits were eliminated for radio. See *Implementation of Sections 202(a) and 202(b)(1) of the Telecommunications Act of 1996* (*Broadcast Radio Ownership*), FCC 96–90, 61 FR 10689 (March 15, 1996). Accordingly, the interest is counted only in applying local radio ownership limits. National multiple ownership limits apply to television stations, however, and, under our proposal, the brokered television station would be counted toward the brokering television station's national and local ownership limits, including the one-to-market rule. We note, however, that the narrow issue of whether the audience reach of a brokering and a brokered station serving the same market would both be counted toward the audience reach cap, with the effect of double counting the stations, will be decided in our proceeding concerning the television national multiple ownership rules. *Notice of Proposed Rule Making* in MM Docket Nos. 96–222, 91–221 & 87–8, FCC 96–437, released November 7, 1996.

[57] See *TV Ownership FNPRM*, ¶ 138. See 47 CFR § 73.3613(d).

[58] Thus, under the proposals enumerated in this FNPRM, LMAs are potentially attributable under a *per se* LMA attribution rule and/or under the ''equity or debt plus'' approach discussed above.

[59] *TV Ownership FNPRM*, ¶¶ 138–40.

we intend to resolve the grandfathering, renewability and transferability issues in the separate TV local ownership docket, *TV Ownership Second FNPRM*, so that we can evaluate the extent to which grandfathering may be needed based on the nature of the local ownership rules we adopt.

29. With respect to our tentative proposal in the TV Ownership FNPRM, now incorporated within this attribution proceeding, to attribute certain television LMAs to the brokering station for purposes of applying the multiple ownership rules, commenters voiced a range of positions. Some opposed attributing television LMAs for ownership purposes, particularly if the Commission does not relax its duopoly rule.[60] Others supported using the radio rules as a blueprint for regulating television LMAs.[61] Still other parties argued for more restrictive rules.[62] However, commenters generally failed to provide the Commission with the kind of factual information we seek. Consequently we once again request quantitative information on the number and characteristics of existing television LMAs.

30. We are especially interested in information on the typical geographic proximity of the brokering and brokered stations, the typical term of television LMAs, the typical renewal provisions, the typical arrangements between the brokered station and the broker on the sale of advertising time during brokered time periods, the percent of brokered station time sold to the program supplier in an LMA, and the typical arrangements between the brokered station and the broker to allow the brokered station to reject broker-supplied programming that the brokered station deems not in the public interest to broadcast. We ask commenters to provide us with information as to whether such agreements typically require the broker to make fixed payments to the brokered station or whether other payment terms are applicable. Do LMAs typically require that the broker sell all the brokered time? Do they call for the broker to provide the brokered station with studio services at the broker's facility? Is there a typical LMA? Are there typical provisions or do these agreements vary widely? Can we draw general conclusions about LMAs? Are there classes or categories of LMAs that should be subject to different attribution treatment? Finally, we want to emphasize, as we did in our radio ownership proceeding, ''that the licensee is ultimately responsible for all programming aired on its station, regardless of its source.'' [63] In this regard, we invite comment on what, if any, specific safeguards we should adopt with respect to television LMAs to ensure a brokered station's ability to exercise its programming responsibility.[64]

3. Joint Sales Agreements (JSAs)

31. In the Attribution NPRM, ¶¶ 94–95, we requested comment on whether, through multiple cooperative arrangements or contractual agreements, broadcasters could so merge their operations as to implicate our diversity and competition concerns. We noted, however, that we did not intend to re-open our earlier decisions permiting joint sales practices in radio and television. These decisions, of course, allowed joint sales practices subject to compliance with the antitrust laws.

32. Subsequent to issuing the Attribution NPRM, the staff has been presented with cases involving joint sales agreements (i.e., agreements for the joint sales of broadcast commercial time) that have raised anew diversity and competition concerns with respect to such agreements.[65] This leads us to ask whether non-ownership based mechanisms such as JSAs that might convey influence or control over advertising shares should be considered, and possibly attributed. For example, where one station owner controls a large percentage of the advertising time in a particular market, it could potentially exercise market power. Accordingly, we invite additional comments on the potential effects of JSAs among same-market broadcasters on diversity and competition. We also seek comment as to whether we should attribute JSAs among licensees in the same market, including both radio and television licensees, irrespective of whether they are accompanied by the holding of debt or equity.

33. We recognize that a JSA not involving stations in the same market may permit influence over station operations. Nonetheless, we distinguish between JSAs in the same market and JSAs among stations not located in the same market. Our concern for media concentration has been focused on local markets. For example, in the radio context, only LMAs among stations in the same market are subject to attribution, and we apply only local multiple ownership limits. And, in the television context, we have similarly been more concerned with local markets because the video program delivery market is a local market.[66] Following this traditional concern for local markets, we focus on JSAs in local markets. We invite comment on this approach.

34. We seek general information concerning the typical contractual terms of JSAs. What is the typical length of such agreements, and are they automatically renewable? How are the station owner and broker compensated? Are there package deals among several stations? Does the broker get involved in the operation of the station, including programming and finances, either directly or indirectly? As a practical matter, do typical JSAs differ from LMAs or do time brokerage agreements usually accompany JSAs? What other arrangements typically occur between parties in terms of station operations, joint sales force utilization, or joint use of production facilities? In addition, what kind of efficiencies arise with JSAs, how are these shared among parties to the JSA, and how do these benefits differ from those of LMAs? Finally, what impact do JSAs have on competition, and under what circumstances, if any, should the interest of the broker/JSA holder be held attributable? If we were to consider JSAs, should such interests be attributable in all circumstances involving stations in the same market, or only where the broker also has some influence over the programming or other operations of the brokered station? Alternatively, should we apply another criterion in deciding whether to attribute JSAs, such as attributing JSAs among same-market stations where the brokering station exceeds a specific market share benchmark? We seek

[60] See, e.g., Comments of Association of Independent Television Stations, Inc., now known as Association of Local Television Stations, Inc. (''ALTV''), filed in MM Docket Nos. 91–221 & 87–8 at 29, n.52; Comments of Kentuckiana Broadcasting, Inc. filed in MM Docket Nos. 91–221 & 87–8 at 5–6.

[61] See, e.g., Comments of ABC, filed in MM Docket Nos. 91–221 & 87–8, at 26–27.

[62] See Comments of Post-Newsweek Stations, Inc., filed in MM Docket Nos. 91–221 & 87–8, at 8–9.

[63] First Radio Ownership Reconsideration Order, 7 FCC Rcd 6387, ¶ 63 (1992).

[64] For instance, radio time brokerage agreements of the type described in Section 73.3555(a)(3)(i) of our Rules must be reduced to writing and contain a certification by the licensee or permittee of the brokered station verifying that it maintains ultimate control over the station's facilities, including control over station finances, personnel, and programming. See 47 CFR 73.3555(a)(3)(ii).

[65] See, e.g., Letter of Roy J. Stewart, Chief, Mass Media Bureau, dated May 8, 1995, Re File Nos. BALH–940323GE and BAL–940330EA (Cincinnati, Ohio); Letter of Larry D. Eads, Chief, Audio Services Division, Mass Media Bureau, Ref. 1800B2, 8910–BD, dated June 8, 1995, Re File Nos. BAL–940525EA, BALH–940525EB (Wellington and Fort Collins, Colorado).

[66] See TV Ownership FNPRM, ¶¶ 31, 36–45, 87–88.

comment on these issues and any other relevant questions concerning whether or not JSAs should be attributable, at least under certain circumstances.

C. Voting Stock Benchmarks

35. In the NPRM, as discussed above, we requested comment as to whether we should increase the voting stock benchmarks from five to ten percent for active investors and from ten to twenty percent for passive investors. In response, the majority of commenters that responded to these issues favor increasing the benchmarks. However, commenters did not submit, in response to the NPRM, the kind of specific, empirical evidence that we believe may be necessary before we can reasonably conclude that the benchmarks should be raised, and we invite additional comments to provide such additional evidence and economic studies. Accordingly, we ask for specific and empirical information in a number of areas to justify raising the benchmarks.

36. In this regard, Commission staff has conducted a study of the attributable interests in commercial broadcast television licensees, as reported in the ownership reports licensees are required to file. The results of the staff study are set forth below. One conclusion from that study is that increasing the attribution benchmark for active investors from five percent to ten percent would decrease the number of currently-attributable owners by approximately one-third. The number of stations for which no stockholder would be attributable would increase from 81 to 134 stations (out of 389 commercial for-profit television stations that are incorporated and are not single majority shareholder stations), under current stock distribution patterns.

37. We invite comment on all aspects of this study, including its implications for our attribution rules. Does the study suggest that existing attribution criteria appropriately balance the goals of identifying those interests that should be counted in applying the multiple ownership rules, while not unduly disrupting capital flow? Would stockholding or investment patterns change in response to a change in the attribution rules? If so, how would they change, and why would they change? Would there be a significant impact on capital flow, given the relaxation of the multiple ownership rules resulting from passage of the 1996 Act? Is there a need to encourage additional capital investment?

D. Transition Issues

38. In the NPRM, ¶ 15, we stated our concern that any action taken in this proceeding not disrupt existing financial arrangements, and, accordingly, invited comment as to whether we should grandfather existing situations or allow a transition period for licensees to come into compliance with the multiple ownership rules if we adopt more restrictive attribution rules. All commenters that have addressed this issue in response to the NPRM urge the Commission to grandfather existing interests indefinitely if it adopts more restrictive attribution rules because of the disruptive effect and the unfairness to the parties of mandatory divestiture. According to CBS, Comments at 13–14, the alternative of a transition period would not provide real relief from restrictive attribution rule changes, such as restricting the availability of the single majority shareholder exemption.

39. We now seek additional comment on the option of a transition period, particularly since the national television multiple ownership rules have recently been relaxed, as have the local radio multiple ownership rules, and the national radio ownership limits have been eliminated. Accordingly, we invite commenters again to address the transition/grandfathering issue in light of these different circumstances, including the appropriate length for any transition period that may be adopted. We reiterate that the issue of grandfathering of television LMAs, should we decide to attribute them, will be resolved in the television local ownership proceeding; in this FNPRM, we refer only to transition and grandfathering issues related to the other (non-LMA) attribution issues raised in this attribution proceeding.

40. If we grandfather existing interests, what grandfathering principle should we apply? Such grandfathering would mean that the relationship would be held attributable, but the holder would not be required to divest holdings in the event that the attribution resulted in the holder exceeding our ownership limits. If the joint holdings were later sold, that ownership grandfathering would not transfer to the assignee or transferee. We also invite comment as to the extent of grandfathering that would be required if we restrict attribution rules.

41. Finally, regardless of what policy we ultimately adopt with respect to either a transition or grandfathering of existing interests, we tentatively conclude that any interests acquired on or after December 15, 1994, the date of adoption of the NPRM in this proceeding, should be subject to the final rules adopted in the *Report and Order* in this proceeding. We seek comment on this approach, and whether a subsequent grandfathering date would be more appropriate. In the event that we adopt a transition period, what is the appropriate length for such a transition period? We tentatively propose that any such transition period adopted to permit divestiture of such interests should be relatively short and no longer than six months.[67]

E. Cable/MDS Cross-Ownership Attribution

42. We also take this opportunity to consider changes to the cable/Multipoint Distribution Service (''MDS'') cross-ownership attribution rule.[68] Section 613(a) of the Act states that ''[i]t shall be unlawful for a cable operator to hold a license for multichannel multipoint distribution service * * * in any portion of the franchise area served by that cable operator's cable system.'' 47 U.S.C. § 533(a) (*emphasis added*). The Commission may waive the requirements of this provision ''to the extent the Commission determines is necessary to ensure that all significant portions of a franchise area are able to obtain video programming.'' 47 U.S.C. § 533(a)(2).[69] Section 613(a) was added by Section 11(a) of the 1992 Cable Act. In implementing Section 613(a), the Commission modified its existing cable/MDS cross-ownership rule in Section 21.912 of the rules.[70] Section 21.912(a) prevents a cable operator from obtaining an MDS authorization if any portion of the MDS protected service area overlaps with the cable system's franchise area actually being served by cable. Section 21.912(b) also prohibits a cable operator from leasing MDS capacity if its franchise area being served overlaps with the MDS protected service area. For purposes of this rule, ''an attributable ownership interest shall be defined by reference to the definitions

[67] See, e.g,, Implementation of Sections 202(c)(1) and 202(e) of the Telecommunications Act of 1996 (National Broadcast Television Ownership and Dual Network Operations), FCC 96–91, 61 FR 10691 (March 15, 1996).

[68] For purposes of this item, MDS also includes single channel Multipoint Distribution Service (''MDS'') and Multichannel Multipoint Distribution Service (''MMDS'').

[69] Compare 47 U.S.C. 537(d) (before the 1996 Act, providing broad authority for ''public interest'' waivers of the cable anti-trafficking restriction). The cable/MMDS cross-ownership prohibition does not apply if the cable operator is subject to ''effective competition'' in its franchise area. Id. section 533(a)(3) (added by 1996 Act).

[70] Implementation of Section 11 and 13 of the Cable Television Consumer Protection and Competition Act of 1992, 8 FCC Rcd 6828, 6843, 58 FR 42013 (August 6, 1993) (''Implementation Order''), reconsidered on other grounds, 10 FCC Rcd 4654, 60 FR 37830 (July 24, 1995).

contained in the Notes to § 76.501, provided however, that:

(i) The single majority shareholder provisions of Note 2(b) to § 76.501 and the * * * limited partner insulation provisions of Note 2(g) to § 76.501 shall not apply; and

(ii) The provisions of Note 2(a) to § 76.501 regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.'' [71]

43. This strict attribution standard severely restricts investment opportunities that are compatible with our goal of strengthening wireless cable and providing meaningful competition to cable operators. Additionally, we see no reason to have different attribution criteria for broadcasting and MDS. We have previously observed that ''the Commission could employ the broadcast attribution criteria contained in Section 73.3555 (Notes) of its Rules, or such other attribution rules as the Commission deemed appropriate for this purpose.'' [72] Thus, the instant proceeding provides us with an opportunity to revisit our current attribution standard consistent with our responsibility to achieve the objective of diversity while ''balancing genuine and significant efficiencies.'' [73] Therefore, we invite comment on whether we should apply broadcast attribution criteria, as modified by this proceeding, in determining cognizable interests in MDS licensees and cable systems for purposes of applying the ownership restrictions of Section 21.912 of our Rules. In addition, we seek comment as to whether we should add an ''equity or debt plus'' attribution rule where the competing entity's holding exceeds 33 percent or some other benchmark. We believe that these proposed modifications of our attribution rule will increase the potential for investment consistent with our responsibility ''[t]o further diversity and prevent cable from warehousing its potential competition.'' [74]

IV. Conclusion

44. By this FNPRM, we request comments to update the record in this proceeding, which is intended to determine whether the attribution rules continue to be effective in identifying those interests that should be counted for purposes of applying the multiple ownership rules. It is important to ensure that these rules operate accurately so that we apply the multiple ownership limits, which have recently been relaxed as a result of passage of the 1996 Act, in an appropriate manner, and that the attribution rules are not used as a means to evade or circumvent these limits. We believe that the concerns and issues raised in the comments and in this FNPRM are of utmost importance, and we look forward to well-reasoned and empirically-based comments with respect to these issues.

V. Administrative Matters

45. *Filing of Comments.* 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 February 7, 1997 and reply comments on or before March 7, 1997. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. Parties are also asked to submit, if possible, draft rules that reflect their positions. If you want each Commissioner to receive a copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 219), 1919 M Street, N.W., Washington, D.C. 20554.

46. *Initial Paperwork Reduction Act of 1995 Analysis.* This FNPRM contains either a proposed or modified information collection (i.e., revision of Annual Ownership Report, FCC Form 323). As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this FNPRM, as required by the Paperwork Reduction Act of 1995, Public Law Notice 104–13. Public and agency comments are due at the same time as other comments on this FNPRM; OMB comments are due 60 days from the date of publication of this FNPRM in the Federal Register. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

47. Written comments by the public on the proposed and/or modified information collections are due February 7, 1997. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after the date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

48. *Ex Parte Rules.* This is a non-restricted notice and comment rulemaking 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 Sections 1.1202, 1.1203, and 1.206(a).

49. This FNPRM is issued pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303.

50. *Additional Information.* For additional information on this proceeding, contact Mania K. Baghdadi (202) 418–2130 or Berry Wilson (202) 418–2024, Policy and Rules Division, Mass Media Bureau.

51. *Initial Regulatory Flexibility Analysis.* With respect to this FNPRM, an Initial Regulatory Flexibility Analysis (''IRFA'') as set forth below. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an IRFA of the expected impact on small entities of the proposals contained in this FNPRM. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small businesses in the radio and television broadcasting industries. Comments on the IRFA must be filed in accordance with the same filing deadlines as

[71] 47 CFR 21.912 (note 1(A)).

[72] Implementation Order at 6843.

[73] S. Rep. No. 92, 102d Cong., 1st Sess. 46–47 (1991)

[74] Id.

comments on the FNPRM, but they must have a distinct heading designating them as responses to the IRFA.

The Secretary shall send a copy of this FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Public Law Notice 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981), as amended.

List of Subject

47 CFR Part 21

Televison broadcasting.

47 CFR Part 73

Television broadcasting, and radio broadcasting.

List of Subject in 47 CFR Part 76

Cable televison.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

TABLE A.—DISTRIBUTION OF NON-PASSIVE OWNERSHIP CLAIMS

Ownership range (percent)	Number	Percent
1–<5	274	†
5–<10	438	37.5
10–<15	183	15.7
15–<20	129	11.1
20–≤50	417	35.7
50–100	*0	0.0
Total attributable	1167	100

Not currently attributable. Also, D&Os holding less than 1 percent equity are not reported.

*Single-majority shareholders are analyzed below.

The table indicates that among attributable shareholders falling under the current 5% rule, 37.5 percent have ownership interests between 5 percent and 10 percent, 15.7 percent with interests between 10 percent and 15 percent, 11.1 percent with interests between 10 percent and fifteen percent and 35.7 percent with interests between 20 percent and 50 percent. Interestingly, the largest concentrations of ownership are in the 5 percent to 10 percent and 20 percent to 50 percent categories. Under the proposed change in the attribution benchmark from 5 percent to 10 percent, approximately 37.5 percent of currently attributable owners would become non-attributable.

Of additional interest is the impact of proposed rule changes on the number of attributable owners per broadcast station. The following table gives the distribution of the number of attributable owners per broadcast TV station under the current 5 percent benchmark and under the proposed 10 percent benchmark.

TABLE B.—DISTRIBUTION OF NUMBER OF ATTRIBUTABLE OWNERS PER STATION UNDER 5 PERCENT AND 10 PERCENT BENCHMARKS FOR NON-PASSIVE INVESTORS

Per station number of attributable owners	Current 5 percent benchmark	Proposed 10 percent benchmark
0*	81	134
1	41	27
2	67	92
3	56	66
4	38	43
5	43	19
6	24	3
7	16	5
8	18	0
9	0	0
10	1	0
11	1	0
12	3	0
Total stations	389	389

*D&Os holding less than 1 percent equity are excluded.

The table indicates that the number of stations with no attributable owners (except directors and officers) would increase from 81 to 134, or by 65.4 percent.

VI. Voting Stock: Passive Investors

A less-restrictive 10 percent attribution benchmark is currently set for certain institutional investors thought to be restricted by law or fiduciary responsibility from active involvement in station operations. These so-called ''passive'' investors include bank trust departments, mutual funds and insurance companies. Because of their passive status, the Commission prohibits these investors from serving as directors or officers of the broadcast station, or from attempting to otherwise influence station operations.

The distribution of ownership claims for passive investors, excluding partnerships and single-majority stockholder stations, is given next.

TABLE C.—DISTRIBUTION OF PASSIVE OWNERSHIP CLAIMS

Ownership range	Number	Percent
1%–<5%	0	†
5%–<10%	28	†
10%–<15%	1	6.7
15%–<20%	4	26.7
20%–≤50%	10	66.7
50%–100%	0*	0.0
Total attributable	15	100

†Not currently attributable.

*Single-majority shareholders are analyzed below.

As given in the table, the reported number of passive investors is relatively small, with only 43 such institutional investors reported in total for these stations. Of these 43, only 15 hold attributable equity interests. With the proposed relaxation of the attribution benchmark to 20 percent, 5 of the currently attributable interests would become non-attributable. As well, the largest number of passive investors fall in the 5 percent to 10 percent range.

Despite the small number of passive institutional investors, some of these do in fact have large equity stakes in broadcast stations. For example, one passive investor owns 50% of the parent company of a licensee.

The following table gives the distribution of the number of attributable owners under the current 10 percent and under the proposed 20 percent benchmark for passive investors.

TABLE D.—DISTRIBUTION OF NUMBER OF ATTRIBUTABLE OWNERS PER STATION UNDER 10 PERCENT AND 20 PERCENT BENCHMARKS FOR PASSIVE INVESTORS

Per station number of attributable owners	Current 10 percent benchmark	Proposed 20 percent benchmark
0	376	381
1	11	6
2	2	2

VII. Voting Stock: Other Institutional Investors

Institutional investors not considered to be passive investors include commercial banks (excluding trust departments), investment banks, brokerage firms and pension funds. These investors are not judged to be restricted by law or fiduciary responsibility from involvement in broadcast operations, and are subject to the 5 percent attribution benchmark of other non-passive voting shareholders. No change is currently proposed for these passive investors in the NPRM. The distribution of ownership interests

for non-passive institutional investors is given next.

TABLE E.—DISTRIBUTION OF OWNERSHIP INTERESTS OF NON-PASSIVE INSTITUTIONAL INVESTORS

Ownership range	Number	Percent
1%–<5%	9	.....
5%–<10%	16	33.3
10%–<15%	8	16.7
15%–<20%	7	14.6
20%–≤50%	13	27.1
50%–100%	4	8.3
Total TV stations	57	100.0

As with passive investors, the number of reported non-passive institutional investors in broadcast stations is relatively small. With the proposed relaxation to 10 percent benchmark, 16 or 33.3 percent of these would become non-attributable.

Despite their small number, some non-passive institutional owners have large interests in broadcast stations. For example, one bank owns 100 percent of the parent company of three TV broadcast licenses. As well, a venture capital subsidiary owns 72.05% of the parent company of two TV licensees.

VIII. Single-Majority Shareholder

Single-majority shareholder investments are those where a single stockholder controls more than 50 percent of the voting interest in the licensee. All other shareholders in this case are non-attributable, regardless of their percent ownership, since the single-majority shareholder is thought to hold operational control.

As given in Table II, a total of 308, or 30.5% of for-profit TV stations, are single majority shareholder owned. The following table lists the distribution of voting shares for these licensees falling under the single-majority shareholder rule. Sole proprietorships and sole owners are listed as 100 percent.

TABLE F.—DISTRIBUTION OF OWNERSHIP INTERESTS IN SINGLE-MAJORITY SHAREHOLDER LICENSEES

Ownership range	Non-passive investors		Passive investors	
	Number	Percent	Number	Percent
1%–<5%	74	9.9	0	0.0
5%–<10%	121	16.2	0	0.0
10%–<15%	101	13.5	2	16.7
15%–<20%	52	7.0	1	8.3
20%–≤50%	93	12.5	7	58.3
50%–<100%	305	40.9	2	16.7
100%	162	40.9	0	0.0
Total	746		12	

The distribution of non-attributable interests (excluding D&Os with less than 1 percent stake) in single-majority shareholder licensees is reasonably uniform. In particular, the results do not indicate a large block of ''49%'' shareholders, who might have chosen to use the single-majority shareholder rule to circumvent attribution, while holding a large stake in the licensee.

Some instances of single-majority shareholders involve institutional owners with large stakes. For example, three licensees are 90.0% owned by trust agreement. As cited above, 5 licensees are closely held by non-passive institutional investors.

IX. Non-Voting Stock

The attribution rules for equity interests in a broadcast station apply only to those stockholders holding voting control. Common or preferred stockholders without voting rights are exempted from attribution under the premise that their lack of voting control precludes their ability to affect management or operation of a broadcast station. Non-voting stock is a common mechanism for companies to raise equity capital without sacrificing voting control. Differential voting rights includes companies with dual or multiple classes of stock where one class of stock carries greater voting rights than other classes of stock. For purposes of attribution, the attributable equity interests is determined by the percent of total voting rights held by any individual. In total, the study found 79 instances of non-voting interests in TV broadcast stations.

X. Partnership Interests

Under the attribution rules governing partnership interests, general partners are always attributable, regardless of the extent of their ownership stake. Limited partners are likewise attributable as owners, regardless of their ownership percentage, unless the licensee files a certification statement that the limited partner is ''insulated'', i.e., non-active in the management or operation of the licensee. This special treatment of general and limited partners derives in part from the special role that general partners play as both owners and managers. In contrast, limited partners are restricted from involvement in operational control, and can be forced to give up limited liability rights if they participate in operation or management decisions. Therefore, in contrast to corporations, the separation of ownership and control is weaker for general partners, who perform both functions and stronger for limited partners, who may lose limited liability rights if separation is not maintained.

As presented in Table II, 42 in number, or 4.2% of for-profit TV stations are organized as general partnerships, and 89 in number or 8.8% are limited partners. In addition, another 42 of for-profit TV stations have a limited partnership involved as an equity holder.

The following table presents the distribution of interests in stations organized as general or limited partnerships. Excluded are all non-partnership for-profit stations, including those broadcast stations where one of the equity owners may be a limited partnership.

TABLE G.—DISTRIBUTION OF OWNERSHIP INTERESTS IN GENERAL AND LIMITED PARTNERSHIPS

Ownership range	General partners	Percent	Limited partners	Percent
1%–<5%	51	21.3	29	19.7
5%–<10%	13	5.4	46	31.3
10%–<15%	9	3.8	44	30.0
15%–<20%	11	4.6	0	0.0
20%–≤50%	72	30.0	28	19.0
50%–100%	84	35.0	0	0.0
Total	240		147	

The results indicate that the majority of general partners have either small (less than 5 percent) or very large (greater than 20 percent) ownership stakes in the licensee.

The ownership files investigated also indicate that virtually all limited partners claim insulation of their partnership claim.

XI. Limited Liability Companies and Other New Business Forms

A limited liability company (LLC) is a new hybrid form of ownership that combines advantages of both a limited partnership and corporations. Like limited partnerships, profits in an LLC are passed directly through to investors and therefore taxed only as personal income, which avoids the double taxation of corporations. However, unlike limited partnerships, LLC members may exercise management control without threat of loss of limited liability.

The available ownership records show a total of 10 stations organized as LLCs and 1 station partially owned by an LLC.

A. Total Profit and Non-Profit Stations

TABLE I.—DISTRIBUTION OF FOR-PROFIT TV STATIONS ACROSS TYPE 1994/95 OWNERSHIP-REPORT DATA

	Numbers	Percent
For-profit TV stations:		
Group-owned stations	781	74.8
Single-owned stations	262	25.2
Total for-profit stations	*1043	100.0
Number of TV group-owners	180	
Not-for-profit TV stations:		
Total stations	*499	

TABLE I.—DISTRIBUTION OF FOR-PROFIT TV STATIONS ACROSS TYPE 1994/95 OWNERSHIP-REPORT DATA—Continued

	Numbers	Percent
Total number of stations	1542	

*This break-out between for-profit and not-for-profit stations reflects the designation self-reported by licensees on their annual ownership report filed with the Commission. The number of not-for-profit stations exceeds the number of non-commercial stations (363 as of 11/20/95, Broadcasting & Cable) by some 130 stations, representing commercial-band stations that are not-for-profit.

B. Aggregate For-Profit Station Results

TABLE II.—FOR-PROFIT TV STATIONS BY STATION TYPE 1994/95 OWNERSHIP-REPORT DATA

Type of ownership	Number of stations	Percent
Single-owner stations	158	15.7
Single-majority-shareholder stations	308	30.5
Family-owned stations	72	7.1
Closely-held stations	114	11.3
Widely-held stations	203	20.1
General partnerships (GP)	42	4.2
Limited partnerships (LP)	89	8.8
Limited liability corporations (LLC)	10	1.0
International Stations	5	0.5
In Receivership	8	0.8
	1009	100

TABLE III.—GROUP-OWNED AND SINGLY-OWNED TV STATION RESULTS 1994/95 OWNERSHIP-REPORT DATA

Type of ownership	Group-owned stations percent	Singly-owned stations percent
Single-owner stations	15.3	22.9

TABLE III.—GROUP-OWNED AND SINGLY-OWNED TV STATION RESULTS 1994/95 OWNERSHIP-REPORT DATA—Continued

Type of ownership	Group-owned stations percent	Singly-owned stations percent
Single-majority-shareholder stations	32.2	30.5
Family-owned stations	7.9	4.4
Closely-held stations	10.2	18.9
Widely-held stations	20.4	6.8
General partnerships (GP)	4.0	3.2
Limited partnerships (LP)	8.5	9.6
Limited liability corporations (LLC)	1.1	0.4
International Stations	0.0	2.0
In Receivership	0.6	1.6

[FR Doc. 96–32323 Filed 12–19–96; 8:45 am]
BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1312

[STB Ex Parte No. 618]

Regulations for the Publication, Posting and Filing of Tariffs for the Transportation of Property By or With a Water Carrier in the Noncontiguous Domestic Trade

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board proposes to modify its tariff filing regulations to reflect the elimination of most tariff filing requirements for surface carrier transportation, and to provide carriers with additional flexibility to establish appropriate formats for the filed tariffs that continue to be required. The proposed regulations eliminate obsolete provisions, and provide more flexibility for carriers to devise publications that will best fulfill the needs of the carriers and their customers.

DATES: Comments are due on January 19, 1997.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 618 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave., N.W., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (1995) (ICCTA), abolished the Interstate Commerce Commission (ICC), significantly reduced the regulation of surface carrier transportation, and transferred certain regulatory responsibilities to the Surface Transportation Board (Board). As pertinent here, the ICCTA eliminated tariff filing requirements for surface carrier transportation, except for the transportation of property (with certain exceptions) by or with a water carrier in the noncontiguous domestic trade. In the noncontiguous domestic trade, the ICCTA transferred from the Federal Maritime Commission (FMC) to the Board the responsibility for regulating port-to-port water carriage, and from the ICC to the Board the responsibility for regulating intermodal transportation.

The tariff regulations at 49 CFR part 1312, which the Board inherited from the ICC, have not been revised for several years. They contain numerous provisions that have become obsolete as tariff requirements have been eliminated or (for certain tariff requirements that were not eliminated) addressed in other parts of the CFR.

More specifically, the regulations at part 1312 contain broad tariff provisions addressed to rail carriers, pipeline carriers, motor carriers, water carriers, and household goods freight forwarders. However, rail carriers are no longer required by statute to maintain tariffs; regulations addressing their rate disclosure and dissemination requirements are now set forth in 49 CFR part 1300.[1] Similarly, pipeline carriers are no longer required to maintain tariffs; regulations addressing their rate disclosure requirements are now set forth in 49 CFR part 1305.[2] Moreover, motor carriers and freight forwarders are now required to maintain tariffs only for household goods movements and intermodal movements in the noncontiguous domestic trade. Regulations to address their household goods tariff requirements have been proposed to be placed in 49 CFR part 1310.[3] Thus, the only portions of part 1312 that have not been superseded or rendered obsolete are addressed to intermodal movements in the noncontiguous domestic trade.

As a result, we propose to revise part 1312 to remove unnecessary provisions. At the same time, we propose to expand part 1312 to embrace tariffs for port-to-port water movements in the noncontiguous domestic trade. Tariffs for such port-to-port water movements were formerly filed with the FMC, and thus were not addressed in the ICC's regulations. It seems logical and appropriate to address in the same regulations those tariff requirements together with the tariff requirements for intermodal movements in the same markets (the noncontiguous domestic trade).

The regulations we propose will require that these tariffs contain all of the information needed to determine the rates and service terms applicable to shipments that are subject to such tariffs, and that the information be made available in user friendly ways; however, we propose to eliminate the specific, detailed format specifications formerly set forth in part 1312. The prescription of detailed tariff formats was needed to facilitate rate and service comparisons when tens of thousands of motor carriers were required to file voluminous tariffs with the ICC detailing all of their rate and service offerings. We do not believe that such requirements are warranted today. The volume of tariffs filed with the Board is but a small fraction of the tariffs filed with the ICC when part 1312 was formulated, and many of the tariffs currently filed with the Board are filed electronically (and are, therefore, not subject to the printed tariff format requirements).[4]

In an earlier rulemaking proceeding, the ICC had proposed to establish general requirements for filed tariffs, in lieu of the detailed formats previously prescribed.[5] Because of the voluminous motor carrier tariffs then on file, certain motor carriers and shippers expressed concern that the elimination of detailed format specifications would make tariffs more difficult to use.[6] The subsequent elimination of most motor carrier tariff filing requirements has, we believe, alleviated that concern.

Additionally, as noted above, many tariffs now required to be filed are filed with the Board electronically through the FMC's ATFI system, and those tariffs are subject to the format requirements established for that system. The use of electronic filings further reduces the need for detailed format specifications for printed tariffs, such as are now contained in part 1312, as there would be no consistency in the format of electronic and printed tariffs.

In these circumstances, we believe that replacing the current, restrictive filing regulations for printed tariffs with more flexible regulations will be in the public interest. The proposed regulations will not change the type or amount of information required to be included in tariffs, but they will provide carriers with additional flexibility to devise appropriate tariff publications to better serve their needs and the needs of their customers. This should increase the utility of tariffs and reduce the burden of complying with the tariff filing requirement.

Availability

The full text of the proposed rules is available to all persons for a charge by phoning DC News and Data, Inc., at (202) 289–4357.

Request for Comments

We invite comments on all aspects of the proposed regulations. We encourage any commenter that has the necessary technical wherewithal to submit its comments as computer data on a 3.5-inch floppy diskette formatted for WordPerfect 5.1, or formatted so that it can be readily converted into WordPerfect 5.1. Any such diskette submission (one diskette will be sufficient) should be in addition to the written submission (an original and 10 copies).

Small Entities

The Board preliminarily concludes that these rules, if adopted, would not have a significant economic effect on a substantial number of small entities. The proposed regulations eliminate obsolete provisions and offer carriers additional flexibility to establish appropriate formats for the tariffs that

[1] *Disclosure, Publication, and Notice of Change of Rates and Other Service Terms for Rail Common Carriage,* 1 S.T.B. 153 (served June 28, 1996) (STB Ex Parte No. 528), 61 Fed. Reg. 35139 (July 5, 1996).

[2] *Disclosure and Notice of Change of Rates and Other Service Terms for Pipeline Common Carriage,* 1 S.T.B. 146 (served June 28, 1996) (STB Ex Parte No. 538), 61 Fed. Reg. 35141 (July 5, 1996).

[3] *Household Goods Tariffs,* STB Ex Parte No. 555 (served Nov. 4, 1996), 61 Fed. Reg. 56656 (Nov. 4, 1996).

[4] We propose to codify in the regulations the authority for carriers to file their tariffs electronically through FMC's Automated Tariff Filing and Information (ATFI) system. See *Electronic Filing of Noncontiguous Domestic Trade Tariffs,* Special Tariff Authority No. 4 (STB served Oct. 1, 1996).

[5] *Electronic Filing of Tariffs,* Ex Parte No. 444 (ICC served Oct. 21, 1987).

[6] The general requirements for filed tariffs proposed in the earlier proceeding were subsequently adopted for railroad tariffs, but not for the tariffs of other modes.

continue to be required. The Board nevertheless seeks comment on whether there would be effects on small entities that should be considered, so that the Board can determine whether to prepare a regulatory flexibility analysis at the final rule stage.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1312

Motor carriers, Noncontiguous domestic trade, Tariffs, Water carriers.

Decided: December 9, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32358 Filed 12–19–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Species Being Considered for Amendments to the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Supplemental Request for Information

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for comments.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species, which are included in the appendices of this treaty. The United States, as a Party to CITES, implements treaty requirements for species included in the appendices and periodically proposes amendments to the appendices as warranted for consideration by the other Parties at biennial meetings of the Conference of the Parties.

This notice invites comments and information from the public relevant to (1) a proposed change in the United States interpretation of the CITES listing of the urila sheep, *Ovis vignei,* based on a recent decision of the CITES Nomenclature Committee; and (2) potential United States co-sponsorship of a proposal for the Tenth Conference of the Parties (COP10) to include all species of sturgeons (Acipenseriformes) not presently included in the appendices in Appendix II.

DATES: The Service will consider all comments received by January 5, 1997.

ADDRESSES: Please send correspondence concerning this notice to Chief, Office of Scientific Authority; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Fax number 703–358–2276. Comments and other information received will be available for public inspection by appointment, from 8 a.m. to 4 p.m. Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Marshall A. Howe, Office of Scientific Authority, at the above address, telephone 703–358–1708.

SUPPLEMENTARY INFORMATION: CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in one of three appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless the trade is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party country identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties to control trade.

In a March 1, 1996, Federal Register notice (61 FR 8019), the Service requested public recommendations or draft proposals to amend Appendix I or II that the Service might consider proposing on behalf of the United States at COP10. That notice described information requirements for proposals, based on new listing criteria adopted by the Parties at COP9. After receiving and considering recommendations and proposals received in response to that notice, the Service announced, in an August 28, 1996, Federal Register notice (61 FR 44324), its preliminary decisions on which recommendations and proposals it was still considering and requested addtional information on those. The deadline for submission of proposals to the CITES Secretariat for consideration at COP10 is January 10, 1997.

Reinterpretation of the Listing of the Urial, Ovis vignei

The urial of the central Asian steppes, a species of sheep popular among sport trophy hunters, has been included in CITES Appendix I since 1975. Due to uncertainty about the taxonomic relationships among populations of this and related sheep species, there has been confusion among the Parties as to the precise taxonomic entity intended for protection by the original listing. The history of this situation is described in detail in a January 27, 1994, Federal Register notice (59 FR 3833). In conducting its own analysis, the Service earlier concluded that the original listing applied only to certain populations (= *O. v. vignei*) in India and Pakistan and that other populations were not included in the appendices. Import of urials into the United States has been guided by this interpretation of the CITES listing.

A working group of the CITES Animals and Nomenclature Committees, in consultation with the IUCN Caprinae Specialist Group, studied this problem and attempted a fresh assessment of the status of *Ovis vignei* populations (based on the taxon described in the nomenclatural reference for mammals now adopted by the Parties: ''Mammal Species of the World,'' Second Edition, by Wilson and Reeder). On the basis of this assessment, Germany prepared a draft Appendix I listing proposal, which recommended that an Appendix I listing was appropriate for all populations of the species. The Service participated in the working group and, at the time of the August 28 Federal Register notice, was considering the possibility of cosponsoring the proposal prepared by Germany and solicited information from the public accordingly.

At the meeting of the CITES Animals Committee in Prague, Czech Republic, in September, 1996, a meeting of the CITES Nomenclature Committee considered the *Ovis vignei* issue. The Nomenclature Committee concluded that the precise taxonomic entity intended for protection by the original listing could not be determined with certainty. It was, therefore, recommended that the current listing be interpreted as being based upon the CITES-adopted taxonomic reference mentioned above, resulting in the entire species being included in Appendix I. The Animals Committee endorsed this interpretation. In light of this recommendation, the draft proposal for listing in Appendix I became redundant and Germany decided not to submit the proposal.

The Service believes the United States should accept this recommendation of the CITES Nomenclature and Animals Committees and proposes a corresponding change in its interpretation of the listing of *Ovis vignei* in 50 CFR Part 23. This interpretation would become effective 90 days after the conclusion of COP10, if the Parties adopt the report of the Nomenclature Committee. Public comment on this recommended position is solicited. Under the new interpretation, all urial specimens would be considered to be on Appendix I, and imports would be subject to the normal permitting requirements applicable to species included in Appendix I.

Inclusion of Sturgeons in Appendix II

Sturgeons (order Acipenseriformes) are a primitive group of approximately 25 species of fish, whose biological attributes make them vulnerable to intensive fishing pressure or other causes of elevated adult mortality. Many species of sturgeons, the primary source of commercial caviar, have experienced severe population declines worldwide because of both habitat destruction and overharvest for international trade. Some are at serious risk of extinction. Two species in the United States (the shortnosed sturgeon, *Acipenser brevirostrum*, and pallid sturgeon, *Scaphirhynchus albus*) are listed as endangered under the Endangered Species Act, while a third species (the Gulf sturgeon, *Acipenser oxyrhynchus desotoi*) is listed as threatened. CITES presently includes two species in Appendix I and one in Appendix II. The closely related American paddlefish, *Polyodon spathula*, has also been included in Appendix II since 1992.

Recently attention has been focussed on conservation problems in the Caspian Sea, which is the source of more than 90 of the world caviar trade and which produces the highest quality caviar. Since the mid-1970's very marked declines in the populations of all six of the Caspian Sea's sturgeon species have been noted, especially populations of the most heavily exploited species: Beluga (*Huso huso*), Russian (*Acipenser gueldenstaedti*), and stellate (*A. stellatus*) sturgeons. Five of the six species are considered endangered by the ''1996 IUCN Red List of Threatened Animals.'' The problem has become exacerbated in recent years due to deteriorating fishery management and enforcement capabilities in the region, resulting in harvests that far exceed recommended quotas.

The Scientific Authority of Germany has prepared a detailed draft proposal to include all species of sturgeons not presently included in the appendices in Appendix II. This draft proposal was discussed in November in Moscow at a meeting involving the Russian Federation and several former Soviet Republics, including several that participate in the Caspian Sea sturgeon fishery: Azerbaijan, Kazakhstan, and Turkmenistan. The meeting, hosted by the Russian Federation State Committee for Environmental Protection and the German Scientific and Management Authorities yielded an overwhelming acknowledgment of the severity of the threat to sturgeon populations in the Caspian Sea. The existence of a substantial illegal trade in caviar (estimated to constitute up to 80 percent of the trade) that has resulted in a decrease in both the quality and price of caviar in international markets also was recognized.

The probable outcome of this meeting will be a joint proposal from Germany and the Russian Federation to list all species of sturgeons, except those already included in Appendix I, in Appendix II. Such a listing will enable: (1) The implementation of management controls necessary to stabilize sturgeon populations in the Caspian Sea and elsewhere in the world; and (2) better regulation of the trade by importing countries, especially through an improved capability for distinguishing legal from illegal caviar. The Service believes that the United States, as a range state for some of the most endangered sturgeon populations and as a major importer of caviar products (between 50 and 60 metric tons per year from 1992 through 1995), should consider co-sponsoring this proposal if Germany and Russia decide to advance it. The Service solicits public comment on this potential action.

Future Actions

The Service will consider all comments received in writing during the comment period in deciding whether the actions considered above are appropriate. Proposals to amend the appendices must be submitted to the CITES Secretariat by January 10, 1997, for consideration at COP10 in Harare, Zimbabwe, June 1997. In February 1997, the Service will publish a Federal Register notice announcing decisions on this and other proposals being considered for amending the appendices under consideration.

The primary authors of this notice are Dr. Marshall A. Howe, Office of Scientific Authority and Dr. Rosemarie Gnam, Office of Management Authority, under the authority of the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*

Dated: December 18, 1996.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–32533 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 120696E]

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Public hearings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene 10 public hearings on Draft Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) and its associated analyses of regulatory and environmental impacts, including a draft supplemental environmental impact statement (DSEIS).

DATES: Written comments will be accepted until 5:00 p.m. on January 22, 1997. The hearings will be held from January 6 to January 17, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699. Copies of the draft amendment and SEIS are available from Susan Buchanan at 803–571–4366. The draft amendment and DSEIS will also be available to the public at the hearings.

The hearings will be held in Florida, Georgia, South Carolina, and North Carolina. See **SUPPLEMENTARY INFORMATION** for locations of the hearings and special accommodations.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer, 803–571–4366; Fax: 803–769–4520; E-mail: safmc@safmc.nmfs.gov.

SUPPLEMENTARY INFORMATION: The Council will hold public hearings on Draft Amendment 8 to the FMP and associated analyses of regulatory and

environmental impacts, including a DSEIS.

Amendment 8 included the following management measures:

1. Limit permit holders to those who can demonstrate landings of at least 1,000 lb (454 kg) of snapper-grouper species in 2 of the 3 years - 1993, 1994, and 1995, and have held a valid snapper-grouper permit for those years.

2. Control fishing effort by establishing trip limits for identified sub-unit groups of species within the FMP's management unit.

3. Redefine the FMP's definitions of overfishing and optimum yield for all species in the snapper-grouper management unit.

4. Increase the red porgy minimum size limit from 12 inches (30.5 cm) total length (TL) to 14 inches (36 cm) TL for recreational and commercial fishermen and establish a recreational fishery bag limit of two red porgy.

5. Increase the black sea bass minimum size limit from 8 inches (20.3 cm) TL to 10 inches (25.4 cm) TL for both recreational and commercial fishermen.

6. Designate a black sea bass Special Management Zone.

7. Establish a recreational fishery bag limit of 10 black sea bass.

8. Require escape vents and escape panels with degradable fasteners in black sea bass pots.

9. Establish measures for greater amberjack that would extend the April closure throughout the South Atlantic EEZ and prohibit sale during April, reduce the recreational fishery bag limit to one fish per person per day, implement a commercial quota to reduce landings by 21 percent based on average landings from 1986–1995, implement a 500–1,000 lb (227–454 kg) trip limit, change the start of the fishing year from January 1 to July 1, and prohibit coring.

10. Establish, effective January 1, 1998, an annual commercial quota for vermilion snapper of 600,000 lb (272,155. kg), a recreational fishery bag limit of five fish and a recreational fishery minimum size limit of 12 inches (30.5 cm). 11. Increase the gag minimum size limit from 20 inches (50.8 cm) TL to 24 inches (61 cm) TL for the commercial and recreational fisheries, and prohibit all harvest January through March.

12. Require logbook reporting by the 10th of the month following the month of fishing activity.

13. Establish a zone in the South Atlantic exclusive economic zone (EEZ) through which vessels carrying fish traps could transit if they have valid Gulf reef fish permits and fish trap endorsements.

14. Restrict vessels with bottom longline gear on board to possessing only snowy grouper, warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish.

15. Allow use of one bait net per boat, up to 50 ft (1,524 cm) long by 10 ft (305 cm) high with a stretched mesh size of 1.5 inches (3.75 cm) or smaller; also, allow possession and use of cast nets for catching bait.

16. Allow species within the snapper grouper fishery management unit (whether whole or fillets) caught in Bahamian waters in accordance with Bahamian law, to be possessed on board a vessel in the EEZ and landed in the United States provided the vessel is in transit from the Bahamas and valid Bahamian fishing and cruising permits are on board.

17. Establish an aggregate snapper-grouper recreational fishery bag limit of 20–25 fish inclusive of all species in the snapper-grouper fishery management unit.

18. The Council is considering a number of options under this action to reduce fishing mortality including establishing a closure of the South Atlantic EEZ for species in the snapper-grouper fishery management unit, or implementing a trip limit for all temperate, mid-shelf snapper-grouper species, or establishing an aggregate temperate mid-shelf species quota.

The hearings will begin at 7 p.m. and will end when business is completed. The dates and locations are scheduled as follows:

1. Monday, January 6, 1997—Pooler (Savannah area) Ramada Inn, 301 Governor Treutlen Drive, Pooler, GA 31322; telephone: 912-748-6464

2. Tuesday, January 7, 1997–-Comfort Inn Oceanfront, 1515 N. 1st Street, Jacksonville Beach, FL 32250; telephone: 904–241–2311

3. Wednesday, January 8, 1997–-Holiday Inn, 1300 N. Atlantic Avenue, Cocoa Beach, FL 32931; telephone: 407-783-2271

4. Thursday, January 9, 1997—Sheraton Hotel, 630 Clearwater Park Road, West Palm Beach, FL 33401; telephone: 561-833-1234

5. Friday, January 10, 1997—-Banana Bay Resort, 4590 Overseas Highway, Marathon, FL 33401; 305–743–3500

6. Monday, January 13, 1997—Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: 803-571-1000

7. Tuesday, January 14, 1997—Holiday Inn, 1601 Virginia Dare Trail, Kill Devil Hills, NC 27948; telephone: 919–441–6333

8. Wednesday, January 15, 1997—Sheraton Atlantic Beach Resort, Salter Path Road, Atlantic Beach, NC 28512; telephone: 919-240-1155

9. Thursday, January 16, 1997—Holiday Inn, 4903 Market Street, Wilmington, NC 28405; telephone: 910-799-1440

10. Friday, January 17, 1997—Myrtle Beach Martinique Resort & Hotel, 7100 N. Ocean Blvd., Myrtle Beach, SC 29572; telephone: 1-803-449-4441

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by December 30, 1996.

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

Dated: December 16, 1996.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–32282 Filed 12–19–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 678

[Docket No. 961211348–6349–02; I.D. 092396B]

RIN 0648–AH77

Atlantic Shark Fisheries; Quotas, Bag Limits, Prohibitions, and Requirements.

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes changes to the regulations governing the Atlantic shark fisheries that would: Reduce commercial quotas and recreational bag limits; establish a quota for small coastal sharks; prohibit directed commercial fishing for, and landing or sale of, five species of sharks; establish a recreational tag-and-release only fishery for white sharks; prohibit filleting of sharks at sea; and restate the requirement for species-specific identification by all owners or operators, dealers, and tournament operators of all sharks landed under the framework provisions of the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP). This rule would reduce effective fishing mortality, facilitate enforcement, and improve management.

DATES: Written comments on this proposed rule are invited and must be received on or before Janaury 21, 1997.

ADDRESSES: Comments on the proposed rule should be sent to, William T. Hogarth, Chief, Highly Migratory Species Management Division (FCM4), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, (301)–713–2347, fax (301)–713–1917. Clearly indicate ''ASF'' on the envelope. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) are available from the same address.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey or John D. Kelly, 301–713–2347, FAX 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the FMP prepared by NMFS under authority of section 304(g) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and implemented through regulations found at 50 CFR part 678.

The proposed rule is based in part on recommendations from the 1994 Shark Evaluation Workshop (SEW), the 1995 Shark Evaluation Report, and the 1996 SEW. The proposed rule is also based, in part, on comments received during a series of public scoping meetings, which NMFS held to receive comments from fishery participants and other members of the public regarding issues of concern in the Atlantic shark fishery. NMFS also solicited written comments as part of the scoping process.

On October 17, 1996, the Biodiversity Legal Foundation filed a petition for rulemaking with NMFS. The petition specifically requests that NMFS reduce the 1997 large coastal shark quota by 50 percent and reduce the recreational bag limit to one shark per vessel per day. When the petition was received, this proposed rule was already in preparation. NMFS believes that this proposed rule adequately addresses the petition. Copies of the petition are available. (see **ADDRESSES**)

The framework provisions of the FMP allow the Assistant Administrator (AA) to make adjustments in the management measures in order to achieve the objective of preventing overfishing as stated in the FMP. Members of the Shark Operations Team (OT) were consulted and some members have been instrumental in the formulation of this proposed rule; however, this action is not necessarily based on suggestions made by the OT but is being taken independently by the AA under authority of the framework provisions of the FMP and consistent with the provisions of 305(c) of the Magnuson-Stevens Act.

Quotas and Bag Limits

Commercial Quotas

Upon implementation of the FMP, large coastal sharks were determined to be overfished and the report of the 1996 SEW reiterated that the stock continues to be overfished. NMFS established commercial quotas for Atlantic large coastal sharks and Atlantic pelagic sharks under the framework provisions of the FMP. These quotas apply to federally permitted vessels. For the reasons explained below, NMFS proposes to reduce, as interim measures, annual quotas to the following levels, expressed in metric tons dressed weight (mt dw):

Large coastal species = 1,285 mt dw
Small coastal species = 1,760 mt dw
Pelagic species = 580 mt dw

NMFS has examined possible commercial quota options and has determined that the total allowable catch (TAC) should be reduced, as recommended by the report of the 1996 SEW and supported by some members of the OT. The AA is required to develop a strategy designed to provide for the rebuilding of each stock or stock complex within a reasonable period. A new stock assessment and fishery evaluation (SAFE) report will be published in 1997. NMFS has initiated a study to determine the potential effects of management measures other than quota and bag limit reductions, such as minimum sizes and nursery area closures, on fishing mortality. NMFS intends to amend the FMP within one year, to incorporate an updated rebuilding schedule. At that time, the AA will reexamine the quota levels and decide whether to adjust quotas and other measures.

NMFS has preliminarily determined that the large coastal species annual quota of 2,570 mt, which became effective January 1, 1994, is not effectively reducing mortality of the population and should be reduced by 50 percent. This represents a reasonable management measure for reducing mortality, in light of the absence of a rebuilding schedule. A rebuilding schedule may suggest the need for a different quota, or other management measures such as nursery/pupping area closures and minimum sizes, that could also reduce fishing mortality.

The alternative of increasing the commercial quota as planned in the FMP was previously rejected on the basis of recommendations from the SEW and members of the OT. The 1995 SEW concluded that ''the weight of evidence does not support the previous (FMP) recommendation that the TAC should automatically increase.'' Thus, the rebuilding plan outlined in the FMP was determined to be inadequate to achieve the goal of rebuilding the large coastal sharks resource to a level consistent with producing maximum sustainable yield (MSY). As a result, NMFS has rejected planned quota increases for 1995 and beyond.

Large reductions in the established quota will likely cause displacement for vessels already commercially fishing for large coastal sharks; however, a complete closure of the established directed shark fishery for large coastal sharks would result in severe financial hardships for vessels already participating in the fishery and could result in additional displacement of vessels and crews from the large coastal shark fishery into other fisheries, including pelagic and small coastal sharks.

While the 1996 SEW focused on the large coastal shark species group, declining CPUE and life history characteristics indicating low productivity for pelagics and small coastals suggest that a prudent approach is also warranted for these groups. No new analyses were presented upon which to modify MSY or TAC of the pelagic and small coastal sharks. Therefore, NMFS proposes to set commercial quotas for pelagic sharks for 1997 and beyond at the current annual level of 580 mt. At present, no quota has been established for the small coastal species group. Potential displacement of vessels and crews from the large coastal shark fishery into other fisheries, including pelagic and small coastal sharks, warrants a risk-averse strategy for small coastal sharks. Accordingly, NMFS proposes to establish a precautionary quota of 1,760 mt dw for the small coastal species group. That quota is 68 percent of the TAC, and represents approximately the same percentage split between commercial and recreational as in the large coastal management group.

The current landings of pelagic and small coastal sharks are estimated to be lower than the proposed quotas. When further analyses are presented, the AA may propose a different quota for small coastal sharks.

Recreational Bag Limits

NMFS established recreational bag limits for Atlantic large coastal sharks, Atlantic small coastal sharks, and Atlantic pelagic sharks under the framework provisions of the FMP. These bag limits apply to all vessels fishing in the Exclusive Economic Zone (EEZ).

The current bag limits are: For small coastal sharks, five per person per day; and for large coastal sharks and pelagic sharks combined, four per vessel per trip. For the reasons explained below, NMFS proposes to reduce bag limits to: Two sharks per vessel per trip, for any combination of species.

NMFS has examined possible recreational bag limit options and has determined that the bag limit, as well as the commercial quota, should be reduced as an additional management measure to further protect and conserve the stocks. Problems in accuracy of species-specific identification of sharks in all three species groups by recreational fishers have caused concern by NMFS that numerous juvenile large coastal sharks are being landed and misidentified as small coastal species. In addition, continuing concerns about misidentification have prompted NMFS enforcement to request that large coastal, small coastal and pelagic species be combined for bag limit purposes.

Prohibition on Directed Fishing for Selected Species

NMFS has determined that certain species of sharks should be excluded from directed fishing due to their vulnerability to overfishing and/or their slow reproductive and growth rates. For these reasons, NMFS is concerned about the potential development of a commercial and/or recreational fishery for these species.

The whale shark, *Rhincodon typus*, and basking shark, *Cetorhinus maximus*, are not subject to organized commercial or recreational fishing efforts. Their habit of swimming at or near the surface makes them vulnerable to indiscriminate killing. The status of these two species has been closely monitored by NMFS since implementation of the FMP and there have been only incidental interactions with these species. NMFS is concerned about the potential for the development of commercial and/or recreational fisheries that could target these highly vulnerable fish. NMFS proposes to remove them from the large coastal species group and make them prohibited species.

Sand Tiger sharks, *Odontaspis taurus*, and bigeye sand tiger sharks, *Odontaspis noronhai*, exhibit a unique reproductive quality, in that the first offspring in each of the two uteri hatches internally and engages in interuterine sibling cannibalism. The result is that the maximum number of live offspring is two. Sand tiger sharks account for less than 1 percent of the total landings of sharks in the directed large coastal shark fishery; they are not currently targeted by recreational fishermen. NMFS is concerned about the potential for further development of a commercial fishery that would target these highly vulnerable species. NMFS proposes to remove both species of sand tiger sharks from the large coastal species group and make them prohibited species.

Prohibition on Directed Commercial Fishing for, and Landing or Sale of, White Sharks; Allowance for Recreational Catch And Release

The white shark, *Carcharodon carcharias*, is not subject to organized directed commercial fishing efforts. The status of this species has been closely monitored by NMFS since implementation of the FMP and there have been only a small number of incidental commercial interactions with this species. NMFS is concerned about the potential for development of a commercial fishery for this species. NMFS proposes to remove the white shark from the large coastal species group and make it a commercially prohibited species.

There is, in parts of their range, an active recreational fishery for white shark. NMFS proposes to restrict this fishery to tag-and-release only, provided that the fishermen participate in a NMFS-approved tag-and-release program. Tags may be obtained through the APEX Predator Investigation Cooperative Shark Tagging Program, 28 Tarzwell Drive, Narragansett, Rhode Island, 02882, or by calling (401) 782–3200.

Prohibition on Filleting of Sharks at Sea

In order to verify species identification for reporting purposes, the regulation proposes to prohibit filleting of sharks at sea. NMFS enforcement agents have been unable to identify shark parts to the species level on several occasions. During the previous two scoping processes, commercial and recreational fishermen, environmental groups, and other interested parties were asked to comment on this proposal. All affected groups generally supported efforts to aid in species identification to strengthen the database and to help enforcement efforts. If this proposal is adopted, sharks would have to be landed and brought to the point of first landing with the flesh attached and the spinal column present. Fishermen would be permitted to remove the head and fins and eviscerate the catch.

Identification

Species-specific Identification by All Permit Holders

The report of the 1994 SEW stated that ''the greatest impediment to management, monitoring and stock assessment is the need to collect more accurate and more complete information on species composition of the catch. Approximately 80% of commercial shark landings are classified as unidentified * * *.'' The report of the 1995 SEW reiterated this concern, adding that ''notable improvements in species-specific catch information have been made for a portion of the recent catches through observer data collections.''

Species identification appears to have been more of a problem in the South Atlantic and Gulf of Mexico regions. Northeast landings indicate a greater prevalence of pelagic species in the reported landings. In the recreational fisheries, a greater proportion of the available estimates of catch have been identified to species. Species identification of all sharks landed is required by the existing regulations. Section 678.5 requires that selected owners or operators, dealers and tournament operators submit reports on landings by species.

Other Issues

NMFS received a number of comments during the scoping process, including concerns about allowable gear types, the possibility of time/area closures for sharks (e.g., nursery/pupping grounds), modifications of the fishing season, modifications in the fin/carcass ratio, requests for closure of the directed longline fishery, requests for closure of all directed fishing during the spring pupping season, and requests to separate blue sharks (*Prionace glauca*) from the pelagic management unit and establish a separate precautionary quota for them. NMFS believes that these issues may warrant action; however, in the interest of expedient publication of the elements contained in this rule, NMFS has determined that these issues may be addressed in future rulemaking. NMFS intends to amend the FMP within one year, and to reexamine the need for an annual SAFE report.

NMFS has met with members of the Atlantic States Marine Fisheries Commission (ASMFC). Based, in part, on questions posed by ASMFC members, NMFS has accelerated an ongoing effort to identify specific nursery/pupping areas in state-controlled waters. Closing shark nursery areas to fishing would reduce mortality. This option was rejected in the FMP

because of insufficient knowledge of specific nursery areas and the adverse effect closures would have on other fisheries, such as the shrimp trawl fishery. Since determinations of MSY, OY, the commercial quotas, and overfishing are based on estimates of the total biomass of sharks in all U.S. waters (EEZ and state waters), it was recommended in the FMP that coastal states, Puerto Rico, and the Virgin Islands adopt regulations consistent with the federal regulations. State cooperation is essential for effective management. Specifically, it was recommended that states: Apply bag limits to recreational fishermen regardless of where sharks are caught; adopt the specified Federal quotas; prohibit finning and adopt other measures that govern how and when fins may be landed; prohibit the sale of recreationally-caught sharks and shark products; and cooperate with NMFS to ensure consistent and integrated permitting and data collection systems. Consistent with these comments, NMFS intends to continue working with states to develop cooperative management efforts.

Classification

The AA has preliminarily determined that this rule is necessary for the conservation and management of shark resources in the Atlantic Ocean and is consistent with the national standards and other provisions of the Magnuson-Stevens Act and other applicable law. This proposed rule has been preliminarily determined to be not significant for purposes of E.O. 12866. Copies of the EA/RIR are available (see **ADDRESSES**). The EA/RIR, in combination with the 1996 SEW Report, constitutes the annual SAFE Report.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief of Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would reduce commercial quotas and recreational bag limits; establish a quota for small coastal sharks; prohibit directed commercial fishing for, and landing or sale of, five species of sharks; establish a recreational tag-and-release only fishery for white sharks; prohibit filleting of sharks at sea; and restate the requirement for species-specific identification by all owners or operators, dealers, and tournament operators of all sharks landed under the framework provisions of the Fishery Management Plan for Sharks of the Atlantic Ocean. This rule would reduce effective fishing mortality, facilitate enforcement, and improve management.

Reducing the commercial quota is not expected to have a significant impact on a substantial number of small entities primarily because of the large degree of diversification in fishing operations that exist in the fleet and the already short shark fishing season, as outlined in the Regulatory Impact Review.

The prohibition of fishing for, landing or sale of whale, basking, and sand tiger sharks will not adversely affect gross revenue because whale and basking sharks are only incidentally encountered in commercial fisheries and sand tiger sharks are not a marketable species at this time. The prohibition of fishing for, landing or sale of white sharks will not adversely affect gross revenue because they are only incidentally encountered in the commercial fishery. Requiring the recreational white shark fishery to operate under a catch and release program may reduce the willingness of recreational anglers to pay for a fishing trip. The prohibition on filleting of sharks at sea will have little economic impact but will increase costs to operators through increased labor to fillet carcasses once in port.

Therefore, it is concluded that these proposed actions, considered separately or in aggregate, will not have a significant impact on a substantial number of small entities. Thus, a regulatory flexibility analysis is not required for these actions.

Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

This proposed rule contains no new collection of information that is subject to the Paperwork Reduction Act. The proposed rule restates requirements that have been approved by the Office of Management and Budget under Control Number 0648-0016. The prohibitions section is being reordered to group similar or associated prohibitions. In addition, letters are being replaced by numbers for the purposes of clarification.

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 16, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 678 is proposed to be amended as follows:

PART 678—ATLANTIC SHARKS

1. The authority citation for part 678 continues to read as follows:

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

2. In § 678.2, the definitions for ''Dress'', ''Eviscerate'', and ''Fillet'' are added; and the definition for ''Management Unit'' is amended by removing under paragraph (1), ''Basking sharks—Cetorhinidae'', ''Basking shark, *Cetorhinus maximus*''; ''Sand tiger sharks—Odontaspididae'', ''Bigeye sand tiger, *Odontaspis noronhai*'', ''Sand tiger shark, *Odontaspis taurus*'' and ''Whale sharks—Rhincodontidae'', ''Whale shark, *Rhincodon typus*'', and by adding a new paragraph (4) to read as follows:

§ 678.2 Definitions

* * * * *

Dress means to remove head, viscera, and fins, but does not include removal of the backbone, halving, quartering, or otherwise further reducing the carcass.

Eviscerate means removal of the alimentary organs only.

Fillet means to remove slices of fish flesh, of irregular size and shape, from the carcass by cuts made parallel to the backbone.

* * * * *

Management Unit

* * *

(4) Prohibited species:
Basking sharks - Cetorhinidae
Basking shark - *Cetorhinidae maximus*
Mackerel sharks - Lamnidae
White sharks - *Carcharodon carcharias*
Sand tiger sharks - Odontaspididae
Bigeye sand tiger - *Odontaspis noronhai*
Sand tiger - *Odontaspis taurus*
Whale sharks - Rhincodontidae
Whale shark - *Rhincodon typus*

* * * * *

§ 678.5 [Amended]

3. In § 678.5, in paragraph (b)(1)(iv)(A) and (B) after ''market category'' add '', and species,''.

4. Section 678.7 is revised to read as follows:

§ 678.7 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, and except as permitted under § 678.29, it is unlawful for any person to do any of the following:

(1) Fish for, purchase, trade, barter, or possess or attempt to fish for, purchase, trade, barter, or possess the following prohibited species:
Basking sharks-Cetorhinidae
Basking shark, *Cetorhinus maximus*
Mackerel sharks-Lamnidae
White sharks-*Carcharodon carcharias*
Sand tiger sharks-Odontaspididae
Bigeye sand tiger, *Odontaspis noronhai*
Sand tiger shark, *Odontaspis taurus*
Whale sharks-Rhincodontidae
Whale shark, *Rhincodon typus*

(2) Fish for shark without a vessel permit as specified in § 678.4(a)(1).

(3) Purchase, trade, or barter, or attempt to purchase, trade, or barter, a shark from the management unit without an annual dealer permit, as specified in § 678.4(a)(2).

(4) Falsify information required in § 678.4(b) and (c) on an application for a permit.

(5) Fail to display a permit, as specified in § 678.4(h).

(6) Falsify or fail to provide information required to be maintained, submitted, or reported, as specified in § 678.5.

(7) Fail to make a shark available for inspection or provide data on catch and effort, as required by § 678.5(d).

(8) Falsify or fail to display and maintain vessel identification, as required by § 678.6.

(9) Falsify or fail to provide requested information regarding a vessel's trip, as specified in § 678.10(a).

(10) Fail to embark an observer on a trip when selected, as specified in § 678.10(b).

(11) Assault, resist, oppose, impede, harass, intimidate, or interfere with a NMFS-approved observer aboard a vessel or prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his/her duties aboard a vessel.

(12) Fail to provide an observer with the required food, accommodations, access, and assistance, as specified in § 678.10(c).

(13) Remove the fins from a shark and discard the remainder, as specified in § 678.22 (a)(1).

(14) Possess shark fins, carcasses, or parts aboard, or offload shark fins from, a fishing vessel, except as specified in § 678.22, or possess shark carcasses or parts aboard, or offload shark fins, carcasses, or parts from, a vessel, except as specified in § 678.22(a)(2) and (3).

(15) Fail to release a shark that will not be retained in the manner specified in § 678.22(b).

(16) Land, or possess on any trip, shark in excess of the vessel trip limit, as specified in § 678.22(c)(1).

(17) Transfer a shark at sea, as specified in § § 678.22(c)(2) and 678.23(e).

(18) Fillet a shark at sea, as specified in § 678.22(d), except that sharks may be eviscerated and the head and fins may be removed.

(19) Exceed the bag limits, as specified in § 678.23 (a) through (c), or operate a vessel with a shark aboard in excess of the bag limits, as specified in § 678.23(d).

(20) Sell, trade, or barter, or attempt to sell, trade, or barter, a shark harvested in the EEZ, except as an owner or operator of a vessel with a permit, as specified in § 678.25(a), or sell, trade, or barter, or attempt to sell, trade or barter, a shark from the management unit, except as an owner or operator of a vessel with a permit, as specified in § 678.26.

(21) Purchase, trade, or barter, or attempt to purchase, trade or barter, shark meat or fins from the management unit from an owner or operator of a vessel that does not possess a vessel permit, as specified in § 678.26(b); or sell, trade, or barter, or attempt to sell, trade, or barter, a shark from the management unit, except to a permitted dealer, as specified in § 678.26(d).

(22) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, shark fins that are disproportionate to the weight of carcasses landed, as specified in § 678.26(c).

(23) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson-Stevens Act.

(24) During a closure for a shark species group it is prohibited to retain a shark of that species group aboard a vessel that has been issued a permit under § 678.4, except as provided in § 678.24(a), or sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter a shark of that species group, as specified in § 678.24.

(b) [Reserved]

5. In § 678.22, a new paragraph (d) is added to read as follows:

§ 678.22 Harvest limitations.

* * * * *

(d) *Filleting.* (1) A shark from any of the three management units that is harvested in the EEZ, or harvested by a vessel that has been issued a permit pursuant to § 678.4, may not be filleted at sea. Sharks may be eviscerated and the head and fins may be removed.

6. In § 678.23, paragraph (b) is revised to read as follows:

§ 678.23 Bag limits

* * * * *

(b) Large coastal, small coastal and pelagic species, combined—2 per vessel per trip.

* * * * *

7. In § 678.24, paragraph (b) is revised to read as follows:

§ 678.24 Commercial quotas.

* * * * *

(b) *Semiannual.* The following commercial quotas apply:

(1) For the period January 1 through June 30:

(i) Large coastal species—642 metric tons, dressed weight.

(ii) Small coastal species—880 metric tons, dressed weight.

(iii) Pelagic species--290 metric tons, dressed weight.

(2) For the period July 1 through December 31:

(i) Large coastal species--642 metric tons, dressed weight.

(ii) Small coastal species–880 metric tons, dressed weight.

(iii) Pelagic species—290 metric tons, dressed weight.

* * * * *

8. Section 678.29 is added to read as follows:

§ 678.29 Tag-and-release program.

(a) Notwithstanding other provisions of this part, an angler may fish for, but not retain, white sharks with rod and reel only under a tag and release program, provided the angler tags all white sharks so caught with tags issued under this section, and releases and returns such fish to the sea immediately after tagging and with a minimum of injury. To participate in this program, an angler must obtain tags, reporting cards, and detailed instructions for their use from NMFS.

(b) Tags obtained from sources other than NMFS may be used to fish for white sharks provided the angler has registered each year with the Cooperative Shark Tagging Program and the NMFS program manager has approved the use of tags from that source. Anglers using an alternative source of tags and wishing to tag white sharks can call or write NMFS.

(c) Anglers registering for the white shark tagging program are required to provide their name, address, phone number, and, if applicable, identify the alternate source of tags.

(d) If NMFS-issued or NMFS-approved tags are not on board a vessel that fishes for white sharks, all anglers on board that vessel are deemed to be ineligible to fish under this section.

[FR Doc. 96–32387 Filed 12–19–96; 8:24 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 246
Friday, December 20, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Off-Highway Vehicle (OHV) Management on the Daniel Boone National Forest, KY

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Daniel Boone National Forest (Agency) will prepare a draft and final environmental impact statement (EIS) to amend its Forest Land and Resource Management Plan (Forest Plan) to establish management direction Forest-wide to allow off-highway vehicles (OHV) only on routes designated in those areas of the Forest appropriate for that type of use on National Forest System lands. Management Areas (MA) identified as incompatible to OHV use are; MA–1; Beaver Creek Wilderness; MA–2, Clifty Wilderness; MA–4, Red River Gorge Geological Area; MA–9, Rock Creek Research Natural Area.

All future designated or constructed routes would undergo a separate, site-specific, environmental analysis, including the opportunity for public involvement. All designated routes should meet Forest Service Handbook 2309.18 (Trail Management Handbook) OHV route standards.

The existing Forest Plan, approved on September 27, 1985, has a policy of permitting OHV use Forest-wide except where prohibited to protect resources. Since the Forest Plan was approved, many changes have occurred that have prompted the Agency to consider changing this policy before the scheduled Forest Plan revision. Changes include, greater recreational OHV use than anticipated in analysis for the existing Forest Plan; an expanded variety of OHVs; the potential for adverse effects to threatened and endangered species found on the Daniel Boone National Forest, and discoveries of additional populations of threatened and endangered species; and, appropriated funding below what was anticipated in the Forest Plan.

The Agency invites written comments and suggestions within the scope of the analysis described below. In addition, the Agency gives notice that a full environmental analysis and decision making process will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of this analysis should be received by February 14, 1997.

ADDRESSES: Submit written comments to Forest Supervisor, Daniel Boone National Forest, 1700 Bypass Road, Winchester, KY 40391.

FOR FURTHER INFORMATION CONTACT: Jorge Hersel, Dispersed Recreation Specialist, Daniel Boone National Forest, 1700 Bypass Road, Winchester, KY 40391, or by calling (606) 745–3182.

RESPONSIBLE OFFICIAL: The Forest Supervisor for the Daniel Boone National Forest, located at 1700 Bypass Road, Winchester, KY 40391, is the Responsible Official for this action.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Current Forest policy permits OHV use Forest-wide except where prohibited to protect resource values (FLMP, IV–5). This use includes cross-country travel as well as trail and road use. Resource protection measures include closing or restricting either large areas or specific trails.

In recent years the Forest Service has noticed an increase in OHV use on the Forest with a corresponding increase in impacts on resources. The increased impacts include an increased potential for adverse effects to a number of threatened and endangered species. Because of this, and the fact that the process to complete a non-significant amendment to the Forest Plan should be completed faster than it takes to revise the entire Forest Plan, the Forest Service feels that it is essential to change management direction on this issue prior to the completion of the Forest Plan revision.

The Forest Service is legally directed to provide wise use of the resources as long as it does not lead to the overall detriment of the resources. The Agency has noticed an increase in user-developed, cross-country trails and hill climbs. These types of general use seem to be contributors to much of the resource impacts we have identified on National Forest System lands. Although the impacts to a number of individual sites have been repaired, one of our concerns is that trail maintenance, land restoration, and enforcement of restrictions, have not kept up with the increased level of use and its corresponding impacts.

In recent contacts with the public with regards to the Forest Plan revision, the issue of OHV management on the National Forest was identified as one of the major issues. Due to the large number of OHVs in use on the Forest, the Forest Service has observed, and members of the public have brought to our attention, areas of soil erosion, sediment washed into streams and lakes, and possible direct and indirect impacts to federally threatened and endangered species. Specific areas of concern include the Cumberland River drainage, with its large numbers of federally-listed threatened and endangered aquatic species, and areas near federally-listed threatened and endangered bat hibernacula and maternity sites.

Our existing policy was based on conditions that existed at the time of the development of the present Forest Plan. Since that Plan was approved in 1985, many changes have occurred, such as:

- Increased interest in recreational OHV use.
- Increased dependence on OHVs as a means of transportation for day-to-day activities.
- An expanding variety of OHVs, such as 4X4s, quad runners, railcars, and motorcycles; and the difference between street legal vehicles and non-street legal vehicles.
- New information on threatened and endangered species, and the discoveries of additional populations of listed species.
- The appropriations of trail construction and maintenance funds have not kept pace with the increased OHV use.

Some factors that add to the complexity of managing OHV use on the Daniel Boone include, the lack of designated routes in the National Forest;

the difficulty Forest Service Law Enforcement Officers have enforcing restrictions on a large area of land; the scattered ownership pattern of the National Forest; the different types of OHVs with their different trail needs; the fact that some OHVs are legal for use on public roads and some are not; and, the use of small OHVs by local residents, hunters and anglers for general transportation in and around the National Forest.

Due to the complexities of this issue and the potential for adverse effects occurring related to the recreation activity, a change in management direction is needed to more effectively manage this use, prevent impacts to soil and water resources, and prevent possible adverse effects to aquatic threatened and endangered species.

Proposed Action

The Forest Service is proposing to amend the Forest-wide management direction to allow OHV use only on designated routes in areas of the Forest compatible with OHV use. Management Areas (MA) identified as incompatible to OHV use are; MA–1, Beaver Creek Wilderness; MA–2, Clifty Wilderness; MA–4, Red River Gorge Geological Area; MA–9, Rock Creek Research Natural Area.

All currently designated trails and roads where OHVs are designated as an appropriate use will be included in this analysis. However, all future routes to be designated or constructed will undergo a separate site-specific environmental analysis, including the opportunity for public involvement. All designations should meet Forest Service Handbook 2309.18 (Trail Management Handbook) OHV route standards.

Based on considerations of timing, and anticipated changes to Forest Plan goals, objectives, and outputs, this proposal is anticipated to result in a non-significant amendment to the Forest Plan that will incorporate new management direction for using OHVs on National Forest System lands. It is anticipated that decisions made in this study will be incorporated into the Forest Plan revision.

The scope of the proposed action does *not* include the following:

- Changes in management areas and land allocations associated with OHV use. They will be dealt with in the revision process.
- The designation of new OHV routes. Designation of additional routes would occur as a site specific analysis and decision-making process is completed for each route, and is outside the scope of this project.
- The use of OHVs on county or state roads. It is outside the jurisdiction of this agency to close or otherwise regulate such use on these roads.
- The use of ''street legal'' OHVs on Forest Development Roads open to the general public.

Preliminary Issues

The comments received in the contacts with the public and internal discussion indicated the following preliminary issues associated with OHV management on the Forest:

- Unacceptable resource impacts are occurring in some areas, due to unrestricted OHV use on the Forest.
- OHV use has increased in the last few years and indications are this that trend will continue.
- User developed trails are growing in number, some in inappropriate locations.
- Conflict among trail users is occurring.
- There is an extensive road system, existing on National Forest System lands, that is outside the jurisdiction of the Forest Service.
- Restrictions on OHV use on National Forest System lands may have an effect on local economies.
- Restrictions on OHV use in some areas may cause increased use in unrestricted areas, with additional impacts to resources in those areas.
- Funding appropriations for law enforcement, trail construction, and trail maintenance have not kept pace with the increase in OHV use on the Daniel Boone National Forest.
- Potential adverse effects to T&E species, especially aquatic-related species.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

Comments submitted during the scoping process should be in writing. They should be specific to the action being proposed and should describe as clearly and completely as possible any issues the commenter has with the proposal.

The DEIS is expected to be filed with the Environmental Protection Agency and to be available for public comment by May 1997. At that time, the Environmental Protection Agency will publish a notice of availability of the DEIS in the Federal Register. The comment period on the DEIS will be 60 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 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 that are not raised until after the completion of the final Environmental Impact Statement (FEIS) may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritage. Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 60-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 FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be specific as possible. It is also helpful if the 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.

After the comment periods ends on the DEIS, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the

FEIS. The FEIS is scheduled to be completed in October, 1997. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making a decision regarding this amendment to the Forest Plan. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal in accordance with 36 CFR 217.

Dated: December 16, 1996.

Benjamin T. Worthington,

Forest Supervisor.

[FR Doc. 96–32324 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–11–M

Yellowstone Pipeline Missoula to Thompson Falls Reroute, Lolo National Forest; Mineral, Missoula, and Sanders Counties, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for a proposal by the Yellowstone Pipeline Company to build a new section of 10-inch or 12-inch petroleum products pipeline between Missoula and Thompson Falls, Montana.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than January 31, 1997.

ADDRESSES: Send written comments to Charles C. Wildes, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59804.

FOR FURTHER INFORMATION CONTACT: Terry Egenhoff, Environmental Coordinator, Lolo National Forest, as above, or phone: (406) 329–3833.

SUPPLEMENTARY INFORMATION: The Yellowstone Pipe Line Company (YPL) proposes to build a new pipeline section between Missoula and Thompson Falls, Montana. The new pipe would be 10-inch or 12-inch nominal diameter. YPL has submitted an application for a special-use permit for the proposed pipeline to the Forest Service. YPL's application proposes for study a primary corridor and two alternative corridors. The primary corridor is about 75 miles long, following the Clark Fork Valley bottom to Alberton, Montana, then along the Ninemile Divide ridges and crossing the upper Ninemile Valley to Siegel Mountain, then along the Clark Fork Valley bottom to Plains, Montana. The first alternative corridor runs along the Clark Fork Valley bottom past St. Regis, Montana, then along ridges north to Plains for about 90 miles. The second alternative corridor is about 65 miles long, and is the same as the primary corridor except that it follows the Ninemile Valley bottom instead of the Ninemile Divide ridge. The proposed corridors could require the use of 18 to 35 miles of National Forest System lands. The Forest Service is the only Federal agency which manages lands within the proposed corridors.

The purpose of this proposal is to reconnect an existing pipeline which now has a section out of service. The Yellowstone Pipeline is a common carrier delivering petroleum products from refineries in Billings, Montana, to points west including Spokane, Washington. The pipeline terminates in Moses Lake, Washington. The proposed new section would replace an existing section through the Flathead Indian Reservation. That section has been decommissioned following expiration of an easement grant from the Bureau of Indian Affairs across trust lands situated on the Flathead Indian Reservation. Petroleum products are now transported west of Missoula by a variety of methods including railroad, highway, and pipeline systems. The proposed reroute would replace those current transportation methods with a fully functional pipeline, which may have economic, environmental, and safety advantages over the current transportation methods.

The decision to be made by the Forest Service is whether, and if so, under what terms and conditions, to authorize the use of National Forest System lands for constructing, operating, and maintaining a hazardous liquids pipeline section between Missoula and Thompson Falls. The Forest Service authority for this type of permit is Section 28 of the Mineral Leasing Act.

The responsible official who will make decisions regarding National Forest System lands based on this EIS is Charles C. Wildes, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59804. He will decide on this proposal after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

The Forest Service is the lead Federal agency for preparing this EIS. Several other agencies may have permitting or licensing authority and may make separate decisions based on this EIS. The Forest Service will cooperate with State and local agencies to prepare a single EIS to meet as best as possible all agencies' permitting and consultation needs. The Forest Service is developing a memorandum of understanding to that effect with several agencies. The Montana Department of Environmental Quality will be the lead State agency.

Other agencies which may have permit or license issuing authority over the proposed pipeline include:

Federal Agencies: Bureau of Land Management, Army Corps of Engineers, Federal Highway Administration, Federal Communications Commission;

State Agencies: Montana Department of Environmental Quality, Montana Department of Natural Resources;

Local Agencies: Missoula County Commission, Sanders County Commission, Mineral County Commission, Missoula Soil Conservation District, Eastern Sanders County Conservation District, Mineral County Conservation District.

Agencies or governments which may have consultation responsibilities or special expertise in this matter include the U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, UDOT Research and Special Programs Administration Office of Pipeline Safety, Confederated Salish and Kootenai Tribes of the Flathead Nation, Montana Department of Transportation, Montana Department of Fish Wildlife and Parks, Montana State Historic Preservation Office, Missoula County Weed Control Board, Sanders County Weed Control Board, Mineral Country Weed Control Board, Missoula City/County Office of Planning and Grants, and Missoula City/County Health Department.

Preliminary issues and alternatives have not yet been compiled. Issue identification and alternative development will be phases of the public scoping process.

Before public scoping begins, the Forest Service intends to select a third-party contractor to conduct scoping, analyze environmental effects, and prepare the EIS. The contractor will perform to Forest Service specifications, with funding from YPL. A schedule for public meetings or hearings will be developed later.

Public scoping and public participation will involve at least four phases: (1) Initial proposal review and comment, (2) preliminary issue identification and alternative development review and comment, (3) draft EIS review and comment, and (4) final EIS and Record of Decision review and appeal period. During the scoping process, the Forest Service is seeking

information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. A scoping document will be prepared and mailed to parties known to be interested in the proposed action. The agency invites written comments and suggestions on this action, particularly in terms of issues and alternatives. The Forest Service will continue to involve the public and will inform interested and affected parties as to how they may participate and contribute to the final decision.

The draft EIS should be available for review in May, 1998. The final EIS is scheduled for completion in September, 1998.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important, at this early stage, to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the prosed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: December 3, 1996.

Charles C. Wildes,

Forest Supervisor, Lolo National Forest.

[FR Doc. 96–32293 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–11–M

Dome Peak Timber Sale Analysis, White River National Forest; Routt County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The U.S. Department of Agriculture, Forest Service will prepare an Environmental Impact Statement to disclose effects of alternative decisions it may make to harvest dead Engelmann spruce and associated road construction within the Dome Peak Timber Sale planning area, on the Eagle Ranger District of the White River National Forest.

DATES: Written comments concerning the scope of the analysis should be received on or before March 1, 1997.

ADDRESSES: Send written comments to Veto J. LaSalle, Forest Supervisor, White River National Forest, P.O. Box 948, 9th and Grand Ave., Glenwood Springs, Colorado 81602. Mr. LaSalle is the Responsible Official for this EIS.

FOR FURTHER INFORMATION CONTACT: David Van Norman, Project Coordinator, Holy Cross Ranger District, 24747 U.S. Highway 24, P.O. Box 190, Minturn, CO 81645, (970) 827–5715.

SUPPLEMENTARY INFORMATION: On October 28, 1996 the White River National Forest released a Draft Environmental Assessment for the proposed action and alternatives to that proposed action under Public Law 104–19. Based on comments received from members of the public, the Interdisciplinary Team has determined that the proposed action and alternatives to that action represent a roadless area entry. Therefore, and Environmental Impact Statement is required as per Forest Service Handbook 1909.15, Section 20.6. The proposed action proposes to harvest approximately 2.5 million board feet from approximately 650 acres of dead Engelmann spruce using a combination of ground-based and helicopter yarding and to construct approximately 1.1 miles of new specified road.

The proposed action is consistent with governing programmatic management direction contained in the *Rocky Mountain Regional Guide* and FEIS for Standards and Guidelines (1983) and in the Final EIS and *Land and Resource Management Plan for the White River National Forest* (LMP, 1984). The LMP allocated the proposed timber sale area to semi-primitive non-motorized use and allows for timber harvest. The site-specific environmental analysis provided by the EIS will assist the Responsible Official in determining which improvements are needed to meet the following objectives: Reduce natural fuel loadings and to provide wood products for the nation and opportunities for timber related jobs. Alternatives will be carefully examined for their potential impacts on the physical, biological, and social environments so that tradeoffs are apparent to the decisionmaker.

Public participation will be fully incorporated into preparation of the EIS. The first step is the scoping process, during which the Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or groups who may be interested or affected by the proposed action. This information will be used in preparing the EIS. No public meetings are planned for this project. Public comments received during initial scoping and those raised during public review of the Draft Environmental Assessment for this project will be incorporated into this EIS. Individuals who have provided comments during initial scoping, on the Draft Environmental Assessment, and those who provide comments on this EIS will receive copies of the Draft EIS for their review.

Preliminary issues include the potential effects of proposed actions on the following elements of the biological, physical and social environments: Wildlife habitat, and overall biological diversity; wetlands and riparian areas; scenic quality; air quality; roadless area resource values; recreation resource values, range resource values, and social and economic values. The direct, indirect, cumulative, short-term, and long-term aspects of impacts on national forest lands and resources, and those of connected or related effects off-site, will be fully disclosed.

Preliminary alternatives include the proposed action (described above) and No Action, which in this case is deferring treatment of the area until the future. A third preliminary alternative will be analyzed which would harvest approximately 0.4 million board feet of dead Engelmann spruce from approximately 100 acres using ground-based yarding and to construct

approximately 1.1 miles of new specified road. Additional alternatives may be developed after the significant issues are clarified and management objectives are fully defined. The Responsible Official will be presented with a range of feasible and practical alternatives.

Permits and licenses required to implement the proposed action will, or may, include the following: consultation with U.S. Fish and Wildlife Service for compliance with Section 7 of the Threatened & Endangered Species Act; review from the Colorado Division of Wildlife, and clearance from the Colorado State Historic Preservation Office.

The Forest Service predicts the draft environmental impact statement will be filed during the spring of 1997 and the final environmental impact statement during the summer of 1997.

The Forest Service will seek comments on the draft environmental impact statement for a period of 45 days after its publication in the Federal Register. Comments will then be summarized and responded to in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of the draft environmental impact statement 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 that 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, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when they can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: December 13, 1996.

Ben DelVillar,

Deputy Forest Supervisor.

[FR Doc. 96–32342 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–BW–M

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on January 30 and January 31, 1996 at the Red Lion Hotel, Sacramento Room, 1830 Hilltop Drive, Redding, California. The meeting will begin at 9:00 a.m. on January 30 and adjourn at 5:00 p.m. The meeting will reconvene at 8:00 a.m. on January 31 and continue until 3:00 p.m. Agenda items to be covered include: (1) example of Province-wide data application to PAC decision making process; (2) a strategy plan for the next two years of PAC Charter with recommendations; (3) a presentation on the proposed Pelican Butte Ski Area; (4) Province Interagency Executive Committee Report; and (5) public comment periods. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, at 1312 Fairlane Road, Yreka, California 96097; telephone 916–842–6131, (FTS) 700–467–1309.

Dated: December 11, 1996.

Jay H. Perkins,

Deputy Fire Staff Officer.

[FR Doc. 96–32344 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–11–M

Natural Resources Conservation Service

Upper Tioga River Watershed, Pennsylvania; Notice of Deauthorization of Federal Funding

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83–566, and the Natural Resources Conservation Service (formerly the Soil Conservation Service) Guidelines (7 CFR Part 622); the Natural Resources Conservation Service (formerly the Soil Conservation Service) gives notice of the deauthorization of Federal funding for the Upper Tioga River Watershed project, Tioga and Bradford Counties, Pennsylvania, effective on November 26, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Janet L. Oertly, State Conservationist, Natural Resources Conservation Service, Suite 340, One Credit Union Place, Harrisburg, Pennsylvania 17110–2993, telephone (717) 782–2202.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable.)

Dated: December 17, 1996.

Janet L. Oertly,

State Conservationist.

[FR Doc. 96–32308 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–16–M

Rural Utilities Service

Marshalls Energy Company, Inc.; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR Part 1794), has made a finding of no significant impact (FONSI) with respect to a project proposed by the Marshalls Energy Company, Inc. (MEC), of the Republic of the Marshall Islands. The proposed

project consists of two 6.22 megawatt (MW) diesel electric generating units and associated facilities that will be constructed immediately adjacent to the existing Majuro Generating Station, on Dalap Island which is part of the Majuro Atoll.

RUS has concluded that the environmental impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not required.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Senior Environmental Protection Specialist, USDA Rural Utilities Service, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571, telephone: (202) 720–5093.

SUPPLEMENTARY INFORMATION: Section 161 of the Compact of Free Association (Compact), Public Law 99–239, among the Government of the United States, Marshall Islands, and the Federated States of Micronesia requires Federal agencies shall apply NEPA to their activities under the Compact and its related agreements as if the Marshall Islands and the Federated States of Micronesia were the United States.

RUS, in accordance with its environmental policies and procedures, required that MEC submit a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER prepared for MEC by Howard Engineers and Constructors, Ltd. and Earth Technology Corporation includes input from Republic of the Marshall Islands agencies. RUS has adopted the BER as its Environmental Assessment for the project in accordance with 7 CFR 1794.61. RUS has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project should have no impact on cultural resources, floodplains, wetlands, important farmland, water quality, air quality, and federally listed or proposed for listing threatened or endangered species or their critical habitat.

Alternatives considered to the proposed project included no action, load management, and alternative energy sources. RUS has considered these alternatives and has concluded that by adding new diesel generating units, MEC can accommodate the current and projected load requirements on the Majuro Atoll and provide the flexibility of maintenance during peak load periods.

Copies of the BER and FONSI are available for review at RUS at the address provided herein; or can be reviewed at or obtained from the offices of MEC, P.O. Box 1430, Majuro, Marshall Islands MH 96960, telephone (692) 625–3507 during normal business hours.

Dated: December 13, 1996.

Adam M. Golodner,

Deputy Administrator, Program Operations.

[FR Doc. 96–32287 Filed 12–19–96; 8:45 am]

BILLING CODE 3410–15–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the procurement list.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 21, 1997.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 25, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (61 F.R. 55268) of proposed addition to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List: Laundry Service, Yakima Training Center, Yakima, Washington.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 96–32367 Filed 12–19–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 21, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities.

The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Administrative Services, General Services Administration, Las Vegas Field Office (sub Reno), Reno, Nevada, NPA: United Cerebral Palsy, Sparks, Nevada

Administrative Services, General Services Administration, PBS, Pacific Rim Region, 450 Golden Gate Avenue, San Francisco, California, NPA: Jewish Vocational and Career Counseling Service, San Francisco, California

Disposal Support Services, Defense Reutilization and Marketing Office, Hill Air Force Base, Utah, NPA: Enable Industries Incorporated, Ogden, Utah

Grounds Maintenance, Basewide, Lackland Air Force Base, Texas, NPA: Goodwill Industries of San Antonio, San Antonio, Texas

Janitorial/Custodial, Chicago Air Route Traffic Control Center, 619 W. Indian Trail Road, Aurora, Illinois, NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois

Janitorial/Custodial, O'Hare International Airport, O'Hare Air Traffic Control Tower, Chicago, Illinois, NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois

Storage/Distribution of Badges, Insignia Patches & Other Accouterments, Defense Personnel Support Center, Philadelphia, Pennsylvania, NPA: Arizona Industries for the Blind, Phoenix, Arizona.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 96–32368 Filed 12–19–96; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–850, A–580–827, and A–583–826)

Initiation of Antidumping Duty Investigations: Collated Roofing Nails From the People's Republic of China, the Republic of Korea, and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Dorothy Tomaszewski at (202) 482–0631 or Everett Kelly at (202) 482–4194, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA'').

The Petition

On November 26, 1996, the Department of Commerce (''the Department'') received a petition filed in proper form by Paslode Division of Illinois Tool Works Inc. (''petitioner''). The Department received supplemental information to the petition on December 11, 1996, and December 16, 1996.

In accordance with section 732(b) of the Act, petitioner alleges that imports of Collated Roofing Nails (''CR nails'') from the People's Republic of China (''PRC''), the Republic of Korea (''Korea''), and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that petitioner has standing to file the petition because it is an interested party as defined in section 771(9)(C) of the Act.

Scope of Investigations

The products covered by these investigations are CR nails made of steel, having a length of 13/16 inch to 1–13/16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.

CR nails within the scope of these investigations are classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 7317.00.55.05. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that petitions be filed on behalf of the domestic industry. In this regard, section 732(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports the antidumping petition. A petition meets the minimum requirements if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the statute defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. However, while both the Department and the ITC must apply the same statutory definition of domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such

differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines domestic like product as ''a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the like product analysis begins is ''the article subject to an investigation,'' i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

As noted earlier, the petition is limited to collated roofing nails. The Department has no basis on the record to find this definition clearly inaccurate. In this regard, we have found no basis on which to reject petitioner's representations that there are clear dividing lines, in terms of characteristics and uses, between the collated roofing nails under investigation on the one hand and, on the other hand, other collated nails and bulk roofing nails. (*See* December 16, 1996, Memorandum to the File). The Department has, therefore, adopted the like product definition set forth in the petition.

Our review of the production data provided in the petition and other production information obtained by the Department indicates that the petitioners and supporters of the petition account for more than 50 percent of the total production of the domestic like product, thus meeting the standard of section 732(c)(4)(A) of the Act. The Department received no expressions of opposition to the petition from any domestic producers or workers. Accordingly, the Department determines that the petition is supported by the domestic industry.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which our decisions to initiate are based. Should the need arise to use any of this information in our preliminary or final determinations, we will re-examine the information and may revise the margin calculations, if appropriate.

PRC

Petitioner based export price on FOB and CIF price quotations during August and September 1996 from PRC CR nails manufacturers for the sale of 1'' and 1¼'' CR nails. Absent more specific international freight and marine insurance data, CIF prices were reduced for insurance and freight based on the percentage difference between Customs and CIF values reported for U.S. imports of collated nails from PRC to Los Angeles using August 1996 IM–145 Import Statistics for collated nails entered under HTSUS subheading 7317.00.55.05.

With respect to normal value, petitioner asserts that the PRC is a non-market economy (''NME'') within the meaning of section 771(18) of the Act. In previous investigations, the Department has determined that the PRC is an NME and, in accordance with section 771(18)(c)(I) of the Act, the presumption of NME status continues for the initiation of this investigation. *See, e.g., Final Determination of Sales at Less than Fair Value: Bicycles from the PRC,* 61 FR 19026 (April 30, 1996). Accordingly, the normal value of the product should be based on the producer's factors of production, valued in a surrogate market economy country in accordance with section 773(c) of the Act.

In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. *See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC,* 59 FR 22585 (May 2, 1994).

It is the Department's practice in NME cases to calculate NV based on the factors of production of the factories that produced CR nails sold to the United States during the period of investigation.

Petitioner based the PRC producers' factors of production as defined by section 773(c)(3) of the Act (*i.e.,* raw materials, labor, energy, and packing) for CR nails on petitioner's own usage amounts, adjusted for known differences in production processes. In accordance with section 773(c)(4) of the Act, petitioner valued these factors, where possible, on publicly available published Indian data. Where this data was unavailable, petitioner used other acceptable sources of information.

Petitioner stated that because (1) the per-capita gross national product of India and the PRC are relatively close, and (2) the Department considered India and the PRC to be economically comparable in past investigations, the two countries may be considered economically comparable for purposes of this investigation. Further, petitioner stated that India is a producer of comparable merchandise.

Petitioner based surrogate values of material factors on Indian import statistics data and prices published in the Indian chemical trade publication, *Chemical Weekly.* Surrogate labor values were calculated from information on the public record of a previous antidumping duty investigation, *Final Determination of Sales at Less Than Fair Value: Heavy Forged Hand Tools, Finished or Un-Finished, With or Without Handles from the PRC,* 56 FR 241, 245 (January 3, 1991).The surrogate value of electricity was based on an average rate for Indian industries reported in the Confederation of Indian Industry publication, *Handbook of Statistics 1995.* Petitioner based the surrogate value of water on the Asian Development Bank's *Water Utilities Data Book for the Asian and Pacific Region.*

Petitioner based factory overhead, general expenses, and profit on data contained in the ''Reserve Bank of India Bulletin,'' April 1995.

Based on comparisons of export price to normal value, the calculated dumping margins for CR nails from the PRC, after certain corrections deemed appropriate by the Department, range from 106.08 to 118.41 percent ad valorem.

Korea

Petitioner based export price on CNF price quotations from a CR nails manufacturer in Korea for sale of 1-inch and 1¼-inch CR nails. Petitioner adjusted the CNF price quotations by subtracting estimated freight charges based on a quotation that petitioner obtained from an international freight carrier.

With respect to normal value, petitioner provided information showing that the Korean market was not viable. Petitioner also provided evidence that Germany was the largest third country market. Therefore, petitioner based normal value on CNF price quotations for the sale of CR nails in Germany.

Based on comparisons of export price to normal value, the calculated dumping margin, revised by the Department to include an additional U.S. price quotation not originally used in the margin calculation in the petition, for CR nails from Korea range from 75.17 to 103.45 percent ad valorem.

Taiwan

Petitioner based export price on CIF price quotations for June 1996 from two Taiwan CR nail manufacturers for the sale of 1-inch and 1¼-inch CR nails to the United States. Absent more specific international freight and marine insurance data, petitioner adjusted the

[1] See *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 Fed. Reg. 32376, 32380–81 (July 16, 1991) (''*Flat Panel Displays*'').

CIF price quotations based on the percentage difference between the Customs value and CIF value reported for U.S. imports of collated nails from Taiwan to Los Angeles using June 1996 IM–145 Import Statistics for collated nails entered under HTSUS subheading 7317.00.55.05.

With respect to normal value, petitioner provided information showing that the Taiwanese market was not viable. Additionally, although petitioner obtained a third country price for CR nails, petitioner provided evidence that no third country market is viable. Therefore, petitioner based normal value on CV.

Petitioner's calculation of CV included the cost of manufacturing (''COM''), selling, general and administrative (''SG&A'') expenses, and U.S. packing expenses. The manufacturing costs contained in the petition were based on petitioner's own experience and publicly available industry data, adjusted for known differences between production costs incurred in the United States and production costs incurred in Taiwan. For SG&A expenses, petitioner used its own 1995 audited financial statements because it could not obtain financial statements for a Taiwan CR nail producer. Petitioner did not include an amount for CV profit.

Based on the Department's modifications to petitioner's methodology, the estimated dumping margins for Taiwan range from 30.52 to 40.28 percent ad valorem.

Fair Value Comparisons

Based on the data provided by petitioner, there is reason to believe that imports of CR nails from the PRC, Korea, and Taiwan are being, or are likely to be, sold at less than fair value.

Initiation of Investigations

We have examined the petition on CR nails and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating antidumping duty investigations to determine whether imports of CR nails from the PRC, Korea, and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determinations by May 5, 1997.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of the governments of Korea and PRC, as well as to the authorities of Taiwan. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition (as appropriate).

ITC Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by January 6, 1997, whether there is a reasonable indication that imports of CR nails from the PRC, Korea, and Taiwan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination in any of the investigations will result in that investigation being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

Dated: December 16, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32406 Filed 12–19–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–815]

Gray Portland Cement and Clinker From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On October 6, 1995, the Department of Commerce (the Department) published the preliminary results of review of the antidumping duty order on gray portland cement and clinker from Japan. The review covers one manufacturer/exporter, Onoda Cement Co., Ltd., and the period May 1, 1993, through April 30, 1994.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received, we have changed the final results from those presented in the preliminary results of review

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: David Genovese, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 482–4697.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions as they existed prior to January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA).

Background

On May 12, 1994, and May 31, 1994, Onoda Cement Co., Ltd. (Onoda), and the Ad Hoc Committee of Southern California Producers of Gray Portland Cement (the Petitioner), respectively, requested that the Department conduct an administrative review of the antidumping duty order on gray portland cement and clinker from Japan (56 FR 21658, May 10, 1991) for Onoda. We initiated the review, covering the period May 1, 1993, through April 30, 1994, on June 15, 1994 (59 FR 30770). On October 6, 1995, we published the preliminary results of the administrative review (60 FR 52368). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this review are gray portland cement and clinker from Japan. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Microfine cement was specifically excluded from the antidumping duty order.

Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under item number 2523.90 as ''other hydraulic cements.''

The HTS item numbers are provided for convenience and Customs purposes. The written product description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received

comments from the petitioner and from the respondent. At the request of the petitioner and respondent, we held a public hearing on November 20, 1995.

Comment 1

Onoda argues that in calculating foreign market value (FMV), the Department should deduct home market pre-sale movement expenses either in their entirety as direct selling expenses or as indirect selling expenses up to the amount of U.S. pre-sale movement expenses. Onoda states that it has been the Department's practice since *The Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement v. United States,* 13 F.3d 398 (Fed. Cir. 1994), *cert. denied* 115 S. Ct. 67 (1994) (hereinafter *Ad Hoc Committee I*), to deduct pre-sale movement expenses as direct expenses when the freight expenses are ''incurred in positioning the merchandise at [a] warehouse,'' and the warehousing expenses are classified as direct expenses. Onoda argues that in this review, pre-sale movement expenses should be deducted from FMV as direct expenses since the cost of warehousing the cement is a direct expense. Onoda argues that warehousing is a direct expense because sales of the subject merchandise constitute virtually all of its cement sales; therefore, virtually all of Onoda's warehousing expenses are associated with the subject merchandise.

Onoda argues that, alternatively, if the Department decides to treat home market pre-sale movement expenses as indirect expenses, in purchase price situations, the Department should deduct from FMV home market pre-sale movement expenses up to the amount of U.S. pre-sale movement expenses. Onoda argues that the Department has the power to make such an adjustment pursuant to its authority to make circumstances-of-sale (COS) adjustments and under its inherent authority to achieve a fair comparison. Onoda further argues that 19 CFR § 353.56 permits the Department to adjust FMV to account for indirect expenses as a COS adjustment and that the Department has the power to adjust FMV for indirect expenses under its inherent authority to fill in gaps in an area where the statute is silent or ambiguous. Onoda cites *Timken Company v. United States,* 865 F. Supp. 881 (CIT 1994) (hereinafter *Timken*) and *Smith-Corona Group v. United States,* 713 F.2d 1568 (Fed. Cir. 1983) (hereinafter *Smith-Corona*) in support of its position.

Moreover, Onoda cites 19 C.F.R. § 353.56(b)(1) and the *Final Determination of Sales at Less than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea,* 56 FR 16305 (April 22, 1991) (hereinafter *PET Film from Korea*) as precedent for offsetting direct selling expenses in the U.S. market with indirect selling expenses in the home market in purchase price situations.

Petitioner contends that Onoda's argument that pre-sale movement expenses should be deducted from FMV as a direct expense has been rejected by the Department in a number of Japanese cases, including, *Polyethylene Terephthalate Film, Sheet and Strip, from Japan,* 60 FR 32,133 (June 20, 1995), *Stainless Steel Angle from Japan,* 60 FR 16,608 (March 31, 1995), *Granular Polytetraflourethylene Resin from Japan,* 60 FR 5,622 (January 30, 1995), and *Tapered Roller Bearings, Four Inches or Less in Diameter, and Components Thereof, from Japan,* 59 FR 56,035 (November 10, 1994) (hereinafter *TRBs from Japan*).

Petitioner states that contrary to Onoda's assertion, the Department requires that pre-sale movement expenses be directly related to specific sales in order to be classified as direct expenses. Petitioner contends that in situations like this, where the merchandise is not dedicated to specific customers but, instead, is kept in inventory at the warehouse and is generally available for sale to any customer, the pre-sale expenses are indirect because there is no specific sale to which the expenses can be directly related. Petitioner argues that the Department addressed the issue of whether or not Onoda's pre-sale home market transportation expenses are direct expenses, in the second review of this case. See *Gray Portland Cement and Clinker from Japan,* 60 FR 43,761 (August 23, 1995) (hereinafter *Gray Portland Cement and Clinker—Second Review*). Petitioner states that in the second review of this case, the Department determined that Onoda's pre-sale home market movement expenses were indirect expenses.

Petitioner argues that Onoda's home market distribution system has not changed from the second review and that, therefore, the Department should continue to consider Onoda's pre-sale home market movement expenses as indirect expenses as it did in the preliminary results of this review. Petitioner states that the methodology applied in the preliminary results of this review and the second review of this case (*i.e.,* the methodology outlined in *Ad Hoc Committee I*) has been applied by the Department in a number of Japanese cases where the Japanese producers, like Onoda, have a home market distribution system whereby products are transported from manufacturing plants to warehouses prior to sale.

Petitioner further contends that the Department's methodology for determining whether pre-sale home market movement expenses are indirect expenses has been approved by the Court of International Trade (CIT) and the Court of Appeals for the Federal Circuit (CAFC) in a number of decisions including, *Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement v. United States,* No. 95–1129 (Fed. Cir., October 10, 1995), *Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement v. United States,* 865 F. Supp. 857 (CIT 1994) (hereinafter, *Ad Hoc Committee II*), *Federal Mogul Corp. v. United States,* 871 F. Supp. 443 (CIT 1994), *Torrington Co. v. United States,* 866 F. Supp. 1434 (CIT 1994), and *Timken Co. v. United States,* 855 F. Supp. 399 (CIT 1994).

With regard to Onoda's argument that in purchase price situations the Department should deduct home market pre-sale freight expenses up to the amount of the U.S. pre-sale movement expenses, Petitioner states that such a methodology would require the Department to overrule the CAFC's decision in *Ad Hoc Committee I* and all of the judicial and administrative rulings based on this decision. Petitioner contends that in *Ad Hoc Committee I,* the CAFC plainly stated that because Congress drafted the FMV section of the antidumping statute without any authority for the deduction of home market pre-sale movement expenses, Congress did not intend those expenses to be deducted from FMV under any ''inherent'' authority. Petitioner states that this principle is supported by the decision of the current Congress, in enacting the implementing legislation for the Uruguay Round amendments to the antidumping law, to provide expressly for the deduction of pre-sale home market movement expenses from FMV.

With regard to Onoda's argument that the Department has the power to adjust FMV for indirect expenses under its inherent authority to fill in gaps in an area where the statute is silent or ambiguous, Petitioner argues that the Department has recognized that *Ad Hoc Committee I* plainly held that in purchase price comparisons there was no ''gap'' with respect to whether pre-sale movement charges could be deducted from FMV. Petitioner cites to *TRBs from Japan,* in which the Department stated: ''The *Ad Hoc Committee* decision states that the statute does not give the Department the

authority to deduct home market movement expenses from FMV by invoking its inherent power to fill 'gaps' in the antidumping statute.'' *TRBs from Japan,* at 56042.

In a related issue, Petitioner argues that because home market pre-sale transportation costs should be considered indirect selling expenses and because Onoda reported home market pre-sale transportation expenses with other direct selling expenses in the field DIRSELH, the Department should treat all expenses reported in the DIRSELH field as indirect, rather than direct, selling expenses.

In response, Onoda states that DIRSELH consists of freight expenses associated with swap transactions and periodic adjustments made to the freight expenses recorded in Onoda's books. Onoda contends that freight expenses associated with swap transactions are post-sale rather than pre-sale freight expenses since such freight occurs after the sale has been made by the other manufacturer. Moreover, states Onoda, while the freight costs associated with the tanker freight adjustment include pre-sale freight expenses, the Department should still deduct these expenses from FMV pursuant to Onoda's aforementioned argument on the deduction of pre-sale freight expenses as a direct expense or as an indirect expense capped by U.S. pre-sale freight expense.

Department's Position

We disagree with Onoda. Onoda is correct that since *Ad Hoc Committee I* the Department has deducted pre-sale movement expenses as direct expenses when freight expenses are incurred in positioning the merchandise at the warehouse, and the warehousing expenses are classified as direct expenses. However, as with the first and second reviews of this case, the Department has determined that Onoda's warehousing expense is an indirect selling expense. The Department's determination in the first review that Onoda's warehousing expense is an indirect selling expense has been upheld by the CIT in *The Ad Hoc Committee of Southern California Producers of Gray Portland Cement* v. *United States,* 914 F. Supp. 535 (CIT 1995) (hereinafter *Southern California Producers.*). In its decision the CIT stated that:

> Home market expenses for which Commerce makes an allowance, must, as a general matter, be directly tied to specific sales or specific customers. *Hussey Copper,* 17 CIT at 1001, 834 F. Supp. at 421. If the expenses are not directly tied to specific sales, but are incurred to advance sales in general, then Commerce may treat them as indirect selling expenses * * *
>
> Upon review, the Court finds that Commerce's decision to classify Onoda's home market service station expenses as warehousing expenses, and to treat them as indirect selling expenses, is supported by substantial evidence and otherwise in accordance with law for several reasons. First, Onoda has not earmarked the cement held in the service stations for particular sales or particular customers; indeed, Onoda admits that the service stations temporarily store cement that is awaiting sale. *Final Results,* 58 Fed. Reg. 48,828. Second, Onoda failed to submit evidence showing that service stations differ from warehouses in their physical structure. *See Id.* Third, some repacking, a job that is traditionally done at warehouses, is done at the service stations. *Id.;* Pub. Doc. 107, Conf. Doc. 46. Fourth, Commerce found evidence to indicate that the service stations are not entirely necessary to transport cement to customers.

Id. at 540–541. The facts of this review are no different from the facts in the first review upheld by the CIT. Accordingly, the Department continues to view Onoda's warehousing as an indirect expense and therefore, we continue to view Onoda's home market pre-sale movement charges as an indirect expense.

The Department also disagrees with Onoda's argument that in purchase price situations the Department should deduct from FMV as indirect expenses home market pre-sale movement expenses up to the amount of U.S. pre-sale movement expenses through the Department's inherent authority to fill in gaps in an area where the statute is silent or ambiguous. We have determined, in light of *Ad Hoc Committee I* and its progeny, that the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. We instead adjust for those expenses under the COS provision of 19 CFR § 353.56 and the ESP offset provision of 19 CFR § 353.56(b) (1) and (2), as appropriate, in the manner described below.

When USP is based on either ESP or purchase price, we adjust FMV for home market movement charges through the COS provision of 19 CFR § 353.56(a). Under this adjustment, we capture only direct selling expenses, which include post-sale movement expenses and, in some circumstances, pre-sale movement expenses. Specifically, we treat pre-sale movement expenses as direct expenses if those expenses are directly related to the home market sales of the merchandise under consideration. In order to determine whether pre-sale movement expenses are direct, the Department examines the respondent's pre-sale warehousing expenses, since the pre-sale movement charges incurred in positioning the merchandise at the warehouse are, for analytical purposes, linked to pre-sale warehousing expenses. *See* Final Results of Redetermination Pursuant to Court Remand, dated January 5, 1995 (pertaining to Slip. Op. 94–151). If the pre-sale warehousing constitutes an indirect expense, the expense involved in getting the merchandise to the warehouse, in the absence of contrary evidence, also must be indirect; conversely, a direct pre-sale warehousing expense necessarily implies a direct pre-sale movement expense. *See Gray Portland Cement and Clinker—Second Review,* at 43765; *Ad Hoc Committee II,* 865 F. Supp. 861–862.

Onoda reported in its questionnaire response of August 22, 1994, that it incurred no after-sale warehousing expenses and respondent did not claim any warehousing expenses as direct COS expenses. The Department interprets this to mean that any warehousing expenses incurred are properly classified as pre-sale, indirect selling expenses and that the expense of transporting the cement to the warehouse should also be treated as an indirect expense. Accordingly, the Department has not deducted home market pre-sale movement expenses from FMV for comparison to PP sales. However, we deducted post-sale movement expenses from FMV as a direct expense.

Additionally, it is the Department's standard practice when a respondent commingles direct and indirect home market expenses in the same field to treat that field as an indirect expense. *See Gray Portland Cement and Clinker—Second Review,* at 43766; *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.* 58 FR 39729, 39742 (July 26, 1993). Accordingly, we agree with Petitioner that since Onoda reported home market pre-sale transportation expenses (which are indirect expenses) with direct selling expenses in the field DIRSELH, we should treat all expenses reported in the DIRSELH field as indirect, rather than direct, selling expenses.

Comment 2

Onoda argues that the Department should not include home market sales of bagged cement in the FMV calculation since it only sold bulk cement in the United States. Onoda argues that comparing bulk sales to bagged sales in this case contravenes the Department's past practice of comparing, whenever possible, sales of identically packed

merchandise. Onoda cites to the *Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Japan,* 56 FR 12,156 (March 22, 1991), *Final Determination of Sales at Less Than Fair Value: Fresh Kiwifruit from New Zealand,* 57 FR 13,695 (April 17, 1992) (hereinafter, *Kiwifruit from New Zealand*), *Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Mexico,* 55 FR 29,244 (July 18, 1990) (hereinafter *Cement from Mexico*), and the concurrence memorandum for *Gray Portland Cement and Clinker from Venezuela,* 56 FR 56,390 (November 4, 1991) (hereinafter *Cement from Venezuela*), in support of its position.

Petitioner argues that Onoda made this same argument in the second review and that the Department determined in the second review that it was appropriate to compare bulk sales in the United States to bulk and bagged sales in the home market after adjusting for differences in packing costs. *See Gray Portland Cement and Clinker—Second Review,* at 43763. Petitioner argues that home market sales of bagged cement should be included in the calculation of FMV since the technical specifications for cement sold in bags and in bulk are identical. Moreover, asserts Petitioner, Onoda has made no attempt to demonstrate that bagged cement is sold in different distribution channels or at different levels of trade than bulk cement, or that sales of bagged cement are not in the ordinary course of trade.

Department's Position

We agree with the petitioner. As we stated in the second review of this case, there is no physical difference between the bagged and bulk cement sold in Japan. The only difference is the manner in which the merchandise is packed. Since packing is not a criterion for comparability, and because there is no physical difference between bulk and bagged cement sold in the home market, we did not exclude home market sales of bagged cement from our calculations of FMV. *See Gray Portland Cement and Clinker—Second Review,* at 43763.

In the second review of this case, we determined that the cases cited by Onoda in support of its argument did not construct a standard whereby the Department will not make bulk-to-bag comparisons. Further, the LTFV investigation of this case is distinguishable from both the second and present case. In the LTFV investigation, bagged cement was sold in the United States, not in the home market, and the amount sold in the United States was ''insignificant.'' Accordingly, in the LTFV investigation, we did not require Onoda to report U.S. sales of bagged cement and we did not use bagged sales in our margin calculations. In the second review of this case, and in this review, bagged cement was sold in the home market and the amount was not insignificant. Accordingly, Onoda was required to report bagged sales and such sales were included in the Department's margin calculations.

We conclude here, as we did in the second review of this case, that the cases cited by Onoda do not stand for the proposition that the Department must always compare bulk-to-bulk and bag-to-bag sales, and that packing is not a criterion for matching types of cement. Therefore, we compared sales of bulk cement in the United States to sales of both bulk and bagged cement in the home market, and made the appropriate adjustments to reflect the packing costs associated with bagged cement.

Comment 3

Onoda argues that in the preliminary results of review, the Department improperly classified a commission paid to an unrelated trading company as a ''document handling fee'' (*i.e.,* as a movement expense that was directly deducted from U.S. price). Onoda states that its sales to the United States are made through an unrelated trading company which purchases the cement from Onoda at a discount and then resells the cement at the pre-discount price to Lone Star Northwest (LSNW), a party related to Onoda. Onoda claims that the payment the trading company receives (*i.e.,* the difference between what the trading company pays Onoda and what LSNW pays the trading company for the cement) is a commission compensating the trading company for arranging transportation and providing other services in support of cement sold to the United States.

Onoda asserts that under the antidumping law, payments for a wide range of services may qualify for treatment as commissions. Onoda, citing to Chapter 8, page 26 of the Department's antidumping manual, states that the services provided by a commissionaire may vary from the level of minimal services in facilitating communication to substantive services including maintaining inventory and providing support in all areas of the sales transactions. Similarly, Onoda cites to *Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from France,* 56 FR 56,380 (November 4, 1991) to argue that the ''Department treats payments for 'ensuring that *production, shipping, and deliveries meet . . . scheduling requirements,* taking title to the merchandise, performing sales accounting and collection functions, arranging for the provision of technical services, and participating in trade shows and other events' as commission.'' *See* Onoda's case brief at page 10, fn 14.

Onoda, citing to *Final Determination of Sales at Less Than Fair Value and Final Determination of Sales at Not Less Than Fair Value: Certain Carbon Steel Products from Austria,* 50 FR 33,365 (August 19, 1985) (hereinafter *Carbon Steel Products from Austria*), states that the Department has, in the past, treated payments like that which Onoda pays to the trading company as commissions. Onoda states that in *Carbon Steel Products from Austria,* the Department stated the following:

> Home market purchasers contact [the respondent] to establish price and terms of sale. Once the parties have agreed on the terms of sale, the purchaser designates a trading company to handle the paperwork. [The respondent] then sells to the trading company at a reduced price and the trading company resells to the purchaser at the full price. Under these facts, *the payments are clearly commissions paid to the trading company for services rendered in connection with the sale.* (emphasis added by Onoda)

Onoda also argues that the payment to the trading company does not affect the final price to the U.S. customer, and, therefore, it should not be deducted from U.S. price as a discount. Onoda cites to *Carbon Steel Products from Austria* and the *Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Flat Products from Belgium,* 58 FR 37,083 (July 9, 1993), in support of its position.

Petitioner argues that the role of the trading company has not changed since the LTFV investigation in which ''Onoda minimized the role of the trading company in the sales process, stating that the trading company 'arranged the freight and takes care of the shipping,' but that otherwise it was a 'bystander'.'' *See* Petitioner's Case Brief, at 16. Petitioner states that since the trading company merely arranged for the shipment of merchandise that had already been sold, the Department should continue to treat payments to the trading company as a movement expense. Petitioner cites to *Certain Internal-Combustion, Industrial Forklift Trucks from Japan,* 57 FR 3,167 (January 28, 1992), *accord Certain Internal-Combustion, Industrial Forklift Trucks*

from Japan, 59 FR 1,374 (January 10, 1994), *Mechanical Transfer Presses from Japan,* 55 FR 335 (January 4, 1990), in support of its argument.

Petitioner argues that the Department classifies payments to trading companies as commissions only if the services provided by the trading company involve selling the merchandise (*i.e.*, finding and cultivating customers, marketing the product, negotiating transactions, retaining customers, etc.). Petitioner cites to *Oil Country Tubular Goods from Austria,* 60 FR 33,551 (June 28, 1995) (hereinafter *OCTG from Austria*), *Stainless Steel Angle from Japan,* 60 FR 16,608 (March 31, 1995) (hereinafter *SSA from Japan*), and *Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan,* 55 FR 34,585 (August 23, 1990) (hereinafter *Sweaters from Taiwan*), in support of its position.

Petitioner argues that alternatively, the Department could classify payments to the trading company as discounts on sales to the United States. Petitioner asserts the Onoda classified the payment as a discount in its August 22, 1994, questionnaire response. Petitioner cites to *Industrial Phosphoric Acid from Israel,* 52 FR 25,440 (July 7, 1987), *accord Mirrors in Stock Sheet and Lehr End Sizes from the United Kingdom,* 51 FR 43,411 (December 2, 1986), and *Portland Hydraulic Cement from Japan,* 48 FR 41,059 (September 13, 1983), to argue that Department precedent supports this approach.

Department's Position

We disagree with Onoda. If the trading company provides services related to the movement of the merchandise, the Department considers the payment the trading company receives for such services as a movement expense which is deducted directly from U.S. price. *See Forklift Trucks from Japan,* at 3178. The Department considers a payment to a trading company to be a commission if the trading company provides services related to the sale of the merchandise. *See* Chapter 8, page 26 of the Department's antidumping manual. In this case, the trading company is not involved in the sale of the merchandise to the customer. Rather, LSNW sells cement to the United States. The price of the cement is set by LSNW, in consultation with Onoda. After the terms of the sale are negotiated between LSNW, Onoda, and the U.S. buyer, Onoda hires the trading company to arrange shipment of the cement. Clearly, the work performed by the trading company (*i.e.*, arranging for transportation of the cement) is a movement expense rather than a commission. This is supported by Onoda's statement in its case brief of November 6, 1995 at page 11, where Onoda states that the trading company ''is primarily responsible for arranging transportation of cement.'' Additionally, in its supplemental questionnaire response of October 31, 1994 at page 30, Onoda clarifies the role of the trading company, stating, that the trading company does not take physical possession of the merchandise; it is not a freight-forwarder, although it does coordinate with the broker and with arranging the shipments; and, it is not the importer of record. Again, the service provided by the trading company is to arrange for shipment, after the sale between Onoda, LSNW and the U.S. customer has been completed.

Onoda's cite to *Carbon Steel Products from Austria* is accurate; however, the Department's practice has evolved since 1985. Specifically, the Department has recognized that commissions paid to trading companies have certain characteristics: (1) they are agreed upon in writing; (2) they are earned directly on sales made, based on flat rates or percentage rates applied to the value of individual orders; (3) they take into consideration the expenses which a trading company must incur to cultivate and maintain successful relationships with purchasers; and, (4) they take into consideration the sales and marketing services performed by a trading company in lieu of an exporter/manufacturer establishing its own larger sales force. *See OCTG from Austria*, at 33554. Again, the trading company in this case does not cultivate and maintain relationships with purchasers nor does it perform sales and marketing services. Rather, the trading company is paid to arrange for shipment of the cement after it has been sold and the terms set.

Moreover, Onoda's cite to *Groundwood Paper from France* is misleading in that the quote cited is not attributable to the Department, but rather to the respondent who argued that a markup to a related party should not be considered a commission because the related party ''performs a number of additional selling and administrative functions not undertaken by commission agents, including ensuring that production, shipping, and deliveries meet printers' scheduling requirements, taking title to the merchandise, performing sales accounting and collection functions, arranging for the provision of technical services, and participating in trade shows and other events.'' *See Groundwood Paper from France*, at 56381. In that case, although the Department granted the deduction as a commission, it focused its response on the related-party nature of the commission rather than the actual services performed for the commission payment. Moreover, in the instant case, the only function performed by the trading company is to arrange for shipment of the merchandise.

We do agree with Onoda that the payment to the trading company should not be considered a discount since the payment to the trading company does not reduce the final price to the U.S. customer. *See Carbon Steel Products from Austria*, at 33366.

Accordingly, for these final results of review, we have continued to treat the payment to the trading company as a movement expense and have deducted this expense directly from U.S. price.

Comment 4

Onoda argues that in performing the calculations for determining whether Onoda made home market sales below cost, the Department erroneously double-counted the expenses reported in the DIRSELH field on the sales tape (*i.e.*, the Department included the field DIRSELH in its calculation of COP, and the Department deducted the DIRSELH field from the home market price that was used in the cost test). Onoda asserts that the Department should revise its COP calculations for the final results to make only one of these adjustments. The Department should either (1) include the DIRSELH field in the COP and not deduct it from the home market price used in the cost test, or (2) the Department should not include the DIRSELH field in COP and deduct the DIRSELH field from the home market price used in the cost test.

Petitioner agrees with Onoda and has no objection to the Department's correcting the COP test in the manner suggested by Onoda so that the DIRSELH field is either included in COP or deducted from the net price compared to COP, but not both.

Department's Position

We agree with Onoda and Petitioner. For these final results, we included the DIRSELH field in the COP and did not deduct the field DIRSELH from the home market price used in the cost test.

Comment 5

Petitioner argues that the Department should use best information available (BIA) to account for unreported downstream sales by related distributors that failed the arm's-length test rather than drop such sales from the analysis.

Petitioner argues that the Department has repeatedly asked for this information, and Onoda has refused to provide it. Petitioner, citing to *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Products from Argentina*, 58 FR 37,062 (July 9, 1993) (hereinafter *Steel from Argentina*), argues that the Department has stated in the past that when a related seller fails the arm's-length test, the need for downstream sales becomes evident.

Moreover, states Petitioner, citing to *Gray Portland Cement and Clinker from Mexico*, 60 FR 26,865 (May 19, 1995) (hereinafter *Cement from Mexico*) and *Certain Malleable Cast Iron Pipe Fittings from Brazil*, 60 FR 41,876 (August 14, 1995) (hereinafter *Pipes from Brazil*), it is the Department, not respondent which determines what information is to be provided for an administrative review, and, respondent should not be allowed to control the results of the review by providing only partial information.

Petitioner hypothesizes that given the Department's prior practice of applying BIA for unreported downstream sales only to establish FMVs for those U.S. sales left without adequate matches when non-arm's-length sales are excluded, Onoda could have reasonably concluded that refusing to report downstream sales in this review would carry no risks. Under such circumstances, asserts Petitioner, the Department should resort to BIA for unreported downstream sales lest Onoda be rewarded for ''stonewalling'' and refusing to respond. Petitioner, citing to *Silicon Metal from Argentina*, 58 FR 65,336 (December 14, 1993), states that Onoda should not be placed in a better position as a result of non-compliance than it would have occupied had it provided the Department with complete, accurate, and timely data. Petitioner concludes that based on the foregoing, the Department should report to BIA for unreported downstream sales, and as BIA, the Department should use the highest net home market price otherwise reported by Onoda and verified by the Department. Alternatively, the Department should apply as BIA the weighted-average price of all related-party home market sales that passed the arm's-length test, increased by the standard distributor mark-up.

Onoda argues that it cooperated with the Department in every aspect of this administrative review, but that it was unable to report downstream sales because none of the related distributors is consolidated with Onoda, and Onoda does not have the power to compel its minority-owned distributors to report information on their sales to unrelated customers. Onoda states that in the LTFV investigation and the first and the second review of this case, the Department has not required it to report downstream sales; rather, the Department has simply applied an arm's-length test to determine whether to include sales to the related distributors in the FMV calculations. Moreover, Onoda asserts that there are other cases in which the Department has not required the reporting of downstream sales if the respondent demonstrates that the sales to the related parties were made on an arm's-length basis. Onoda cites to *Certain Corrosion Resistant Carbon Steel Flat Products from Australia; Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 42,507 (August 16, 1995), in support of its position. Further, asserts Onoda, it is not the Department's practice to resort to BIA when there are sufficient home market sales to unrelated customers to provide matches for all of a respondent's U.S. sales. Onoda cites to *Steel from Argentina* and *Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Product, and Certain Cut-to-Length Carbon Steel Plate from France*, 58 FR 37,125 (July 9, 1993) (hereinafter *Steel from France*), in support of its position.

Onoda concludes that because there were more than enough home market sales to unrelated parties to provide matches for all of Onoda's U.S. sales during the POR, any sales to the related distributors which are found not to be at arm's-length should simply be dropped from the FMV calculation.

Department's Position

We disagree with Petitioner. As Onoda points out, it is the Department's practice to drop from our FMV calculations sales to home market related parties which have failed the arm's-length test. If sales to a related party in the home market are determined not to be at arm's-length, and the Department does not have information pertaining to downstream sales (because respondent has refused or is unable to provide such information), it is the Department's practice to resort to BIA. However, the Department will only resort to BIA if it cannot find a home market match for a U.S. sale (*i.e.*, there are no home market sales to unrelated parties or to related parties that have passed the arm's-length test to match to a U.S. sale) and that sale would be matched to a non-arm's length sale.

In this case, the Department did not include those home market sales to related parties which were not made at arm's-length prices. In order to determine whether these sales were made at arm's-length prices, we calculated a weighted-average price of the home market sales for each related party. Where the weighted-average price charged to a related party was less than the weighted-average price charged to all of Onoda's unrelated customers, we determined that those related party sales were not made at arm's-length prices, and removed those sales from our FMV calculation.

We agree with Petitioner that the Department has stated in the past that when a ''related seller fails the arm's-length test, the need for downstream sales becomes evident.'' However, as fully explained in *Steel from Argentina:*

> As outlined in the preliminary determinations, when the respondents could not, or would not, report downstream sales, we applied margins based on BIA to any U.S. sale matched *only* to a sale to a related reseller in the home market that failed the arm's-length test, and we will continue to do so for these final determinations. In other words we did not simply disregard the fact that respondents failed to report downstream sales. Once a related reseller fails the arm's-length test, the need for downstream sales becomes evident, *but only as an alternative to the sale to that related reseller. The integrity of FMV is not seriously challenged because in all other cases U.S. sales are matched to unrelated party sales in the home market or to related party sales at arm's length.* (emphasis added)

Id. at 37083. In the instant case, all U.S. sales were matched to unrelated-party sales in the home market or to related-party sales that were conducted in an arm's-length manner.

We agree that the Department, not respondent, determines what information is to be provided and that respondent should not be allowed to control the results of review by providing partial information. However, in the instant case, these principles have not been breached. The Department requested information, and the respondent did not provide it. In this instance, BIA was not necessary since all U.S. sales were matched to unrelated-party sales in the home market or to related-party sales that were conduced in an arm's-length manner. Accordingly, the Department did determine what information was to be provided and respondent has not been allowed to control the results of the review.

We also agree that Onoda should not be placed in a better position due to non-compliance with a request for information. As stated above, it is the Department's practice to require downstream sales information when a related party fails the arm's-length test and the Department does not have home market matches for U.S. sales. If the Department does have home market matches for U.S. sales, the Department drops related party sales that failed the arm's length test, as was the case here. Under these circumstances, Onoda does not benefit from its noncompliance since U.S. sales were matched with home market sales to unrelated parties and to related parties at prices determined to be on an arm's-length basis.

Accordingly, for these final results, as with the preliminary results, we have not resorted to BIA to account for unreported downstream sales by related distributors that have failed the arm's-length test. Rather, we have dropped these sales from our analysis of FMV.

Comment 6

Petitioner argues that because Onoda failed to report distributor rebates and prompt payment discounts (PPDs) on a transaction-specific basis and these adjustments were not granted as a fixed and constant percentage of sales on all transactions for which they were reported, these adjustments should be classified as indirect selling expenses.

Petitioner argues that the Department requested that Onoda report rebates and discounts on a transaction specific basis but that Onoda responded that: (1) its central accounting system is ''unable to tie the rebates and discounts to specific sales'' and (2) rebates and discounts were allocated over all sales because Onoda's accounting system ''is unable to identify the specific distributors which earned the rebates and discounts.'' (*See* Onoda's October 31, 1994 Deficiency questionnaire Response at 16–17.) Petitioner also argue that Onoda's rebate calculations inappropriately allocated rebates granted on sales of non-comparison merchandise (*i.e.*, gray portland cement other than Type N cement) over all sales of gray portland cement, including sales of comparison merchandise.

Petitioner argues that at verification the Department found that no written rebate contracts exist between the distributor and Onoda. Instead, Onoda informs the distributor verbally about rebates. Also at verification, the Department noted that Onoda's records do not reflect which distributors actually received rebates. Accordingly, argues Petitioner, Onoda's rebates and discounts were not granted as a fixed and constant percentage of sales on all transactions for which they are reported. Petitioner states that contrary to being fixed and constant, Onoda did not grant rebates and/or discounts on every reported home market sale.

Citing to *Smith Corona, Torrington Co.* v. *United States,* 832 F. Supp 379 (CIT 1993) (hereinafter *Torrington), Koyo Seio Co.* v. *United States,* 796 F. Supp. 1526 (CIT 1992) (hereinafter *Koyo Seiko*), and *SKF USA Inc.* v. *United States,* 874 F. Supp 1395 (CIT 1995), Petitioner argues that because Onoda's rebates and discounts were not actually paid on all sales, and the expenses could not be directly correlated with the sales to which they actually related, the Department should deny Onoda's claim for a direct adjustment to price for rebates and discounts. Petitioner argues that to adjust home market prices downward without any evidence that any rebate or discount was even granted in the months in which U.S. sales were made, has the potential to result in a severe distortion when calculating FMV.

Petitioner argues that Onoda's only argument in support of its allocation methodology is that the Department accepted the same methodology in previous reviews. Petitioner asserts, however, that the Department's findings in previous reviews, based on different factual records, are irrelevant. Petitioner argues that antidumping administrative reviews are separate and distinct proceedings, and the results of this review must be in accordance with law and based on substantial evidence in the record of this review.

With specific regard to PPDs, Petitioner states that the Department should make no adjustment to FMV for such discounts because they were allocated over sales of non-subject merchandise (*i.e.*, white cement). Petitioner asserts that this methodology distorts the prices used to calculate Onoda's dumping margin. Petitioner argues that because the total amount of PPDs reported by Onoda includes PPDs granted on sales of non-subject merchandise, Onoda's claim for any PPD adjustment to FMV (either direct or indirect) must be rejected.

With specific regard to rebates, Petitioner argues that Onoda included in its rebate amounts rebates paid to distributors to sell cement manufactured by two cement manufacturers who rely on Onoda to sell their products under Onoda's label. Petitioner contends that these rebates should not be included in the rebate amount because Onoda charges (*i.e.*, is reimbursed by) the two manufacturers for these rebates.

Onoda argues that the Department's general policy always has been to favor the reporting of transaction-specific information but that the Department has accepted Onoda's allocation methodology in prior administrative reviews of this case and the CIT and CAFC have, on numerous occasions (*e.g., Torrington* and *Smith-Corona*), upheld the Department's authority to treat allocated rebates and discounts as direct expenses.

Onoda asserts that an allocation methodology is appropriate in this case because Onoda grants rebates based on a distributor's sales for an entire six-month period rather than on specific sales transactions. Moreover, asserts Onoda, its sales records simply do not permit it to report transaction-specific information and its central accounting system is unable to tie the rebates and discounts to specific sales. Onoda, citing to *Final Determinations of Sales at Less Than Fair Value: Professional Electric Cutting Tools and Professional Electric Sanding/Grinding Tools from Japan,* 58 FR 30,144 (May 26, 1993), states that the Department has held in prior cases that a respondent should not be required to submit information it does not maintain, nor should it be required to report information which would be unduly burdensome to provide. Accordingly, asserts Onoda, the Department should not penalize Onoda for not reporting information which it does not maintain in its central accounting system.

With regard to Petitioner's claim that Onoda inappropriately allocated rebates over non-comparison merchandise, Onoda asserts that the subject merchandise covered by the antidumping duty order includes all types of gray portland cement, not just Type N cement. Moreover, argues Onoda, it offers rebates on all of its home market sales of gray portland cement to distributors not just on home market sales of Type N cement. Consequently, in calculating the per unit distributor rebates, Onoda allocated the rebates only over sales to distributors of gray portland cement in the home market.

Onoda asserts that there is no requirement that Onoda allocate its rebates over the specific product (Type N cement) which serves as the model match for sales to the United States. Onoda, citing to *Torrington,* asserts that while the CIT has held that the Department may deny adjustments for rebates if they include rebates on non-subject merchandise, the CIT has permitted allocations over the subject merchandise.

With regard to Petitioner's argument that Onoda's rebates and discounts were not granted as a fixed and constant percentage of sales on all transactions for which they were reported, Onoda contends the Department made no such finding at verification and that the record evidence leads to a contrary conclusion. Onoda cites to its August 22, 1994 Questionnaire Response at B–4, to argue that the distributor rebates that it granted were given according to a fixed schedule on the basis of the total volume of cement purchased by each distributor. Similarly, argues Onoda, the PPD was applied as a fixed percentage, and all of Onoda's home market sales were eligible for the discount. Onoda asserts that the Department verified Onoda's cost and sales information and the total amount of the rebates and discounts and, therefore, it is appropriate to grant a full adjustment for these expenses.

With regard to Petitioner's argument that the Department should not adjust home market prices downward without any evidence that any rebate or discount was even granted in the months in which U.S. sales were made, Onoda claims that its methodology precludes the possibility that rebates and discounts have been applied to sales which did not receive them. First, argues Onoda, the rebates were given only on sales to distributors, and, therefore, were only allocated to sales to distributors. Accordingly, argues Onoda, if there were no sales to distributors in a given month, then no rebates would be applied to the sales in that month. Second, argues Onoda, rebates were given on all of its distributors sales, even if a distributor only purchased one ton of cement during the period. Therefore, asserts Onoda, there is no possibility that a rebate would have been reported for a particular sale when no rebate was actually given on that sale. Third, argues Onoda, the distributor rebates were not given based on the volume of individual transactions. Rather, states Onoda, the distributor rebates were calculated based on the aggregate volume of the sales made to the distributors over a six-month period. Therefore, a portion of the total rebates should be allocated to each sale made during that six-month period. Consequently, argues Onoda, there is no possibility that any distributor sales within a particular month did not receive a rebate.

Finally, argues Onoda, the Department must calculate FMV based on weighted-average monthly prices. Thus, the Department will calculate FMV by dividing the total value of sales for the month over the total volume of sales for the month. Regardless of whether the rebates and discounts granted on sales during the month are allocated or reported on a transaction-specific basis, the total value of the sales will not be affected. Therefore, argues Onoda, the fact that the rebates and discounts cannot be matched to specific transactions does not distort the FMV calculation.

Onoda argues that contrary to Petitioner's assertion, it did not include PPDs paid on non-subject merchandise in the reported PPD adjustment. Onoda argues that, as in the first and second reviews, it gave PPDs on sales of both gray and white cement during the POR but that Onoda's central accounting system does not permit it to trace these discounts to individual transactions. Consequently, in calculating the per unit discounts, Onoda allocated the total discounts over total sales of cement and not just sales of gray portland cement. Onoda asserts that this methodology was upheld by the CAFC in *Smith Corona* and CIT in *Torrington Co.* v. *United States*, 818 F. Supp. 1563, 1577 (CIT 1993) (hereinafter *Torrington II*).

Onoda argues that the total amount of rebates granted should not be reduced by the amounts reimbursed by other manufactures. Onoda argues that sales of cement manufactured by the two other producers were included in Onoda's reported volume and value if the cement was sold under the Onoda brand. Because cement produced by the other manufacturers are reported on the sales tape, the rebates reimbursed by the producers must be included in the total rebate amount in the allocation calculation. Onoda contends that Petitioner's methodology would artificially inflate the net price and would distort the total income Onoda and the other producer received because, while the amount of rebates would be reduced, the volume of cement sold would remain the same. This would reduce the rebate adjustment thereby inflating FMV in the Department's calculations.

Department's Position

We agree with Petitioner. It is our practice to make a direct adjustment to the home market price for rebates and discounts if (a) they were reported on a transaction-specific basis or (b) they were granted as a fixed and constant percentage of sales on all transactions for which they were reported. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.*, 60 FR 10,900, 10929 (February 28, 1995) (hereinafter *AFBs from France*); *NSK Ltd. v. United States*, 896 F. Supp. 1263, 1271 (CIT 1995) (hereinafter *NSK*); and *Torrinngton* at 387. The rationale for this practice is that we only accept direct adjustments to price if actual amounts are reported for each transaction. Discounts and rebates based on allocations are not allowable as direct adjustments to price since allocated price adjustments have the effect of partially averaging prices by diluting discounts or rebates on some sales, inflating them on others, and attributing them to sales which received no such discounts. Just as we do not normally allow respondents to report average prices, we do not allow average direct additions or subtractions to price. Although we usually average FMVs on a monthly basis, we require individual prices to be reported for each sale.

In this case, Onoda took the total amount of rebates granted to distributors of gray portland cement and divided this amount by total sales of gray portland cement by all distributors for a six-month period. This amount was then applied to the home market unit price to calculate the amount of rebate to allocate to each sale of Type N cement. Onoda's rebate adjustment fails to provide actual amounts that were discounted or rebated on each individual sale. Under this methodology there is no way to determine which discount or rebate was applied to each particular sale. Onoda's allocation methodology presents the very type of flaws discussed above.

Although we verified that the rebates granted to distributors were given according to a fixed schedule, we found that Onoda's rebate were not granted as a fixed and *constant* percentage of sales but rather varied based on the volume of cement sold by a distributor. If one distributor sold more cement than another distributor it received a higher rebate per metric ton. Thus, consistent with our practice discussed above, because Onoda did not report discounts or rebates on either a transaction-specific basis or as a fixed and constant percentage of sales, we have disallowed its claim as a direct adjustment to FMV.

Onoda is correct in its statement that in *Torrington* and *Smith-Corona* the courts have upheld the Department's authority to treat allocated rebates and discounts as direct expenses. However, in order for allocated price adjustments to be regarded as a direct deduction from FMV, the allocation methodology employed by respondent must ''be directly correlated with specific merchandise'' (*i.e.*, results in the calculation of the actual amount incurred on each individual sale). See

Torrington at 390; *AFBs from France* at 10929.

Onoda calculated its PPD in a fashion similar to its rebate calculation. Accordingly, we have also disallowed a direct deduction from FMV for PPDs. Moreover, Onoda included non-subject merchandise in its calculation of PPDs. It is the Department's practice to disallow an adjustment which relies on a methodology that includes discounts, rebates, and other price adjustments paid on out-of-scope merchandise. See *AFBs from France* at 10935; *Torrington II* at 1578. Therefore, since Onoda's prompt payment discounts were given for and allocated over sales of non-subject merchandise, we have made no adjustment to FMV for Onoda's prompt payment discounts.

Finally, Onoda's argument that the Department should allow these deductions in this review since it permitted them in prior reviews is without merit. The Courts have recognized that antidumping administrative reviews are separate and distinct proceedings, and the results of this review must be in accordance with law and based on substantial evidence in the record of this review. See, *e.g.*, *Torrington Co.* v. *United States*, 786 F. Supp. 1027, 1028 (CIT 1992).

Accordingly, based on the foregoing, we have not adjusted FMV for Onoda's claimed rebates and PPDs.

Comment 7

Petitioner, citing to *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Japan*, 58 FR 39,729 (July 26, 1993) (hereinafter *AFBs from Japan*) and *accord Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*, 58 FR 64,720 (December 9, 1993), argues that the Department should have included the depreciation of idle machinery in Onoda's cost of production. Petitioner, citing to *Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line, and Pressure Pipe from Italy*, 60 FR 31,981 (June 19, 1995), states that the Department's practice requires that this cost be included in Onoda's COP because the machinery was temporarily idle, not permanently idle and due to be sold or scraped.

Onoda states that it has no objection to Petitioner's suggestion that the Department add the depreciation of idle assets on Onoda's COP.

Department's Position

The Department agrees with Petitioner. In *AFBs from Japan*, we stated:

> We include in the fully absorbed factory overhead the depreciation of equipment not in use or temporarily idle. While Japan's accounting methodology does provide that depreciation for idle equipment may be stopped, we do not accept this accounting method because idle fixed assets are a cost to the company.

Id. at 39756.

Accordingly, for these final results, we have included the depreciation of idle machinery in Onoda's COP.

Comment 8

Petitioner argues that the Department should exclude from its calculation of FMV sales in which other cement manufacturers shipped cement from their inventory to Onoda's customers (with the sale recorded by Onoda) as well as sales of cement purchased by Onoda from other manufacturers.

Petitioner, citing to section 773(a)(1)(A) of the Act, states that the FMV of imported merchandise shall be the price ''at which such or similar merchandise is sold, or in the absence of sales, offered for sale in the . . . country from which exported.'' Petitioner, citing to section 771(16) (A), (B), and (C) of the Act, states that ''such or similar'' in turn, is defined as merchandise ''produced in the same country by the same person'' as the merchandise that is the subject of the investigation. Petitioner, citing to *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.*, 57 FR 28,360 (June 24, 1992); *accord Canned Pineapple Fruit from Thailand*, 60 FR 2,734 (January 11, 1995); *Titanium Sponge from Japan*, 57 FR 557 (January 7, 1992) and *Brass Sheet and Strip from Japan*, 53 FR 23,296 (June 21, 1988), argues that based on the definition of ''such or similar'' merchandise, it has been the Department's policy to exclude sales of merchandise produced by a manufacturer other than the respondent from the calculation of FMV for the respondent.

Petitioner contends that the Department should be able to exclude such merchandise since Onoda identifies sales of merchandise produced by other manufacturers. Petitioner notes that Onoda has not separately identified sales of cement produced by two unrelated manufacturers (*i.e.*, the two manufacturers referred to in comment 6 above) based on the claim that they cannot separately identify these sales. Petitioner argues that this claim is inconsistent with Onoda's ability to identify the amount of rebates it paid with respect to sales of cement manufactured by the two manufacturers. Petitioner contends that if Onoda can identify the amount of rebates paid with respect to sales of merchandise produced by the two manufacturers, Onoda should be able to identify these sales. Accordingly, argues Petitioner, the Department should require Onoda to identify sales of cement manufactured by the two manufacturers so that such sales can be excluded from the calculation of FMV. Petitioner contends that this is necessary since using sales of merchandise produced by one manufacturer to calculate another manufacturer's FMV could distort FMV (*i.e.*, manufacturers generally have different costs of production resulting in a possible price differential).

Onoda states that it does not object if the Department wishes to drop the sales of cement which are indicated on the sales tape as having been produced by other manufacturers and shipped directly to Onoda's customer (*i.e.*, not commingled with Onoda cement). However, Onoda states that it cannot provide a revised sales tape indicating which of the remaining sales were resales of cement manufactured by two specific cement producers. Onoda states that it cannot provide a revised sales tape because it cannot identify which sales contained cement produced by the two manufacturers. Onoda states that cement it purchased from the two manufacturers was intermixed with Onoda cement and was sold under the Onoda brand name. Accordingly, states Onoda, while it knows the total amount of the two manufacturers' cement that it sold, it sales records cannot trace this cement to individual transactions. Onoda allocates a portion of its total rebates to the two manufacturers based on the total volume of the two manufacturers' cement that it sold. Accordingly, asserts Onoda, the fact that it can determine the amount of the total rebates allocated to the two manufacturers does not mean that Onoda can provide a revised sales tape which indicates which individual sales were of cement produced by the two manufacturers. Moreover, argues Onoda, due to the intermixing of the cement, it prices the cement produced by Onoda and the other manufacturers in exactly the same manner. Accordingly, argues Onoda, there is no merit to Petitioner's allegations that including such sales in the FMV calculation could result in distortion.

Department's Position

In *AFBs from France* the Department stated:

> In accordance with the definition of such or similar merchandise in section 771(16)(B)(i), we have not considered merchandise known to have been produced in the facilities of one manufacturer to be such or similar to the merchandise produced in the facilities of another manufacturer, even if the merchandise is physically identical or physically similar and is sold by the same person.

Id. at 28367. Accordingly, for these final results of review, we have excluded from our calculation of FMV those sales that Onoda could indicate were produced by other manufacturers.

Although Onoda's home market sales listing also includes sales that commingled Onoda-produced cement with cement produced by manufacturers other than Onoda, we continue to find it reasonable to use this sales listing because (1) we verified that Onoda was unable to indicate which sales were sales of commingled cement and (2) the commingled sales were sold under the Onoda name necessitating that Onoda price such sales as if they were Onoda-produced cement. In contrast, in the cases cited by Petitioner in support of excluding the commingled sales from the calculation of FMV, the respondent was able to identify the commingled sales. Onoda's inability to identify commingled sales is not inconsistent with Onoda's ability to identify the amount of rebates it paid with respect to cement manufactured by these two producers because its allocation methodology was based upon the total volume of cement sold rather than individual transactions.

In other cases where the respondent has been unable to identify commingled sales, the Department has utilized a weighting methodology in order to neutralize the effect of including commingled sales. *See, Certain Cut-to-Length Carbon Steel Plate From Sweden*, 60 FR 48502 (September 19, 1995). As in those cases, in this case, we applied to the reported home market quantities a ratio of the volume of Onoda-produced cement to the combined total volumes of Onoda-produced and purchased cement sold on a biannual basis for the fiscal year. These ratios were derived from verified rebate documents which indicated, on a six-month basis for Onoda's fiscal year (*i.e.,* April 1993–September 1994 and October 1993–March 1994), the total amount of cement sold, the amount of Onoda-produced cement sold and the amount that was manufactured by other producers. Additionally, since the POR is May 1, 1993–April 30, 1994, we applied the ratio for the October 1993–March 1994 period to Onoda's April 1994 sales.

Comment 9

Petitioner argues that Onoda is not entitled to a difference-in-merchandise (difmer) adjustment for the cost differences between U.S. model Type I and home market model Type N. Petitioner argues that Onoda has failed to meet the criterion for a difmer adjustment that was articulated in the Department's Policy Bulletin No. 92.2 and in other antidumping cases. According to petitioner, respondents are entitled to a difmer adjustment only if they show that the difference in cost between the two models is attributable to the difference in physical characteristics of the merchandise. Petitioner relies upon plant-by-plant variable cost of manufacture data for Type N cement to argue that the weighted-average difmer adjustment reported by Onoda is largely attributable to differences in efficiencies between Onoda's various production facilities and not to cost differences associated with the physical characteristics of the merchandise.

Petitioner argues that the Department's rationale for granting a difmer adjustment in the first and second reviews of this case does not support granting a difmer adjustment in this review. Petitioner asserts that there is ample evidence that the cost differences between Type I and Type N cement are attributable to differences in efficiencies between Onoda's plants. Accordingly, petitioner requests that the Department deny Onoda's difmer adjustment.

Onoda argues that it followed the exact same procedure in preparing its difmer adjustment in this segment of the proceeding as it did in the LTFV investigation and the first and second reviews. Onoda asserts that the Petitioner has presented no new arguments or evidence which would justify a change in the Department's prior decisions in this case. Onoda states that in its August 22, 1994, Questionnaire Response and October 31, 1994, Deficiency Response, it has fully documented its difmer claim, which is based on differences in both the physical and chemical characteristics of the comparable types of cement. Onoda states that these differences include differences in the amounts of clinker and gypsum, and differences in fineness and compressive strength between Type I and Type N. Onoda states that other differences between Type I and Type N include both material inputs (*e.g.,* limestone, clay, silica, fuel inputs, fuel oil, coal, and anthracite) and energy, due to the different fineness and compressive strengths of these comparable cement types.

Onoda asserts that in its August 22, 1994, Questionnaire Response it provided detailed charts setting out the variable costs of producing comparable types of cement and that the Department verified these charts and tied them directly to Onoda's cost accounting system in the LTFV investigation and in this review. Onoda notes that during the LTFV investigation and in this review, the Department verified the difmer data, and granted the difmer adjustment in calculating the dumping margin. Furthermore, Onoda observes that in the LTFV investigation and in this review, the Department was satisfied that Onoda had reasonably tied cost differences to physical differences. Additionally, Onoda notes that the Department determined in the final results of the first and second reviews that evidence on the record did not establish that any differences in plant efficiencies were the source of the cost differences.

Additionally, Onoda argues that the only way it can calculate the difmer adjustment is to weight-average the variable costs to produce Type N cement at all plants and compare that amount to the variable costs to produced Type I cement at the single plant where it produce Type I cement. Onoda argues that this methodology of weight-averaging costs across all plants is consistent with Departmental practice.

Furthermore, argues Onoda, the evidence on the record of this proceeding parallels exactly the type of evidence that was on the record of the prior proceedings. Onoda states that the factories producing Type I and Type N cement are the same factories that were producing these cement types since the original investigation. Moreover, states Onoda, the production processes used to produce these types of cement are virtually unchanged, as are the physical specifications and characteristics of the cement. Additionally, Onoda states that it has also calculated and reported the difmer adjustment in exactly the same manner as it has in all other prior proceedings of this case.

Thus, according to Onoda, there is no reason for the Department not to grant the difmer adjustment in this review.

Department's Position

Consistent with the Department's practice in the LTFV investigation and the first and second reviews of this case, we have allowed the difmer adjustment claimed by Onoda. As we stated in the

first and second reviews, although Onoda's plants may have different efficiencies, evidence on record does not establish that any differences in plant efficiencies are the source of the cost differences identified by Onoda. Rather, cost differences are due to differences in material inputs and the physical differences which result from different production processes.

First, as stated previously, the Department compared Type I cement in the United States with Type N cement in the home market. The specific differences in cost between Type I and Type N were due to the varying costs of the inputs, including material inputs (limestone, clay, silica, etc.), fuel inputs (fuel oil, coal, anthracite, etc.) and electricity (mixing, grinding, burning, etc.). For example, Type I cement contains clinker, gypsum and minor grinding agents. In contrast, Type N cement contains clinker, gypsum, minor grinding agents and additives. Furthermore, Type I cement contains a higher percentage of clinker and gypsum than Type N cement. Moreover, Type I, on average, has a slightly higher percentage of silicon dioxide.

Second, as noted in the LTFV investigation, ''we verified Onoda's claimed difference in merchandise adjustment and found it to be an accurate representation of the relevant variable costs of production as reflected in its actual cost accounting records. Given the fact that physical differences between types of cement arise from differences in the production process (*e.g.*, amount and duration of heat), and from differences in component materials, we are satisfied that Onoda has reasonably tied cost differences to physical differences'' (*see Gray Portland Cement and Clinker—LTFV Investigation* at 12161). We also verified the information supplied by Onoda with regard to its difmer adjustment in this review and did not note any discrepancies. Additionally, with regard to the weighted-average methodology employed by Onoda, the Department specifically requested that Onoda report is cost of manufacture information on a weighted-average basis (*see* the Department's questionnaire at page 60: ''If the subject merchandise is manufactured at more than one facility, the reported COM should be the weighted-average manufacturing cost from all facilities'').

The Department's determination that Onoda is entitled to a difmer adjustment for differences between Type I and Type N cement has been upheld by the CIT in the first review of this case (*See Supra Southern California Producers*). In affirming the Department's decision to grant the difmer adjustment, the Court stated:

> Upon review, the Court finds that Commerce's determination that price differences between U.S. and home market models were caused by differences in the physical characteristics of the merchandise compared, and Commerce's concomitant decision to grant a difference in merchandise adjustment to Onoda, are supported by substantial evidence and otherwise in accordance with law. First, evidence submitted by Onoda shows that U.S. models contain different materials than type N * * * In addition * * * U.S. models are produced in a different manner, i.e. with a different amount and duration of heat than type N, and that this causes differences in the chemical and physical composition of the cements * * * Further * * * Commerce verified that Onoda was entitled to a difference in merchandise adjustment.

Id. at 545 (cites omitted).

Accordingly, we have allowed Onoda's claimed difmer adjustment.

Final Results of Review

Based on our analysis of comments received, and the correction of clerical errors, we have determined that a final margin of 30.12 percent exists for Onoda for the period May 1, 1993, through April 30, 1994.

The Department will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Onoda will be 30.12 percent; (2) for merchandise produced by manufacturers or exporters not covered in this review but covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, earlier reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review, earlier reviews, or the original investigation, whichever is the most recent; and (4) the ''all others'' rate, as established in the original investigation, will be 70.23 percent.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 CFR 353.22.

Dated: December 13, 1996.

Jeffery P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32400 Filed 12–19–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–046]

Polychloroprene Rubber From Japan; final results of antidumping duty administrative review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On September 11, 1996, the Department of Commerce (the Department) published the preliminary results and partial termination of antidumping duty administrative review of the antidumping duty order on polychloroprene rubber (rubber) from Japan. The review covers eight manufacturers/exporters of the subject merchandise to the United States for the period December 1, 1994 through November 30, 1995. These

manufacturers/exporters are Denki Kaguku, K.K. (Denki), Denki/Hoei Sangyo Co., Ltd. (Denki/Hoei Sangyo), Mitsui Bussan K.K. (Mitsui Bussan), Suzugo Corporation (Suzugo), Showa Neoprene K.K. (Showa), Showa/Hoei Sangyo Co., Ltd. (Showa/Hoei Sangyo), Tosoh Corporation (formerly Toyo Soda) and Tosoh/Hoei Sangyo Co., Ltd. (Tosoh/Hoei Sangyo).

We gave interested parties an opportunity to submit oral or written comments on the preliminary results of review. We received no comments. Based on our analysis, these final results of review are unchanged from those presented in our preliminary results of review.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr. or Thomas Futtner, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0651 or 482–3814.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1996, the Department published in the Federal Register (61 FR 47871) the preliminary results and partial termination of antidumping duty administrative review of the antidumping finding on rubber from Japan. The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Scope of the Review

Imports covered by the review are shipments of polychloroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21 and 4462.00.00. HTS item numbers are provided for convenience and for Customs purposes. The written descriptions remain dispositive.

Final Results of Review

The Department determined in the preliminary results of administrative review that Denki, Tosoh, and Mitsui Bussan had no shipments of the subject merchandise to the United States during the period of review, and therefore, terminated the review with respect to these companies.

We were unable to locate the following companies, Denki/Hoei Sangyo, Tosoh/Hoei Sangyo, Showa Neoprene K.K., Showa/Hoei Sangyo, and Suzugo, despite assistance from various sources including the American Embassy in Tokyo, the Japanese Embassy in Washington, D.C., and the U.S. Customs Service. Therefore, we were unable to conduct administrative reviews for these firms, and upon issuance of these final results we will instruct the U.S. Customs Service to continue to assess any entries by these firms at the rate determined in the last completed administrative review on November 26, 1984 (49 FR 46454). *See Certain Fresh Cut Flowers from Colombia; Preliminary Results of Antidumping Duty Administrative Review, Partial Termination of Administrative Reviews, and Notice of Intent to Revoke Order (In Part) (Flowers from Colombia),* 60 FR 30271 (June 8, 1995)).

We gave interested parties an opportunity to comment on the preliminary results of review. The Department received no written comments or requests for a hearing. Based on our analysis, these final results of review are the same as those presented in the preliminary results of review.

The U.S. Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between United States Price (USP) and Foreign Market Value (FMV) may vary from the percentages stated above. The Department will issue appraisement instructions concerning each respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Denki/Hoei Sangyo, Suzugo, Showa Neoprene, Showa/Hoei Sangyo, and Tosoh/Hoei Sangyo will be the rate determined by the last completed administrative review on November 26, 1984 (49 FR 46454); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the ''all others'' rate established in the final results of administrative review published on April 6, 1982 (47 FR 14746).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 10, 1996.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32398 Filed 12–19–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–601]

Certain Stainless Steel Cooking Ware From the Republic of Korea: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order in part.

SUMMARY: In response to a request from Peregrine Outfitters, Inc. (Peregrine), the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing an intent to revoke in part the antidumping duty order on certain stainless steel cooking ware from the Republic of Korea. Peregrine requested that the Department revoke the order in part with regard to imports of stainless steel camping cooking ware from the Republic of Korea, as described by Peregrine. Based on the fact that Revereware, Inc. (petitioner) has expressed no interest in the importation of stainless steel camping cooking ware, as described by Peregrine, we intend to partially revoke this order.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Amy S. Wei or Zev Primor, Office 4, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On December 9, 1996, Peregrine requested that the Department conduct a changed circumstances administrative review to determine whether to partially revoke the order on certain stainless steel cooking ware from the Republic of Korea with regard to stainless steel camping cooking ware. In addition, the petitioner informed the Department that it does not object to the changed circumstances review and has no interest in the importation or sale of stainless steel camping cooking ware as described by Peregrine.

Scope of Review

The merchandise covered by this changed circumstances review is stainless steel camping cooking ware from the Republic of Korea. This changed circumstance administrative review covers all manufacturers/exporters of stainless steel cooking ware meeting the following specifications of stainless steel camping cooking ware: (1) Made of single-ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consists of 1.0, 1.5, and 2.0 quart saucepans without handles and 2.5, 4.0, 5.0 quart saucepans with folding bail handles and with lids that also serve as fry pans. This camping cooking ware can be nested inside each other in order to save space when packing for camping or backpacking. The order with regard to imports of other stainless steel cooking ware is not affected by this request.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

Pursuant to section 751(d) of the Tariff Act of 1930, as amended (the Act), the Department may partially revoke an antidumping duty order based on a review under section 751(b) of the Act (i.e., a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 353.25(d)(2) require that the Department conduct a changed circumstances administrative review under section 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. Section 353.25(d)(1)(i) further provides that the Department may revoke an order or revoke an order in part if it determines that the order under review is no longer of interest to interested parties. In addition, in the event that the Department concludes that expedited action is warranted, § 353.22(f)(4) of the regulations permits the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(b)(1) and 751(d) of the Act, 19 CFR 353.25(d), and 353.22(f), we are initiating this changed circumstances administrative review and have determined that expedited action is warranted. Based on an affirmative statement of no interest by petitioner with respect to stainless steel camping cooking ware as described by Peregrine, we have preliminarily determined that the portion of the order on certain stainless steel cooking ware from the Republic of Korea concerning stainless steel camping cooking ware, as described in Peregrine's request for a changed circumstances review, no longer is of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order as to imports of this type of stainless steel camping cooking ware from the Republic of Korea.

If final revocation in part occurs, we will instruct the U.S. Customs Service to end the suspension of liquidation and to refund, with interest, any estimated antidumping duties collected for all unliquidated entries of the subject merchandise that are not subject to a final result of administrative review. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

Public Comment

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first working day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments or briefs, limited to the issues raised in those comments, may be filed no later than 21 days after the date of publication of this notice. All written comments or briefs shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Persons interested in attending the hearing should contact the

Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is in accordance with sections 751 (b)(1) and (d) of the Act and sections 353.22(f) and 353.25(d) of the Department's regulations.

Dated: December 9, 1996.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32407 Filed 12–19–96; 8:45 am]

BILLING CODE 3510–DS–P

Intent To Revoke Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the countervailing duty orders listed below. Domestic interested parties who object to revocation of this order must submit their comments in writing not later than the last day of January 1997.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Maria MacKay, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (at 19 C.F.R. 355.25(d)(4)), we are notifying the public of our intent to revoke the countervailing duty orders listed below, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with section 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to revoke this order pursuant to this notice, and no interested party (as defined in section 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, we shall conclude that the countervailing duty order is no longer of interest to interested parties and proceed with the revocation. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or a domestic interested party does object to the Department's intent to revoke pursuant to this notice, the Department will not revoke the order.

COUNTERVAILING DUTY ORDERS

Brazil	Brass Sheet and Strip (C–351–604).	01/08/87 52 FR 698.
Korea	Stainless Steel Cookware (C–351–602).	01/20/87 52 FR 2140.
Spain	Stainless Steel Wire Rod (C–469–004).	01/03/83 48 FR 52.
Taiwan ...	Stainless Steel Cookware (C–583–604).	01/20/87 52 FR 2141.

Opportunity to Object

Not later than the last day of January 1997, domestic interested parties may object to the Department's intent to revoke these countervailing duty orders. Any submission objecting to a revocation must contain the name and case number of the order and a statement that explains how the objecting party qualifies as a domestic interested party under sections 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230.

This notice is in accordance with 19 CFR 355.25(d) (4) (i).

Dated: December 10, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–32399 Filed 12–9–96; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa and Certification Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

December 16, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa and certification requirements.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

Effective on January 1, 1997, a visa or certification shall be required for goods in Categories 342 and 642 which are produced or manufactured in El Salvador and exported from El Salvador on and after January 1, 1997. Shipments of goods in Categories 342 and 642 may be visaed or certified as merged Categories 342/642 or the correct category corresponding to the actual shipment. Goods exported during the period January 1, 1997 through January 31, 1997 shall not be denied entry for lack of a visa or certification.

See 60 FR 2740, published on January 11, 1995; and 61 FR 43396, published on August 22, 1996.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 16, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 6, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in El Salvador which were not properly visaed or certified by the Government of El Salvador.

Effective on January 1, 1997, you are directed to require a visa or certification for goods in Categories 342 and 642 which are

produced or manufactured in El Salvador and exported from El Salvador on and after January 1, 1997. Shipments of goods in Categories 342 and 642 may be visaed or certified as merged Categories 342/642 or the correct category corresponding to the actual shipment. Goods exported during the period January 1, 1997 through January 31, 1997 shall not be denied entry for lack of a visa or certification.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa or certification shall be denied entry and a new visa or certification must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32382 Filed 12–19–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Security Policy Advisory Board

ACTION: Notice.

SUMMARY: The President's Security Policy Advisory Board has been established pursuant to Presidential Decision Directive/NSC–29, which was signed by President on September 16, 1994.

The Board will advise the President on proposed legislative initiatives and executive orders pertaining to U.S. security policy, procedures and practices as developed by the U.S. Security Policy Board, and will function as a federal advisory committee in accordance with the provisions of Public Law 92–463, the ''Federal Advisory Committee Act.''

The President has appointed from the private sector, three of five Board members each with a prominent background and expertise related to security policy matters. General Larry Welch, USAF (Ret.) will chair the Board. Other members include: Admiral Thomas Brooks, USN (Ret.) and Ms. Nina Stewart.

The next meeting of the Board will be held on January 24, 1997, 0900 at Tracor Aerospace, 6500 Tracor Lane, Austin, Texas and will be open to the public.

For further information please contact Mr. Terence Thompson, telephone: 703/602–9969.

Dated: December 16, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–32330 Filed 12–19–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Environmental Assessment (EA) and Finding of No Significant Impact (FNSI) for the Relocation of the U.S. Army Concepts Analysis Agency (CAA) From Bethesda, MD to Fort Belvoir, VA

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with Public Law 101–510, the Defense Base Closure and Realignment Commission recommended the relocation of CAA from Bethesda, Maryland, to Fort Belvoir, Virginia. The realignment is scheduled to occur in 1999 following construction scheduled to begin in the first quarter of fiscal year 1998.

The EA analyzed the environmental and socioeconomic effects of the realignment on the organization, its functions, missions and personnel, as well as the planned construction.

The EA evaluated, as a preferred alternative, the environmental impacts of construction of a new facility for CAA on a developed site. The other action alternatives considered include the use of existing administrative space, renovation of existing buildings or construction of a new administrative facility within a large tract of undeveloped land. In compliance with the National Environmental Policy Act, a no-action alternative is described in which CAA would remain in leased space. This is required to establish baseline conditions.

For the preferred alternative (construction of a new facility at the intersection of Goethals, Franklin and Lampert Roads, Fort Belvoir), the existing infrastructure is sufficient to accommodate the new facility. Demolition and construction will create potential minor short-term impacts such as noise, dust and soil erosion. Measures will be taken, such as time-sensitive scheduling of construction work, provision of erosion and sedimentation control, landscaping and screening with trees and shrubs, and management of stormwater to mitigate potentially adverse effects. Socioeconomic impacts to the area will be positive, but insignificant.

The Chief of Staff, U.S. Army Military District of Washington, has concluded that the effects of the proposed action are not significant and will not adversely affect the quality of the environment. Fort Belvoir will implement necessary mitigation measures and will consult with regulatory agencies, as may be necessary, to ensure compliance with all Federal, state, regional, and local regulations and guidelines, Therefore, an Environmental Impact Statement is not required and will not be prepared.

DATES: Public comments will be accepted on or before January 21, 1997.

ADDRESSES: Copies of the EA/FNSI may be obtained by writing to,and any inquiries concerning the same should be addressed to, the Commander, U.S. Army Garrison Fort Belvoir, ATTN: James Gregory (ANFB–PWE), 9430 Jackson Loop, Fort Belvoir, VA 22060–5130, or by calling (703) 806–0047, or sending a telefax to (703) 806–3246 within 30 days of the publication of this notice. Individuals wishing to review the EA may examine a copy at the following locations: Directorate of Public Works, Fort Belvoir, Virginia; and the following Fairfax County Public Libraries; John Marshall, Lorton and Sherwood branches.

FOR FURTHER INFORMATION CONTACT: Mr. James Gregory at (703) 806–0047.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA(I,L&E).

[FR Doc. 96–32357 Filed 12–19–96; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Logistics Agency proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on January 21, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics 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 system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on December 9, 1996, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 16, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.15 DMDC

SYSTEM NAME:

Defense Incident-Based Reporting System (DIBRS).

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93943–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military (includes Coast Guard) or civilian personnel who have been apprehended or detained for criminal offenses which must be reported to the Department of Justice pursuant to the Uniform Crime Reporting Handbook as required by the Uniform Federal Crime Reporting Act.

Active duty military (includes Coast Guard) personnel accused of criminal offenses punishable under the Uniform Code of Military Justice.

Active duty military (includes Coast Guard) personnel convicted by civilian authorities of felony offenses as defined by State or local law; attempting or committing suicide; or whose dependent resides in the same household and is the victim of Sudden Infant Death Syndrome (SIDS).

Individuals who are victims of those offenses which are either reportable to the Department of Justice or are punishable under the Uniform Code of Military Justice.

Active duty military (includes Coast Guard) personnel who must be reported to the Department of Justice under the Brady Handgun Violence Prevention Act because such personnel are to be tried by courts-martial or have been convicted by a courts-martial for an offense punishable by confinement of more than one year; have left the State with the intent of avoiding either pending charges or giving testimony in criminal proceedings; are either current users of a controlled substance which has not been prescribed by a licensed physician or use a controlled substance and have lost the power of self-control with respect to that substance; are adjudicated by lawful authority to be a danger to themselves or others or to lack the mental capacity to contract or manage their own affairs or are formally committed by lawful authority to a mental hospital or like facility; or have been separated from the Armed Services with a dishonorable discharge.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records compiled by law enforcement authorities (e.g., Defense Protective Service, military and civilian police, military criminal investigation services or commands); DoD organizations and military commands; Legal and judicial authority (e.g., Staff Judge Advocates, courts-martial); and Correctional institutions and facilities (e.g., the United States Disciplinary Barracks) consisting of personal data on individuals, to include but not limited to, name; social security number; date of birth; place of birth; race; ethnicity; sex; identifying marks (tattoos, scars, etc.); height; weight; nature and details of the incident/offense to include whether alcohol, drugs and/or weapons were involved; driver's license information; actions taken by military commanders (e.g., administrative and/or non-judicial measures, to include sanctions imposed); court-martial results and punishments imposed; confinement information, to include location of correctional facility, gang/cult affiliation if applicable; and release/parole/clemency eligibility dates.

Records also consist of personal information on individuals who were victims. Such information does not include the name of the victim or other personal identifiers (e.g., Social Security Number, date of birth, etc.), but does include the individual's residential zip code; age; sex; race; ethnicity; and type of injury.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulation; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 18 U.S.C. 922 note, Brady Handgun Violence Prevention Act; 28 U.S.C. 534 note, Uniform Federal Crime Reporting Act; 42 U.S.C. 10601 et seq., Victims Rights and Restitution Act; DoD Directive 7730.47, Defense Incident-Based Reporting System (DIBRS); and E.O. 9397 (SSN).

PURPOSE(S):

To provide a single central facility within the Department of Defense (DoD) which can serve as a repository of criminal and specified other non-criminal incidents which will be used to satisfy statutory and regulatory reporting requirements, specifically to provide crime statistics required by the Department of Justice (DoJ) under the Uniform Federal Crime Reporting Act; to provide personal information required by the DoJ under the Brady Handgun Violence Prevention Act; and statistical information required by DoD under the Victim's Rights and Restitution Act; and to enhance DoD's capability to analyze trends and to respond to executive, legislative, and oversight requests for statistical crime data relating to criminal and other high-interest incidents.

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 be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) only as follows:

To the Department of Justice:

(1) To compile crime statistics so that such information can be both disseminated to the general public and used to develop statistical data for use by law enforcement agencies.

(2) To compile information on those individuals for whom receipt or possession of a firearm would violate the law so that such information can be included in the National Instant Criminal Background Check System which may be used by firearm licensees (importers, manufactures or dealers) to determine whether individuals are disqualified from receiving or possessing a firearm.

The 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of record system notices *do not* apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, incident number, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center: Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location: Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquires to the Privacy Act Officer, Headquarters, Defense Logistics Agency, CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The military services (includes the U.S. Coast Guard) and Defense agencies.

EXEMPTIONS:

None.

[FR Doc. 96–32332 Filed 12–19–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Army

Corps of Engineers

Final Notice of Issuance, Re-issuance, and Modification of Nationwide Permits

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Correction.

SUMMARY: This document contains a correction to the final notice of issuance, reissuance and modification of nationwide permits which was published in the Federal Register on Friday, December 13, 1996, (61 FR 65874–65922). On page 65875, in the first column the last sentence indicates that ''nationwide permit (NWP) 26 will automatically expire 2 years from today's date [i.e., December 13, 1996] unless otherwise modified or revoked.'' This represents the correct time period for NWP 26. Therefore, on page 65916, in the third column, the last sentence in paragraph e. should be replaced with the following sentence: ''Note, this NWP will expire on December 13, 1998.''

Dated: December 16, 1996.

John F. Studt,

Chief, Regulatory Branch, Operations, Construction and Readiness Division, Directorate of Civil Works.

[FR Doc. 96–32294 Filed 12–19–96; 8:45 am]

BILLING CODE 3710–92–M

Department of the Navy

Notice of Extension of the Public Comment Period for the Draft Environmental Impact Statement (DEIS) for Reuse of Naval Station Puget Sound, Sand Point, Seattle, WA

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy has filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) for proposed reuse of the former Naval Station Puget Sound, Sand Point property and structures in Seattle, Washington. The DEIS has been prepared in compliance with the 1991 Base Realignment and Closure (BRAC) directive from Congress to close Naval Station Puget Sound, Sand Point. The property will be disposed of in accordance with the provisions of the Defense Base Closure and Realignment Act (Public Law 101-510) of 1990 as amended, and applicable federal property disposal regulations. Naval Station Puget Sound, Sand Point closed on September 30, 1995.

A Notice of Public Hearing for this DEIS was published in the Federal Register on November 8, 1996. A public hearing for the proposed project was held at Eckstein Middle School on December 2, 1996, and all written comments were to have been submitted no later than December 23, 1996.

ADDRESSES: However, in response to requests from the public, the Navy will extend the public comment period for this DEIS for Reuse of Naval Station Puget Sound, Sand Point for an additional 25 days from December 23, 1996 through January 17, 1997.

FOR FURTHER INFORMATION CONTACT: All written comments must be submitted no later than January 17, 1997, to Ms. Kimberly Kler (Code 232KK), Engineering Field Activity Northwest, Naval Facilities Engineering Command, 19917 7th Avenue NE, Poulsbo, Washington 98370–7570; telephone (360) 396–0918; FAX (360) 396–0854.

Dated; December 17, 1996.

D.E. Koenig

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–32374 Filed 12–19–96; 8:45 am]

BILLING CODE 3810–FF–M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 3:30 p.m., January 21–22, 1997.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—November 4, 1996
(2) Faculty Matters
(3) Granting of Degrees
(4) Departmental Reports
(5) Financial Report
(6) Report—President, USUHS
(7) Report—Dean, School of Medicine
(8) Report—Dean, Graduate School of Nursing
(9) Comments—Chairman, Board of Regents

(10) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary of the Board of Regents, (301) 295–3116.

Dated: December 18, 1996.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–32586 Filed 12–18–96; 3:59 pm]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Final Programmatic Environmental Impact Statement for the Uranium Mill Tailings Remedial Action Ground Water Project

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the final Programmatic Environmental Impact Statement (PEIS) for the Uranium Mill Tailings Remedial Action (UMTRA) Ground Water Project. The proposed action is to conduct the UMTRA Ground Water Project using appropriate Ground Water compliance strategies at 24 uranium processing sites based on a health and environmental risk-based framework designed to provide a consistent and flexible approach. The three other alternatives analyzed in the PEIS are: no action, active remediation to background levels, and passive remediation. Separate site-specific National Environmental Policy Act (NEPA) documentation will be prepared to address site-specific ground water conditions, human and environmental risks, participation of the Tribes, States, and local communities, and costs.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the final PEIS or further information concerning this document should be directed to Mr. Donald R. Metzler, Grand Junction Office, Department of Energy, 2597 B 3/4 Road, Grand Junction, Colorado 81503, telephone 970–248–7612 (formerly the Grand Junction Projects Office). Addresses of Department of Energy Public Reading Rooms and public libraries where the final document will be available for review are listed below under **SUPPLEMENTARY INFORMATION.** For general information on the procedures followed by DOE in complying with the requirements of the NEPA, contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585, telephone 202–586–4600 or leave a message at 800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

The final PEIS was prepared in accordance with the requirements of the NEPA of 1969; the Council on Environmental Quality regulations implementing NEPA in 40 CFR Parts 1500–1508; and DOE's NEPA implementing procedures in 10 CFR Part 1021. The final PEIS consists of Volume 1, the main text of the EIS, and Volume 2, public comments on the draft PEIS and DOE's responses to the comments.

The final PEIS has been filed with the Environmental Protection Agency (EPA) and has also been distributed to interested members of the public, Federal, and State agencies. The final PEIS will also be available for viewing by the public in the DOE reading rooms and at the public libraries identified below. DOE plans to issue a Record of Decision based on the final PEIS no earlier than 30 days after the EPA publishes a notice of availability of the final PEIS in the Federal Register, which DOE expects will occur at about the same time that this notice is published.

Public concern regarding the potential human health and environmental effects from uranium mill tailings led to passage of the Uranium Mill Tailings Radiation Control Act (Public Law 95–604, 42 U.S.C. § 7901 *et seq.*) in 1978, wherein Congress acknowledged the potentially harmful health effects associated with uranium mill tailings at 22 abandoned uranium mill processing sites. Pursuant to the Act, the EPA developed standards (40 CFR Part 192) which include radiation limits for surface contamination and concentration limits for ground water, to protect the public and the environment from potential radiological and nonradiological hazards from the abandoned mill processing sites. Final Ground Water protection standards were published in the Federal Register [60 FR 2854 (Jan. 11, 1995)]. The standards apply to residual radioactive material at the 22 processing sites designated, as provided in the Act, by DOE. DOE is responsible for performing remedial action to bring the surface and ground water contaminant levels at the abandoned mill processing sites into compliance with these standards. DOE is accomplishing this function through the UMTRA Project. Remedial action regarding ground water contamination will be conducted with the concurrence of the U.S. Nuclear Regulatory Commission and the full participation of affected States and Indian Tribes. Remedial sites in accordance with applicable standards for surface contamination, 40 CFR Part 192, has already been taken or is in process.

The Ground Water Project PEIS provides a consistent risk-based framework for determining the site-specific ground water compliance strategies, and supplies data and information that can be used in site-specific environmental impact analysis documents. The proposed action and the alternatives in the document are considered programmatic in that they broadly address the overall plans for conducting the Ground Water Project with an assessment of the potential impacts associated with the various potential ground water compliance strategies.

Availability of Copies of the Final PEIS

Copies of the final PEIS may be obtained by contacting the Ground Junction Office at the address or telephone numbers listed above. The final PEIS and documents referenced in the PEIS are available for inspection at DOE reading rooms and at the public libraries in the vicinity of the former uranium processing sites as listed below.

DOE Reading Rooms

Freedom of Information Reading Room, Room 1E–190, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585

National Atomic Museum Library, Public Document Room, Department of Energy, Albuquerque Operations Office, Albuquerque, New Mexico 87115

Grand Junction Office, Department of Energy, 2597 B 3/4 Road, Grand Junction, Colorado 81302 Public Libraries

Public Libraries

Arizona

Tuba City Public Library, Tuba City, Arizona 86045

Navajo Nation Library System, Window Rock, Arizona 86515

Kykotsmovi Public Library, Community Development Director, Kykotsmovi, Arizona 86039

Colorado

Cortez Public Library, 802 E. Montezuma, Cortez, Colorado 81321

Denver Public Library, 1357 Broadway, Denver, Colorado 80203

Rifle Branch Library, Second Street, Rifle, Colorado 81650

Mesa State College Library, Grand Junction, Colorado 81502
Dove Creek School Library, Dove Creek, Colorado 81324
Durango Public Library, Reference Department, Durango, Colorado 81301
Glenwood Springs Library, 413 9th Street, Glenwood Springs, Colorado 81601
Gunnison Public Library, 307 N. Wisconsin, Gunnison, Colorado 81230
Naturita Public Library, 312 W. Second Street, Naturita, Colorado 81422
Montrose Public Library, 4349 First Street, Montrose, Colorado 81424

Idaho

Boise Public Library, 715 S. Capitol Building, Boise, Idaho 83805

New Mexico

Navajo Community College Library, Shiprock Branch, Shiprock, New Mexico 87420
Mother Whiteside Memorial Library, 525 W. High Street, Grants, New Mexico 87020
New Mexico State University Library, 1500 3rd Street, Grants, New Mexico 87020
University of New Mexico Gallup Library, 200 College Road, Gallup, New Mexico 87301
University of New Mexico Zimmerman Library, Albuquerque, New Mexico 87131–1466
New Mexico Environmental Department Library, 1190 St. Francis Drive, Santa Fe, New Mexico 87502

North Dakota

Bowman Public Library, 104 Main Street, Bowman, North Dakota 58623
Dickinson Public Library, 139 West 3rd Street, Dickinson, North Dakota 58601

Oregon

Lake County Library, 513 Center Street, Lakeview, Oregon 97630

Pennsylvania

Canonsburg Public Library, East Pike Street, Canonsburg, Pennsylvania 15317
People's Library, 2889 Leechburg Road, Lower Burrell, Pennsylvania 15068

Texas

Falls City Public Library, P.O. Box 325, Falls City, Texas 78113

Utah

Bluff Public Library, Bluff, Utah 84512
Marriott Library, University of Utah, Salt Lake City, Utah 84112
San Juan County Library, 25 West 300 Street, Blanding, Utah 84511
Grand County Library, 25 South 1st East, Moab, Utah 84532
Green River Library, 85 South Lang Street, Green River, Utah 84525

Wyoming

Riverton Branch Library, 1330 West Park, Riverton, Wyoming 82501
Wyoming State Library, Supreme Court Building, 24th & Capitol Street, Cheyenne, Wyoming 82002
University of Wyoming Library, University Station, Laramie, Wyoming 82071

Issued in Washington, D.C., on December 16, 1996.

James M. Owendoff,

Deputy Assistant Secretary for Environmental Restoration.

[FR Doc. 96–32329 Filed 12–19–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Floodplain Involvement for Proposed Upgrade and Modification of the Pantex Waste Water Treatment Facility

AGENCY: Department of Energy (DOE); Amarillo Area Office.

ACTION: Notice of floodplain involvement.

SUMMARY: DOE proposes to upgrade the existing Pantex Plant waste water treatment facility (WWTF). The existing WWTF is located in a floodplain and discharges effluent, by permit, to a wetland located on the Pantex Plant in Carson County, 17 miles northeast of Amarillo, Texas. In accordance with 10 CFR part 1022, DOE will prepare a floodplain assessment and perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain.

DATES: Comments are due to the address below no later than January 6, 1997.

ADDRESSES: Comments concerning this Notice should be addressed to: Floodplain and Wetlands Comments, Tom Walton, Public Affairs Officer, Public Affairs Office, U.S. Department of Energy, Amarillo Area Office, P. O. Box 30030, Amarillo, Texas 79120, (806) 477–3120 or Fax (806) 477–3185.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The existing WWTF is an aerated lagoon and an unaerated lagoon, providing treatment of effluent to meet or exceed required permit levels. The proposed project is intended to provide additional pollutant and contaminant removal from Pantex Plant waste water. Pantex waste water is and will continue to be composed of both sanitary and industrial waste water. Treated effluent from the present facility is redirected to Playa 1, the receiving water body, as authorized by the National Pollutant Discharge Elimination System Permit No. TX0107107 and the Texas Natural Resource Conservation Commission Waste Water Discharge Permit No. 02296. The project would include work at the existing treatment plant site, located in a floodplain. Diking would be included in the proposed action to prevent floodwaters from reaching the proposed facility, should sufficient water accumulate in the Playa 1 floodplain to reach the 100-year flood level.

In accordance with DOE regulations for compliance with floodplain environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain assessment for this proposed action. The assessment will be included in the environmental assessment (EA) being prepared for the proposed project in accordance with requirements of the National Environmental Policy Act. Based on analysis in the EA, DOE will either prepare a Finding of No Significant Impact and proceed with the action, or prepare an Environmental Impact Statement if the EA reveals potential for significant environmental impact. In the preparation of this EA, DOE will assess the potential impacts to the involved floodplain and publish a Statement of Finding regarding the proposed project.

Issued in Amarillo, Texas on December 11, 1996.

Vicki C. Battley,

Program Office Official, Amarillo Area Office NCO.

[FR Doc. 96–32327 Filed 12–19–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP97–147–000]

National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

December 16, 1996.

Take notice that on December 10, 1996, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in the above docket, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the

Natural Gas Act for authorization to construct and operate a new residential sales tap under National's blanket certificate issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, National proposes to construct and operate a sales tap for delivery of approximately 150 Mcf annually of gas to National Fuel Gas Distribution Corporation (Distribution) at an estimated cost of $1,500, for which National will be reimbursed by Distribution. National further states that the proposed sales tap will be located on its Line Q–19 in Erie County, Pennsylvania.

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 Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32291 Filed 12–19–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–150–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

December 16, 1996.

Take notice that on December 12, 1996, Norm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed a request with the Commission in Docket No. CP97–150–000, pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a meter station authorized in blanket certificate issued in Docket No. CP82–384–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

NGT proposes to construct and operate a 2-inch U-Shape meter station on NGT's Line 23–2 for delivery of natural gas to Peoples Natural Gas (Peoples). The meter station will be located in Section 17, Township 34 South, Range 3 East, Cowley County, Kansas and will be constructed and installed by NGT at an estimated cost of $9,000. All construction will be above-ground with no ground disturbance. The estimated volumes to be delivered through this tap are approximately 25,000 MMBtu annually and 160 MMBtu on a peak day. Peoples has agreed to reimburse NGT for the construction costs.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32289 Filed 12–19–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–149–000]

Texas Eastern Transmission Corporation; Notice of Application

December 16, 1996.

Take notice that on December 11, 1996, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251–1642 filed in Docket No. CP97–149–000, an application pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon a certain exchange service which was once required for exchange of gas between Texas Eastern and Consolidated System LNG Company (Consolidated). Texas Eastern requests that the abandonment be effective on the date of issuance of the Commission order.

It is stated that on February 22, 1978, the Commission issued an order in Docket No. CP77–418–000 granting Texas Eastern and Consolidated authorization to exchange natural gas. Texas Eastern states that such service was rendered between Texas Eastern and Consolidated pursuant to the terms and conditions of the exchange agreement dated May 20, 1977 (Agreement), which is included as Rate Schedule X–86 in Texas Eastern's FERC Gas Tariff, Original Volume No. 2.

Pursuant to the Agreement, Consolidated states that it transported vaporized natural gas from its LNG regasification facility at Cove Point, Maryland, through its pipeline in Loudoun, Virginia for delivery to Texas Eastern's pipeline system at points of interconnection near Chambersburg and Perulack, Pennsylvania. It is further stated that Texas Eastern would concurrently exchange an equivalent quantity of gas at existing delivery points connecting Texas Eastern's pipeline system to the pipeline system of Consolidated Gas Supply Corporation as set forth in the Agreement.

Texas Eastern further states that the volume of gas authorized to be exchanged was a total maximum daily quantity of 365,000 Dth per day of vaporized natural gas, plus a maximum day surge allowance of up to 20% above such average daily quantity as authorized by the Order.

It is also stated that Consolidated's corresponding authorization for the exchange service with Texas Eastern was previously abandoned pursuant to the Commission's *Order Approving Contest Settlement* issued January 28, 1988 (42 F.E.R.C. ¶61,078).

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1997 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 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 herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32290 Filed 12–19–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Filed With the Commission

December 16, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of Licenses.

b. *Project Numbers:* P–2395, P–2421, P–2473, P–2640.

c. *Applicants:* Fraser Papers Inc., Flambeau Hydro, L.L.C.

d. *Name of Projects:* Pixley, Lower Hydroelectric, Crowley Rapids, and Upper Hydroelectric.

e. *Location:* North Fork of the Flambeau River, Price and Ashland Counties, Wisconsin.

f. *Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

g. *Applicant Contacts:* Daniel A. Bueide, Henson & Efron, P.A., 1200 Title Insurance Building, 400 Second Avenue South, Minneapolis, MN 55401, (612) 339–2500; Donald H. Clarke, J. Wade Lindsay, Wilkinson, Barker, Knauer & Quinn, Suite 600, 1735 New York Avenue, N.W., Washington, DC 20006, (202) 783–4141.

h. *FERC Contact:* Dean C. Wight, (202) 219–2675.

i. *Comment Date:* January 3, 1997.

j. *Description of Proposed Action:* Applicants propose to transfer the projects from Fraser Papers Inc. (Transferor), to Flambeau Hydro, L.L.C. (Transferee). The current licensee, Flambeau Paper Company, no longer exists. Transferor is the successor in interest to Flambeau Paper Company as a result of an April 1996 merger of Flambeau Paper Company and several other entities. The applicants request Commission approval of the transfer of the licenses from Flambeau Paper Company to Transferor, as well as approval of the prospective transfer from Transferor to Transferee.

k. *Related Actions:* Applications for Subsequent Licenses for the projects were filed in December 1991 by Flambeau Paper Company and are pending before the Commission.

l. *This notice also consists of the following standard paragraphs:* B, C2, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32292 Filed 12–19–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5668–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Standards for Reformulated Gasoline ICR Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Standards for Reformulated Gasoline; OMB No. 2060–0277; expires 03/31/97. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before February 18, 1997.

ADDRESSES: U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Mobile Sources (6406J), 401 M street S.W., Washington, D.C. 20460; U.S. Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement (2242A), 401 M Street S.W., Washington, D.C. 20460. Copies of the ICR can be obtained free of charge by contacting Ervin Pickell as provided below.

FOR FURTHER INFORMATION CONTACT: Ervin Pickell, Telephone: (303) 969–6485; Facsimile number: (303) 969–6490; E-MAIL: pickell.erv@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which produce, import, distribute, sell, transport or dispense reformulated and conventional gasoline.

Title: Standards for Reformulated Gasoline; OMB No. 2060–0277; expires 03/31/97.

Abstract: Section 211(k) of the Clean Air Act requires EPA to regulate reformulated gasoline and conventional gasoline. The Act requires schemes for tracking and trading credits and allows for averaging certain gasoline parameters for compliance. In order to enforce the requirements of the Act, EPA regulations (in effect since January 1, 1995) require recordkeeping, reporting and testing. Certain responses

covered by the ICR are voluntary quality assurance efforts. All other responses are mandatory. EPA has authority to require this information under section 211 of the Act, 42 U.S.C. § 7545, section 114 of the Act, 42 U.S.C. § 7414 and section 208 of the Act, 42 U.S.C. § 7542.

The only parties with reporting requirements are refiners, importers and oxygenate blenders (and their independent labs); these parties have the greatest opportunity to affect and control the quality of gasoline. Truck distributors are subject to minimal recordkeeping requirements and voluntary (affirmative defense) quality assurance testing provisions. Retailers and wholesale purchaser-consumers in reformulated gasoline areas only are required to accept and maintain transfer documents (something they already do as a customary business practice (CBP)). Retailers and wholesale purchaser-consumers in conventional gasoline areas have no recordkeeping requirements. Individual motorists are subject to no recordkeeping requirements under the regulations. Confidentiality of information reported or obtained from parties is protected under 40 C.F.R. Part 2.

The recordkeeping and reporting enables EPA to enforce the RFG and conventional gasoline requirements. The requirements also are necessary to enable each party receiving product to know what the product is and to ensure that party's ability to comply.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The following background information is provided to enable persons responding to this notice to have sufficient information to comment on the information collection. In addition to this information, you may obtain a copy of the draft ICR supporting statement as provided above. The requirements of the rule can be found at 40 C.F.R. §§ 80.40–80.130. In general the requirements are greatest for those who can affect gasoline quality the most (refiners/importers). Requirements are minimal for typically smaller businesses such as retailers and truck distributors. The requirements are all aimed to assure compliance with the Clean Air Act requirements in order to assure contemplated emissions reductions are realized and to assure noncomplying parties do not realize a competitive economic advantage over complying parties. A program based on gasoline sampling alone would not assure compliance because refiners and oxygenate blenders can achieve compliance based on averaging, and credits can be traded. Further, gasoline from different refiners is commingled before it arrives at terminals and retail outlets. Therefore, records must be kept to ensure these parties meet compliance for fuel as it leaves their control and after any averaging and credit trading is accounted for.

Assumptions used for this ICR are largely the same as for the previous ICR. This is because labor rates appear to be relatively flat and the rule's recordkeeping requirements have not been substantially changed. No new equipment costs are anticipated to comply with recordkeeping and sampling/testing requirements. However, the proposed ICR does reflect some increased and decreased burdens or costs based on industry information. For example, the tentative estimated cost of refiner/importer gasoline sampling and testing surveys have been significantly increased due to information from an industry source. EPA specifically seeks comment regarding the costs of the surveys for 1998 and beyond and the specific rationale regarding such costs.

Refiners and importers who produce RFG or conventional gasoline are required to register with EPA so that EPA has complete information as to which entities are subject to which requirements (RFG and/or conventional gasoline) and their location. Testing requirements for RFG and conventional gasoline by refiners/importers are necessary for the regulated entity as well as for EPA to determine if the gasoline complies with requirements (per gallon or on average, as applicable). Testing requirements have been minimized to the extent practicable and many of the parameters were already tested for by refiners before this rule was published. Independent sampling and testing of a limited number of batches of gasoline per year is needed to ensure that refinery or importer testing is accurate and to assure samples of specific product will be available for EPA to test at a later date, if necessary. Refiners/importers ''certify'' that each batch of gasoline produced meets applicable requirements (*e.g.*, for summertime RFG). However, this certification entails no reporting to EPA or additional recordkeeping; the testing (and recording test results) and release of product constitutes certification. Refiners/importers must designate each batch of gasoline produced (*e.g.*, as any-oxygenate RBOB or ether-only RBOB; this is necessary information to determine compliance and is necessary information for downstream parties). They must include sufficient information on product transfer documents to demonstrate what the product is *e.g.*, RFG or conventional gasoline; whether there are use restrictions based on time of year (whether VOC-controlled gasoline). This not only facilitates EPA compliance determinations but is also necessary information for parties downstream, such as terminals and distributors, so that appropriate product goes to appropriate areas at the appropriate time of year.

Refiners/importers and oxygenate blenders (and their independent labs) are the only parties with reporting burdens. Reports can be filed electronically or by mail. Conventional gasoline refiners and importers file a year-end report. The RFG compliance reporting burden can be minimized to a single report if compliance is based on a per gallon standard. Otherwise quarterly reports are filed but compliance is based on the year end report and the 3rd quarter report (for RVP, VOC emissions performance and oxygen content for the high ozone season). Compliance attest engagements are required to give both the refiner/importer/oxygenate blender and EPA feedback regarding whether compliance reporting is accurate and identify mistakes in how compliance was determined or in the reporting of the compliance information. Based on experience with other gasoline averaging programs such as lead phase-down, errors in reporting occurred relatively frequently. Flexibility is provided to allow in-house audits to meet the attest engagement requirements and the audits require only a statistically significant sampling of records to be examined.

Gasoline sampling and testing surveys are required because the Act contemplated that reformulated gasoline compliance demonstrations would be at the covered area level. However, in the negotiated regulation process refiners and other parties expressed a desire to have compliance demonstrated primarily at the refinery level. EPA allowed the compliance point to be at the refinery, and allowed for compliance averaging. However, to assure actual program effectiveness at the covered area level, a program of sampling and testing surveys was selected as the negotiated solution.

Refiners who rely on external oxygenate blenders to add oxygenate to RFG can either use regulatory assumptions to determine the gasoline's characteristics or they can contract with

oxygenate blenders and perform a quality assurance program to assure and verify that appropriate oxygenate blending is taking place.

There are several other areas relating to quality assurance where recordkeeping is voluntary, for defense purposes. Refiners can perform downstream quality assurance to verify quality of branded gasoline downstream. This is not required, but may be necessary to meet the refiner's defense where a violation is found. Oxygenate blenders are also subject to a sampling and testing affirmative defense provision. Terminals, pipelines and distributors also can perform a voluntary sampling program for defense purposes.

Retailers and wholesale purchaser-consumers in RFG areas must maintain transfer documents so EPA can determine that the gasoline complies with requirements for the geographic area and time of year at the location it is dispensed. However, because conventional gasoline compliance is determined at the refinery level, and without time or use restrictions, retailers and wholesale purchaser-consumers in non-RFG areas do not need to maintain product transfer information related to the regulatory program.

All parties that must maintain records under the regulation have a 5 year retention requirement.

The EPA would like to solicit comments to:

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

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Burden Statement: Refiner/Importer hours per year per respondent is about 138 for RFG compliance, including voluntary quality assurance programs, and about 27 hours per year per respondent for conventional gasoline compliance, including voluntary quality assurance. There are about 150 respondents for RFG purposes and about 230 for conventional gasoline. The frequency of response and associated yearly hourly burden for refiners/importers for RFG compliance is as follows: Registration is a one-time requirement that all respondents should have completed; Designate and certify each batch of RFG (100 per year; 1.5 hrs. per yr.); Test each batch of RFG (100 per yr. (largely CBP); 40 hrs. per yr.); Product transfer document for each batch (100 per yr. (largely CBP); 0 hrs.); Contracts with oxygenate blenders (for 10 parties who choose to do this method, frequency is 5 per yr.; 16 hrs. per party); Quality assurance efforts with oxygenate blenders (for the 10 parties who choose this method, 20 samples per yr., 30 hrs. per yr.); Report compliance (4 responses per yr.; EDI ok; 4 hrs. per response (16 hrs. per yr.)); and Compliance audit (one per year; 80 hrs. (See conventional gasoline burden for additional hrs.)).

The frequency of response and associated hourly burden for refiners/importers of conventional gasoline is as follows: Registration (one-time burden already completed); Test gasoline produced (12 responses; 2 hrs. per yr. (See additional cost breakdown below); Batch designations (158 responses per yr.; 1.5 hrs. per year); Product transfer documents (158 per yr.; 0 hrs (largely CBP)); Compliance report (1 per yr.; 3.3 hrs); and Compliance audit (1 per yr.; 20 hrs.).

Purchase of services costs for refiners and importers (150 respondents) of RFG are as follows: Surveys (industry-wide with cost spread among all refiner/importer respondents; 60 surveys in 1997 and 50 in subsequent years) ($20,000 per respondent in 1997 and possibly greater than $30,000 or more per respondent in subsequent years (EPA seeks comment regarding the cost, and the rationale for the cost, of the surveys in 1998 and subsequent years)); RFG batch testing by outside laboratory ($15,000 per year (beyond CBP)); RFG in-line audits ($826 per party); RFG independent laboratory testing ($9,013 per party); and voluntary quality assurance ($9,000 per party).

Purchase of services costs by refiners/importers of conventional gasoline are as follows: Laboratory testing ($1,200 per party). There are 230 parties.

Hourly burdens for RFG oxygenate blenders are as follows: Register (1-time burden accomplished by most parties); Quality assurance testing for terminal tank blenders (100 respondents; 18 responses per yr. taking 16 hrs. per yr.); Quality assurance for truck blenders (250 respondents; 12 responses per yr.; 7.9 hrs. per yr.); and Compliance reporting (350 respondents; 1 per yr.; 3.4 hrs.).

Purchase of services costs for oxygenate blenders: $450 for lab testing for each of 350 respondents and $286 for compliance audit for each of 350 parties.

Hourly burdens for RFG distributors: Product transfer documents for truckers (mostly CBP; 0 hrs.; 1,360 responses per yr.; 2,200 respondents); Product transfer documents for terminals: (mostly CBP; 0 hrs.; 12,000 responses per yr.; 250 respondents); Terminal quality assurance ((non-oxygenate); 10 responses; 6.5 hrs. per yr.; 250 respondents); Retailer RFG product transfer document requirement ((mostly CBP); 0 hrs.; 45 responses; 75,000 respondents).

Hourly burdens for distributors of conventional gasoline: Product transfer documents for truckers ((mostly CBP); 0 hrs.; 1,360 responses; 5,400 respondents); Product transfer documents for terminals ((mostly CBP); 0 hrs.; 9,000 responses; 880 parties).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: December 6, 1996.

Sylvia K. Lowrance,

Principal Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 96–32351 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5475–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed December 9, 1996 Through December 13, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960566, Draft EIS, COE, LA, Mississippi River—Gulf Outlet (MRGO) New Lock and Connecting Channels Replacement and Construction for Connection to the Mississippi River, Implementation, Orleans and St. Bernard Parishes, LA, Due: February 3, 1997, Contact: Richard Boe (504) 862–1505.

EIS No. 960567, Final EIS, FHW, FL, Tampa Interstate Project, Funding, I–275 to just north of Cypress Street and I–275 from the Howard Frankland Bridge/Kennedy Boulevard ramps north to Dr. Martin Luther King, Jr. Boulevard and I–4 from I–275, Hillsborough County, FL, Due: January 21, 1997, Contact: Mark D. Bartlett (904) 942–9598.

EIS No. 960568, Draft EIS, COE, OR, Joe Ney and Upper Pony Creek Reservoirs Expansion Project, Municipal Water Supply, COE Section 10 and 404 Permit Issuance, Coos County, OR, Due: February 18, 1997, Contact: David Kurkoski (503) 326–6094.

EIS No. 960569, Final Supplement, NOA, NC, FL, SC, GA, South Atlantic Region Shrimp Fishery Management Plan, Implementation, Exclusive Economic Zone (EEZ), NC, SC, FL and GA, Due: January 21, 1997, Contact: Peter Eldridge (813) 570–5305.

EIS No. 960570, Final EIS, FRC, NV, Blue Diamond South Pumped Storage Hydroelectric (FERC No. 10756) Project, Issuance of License for Construction, Operation and Maintenance, Right-of-Way Grant and Possible COE Section 404 Permit, Clark County, NV, Due: January 21, 1997, Contact: Dianne Rodman (202) 219–2830.

EIS No. 960571, Draft EIS, UMC, CA, Sewage Effluent Compliance Project, Implementation, Lower Santa Margarita Basin, Marine Corps Base Camp Pendleton, San Diego County, CA, Due: February 3, 1997, Contact: Sheila Donovan (619) 532–3624.

EIS No. 960572, Final EIS, FHW, VA, US 58 and Midtown Tunnel Construction, Brambleton Avenue and Hampton Boulevard in Norfolk to US 58 and VA–164/Western Freeway in Portsmouth, Funding, COE Section 404 Permit and CGD Bridge Permit, Elizabeth River, VA, Due: January 21, 1997, Contact: Roberto Fonesca-Martinez (804) 281–5100.

EIS No. 960573, Final EIS, BLM, NV, Twin Creeks Mine Consolidation and Expansion, which Encompasses the former Rabbit Creek Mine and the former Chimney Creek Mine, Plan of Operation Approval and Permit Issuance, Winnemucca District, Humboldt County, NV, Due: January 21, 1997, Contact: Gerald Moritz (702) 623–1500.

EIS No. 960574, Draft Supplement, NOA, Atlantic Coast Weakfish Fishery, Fishery Management Plan, Implementation, Updated Information, Weakfish Harvest Control in the Atlantic Ocean Exclusive Economic Zone (EEZ), off the New England, Mid-Atlantic and South Atlantic Coast, Due: February 3, 1997, Contact: Thomas Meyer (301) 713–2339.

EIS No. 960575, Final EIS, NPS, NM, Petroglyph National Monument, General Management Plan and Development Concept Plan, Implementation, Bernalillo County, NM, Due: January 21, 1997, Contact: Lawrence Beal (505) 899–0205.

EIS No. 960576, Final EIS, AFS, WA, Huckleberry Land Exchange Consolidate Ownership and Enhance Future Conservation and Management, Federal Land and Non Federal Land, Mt. Baker-Snoqualmie National Forest, Skagit, Snohomish, King, Pierce, Kittitas and Lewis Counties, WA, Due: January 21, 1997, Contact: Doug Schrenk (206) 888–1421.

EIS No. 960577, Final EIS, DOE, Programmatic EIS—Uranium Mill Tailings Remedial Action Ground Water Project, Clean up of 24 Mill Sites, Implementation, Due: January 21, 1997, Contact: Donald R. Metzler (970) 248–7612.

EIS No. 960578, Final EIS, AFS, CA, Humboldt Nursery Pest Management Plan, Implementation, Six Rivers National Forest, McKinleyville, Humboldt County, CA, Due: January 21, 1997, Contact: Susan J. Frankel (415) 705–2651.

Dated: December 17, 1996.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–32390 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5476–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 25, 1996 Through November 29, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1996 (65 FR 15251).

Draft EISs

ERP No. D–BLM–K67038–NV Rating EO2, Ruby Hill Gold Mining Operations Project, Implementation, Battle Mountain District, Plan of Operations and COE Section 404 Permit, Eureka County, NV.

Summary: EPA expressed environmental objection due to potential accedences of the annual National Ambient Air Quality Standard (NAAQS) for PM10 (particulate matter smaller than 10 microns). EPA also expressed concerns regarding residual impacts to sensitive species and their habitats and facilities design. EPA indicated that if the impacts to air quality and sensitive species can be sufficiently mitigated, the West Waste Rock Dump Alternative appears to be the environmentally preferable alternative, and we would recommend that BLM select it as the preferred alternative.

ERP No. D–COE–K36108–CA Rating EC2, Santa Rosa Subregional Long-Term Wastewater Project, Implementation, Reclaimed Water Disposal from the Laguna Wastewater Treatment Plant, COE Section 10 and 404 Permits, Sonoma County, CA.

Summary: EPA expressed environmental concerns regarding potential impacts to surface and groundwater quality and potential conversion of sensitive wetland habitats.

ERP No. D–DOI–J39025–UT Rating EC2, Wastach County Water Efficiency Project and Daniel Replacement Pipeline Project, Implementation, Wastach County, UT.

Summary: EPA expressed environmental concerns regarding the wetlands analysis and requested that corrected information related to wetland impacts needs to be presented in the final EIS in order to adequately address the differences between the alternatives.

ERP No. D–URC–J39024–UT Rating EC2, Provo River Restoration Project (PRRP), Riverine Habitat Restoration, Reconstruction and Realignment of the existing Provo River Channel and Floodplain System between Jordanell Dam and Deer River Reservoir, Wasatch County, UT.

Summary: EPA expressed environmental concerns regarding the analysis of temporal impacts and impacts due to future recreational uses of the project area. EPA requested that these issues be addressed in the final EIS.

Final EISs

ERP No. F–CCOE–E35083–NC Buckhorn Reservoir Expansion, Construction of a Dam to Impound Water on the Contentnea Creek, COE Section 404 Permit, City of Wilson, Wilson County, NC.

Summary: EPA continued to express concerns regarding the wetland mitigation plan. The other previous issues have been resolved.

Dated: December 17, 1996.

B. Katherine Biggs,

Associated Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–32409 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–U

[OPPTS–42190; FRL–5578–9]

Dibasic Esters—Paint Stripper Chemicals; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a public meeting on January 29, 1997, in Washington, DC, to begin negotiation of an enforceable consent agreement addressing toxicity testing of, and an evaluation of human exposure potential to, dibasic esters (DBEs). DBEs include dimethyl adipate, dimethyl glutarate and dimethyl succinate. These chemical substances are components of paint stripper products that are sold to consumers and are also components of some industrial hand cleaners. EPA requests that persons who intend to attend the meeting please notify EPA of their intent in writing on or before January 17, 1997.

DATES: The public meeting will be held on January 29, 1997, beginning at 9:30 a.m. in Washington, DC, at a site to be determined.

ADDRESSES: Persons with an interest in attending the meeting should notify EPA in writing by January 17, 1997. Written notification of interest in attending the meeting should be submitted to TSCA Docket Receipts (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. G–99, East Tower, 401 M St., SW, Washington, DC 20460. Notifications should bear the document control number (OPPTS–42190; FRL–5578–9) and include a telephone number where the interested person may be contacted or messaged on or before January 23, 1997. Persons wishing to know the location of the meeting may call the Project Manager identified under ''FOR FURTHER INFORMATION CONTACT'' on or after January 23, 1997. The public docket supporting this DBE testing action is available for public inspection in the Nonconfidential Information Center, Rm. NE–B607, at the above address from 12 noon to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Rm. E543B, 401 M St., SW, Washington, DC 20460; telephone: (202) 554–1404; TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov. For specific information regarding this action or related activities, contact George Semeniuk, Project Manager, Chemical Testing and Information Branch (7405), Rm. E221B, 401 M St., SW, Washington, DC 20460; telephone: (202) 260–2134; e-mail: semeniuk.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Dibasic esters (DBEs) include dimethyl adipate (DMA, CAS No. 627–93–0), dimethyl glutarate (DMG, CAS No. 1119–40–0) and dimethyl succinate (DMS, CAS No. 106–65–0). Certain paint stripping formulations that are sold to consumers contain one or more of these chemical substances as part of a mixture. Consumers may be significantly exposed to DBEs during use of these formulations through inhalation and dermal absorption. DBEs are also components of certain industrial hand cleaners that may result in additional human exposure to DBEs.

In a notice published in the Federal Register of March 22, 1995 (60 FR 15143) (FRL–4943–6), EPA set forth its concerns for DBE toxicity and exposure and solicited proposals from any party who was interested in conducting DBE toxicity testing under the terms of a Toxic Substances Control Act (TSCA) section 4 enforceable consent agreement (ECA). The notice indicated that EPA, in consultation with the Consumer Product Safety Commission (CPSC), believed that a 2-tier testing regime, as was described in the notice, was both appropriate and needed in order to provide a more complete toxicity profile of DBEs. Such a profile would be used in comparing the hazards of paint strippers based on DBEs to those of consumer paint strippers that are based on methylene chloride, *N*-methylpyrrolidone, or other common paint stripping solvents.

In a letter dated August 7, 1995, the Dibasic Esters Group (DBE Group), representing Aceto Corporation, Chemie Linz North America, Inc., Chemoxy International PLC, DuPont Nylon, Monsanto Company and Morflex Inc., proposed to EPA that an ECA should be based on a more limited set of studies, than that requested by EPA. Specifically, the group proposed conducting an enhanced, 13-week subchronic inhalation study of the individual DBEs and a two-week dermal study of the individual DBEs and a DBE mixture. The DBE Group also informed EPA of the use of DBEs in industrial hand cleaners.

While noting that the proposal had potential merit and would expand the knowledge base of toxicity testing results on DBEs, EPA informed the DBE Group, in a letter dated March 6, 1996, that the proposal did not constitute an adequate basis for proceeding with negotiations to secure an ECA. EPA explained that the studies proposed by the DBE Group would not provide, by themselves, a sufficient characterization of numerous toxicological endpoints needed to acquire an adequate understanding of the hazards and risks of these chemicals. Furthermore, the proposed testing, as the initial tier of a 2-tier testing approach, would not provide the information needed to determine which DBE homologue and which exposure route would be used in follow-on testing that would be focused on developmental toxicity, reproductive toxicity and oncogenicity. EPA, however, encouraged the DBE Group to consider EPA's comments and to submit a revised proposal.

In a letter dated May 24, 1996, the DBE Group informed EPA that it would be submitting a revised proposal that would include toxicity testing and exposure evaluation, all of which should be considered Phase 1 activities. Follow-on testing activities under Phase 2, such as studies focused on reproductive toxicity, oncogenicity, pharmacokinetics, toxicological mechanisms and exposure, would be discussed if warranted by the outcome of the Phase 1 testing.

On October 22, 1996, the DBE group submitted a revised testing proposal to EPA, which EPA has accepted as a basis for proceeding to negotiation of an ECA. The DBE Group proposes conducting a toxicological research program that includes the following elements:

(1) Genetic toxicity testing of the three DBEs individually.

(2) Subchronic 90-day rat inhalation studies of each DBE that would include specialized endpoint exposure groups to assess neurotoxicity, spermatogenesis and cellular proliferation.

(3) A rabbit developmental toxicity study using a single DBE.

(4) Two-week dermal toxicity studies of a DBE mixture and the three DBEs individually.

In addition, the DBE group has proposed developing a profile of DBE paint stripper exposure under actual use conditions, utilizing:

(1) Survey techniques to collect information on volume of use, exposure levels, frequency and duration of use.

(2) Field studies that will quantify exposures.

These matters and other elements of an ECA will be the subject of the negotiation that will commence at the January 29, 1997, public meeting.

Dated: December 11, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–32362 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5668–5]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act; Chem-Solv, Inc. Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative cost recovery settlement concerning the Chem-Solv, Inc. Superfund Site, Cheswold, Kent County, Delaware. The proposed administrative settlement was signed by the Regional Administrator of the U.S. Environmental Protection Agency (''EPA''), Region III, on December 4, 1996, pursuant to Section 122(h) of CERCLA, 42 U.S.C. 9622, and is subject to review by the public pursuant to this notice.

The proposed settlement resolves an EPA claim for past response costs under Section 107 of CERCLA, 42 U.S.C. 9607, against the following parties: Ametek, Inc., Baltimore Aircoil Company, Inc., Black & Decker (U.S.) Inc., The BOC Group, Inc. (on behalf of Airco Welding Products), Camdel Metals Corporation, Chilton Company (on behalf of Middle Atlantic Printing, Inc.), Crown Cork & Seal Company, Inc., State of Delaware Department of Transportation, Dentsply International Inc. (on behalf of L.D. Caulk Company), General Electric Railcar Repair Services Corporation/ Quality Service Railcar, Georgetown Aircraft Services, Inc., Harper Thiel, Inc., ILC Dover, Inc., James Julian, Inc., Kraft General Foods, Inc., Litton Industries, Inc. (on behalf of Clifton Precision), Maaco Enterprises, Inc., Maryland Rail Car Inc., McKinney Transmission Service, Metal Masters Foodservice Equipment Co., Inc., MFG Justin Tanks, Inc., Mine Safety Appliances Company (on behalf of Catalyst Research), Nanticoke Homes, Inc., Scott Paper Company, Harriet I. Simon, Irwin F. Simon, Terumo Medical Corporation, Texaco Refining and Marketing Inc., United States Department of Agriculture (Agricultural Research Division/Poultry Research Laboratory), United States Department of Defense (United States Air Force), and W.L. Gore & Associates, Inc. (collectively, the ''Settling Parties''). The settlement requires the Settling Parties to pay $275,000.00 to the Hazardous Substance Superfund, less $5,949.86 due to a previous overpayment of Remedial Investigation/Feasibility Study oversight costs under an Administrative Order on Consent entered into with EPA on September 27, 1988.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. EPA will consider all comments received and may withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any written comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

DATES: Comments must be submitted on or before January 21, 1997.

ADDRESSES: The proposed settlement agreement is available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. A copy of the proposed settlement agreement may be obtained from Suzanne Canning, Regional Docket Clerk (3RC00), U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107; telephone number (215) 566–2476. Comments should reference the ''Chem-Solv, Inc. Superfund Site'' and ''EPA Docket No. III–96–20 DC'' and should be forwarded to Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Adolphus Levi Williams, Jr. (3RC23), Assistant Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–2667.

Dated: December 4, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 96–32354 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–44634; FRL–5578–7]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on cyclohexane (CAS No. 110–82–7). These data were submitted pursuant to an enforceable testing consent agreement/order issued by EPA under section 4 of the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551; e-mail:TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 enforceable consent agreements/orders must contain a statement that results of testing conducted pursuant to testing enforceable consent agreements/orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for cyclohexane were submitted by the Cyclohexane Panel of the Chemical Manufacturers Association (CMA) pursuant to a TSCA section 4 enforceable testing consent agreement/ order at 40 CFR 799.5000. The final report is submitted on behalf of the following test sponsors which comprise the CMA Cyclohexane Panel: Chevron Chemical Company, CITGO Refining Chemicals Inc., E.I. du Pont de Nemours Company, Huntsman Corporation, Koch Industries Inc., Phillips Petroleum Company, and Sun Company, Inc. EPA received the data on November 18, 1996. The submission includes a final report entitled ''90–Day Inhalation Toxicity Study with Cyclohexane in

Rats.'' Cyclohexane is found in a number of consumer products including spray paint and spray adhesives. It is also available as a laboratory solvent.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44634). This record includes a copy of the study reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center (also known as the TSCA Public Docket Office), Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: December 13, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–32361 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–44633; FRL–5577–5]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on glycidyl methacrylate (GMA) (CAS No. 106–91–2). These data were submitted pursuant to an enforceable testing consent agreement/order issued by EPA under section 4 of the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail:TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 enforceable consent agreements/orders must contain a statement that results of testing conducted pursuant to testing enforceable consent agreements/orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for glycidyl methacrylate were submitted by Keller and Heckman LLP on behalf of the Dow Chemical Company pursuant to a TSCA section 4 enforceable testing consent agreement/order at 40 CFR 799.5000. EPA received the data on November 6, 1996. The submission includes a final report entitled ''Glycidyl Methacrylate: 13-Week Inhalation Neurotoxicity Study in Fischer 344 Rats.'' GMA, a glycidol derivative, is an epoxy resin additive used in paint coating formulations and adhesive applications.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44633). This record includes a copy of the study reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center (also known as the TSCA Public Docket Office), Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects:

Environmental protection, Test data.

Dated: December 9, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–32363 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–44635; FRL–5579–2]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on Tetrahydrofuran (THF) (CAS No. 109–99–9). These data were submitted pursuant to an enforceable testing consent agreement/order issued by EPA under section 4 of the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551; e-mail:TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 enforceable consent agreements/orders must contain a statement that results of testing conducted pursuant to testing enforceable consent agreements/orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for Tetrahydrofuran were submitted by the Tetrahydrofuran (THF) Task Force, pursuant to a TSCA section 4 enforceable testing consent agreement/order at 40 CFR 799.5000. The task force is comprised of the following companies: ARCO Chemical Company, BASF Corporation, E.I duPont de Nemours Company, GE Plastics, Great Lakes Chemical Corporation, and ISP Corporation. EPA received the data on November 26, 1996. The submission includes a final report entitled ''90–Day Inhalation Neurotoxicity Study with Tetrahydrofuran in Rats.'' Tetrahydrofuran is used in the production of polytetrahydrofuran (77%) and also as a solvent (23%).

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44635). This record includes a copy of the study reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center (also known as the TSCA Public Docket Office), Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: December 13, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–32364 Filed 12–19–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meetings

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, December 17, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory, corporate, and personnel activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Director Eugene A. Ludwig, (Comptroller of the Currency), Director Nicolas P. Retsinas (Director, Office of Thrift Supervision), 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)(2), (c)(4), (c)(6), (c)(8) and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8) and (c)(9)(A)(ii).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: December 17, 1996.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 96–32554 Filed 12–18–96; 3:59 pm]

BILLING CODE 6711–01–M

FEDERAL RESERVE SYSTEM

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 January 6, 1997.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Carolina First Corporation, Greenville, South Carolina; to acquire 49 percent of the voting shares of Internet Organizing Group, Inc., Atlanta, Georgia, and thereby indirectly acquire Atlanta Internet Bank, F.S.B., Columbia, South Carolina (currently known as Premier Savings Bank, F.S.B.), and engage *de novo* in offering deposit related products for customers with access to the Internet and World Wide Web and who are using a secure web browsing program. These products would include demand deposit accounts with bill pay, ATM access, debit card usage, traditional paper check writing, direct deposit, wire transfer and banking by mail. Other deposit products would include money market accounts and a variety of savings certificates. All accounts would be interactive and accessible via on-line. Customers would have the ability to apply for a wide variety of loans on-line, including mortgage loans, equity lines of credit, credit cards, overdraft lines, and consumer credit, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–32316 Filed 12-19-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would

be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 15, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Heartland Financial USA, Inc., Dubuque, Iowa; to acquire up to 100 percent of the voting shares of Cottage Grove State Bank, Cottage Grove, Wisconsin.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mid-Missouri Bancshares, Inc., Nevada, Missouri; to acquire 100 percent of the voting shares of Continental Security Bancshares, Inc., Springfield, Missouri, and thereby indirectly acquire Continental Security Bank, Deepwater, Missouri.

Board of Governors of the Federal Reserve System, December 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–32315 Filed 12-19-96; 8:45 am]

BILLING CODE 6210-01-F

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 6, 1997.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. James Ransom McWane, Birmingham, Alabama; to acquire an additional 4.72 percent, for a total of 29.38 percent, of the voting shares of Alabama National BanCorporation, Birmingham, Alabama, and thereby indirectly acquire The First National Bank of Ashland, Ashland, Alabama.

Board of Governors of the Federal Reserve System, December 16, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–32317 Filed 12-19-96; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4142–N–02]

Floodplain Management and the Protection of Wetlands; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of proposed information collection for public comment.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comment due date: February 18, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Shelia E. Jones, Department of Housing & Urban Development, 451–7th Street, SW, Room 7230, Washington, DC 20410–7000.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Room 7240, 451 Seventh Street, SW. Washington, DC 20410–7000. For telephone communication, contact Walter Prybyla, Deputy Director for Policy, Environment Review Division at (202) 708–1201. This is not a toll-free number. Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Floodplain Management and the Protection of Wetlands

OMB Control Number: 2506–0151.

Description of the need for the information and proposed use: The purpose of this information collection is regulatory compliance. Each respondent that proposes to use HUD assistance to benefit a property located within a floodplain or wetland must establish and maintain sufficient records to enable the Secretary of HUD to determine whether the requirements of 24 CFR part 55, especially subpart C, have been met. Part 55 implements Executive Order 11988, Floodplain Management, and Executive Order 11990, the Protection of Wetlands. The record, together with other environmental compliances that a proposed project may require under the National Environmental Policy Act and related laws, will serve to obtain the approval of an application under 24 CFR part 50 or will allow the use of grant funds or assistance already awarded under 24 CFR part 58.

Agency form numbers: Not applicable.

Members of affected public: State, Local or Tribal Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours	Regulatory reference
Notification of floodplain hazard	300	1	300	1	300	§ 55.21.
Documentation of compliance with § 55.20	300	1	300	8	2,400	§ 55.27.
Total annual burden				9	2,700	

Status of the proposed information collection: The revision is needed in support of proposed rulemaking and request for OMB renewal for three years. The current OMB approval expires in July, 1997.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 16, 1996.

Richard H. Broun,

Director, Office of Community Viability.

[FR Doc. 96–32276 Filed 12–19–96; 8:45 am]

BILLING CODE 4210–32–M

[Docket No. FR–4124–N–17]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR Part 581, and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR Part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll-free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Air Force: Ms. Barbara Jenkins, Air Force Real Estate Agency (Area-MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; Army: Mr. Derrick Mitchell, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 428–6083; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059 (these are not toll-free numbers).

Dated: December 13, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 12/20/96

Suitable/Available Properties

Buildings (by State)

Bldg. T–674A
Schofield Barracks
Wahiawa 96786–
Landholding Agency: Army
Property Number: 219640201
Status: Unutilized
Comment: 4365 sq. ft., most recent use—office/classroom, off-site use only

Arizona

Bldg. 66156

Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219640196
Status: Unutilized
Comment: 2014 sq. ft., presence of asbestos/lead based paint, most recent use—admin., off-site use only

Bldg. 71922
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219640197
Status: Unutilized
Comment: 1013 sq. ft., presence of asbestos/lead based paint, most recent use—admin., off-site use only

Hawaii

Bldg. T–587
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219640198
Status: Unutilized
Comment: 3448 sq. ft., most recent use—office, off-site use only

Bldg. P–591
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219640199
Status: Unutilized
Comment: 800 sq. ft., most recent use—storage, off-site use only

Bldg. P–592
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219640200
Status: Unutilized
Comment: 800 sq. ft., most recent use—storage, off-site use only

Bldg. T–675A
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219640202
Status: Unutilized
Comment: 4365 sq. ft., most recent use—office, off-site use only

Bldg. T–337
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219640203
Status: Unutilized
Comment: 132 sq. ft., most recent use—storage, off-site use only

Bldg. T–527
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219640204
Status: Unutilized
Comment: 4131 sq. ft., most recent use—training center, off-site use only

Maine

Bldgs. 1001–1005, 1131–1140
Charleston Family Housing
Randolph/Union/Maxwell
Bangor Co: Penobscot ME 04401–
Landholding Agency: Air Force
Property Number: 189640023
Status: Unutilized
Comment: 15 duplex homes with 30 4-bedroom housing units, each unit = 2605 sq. ft. w/one car garage

Bldgs. 1126–1130
Charleston Family Housing
Randolph Drive
Bangor Co: Penobscot ME 04401–
Landholding Agency: Air Force
Property Number: 189640024
Status: Unutilized
Comment: 5 duplex homes with 10 4-bedroom housing units, each unit = 1451 sq. ft. with one car garage

Bldgs. 1141–1143
Charleston Family Housing
Maxwell Lane
Bangor Co: Penobscot ME 04401–
Landholding Agency: Air Force
Property Number: 189640025
Status: Unutilized
Comment: 3 4-bedroom housing units, each unit = 2675 sq. ft. w/one car garage

Bldgs. 1144–1147, 1159–1162
Charleston Family Housing
Randolph Drive
Bangor Co: Penobscot ME 04401–
Landholding Agency: Air Force
Property Number: 189640026
Status: Unutilized
Comment: 8 4-bedroom housing units, each unit = 1537 sq. ft. w/one car garage

North Dakota

Bldg. 001
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58355–
Landholding Agency: Army
Property Number: 219640207
Status: Unutilized
Comment: 1040 sq. ft., needs rehab, most recent use—auto craft shop, off-site use only

Bldg. 301
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58355–
Landholding Agency: Army
Property Number: 219640208
Status: Unutilized
Comment: 18830 sq. ft., needs rehab, most recent use—office, off-site use only

Bldg. 304
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58355–
Landholding Agency: Army
Property Number: 219640209
Status: Unutilized
Comment: 3658 sq. ft., needs rehab, most recent use—office, off-site use only

Bldg. 306
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58355–
Landholding Agency: Army
Property Number: 219640210
Status: Unutilized
Comment: 1720 sq. ft., needs rehab, most recent use—service station, off-site use only

Bldg. 348
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58355–
Landholding Agency: Army
Property Number: 219640211
Status: Unutilized
Comment: 21275 sq. ft., needs rehab, most recent use—dining facility, off-site use only

Bldg. 705
Stanley R. Mickelsen Safeguard Complex
Concrete Co: Pembina ND 58220–
Landholding Agency: Army
Property Number: 219640212
Status: Unutilized
Comment: 9432 sq. ft., needs rehab, most recent use—storage shed, off-site use only

Bldg. 1101
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Ramsey ND 58355–
Landholding Agency: Army
Property Number: 219640213
Status: Unutilized
Comment: 2259 sq. ft., earth covered concrete bldg., needs rehab, off-site use only

Bldg. 1110
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Ramsey ND 58355–
Landholding Agency: Army
Property Number: 219640214
Status: Unutilized
Comment: 11956 sq. ft., concrete, needs rehab, off-site use only

Bldg. 2101
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58249–
Landholding Agency: Army
Property Number: 219640215
Status: Unutilized
Comment: 2259 sq. ft., earth covered concrete bldg. needs rehab, off-site use only

Bldg. 2110
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58249–
Landholding Agency: Army
Property Number: 219640216
Status: Unutilized
Comment: 11956 sq. ft., concrete, needs rehab, off-site use only

Bldg. 4101
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Walsh ND 58355–
Landholding Agency: Army
Property Number: 219640217
Status: Unutilized
Comment: 2259 sq. ft., earth covered concrete bldg., needs rehab, off-site use only

Bldg. 4110
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Walsh ND 58355–
Landholding Agency: Army
Property Number: 219640218
Status: Unutilized
Comment: 11956 sq. ft., concrete, needs rehab, off-site use only

Texas

Bldg. T–88
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640219
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—showers, off-site use only

Bldg. P–197
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640220
Status: Unutilized
Comment: 13819 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T–230
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640221
Status: Unutilized
Comment: 18102 sq. ft., presence of asbestos/lead paint, most recent use—printing plant and shop, off-site use only

Bldg. P–252
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640222
Status: Unutilized
Comment: 1830 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P606B
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640223
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, off-site use only

Bldg. P–607
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640224
Status: Unutilized
Comment: 12610 sq. ft., presence of asbestos/lead paint, most recent use—admin/classroom, off-site use only

Bldg. P–608
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640225
Status: Unutilized
Comment: 12676 sq. ft., presence of asbestos/lead paint, most recent use—admin/classroom, off-site use only

Bldg. P–608A
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640226
Status: Unutilized
Comment: 2914 sq. ft., presence of asbestos/lead paint, most recent use—admin/classroom, off-site use only

Bldg. P–1000
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640227
Status: Unutilized
Comment: 226374 sq. ft., presence of asbestos/lead paint, historic property, most recent use—hospital/medical center

Bldg. P–1023
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640228
Status: Unutilized
Comment: 2500 sq. ft., presence of lead paint, most recent use—greenhouse, off-site use only

Bldg. P–1058
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640229
Status: Unutilized
Comment: 180 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. P–2270
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640230
Status: Unutilized
Comment: 14622 sq. ft., 2-story, historic bldg., presence of asbestos/lead paint, most recent use—auditorium

Bldg. T–2300
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640231
Status: Unutilized
Comment: 5883 sq. ft., presence of asbestos/lead paint, most recent use—post office, off-site use only

Bldg. P–2399
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640232
Status: Unutilized
Comment: 25922 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. P–2655
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640233
Status: Unutilized
Comment: 3047 sq. ft., presence of asbestos/lead paint, most recent used—research lab, off-site use only

Bldg. P–2789
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640234
Status: Unutilized
Comment: 25784 sq. ft., presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. P–3898
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640235
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. P–3899
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640236
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. P–4190
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640237
Status: Unutilized
Comment: 88067 sq. ft., historic bldg., presence of asbestos/lead paint, most recent use—admin/warehouse

Bldg. P–4191
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640238
Status: Unutilized
Comment: 88067 sq. ft., historic bldg., presence of asbestos/lead paint, most recent use—admin/warehouse

Bldg. T–5105
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640239
Status: Unutilized
Comment: 3521 sq. ft., presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. P–5126
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640240
Status: Unutilized
Comment: 189 sq. ft., off-site use only

Bldg. P–6201
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640241
Status: Unutilized
Comment: 3003 sq. ft., presence of asbestos/lead paint, most recent use—officers family quarters, off-site use only

Bldg. P–6202
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640242
Status: Unutilized
Comment: 1479 sq. ft., presence of lead paint, most recent use—officers family quarters, off-site use only

Bldg. P–6203
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640243
Status: Unutilized
Comment: 1381 sq. ft., presence of lead paint, most recent use—military family quarters, off-site use only

Bldg. P–6204
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640244
Status: Unutilized
Comment: 1454 sq. ft., presence of asbestos/lead paint, most recent use—military family quarters, off-site use only

Bld. 1, Fort Hood
Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219640245
Status: Unutilized
Comment: 12660 sq. ft., 2-story, most recent use—admin., off-site use only

Bld. 4416, Fort Hood
Co: Bell TX 76544–
Landholding Agency: Army

Property Number: 219640246
Status: Unutilized
Comment: 3746 sq. ft., 1-story, most recent use—chapel, off-site use only

Virginia

Bldg. 162, Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219640247
Status: Unutilized
Comment: 1300 sq. ft., needs repair, presence of lead paint, most recent use—admin., off-site use only

Land (by State)

Oregon

Portion, Astoria Field Office
Via Hwy 30
Astoria Co: Clatsop OR 97103–
Landholding Agency: GSA
Property Number: 549640015
Status: Excess
Comment: 20.6 acres, includes wetlands & tidelands, parking lot under construction, portion located within floodplain
GSA Number: 9–D–OR–447F

Pennsylvania

Former Warehouse Site
1020 South Broad Street
Philadelphia PA 19146–
Landholding Agency: GSA
Property Number: 549640017
Status: Excess
Comment: 1.82 acres, most recent use—parking lot
GSA Number: 4–G–PA–0773

Suitable/Unavailable Properties

Building (by State)

Hawaii

Bldg. T–1290
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219640205
Status: Unutilized
Comment: 1350 sq. ft., most recent use—office/storage, off-site use only

Bldg. T–1504
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219640206
Status: Unutilized
Comment: 11698 sq. ft., most recent use—office, off-site use only

Unsuitable Properties

Land (by State)

7.97 acres
Route 106/Industrial Park
Belmont
Landholding Agency: Army
Property Number:219640439
Status: Unutilized
Reason: Secured Area

Wyoming

Land—Seminoe Boat Club Co: Carbon WY 82301–
Landholding Agency: GSA
Property Number: 549640016
Status: Excess
Reason: Other
Comment: no legal public access
GSA Number: 7–1–WY–0537

[FR Doc. 96–32277 Filed 12–19–96; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–823184

Applicant: Ringling Bros and Barnum & Bailey, Vienna, VA.

The applicant requests a permit to reexport and reimport Asian elephants (*Elephas maximus*) and Bengal tigers (*Panthera tigris*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–823176

Applicant: Carl Beck, Las Vegas, NV.

The applicant requests a permit to reexport and reimport one leopard (*Panthera pardus*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities conducted by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–823259

Applicant: Oregon Coast Aquarium, Newport, OR.

Type of Permit: Import for public display.

Name and Number of Animals: Sea otter (Enhydra lutris lutris), 2.

Summary of Activity to be Authorized: The applicant has requested a permit to import for the purpose of public display two, female northern sea otters which were captured from the wild near Sheep Bay, Alaska in 1981.

Source of Marine Mammals for Research/Public Display: Vancouver, Canada.

Period of Activity: Up to five years from issuance of a permit, if issued.

Concurrent with the publication of this notice in the Federal Register, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: December 16, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–32303 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[OR–015–96–1020–00: G7–0034]

AGENCY: Bureau of Land Management (BLM), DOI.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) for a Proposed Allotment Management Plan (AMP).

SUMMARY: The Lakeview District is initiating the EIS process to analyze the

potential environmental impacts of a proposed AMP for the Beaty Butte Allotment (0600) in Lake and Harney Counties, Oregon. The proposed plan covers livestock grazing management activities on approximately 400,000 acres of public lands administered by the BLM and is being developed in conformance with the Warner Lakes Management Framework Plan. This notice is being given so interested or affected people may participate and contribute to the final decision.

DATES: This notice announces the continuation of the public scoping comment period on the proposal. Interested individuals, organizations, and other agencies are encouraged to provide written comments on or before January 21, 1997 to the address below.

ADDRESSES: Scott Florence, Area Manager, Lakeview Resource Area, BLM, PO Box 151, Lakeview, OR 97630.

FOR FURTHER INFORMATION CONTACT: Richard W. Mayberry, Project Coordinator, at address above, or telephone (503–947–2177).

SUPPLEMENTARY INFORMATION: The BLM initiated the environmental analysis process for the proposed AMP on June 2, 1995 by sending a Proposed Action Statement/scoping letter to affected interests and interested publics for comment. Since that date, the BLM has conducted a number of public meetings and began developing a draft AMP and Environmental Assessment. However, the BLM has decided that an EIS is more appropriate. The issues identified since June 1995 include potential impacts to wildlife, wild horses, visual quality, native plants, noxious weeds, wilderness study areas, riparian areas, and traditional economic uses. Those individuals, organizations, and agencies with a known interest in the proposal were sent a scoping letter requesting comments on the proposal. Persons wishing to be added to the mailing list for this EIS may do so by contacting Richard Mayberry at the address above. Comments will be received through the next 30 days for consideration in the EIS. All previously submitted comments will be considered in the EIS and need not be resubmitted.

The draft EIS is expected to be available for review in January 1997 and will have a 60-day comment period starting on the date the U.S. EPA Notice of Availability appears in the Federal Register. Because of recent court rulings, it is very important that those interested in the proposed action participate during appropriate comment opportunities, so that any substantive comments are provided at a time when the BLM can meaningfully consider them.

Scott R. Florence,

Area Manager.

[FR Doc. 96–32307 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–33–M

Lower Snake River District Advisory Council; Notice of Meeting

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise to discuss a variety of district and regional issues, including riparian management efforts, the Upper Columbia River Basin Environmental Impact Statement, and the Draft Owyhee Resource Management Plan.

DATES: January 9, 1996. The meeting will begin at 12:15 p.m. A public comment period will begin at 12:30 p.m.

ADDRESSES: The Lower Snake River District Office is located at 3948 Development Avenue, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Lower Snake River District Office (208–384–3393).

Dated: December 12, 1996.

Barry Rose,

Public Affairs Specialist.

[FR Doc. 96–32298 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–GG–M

(AK–931–1430–01; FF–86079)

Public Land Order No. 7231; Partial Revocation of Public Land Order No. 5860; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects approximately 26,037 acres of public lands withdrawn and made available for selection by the Arctic Slope Regional Corporation under the Alaska Native Claims Settlement Act. The lands were not selected by the Arctic Slope Regional Corporation; therefore, the lands are no longer needed for the purpose for which they were withdrawn. This action also allows the conveyance of approximately 17,916 acres of the lands to the State of Alaska, if such lands are otherwise available. Any of the lands not conveyed to the State will be subject to the terms and conditions of Public Land Order No. 5180, as amended, and any other withdrawal or segregation of record.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by Sections 17(d)(1) and 22(h)(4) of the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. 1616(d)(1) and 1621(h)(4) (1988), it is ordered as follows:

1. Public Land Order No. 5860, which withdrew lands for selection by the Arctic Slope Regional Corporation under the Alaska Native Claims Settlement Act, is hereby revoked insofar as it affects the following described lands:

Umiat Meridian

T. 6 S., R. 16 W.,
  Secs. 5 through 8, inclusive, and sec. 17.
T. 6 S., R. 17 W.,
  Secs. 1, 28, 29, 32, and 33.
T. 7 S., R. 16 W.,
  Secs. 6 and 7.
T. 7 S., R. 17 W.,
  Secs. 1 through 4, inclusive, and sec. 12.
T. 11 S., R. 17 W.,
  Secs. 19 through 30, inclusive.
T. 11 S., R. 18 W.,
  Sec. 24, E½E½ and E½W½E½;
  Sec. 25, E½E½ and E½W½E½.
T. 12 S., R. 17 W.,
  Secs. 7 through 18, inclusive.
T. 12 S., R. 18 W.,
  Sec. 12, E½E½ and E½W½E½;
  Sec. 13, E½E½ and E½W½E½.

The areas described aggregate approximately 26,037 acres.

2. The State of Alaska applications for selection of approximately 17,916 acres, made under Section 6(b) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988), and under Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), become effective without further action by the State upon publication of this public land order in the Federal Register, if such lands are otherwise available. Any of the lands not conveyed to the State will be subject to the terms and conditions of Public Land Order No. 5180, as amended, and any other withdrawal or segregation of record.

Dated: December 6, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–32345 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–JA–P

[AK–040–1410–00; AA–44386]

Notice of Realty Action; Amending a Non-competitive Section 302 Surface Occupancy Lease, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Notice of Realty Action involves amending a joint Section 302 Surface Occupancy Lease, to the Cook Inlet Aquaculture Association and Department of Commerce and Economic Development, State of Alaska, for the Eklutna Salmon Hatchery, on public lands administered by the Bureau of Land Management in Alaska. Amending this lease is intended to authorize the construction, operation and maintenance of a wellfield and pipeline to supply the Eklutna Salmon Hatchery with disease-free water. The lease is located between the old Glenn Highway to Palmer and the tailrace for the Eklutna Power Plant.

The land has been examined and found suitable for leasing under the provisions of Section 302 of the Federal Land Policy and Management Act (FLPMA), of 1976, and 43 CFR Part 2920.

Seward Meridian, Alaska

T. 16 N., R. 2 E.,
Section 18 metes and bounds,
Containing 3.172 acres, more or less.

The reappraised rental for the entire lease is $1500.00 per year. In addition, the lessee shall reimburse the United States for reasonable administrative and other costs incurred by the United States in processing the lease and for monitoring construction, operation, maintenance and rehabilitation of the facilities authorized. The reimbursement of cost shall be in accordance with the provisions of 43 CFR 2920.6.

This action is a motion by the Bureau of Land Management to make available lands identified in EA No. AK–040–96–019, as not needed for Federal purposes. Amending the Sec. 302 Surface Occupancy Lease would be in the public interest. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Anchorage District, 6881 Abbott Loop Road, Anchorage, Alaska.

Lease of the lands would be subject to the same terms, conditions and reservations found in the original Surface Occupancy Lease issued jointly to Cook Inlet Aquaculture Association and Department of Commerce and Economic Development, State of Alaska, on July 22, 1982 for 30 years, expiring in the year 2012.

FOR FURTHER INFORMATION CONTACT: Kathy A. Stubbs, BLM, Anchorage, District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507–2599, (907) 267–1212.

Dated: December 10, 1996.

Clinton Hanson,

Acting, District Manager.

[FR Doc. 96–32207 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–JA–P

[AZ–050–07–1430–01; 2700]

Arizona: Notice of Realty Action; Competitive Sale of Public Land in Quartzsite, La Paz County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, competitive sale.

SUMMARY: The following public land has been found suitable for competitive sale under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2750, 43 U.S.C. 1713). The land will be offered at not less than the appraised fair market value. The land will not be offered for sale until at least 60 days after the date of this notice. The land is within the Town of Quartzsite boundary. Specific parcel sizes and locations will be published prior to the sale. Parcel sizes will meet Quartzsite zoning requirements.

In accordance with Section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order Number 6910, the described land is hereby classified for disposal by sale.

Gila and Salt River Meridian, Arizona

T. 4 N., R. 19 W.,
Sec. 22, NE¼SE¼, E½E½NW¼SE¼;
Sec. 23, N½SW¼, S½NE¼SW¼SW¼, NW¼SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼;
Sec. 29, N½NE¼NE¼, NW¼NE¼, N½NW¼.
Aggregating 315.00 acres, more or less.

No significant resource values will be affected by this disposal. The land will be sold to support the expansion and economic development of Quartzsite. The sale is consistent with the Bureau of Land Management's (BLM) planning for the land involved and will serve important public objectives.

All parcels will be offered using competitive sale procedures as authorized under 43 CFR 2711.3–1. The land will be offered for sale by sealed bid only. Detailed information regarding the number of parcels, specific parcel locations, appraised fair market value of each parcel, bidding procedures, bid submission and opening dates and location, and terms and conditions of the sale will be made available no less than 45 days prior to bid submission date.

Federal law requires that all bidders must be U.S. citizens, 18 years of age or older, a state or state instrumentality authorized to hold property, or a corporation authorized to own real estate in the state in which the land is located. Bids may be made by a principal or a duly qualified agent. Under competitive sale procedures, an apparent high bid will be declared at the time of bid openings. To eliminate split estates, mineral interests will be conveyed simultaneously with the surface estates. A bid will constitute an application to purchase the mineral estate. All qualified bidder(s) must include with their bid deposit for each parcel a $50.00 filing fee for conveyance of the mineral estate.

If the land identified in this notice is not sold on the date of first sale offering, the unsold parcels will be offered competitively on a continuing basis until the land is either sold or withdrawn from sale. All over-the-counter sale parcels will be sold subject to the terms and conditions and at no less than the appraised fair market value.

The patents, when issued, will contain certain reservations to the United States and will be subject to any valid existing rights, and as requested by Quartzsite, easement for streets, roads, and public utilities.

DATES: For a period for 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the Yuma Field Office, Bureau of Land Management, address below. Objections will be reviewed by the Arizona State Director, BLM, who may sustain, vacate, or modify this realty action and issue a final determination. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Debbie DeBock, Realty Specialist, Yuma Field Office, 2555 East Gila Ridge Road, Yuma, AZ 85365, (520) 317–3208.

SUPPLEMENTAL INFORMATION: A sale packet will be made available at the Yuma Field Office, address above, prior to the bid submission date.

Upon publication in the Federal Register, the land described above will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this Notice of Realty Action shall

terminate upon issuance of patent or other document of conveyance to such land, upon publication in the Federal Register of a termination of the segregation, or 270 days from the date of publication, whichever occurs first. The BLM may accept or reject any offer to purchase or withdraw any parcel from sale if the Authorized Officer determines that consummation of the sale would not be fully consistent with FLPMA or another applicable law.

Dated: December 12, 1996.

Gail Acheson,

Field Manager.

[FR Doc. 96–32301 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–32–M

[NM–030–1430–01]

Sale of Public Land in Socorro County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Modified notice of realty action.

SUMMARY: This notice withdraws the sale of Parcel No. 1, described in the previous Notice of Realty Action which was published in the Federal Register on October 18, 1996, Volume 61, No. 203, pages 54453 and 54454. The reason for the withdrawal is because of the need to evaluate an application filed under the Recreation and Public Purposes Act to lease the subject land. The sale of all other parcels remains unchanged.

FOR FURTHER INFORMATION CONTACT: Chella Herrera or Jon Hertz, Socorro Resource Area Office, 198 Neel Avenue, NW, Socorro, New Mexico 87801 or call (505) 835–0412.

Dated: December 12, 1996.

Josie Banegas,

Acting District Manager.

[FR Doc. 96–32295 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–VC–M

[NV–030–97–1220–00; Notice NV–030–97002]

Closure and Land Use Restrictions

AGENCY: Bureau of Land Management, Department of the Interior.

CLOSURE SUMMARY: Notice is given that approximately ten (10) acres of public land and the abandoned man-made structures and features known as American Flat Millsite located upon those lands within Storey County, Nevada, and described as follows are closed to public occupation and off-road vehicle (ORV) use:

Mr. Diablo Meridian, Nevada

T16N R21E Sec. 7, NW¼NE¼NE¼ and SW¼NE¼NE¼ Millsite features include: Concrete buildings and structures, walls, floors, structural supports, tunnels, adits, wells, ruins and rubble.

This closure affects all public uses at the millsite other than authorized scientific and educational activities, and mining activities conducted under an approved plan of operation. Authorized users must have in their possession, a written permit from BLM signed by the authorized officer. The Closed Area is within the following described Restricted Area.

RESTRICTIONS SUMMARY: Public use activities on one hundred ninety (190) acres of public land surrounding American Flat Millsite are restricted and/or prohibited.

The Restricted Area is described as follows:

Mt. Diablo Meridian

T16N R21E Sec. 6, E½SE¼SE¼; SE¼NE¼SE¼ (appx. 30 acres)
T16N R21E Sec. 7, NE¼ (appx. 160 acres)

The general public may occupy the restricted lands during daylight hours only (sunrise to sunset).

Motorized vehicles must remain on existing, well established dirt access roads. These roads are not maintained. Use of the roads is at the discretion of the users. Roads within the restricted area are Open to motorized use unless posted Closed. Prohibited activities include: Use of a weapon or firearm for any purpose other than the taking of game in accordance with State of Nevada hunting regulations; camping; campfires; use of fireworks; detonation of explosive devices or rockets; painting of graffiti and possession of paint or spray paint cans; use of a motorized vehicle on a road posted Closed to such use.

PURPOSE: To provide for public safety and to preserve the remaining integrity of a significant historic site.

EFFECTIVE DATES: The closure and activity restrictions become effective January 21, 1997. Interested persons may submit comments to the Carson City District Manager.

Authority: 43 CFR 8364—Closure and Restriction Orders; 8365.1–6—Supplementary Rules of Conduct; 8340—Off-road Vehicles; 8341.2—Off-road Vehicles Conditions of Use, Special Rules. State and local laws and ordinances apply and may be enforced by the appropriate authorities.

PENALTY: Any person failing to comply with the closure order or activity restrictions may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 USC 3571, or both.

SUPPLEMENTARY INFORMATION: The American Flat Millsite is an abandoned mining feature located within the Virginia City National Historic Landmark. At the time of its completion in 1922, it was the largest concrete mill structure in the world utilizing cyanide extraction processing of gold and silver ore. When the price of silver fell in 1927, all of the machinery at the mill was dismantled. Neither the buildings or the surrounding lands associated with the millsite have been maintained or utilized for mining for nearly fifty years. Structural soundness of the millsite features is steadily disintegrating as a result of natural weathering and vandalism. These features and remnant ruins are not safe for public entry. The remaining structures have been determined eligible for the National Register of Historic Places.

The general public is primarily attracted to the millsite for its historic and visual features.

Due to the remote location, the millsite area has become popular for numerous undesirable public uses and unlawful activities.

FOR FURTHER INFORMATION CONTACT: John O. Singlaub, District Manager, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, Carson City, Nevada 89706, Telephone: (702) 885–6000.

The closure and restrictions do not apply to agency, law enforcement or emergency response personnel during the conduct of their official duties.

A map of the closed area and restricted public lands may be obtained at the contact address.

Dated: December 4, 1996.

John O. Singlaub,

District Manager, Carson City District.

[FR Doc. 96–32296 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–HC–M

[OR–014–97–6350–00; G7–0035]

Notice of Intent To Amend the Klamath Falls Resource Area Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

SUMMARY: This Notice of Intent is to advise the public that the Klamath Falls Resource Area, Bureau of Land Management (BLM) intends to consider a proposal which would require amending an existing land use plan.

DATES: The comment period for this proposed plan amendment will

commence on December 20, 1996 and must be submitted on or before January 21, 1997.

FOR FURTHER INFORMATION CONTACT: A. Barron Bail, Klamath Falls Resource Area Manager, 2795 Anderson Ave. Building 25, Klamath Falls, OR 97603. Existing planning documents and information are available at the above address or by phone at 541/883–6916. Comments on the proposed plan amendment should be sent to the above address.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the Klamath Falls Resource Area Resource Management Plan which covers the management of public lands administered by the BLM in Klamath County, Oregon. The purpose of the amendment has two parts. The first is to include the following language in the Land Tenure Adjustments section of the plan: ''Where survey hiatuses and unintentional encroachments on public land are discovered in the future which meet the disposal criteria, the lands may automatically be assigned Zone 3 for disposal.'' Public lands in Zone 3 may be disposed of by sale or exchange. The second part of the amendment identifies approximately 1.5 acres of public land, T. 40 S,. R. 6 E. Section 1 S½ (metes and bounds), as suitable for direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976. The existing plan does not identify these lands for disposal nor does it allow BLM the option to resolve survey hiatuses and unintentional encroachments by selling public lands that meet disposal criteria.

The public interest may be well served by sale of these lands. An environmental assessment will be prepared, along with the plan amendment, by an interdisciplinary team which will analyze the impacts of this proposal and a reasonable range of alternatives.

Dated: December 6, 1996.

Joe Tague,

Acting District Manager.

[FR Doc. 96–32297 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–33–P

National Park Service

General Management Plan Tumacacori National Historical Park; Notice of Availability of Final Environmental Impact Statement

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a final environmental impact statement assessing the potential impacts of the proposed General Management Plan for Tumacacori National Historical Park, Santa Cruz County, Arizona. Once approved, the plan will guide the management of the historic site over the next 15 years.

The final General Management Plan and Environmental Impact Statement (GMP/EIS) presents a proposal and three alternatives for the management, use, and development of Tumacacori National Historical Park. The Proposed General Management Plan provides increased staffing sufficient to extend protection and interpretation to the two new units. The plan also includes a trail (the mission trail) linking the three sites that comprise the National Historical Park—Tumacacori, Calabazas, and Guevavi—and the ultimate removal of employee residences over known archeological remains at Tumacacori. A new maintenance facility would be developed at Tumacacori while visitor facilities and an employee residence would be developed at Calabazas. Guevavi would be accessed by guided tour and by the mission trail. Boundaries at Tumacacori and Guevavi would be expanded.

Alternative A was the proposed action in the draft GMP/EIS. It is similar to the proposed plan but with continued provision of park housing at the Tumacacori unit, and a more extensive development at Calabazas. Alternative B (Minimum Requirements) includes the development of administrative facilities at Tumacacori, and access to Calabazas and Guevavi by guided tour and by the mission trail. Boundary changes are proposed for the Tumacacori unit only. Alternative C (No Action) would provide no new visitor or administrative facilities, boundary changes, or trail linkages. The two new units, Guevavi and Calabazas, would remain unavailable for general public visitation.

The environmental consequences of the alternatives are fully documented. No significant adverse impacts are anticipated.

SUPPLEMENTARY INFORMATION: Written comments on the general management plan and environmental impact statement should be directed to the Superintendent, Tumacacori National Historical Park, P.O. Box 67, Tumacacori, AZ 85640. Comments on the plan must be received within 30 days after publication of a notice of availability in the Federal Register by the Environmental Protection Agency.

Inquiries on and requests for copies of the plan should be directed to Tumacacori National Historical Park, address as above, or by telephone at (602) 398–2341.

Dated: December 11, 1996.

Stanley T. Albright,

Field Director, Pacific West Area.

[FR Doc. 96–32314 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–70–P

Dayton Aviation Heritage Commission; Notice of Meeting

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Dayton Aviation Heritage Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

DATE, TIME, AND ADDRESSES: Tuesday, January 14, 1997, 5:15 p.m. to 6:30 p.m., Innerwest Priority Board conference room, 1024 West Third Street, Dayton, Ohio 45407.

This business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the Superintendent, Dayton Aviation, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: William Gibson, Superintendent, Dayton Aviation, National Park Service, P.O. Box 9280, Wright Brothers Station, Dayton, Ohio 45409, or telephone 513–225–7705.

SUPPLEMENTARY INFORMATION: The Dayton Aviation Heritage Commission was established by Public Law 102–419, October 16, 1992.

Dated: December 12, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–32312 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–70–P

Niobrara National Scenic River Advisory Commission; Notice of Meeting

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Niobrara National Scenic River Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

DATE, TIME, AND PLACE: Tuesday, January 15, 1997; 1:30 p.m., at Zion Lutheran Church, 318 East 4th Street, Ainsworth, Nebraska. In case of inclement weather, an alternate date is set as follows:

SNOW DATE: Tuesday, January 21, 1997; 1:30 p.m., Brown County Courthouse, 148 West 4th Street, Ainsworth, Nebraska.

AGENDA: (1) Discussion of the counties progress in developing a management council for the Niobrara NSR; (2) Discussion of the hearings held in Lincoln on December 14, 1996, regarding state assistance; (3) The opportunity for public comment and proposed agenda, date, and time of the next Advisory Group meeting. The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chairman at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chairman may want to limit or schedule public presentations. The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

FOR FURTHER INFORMATION CONTACT: Superintendent Warren Hill, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, or at 402–336–3970.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by the law that established the Niobrara National Scenic River, Public Law 102–50. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the Scenic River. The Niobrara National Scenic River includes the 40-mile segment from Borman Bridge southeast of Valentine, Nebraska to its confluence with Chimney Creek; and the 30-mile segment from the confluence with Rock Creek downstream to State Highway 137.

Dated: December 12, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–32311 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–70–P

Sleeping Bear Dunes National Lakeshore Advisory Commission; Notice of Meeting

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

DATE, TIME, AND ADDRESSES: Friday, March 21, 1997; 9:30 a.m. until 12 noon.

AGENDA: Sleeping Bear Dunes National Lakeshore Headquarters Empire, Michigan. The Chairman's welcome; minutes of the previous meeting; update on park activities; old business; new business; public input; next meeting date; adjournment. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Superintendent, Sleeping Bear Dunes, Ivan Miller, 9922 Front Street, Empire, Michigan 49630; or telephone 616–326–5134.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by the law that established the Sleeping Bear Dunes National Lakeshore, P.L. 91–479. The purpose of the commission, according to its charter, is to advise the Secretary of the Interior with respect to matters relating to the administration, protection, and development of the Sleeping Bear Dunes National Lakeshore, including the establishment of zoning by-laws, construction, and administration of scenic roads, procurement of land, condemnation of commercial property, and the preparation and implementation of the land and water use management plan.

Dated: December 12, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–32312 Filed 12–19–96; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Jacor Communications, Inc. et al.; Comments Relating to Proposed Modified Final Judgment and Response of United States to Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(c)–(h), the United States published below the comments received on the proposed Modified Final Judgment in *United States of America* v. *Jacor Communication, Inc. et al.,* Civil Action C–1–96–757, filed in the United States District Court for the Southern District of Ohio, together with the Response of the United States to the comments.

Copies of the comments and Response are available for inspection and copying in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, D.C. 20530 (telephone: (202) 514–2481), and at the Office of the Clerk of the United States District Court for the Southern District of Ohio. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

Comments Relating to Proposed Modified Final Judgment and Response of United States to Comments

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § (b)–(h) (''APPA''), the United States of America hereby files the public comments it has received relating to the proposed Modified Final Judgment in this civil antitrust proceeding, and herein responds to the public comments.

I. Background

This action was commenced on August 5, 1996, when the United States filed a civil antitrust Complaint under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, alleging that the proposed acquisition of Citicasters, Inc. (''Citicasters'') by Jacor Communication, Inc. (''Jacor'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The complaint alleges that the combination of these companies would substantially lessen competition in the sale of radio advertising time in Cincinnati, Ohio and the surrounding areas. Also on August 5, the United States filed a proposed Final Judgment that would allow the acquisition to proceed provided that Jacor divest the assets of Cincinnati radio station WKRQ–FM. At the same time, the government filed a Competitive Impact Statement explaining the basis for the Complaint and the provisions of the proposed Final Judgment.

On September 16, 1996, the United States filed a Modified Final Judgment with the Court superseding the original Final Judgment. The Modified Final Judgment clarified the obligation of Jacor under Section IX of the Judgment to file notice with the Department of Justice for certain types of transactions. At the same time, the United States filed a stipulation in which the parties consented to the entry of the Modified Final Judgment after completion of the

procedures required by the APPA. The United States published notice of the Modified Final Judgment in the Federal Register on September 27, 1996 and in appropriate newspapers beginning on September 22, 1996.

II. Compliance with the APPA

The APPA requires a 60-day period for the submission of public comments on the proposed Modified Final Judgment, 15 U.S.C. § 16(b). In this case, the 60-day comment period began on September 27, 1996 and terminated on November 26, 1996. During this period, the United States received comments from two interested parties. Sabre Communications, Inc. and John J. Oezer, a Cincinnati resident.[1] The United States responds herein to these comments. Upon publication in the Federal Register of these comments and of this Response of the United States to these comments pursuant to 15 U.S.C. § 16(d) of the APPA, the procedures required by the APPA prior to entry of the proposed Modified Final Judgment will be completed. The United States will then certify that the requirements of the Tunney Act have been satisfied and move for entry of the proposed Modified Final Judgment.[2]

III. Response to Public Comments

The United States has reviewed the comments received and believes that neither one addresses the issue of whether entry of the proposed Modified Final Judgment is in the public interest. We, however, summarize the comments below and briefly respond to the issues raised.

Sabre Communications, Inc. in its comments contends that no radio station owner could exercise market power because radio competes with other forms of advertising, and because only 7% of overall advertising dollars are spent on radio. As the United States discusses at length in Section II of the Competitive Impact Statement, radio is a separate market for antitrust purposes because it possesses unique qualities compared to other advertising media. Many Cincinnati advertisers would consequently continue to purchase radio advertising even in the fact of a 5 to 10% price increase, evidence that a radio station owner could successfully raise advertising rates if it possessed market power. Sabre also suggested that the position taken by the United States in this case contradicted Congress' intent in enacting the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56, 111 (1996), which eased previous FCC limits on common ownership of radio stations. Sabre, however, ignores Section 601(b)(1) of the Act which explicitly provides that ''nothing in the Act * * * shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.'' 110 Stat. at 141 (1996). Thus, Congress intended radio station mergers to still be subject to challenge under the antitrust law.

In his comment, John J. Oezer of Cincinnati urges the United States not to permit the Jacor/Citicasters merger because it would result in monopolistic control over the content of programming and advertising in the Cincinnati area. The United States has, however, evaluated the impacts of the Jacor/Citicasters merger and has challenged it under the antitrust laws. The issue before the Court is whether the Modified Final Judgment that requires the divesture of WKRQ–FM is adequate to remedy the violations contained in the complaint. Mr. Oezer's comments do not address the adequacy of the proposed relief, but raise issues about other types of media, such as TV and newspapers, that are not presently before the Court.

IV. Standard of Review

Pursuant to 15 U.S.C. 16(e), the proposed Modified Final Judgment cannot be entered unless the Court determines that it is in the public interest. The focus of this determination is whether the relief provided by the proposed Modified Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint. *United States* v. *Bechtel Corp.*, 648 F.2d 660, 665–66 (9th Cir.), *cert denied*, 454 U.S. 1083 (1981), *quoted with approval in United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1457–58, *see also* 56 F.3d at 1459–60 (D.C. Cir. 1995). In the recent *Microsoft* decision by the United States Court of Appeals for the District of Columbia Circuit, which reversed the district court's refusal to enter an antitrust consent decree proposed by the United States, the court of appeals held that the provision in Section 16(e)(1) of the Tunney Act allowing the district court to consider ''any other considerations bearing upon the adequacy of such judgment,'' does not authorize extensive inquiry into the conduct of the case. 56 F.3d at 1458–60. The court of appeals concluded that ''Congress did not mean for a district judge to construct his own hypothetical case and then evaluate the decree against that case.'' *Id.* To the contrary, ''[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' and so the district court ''is only authorized to review the decree itself,'' not other matters that the government might have but did not pursue. *Id.*

Under the public interest standard, the Court's role is limited to determining whether the proposed decree is within the ''zone of settlements'' consistent with the public interest, not whether the settlement diverges from the Court's view of what would best serve the public interest. *United States* v. *Western Electric Co.*, 993 F. 2d 1572, 1576 (quoting *United States* v. *Western Electric Co.*, 900 F.2d 283, 307 (D.C. Cir. 1990)); *United States* v. *Microsoft Corp.*, 56 F.3d at 1460. Moreover, the Court should give a request for entry of a proposed decree even more deference than a request by a party to an existing decree for approval of a modification, for in dealing with an initial settlement the Court is unlikely to have substantial familiarity with the market involved. *United States* v. *Microsoft Corp.*, 56 F.3d at 1460–61.

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977). The Court may reject the agreement of the parties as to how the public interest is best served only if it has ''exceptional confidence that adverse antitrust consequences will result * * *'' *United States* v. *Western Electric Co.*, 993 F.2d at 1577 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993), *quoted with approval in United States* v. *Microsoft Corp.*, 56 F.3d at 1460.

V. Conclusion

After careful consideration of the comments, the United States continues to believe that, for the reasons stated herein and in the Competitive Impact Statement, the proposed Modified Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint. There has been no showing that the proposed settlement constitutes an abuse of the United States' discretion or that it is not within the zone of settlements consistent with the public interest. Therefore, the Court should

[1] These comments are attached as Exhibits A & B.

[2] Until these events have taken place, and the United States has certified that the requirements of the Tunney Act have been met, the Court should not rule on entry of the proposed Modified Final Judgment.

find entry of the proposed Modified Final Judgment to be in the public interest, after the United States has completed the procedures mandated by the Tunney Act and moved for entry of judgment.

Dated: December 5, 1996.

Respectfully submitted,

Andrew S. Cowan,

Attorney, Telecommunications Task Force, U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Room 8104, Washington, D.C. 20001, (202) 514–5621.

Edmund A. Sargus, Jr.,

United States Attorney.

Jan M. Holtzman,

Ohio Bar #0017949, Assistant United States Attorney, Rm. 220, Potter Stewart Federal Courthouse, 5th & Walnut Streets, Cincinnati, Ohio 45202, (513) 684–3711.

Certificate of Service

I hereby certify that on this date I have caused to be served by first class mail, postage prepaid, or by hand, if so indicated, a copy of the foregoing Response to Public Comment upon the following person, counsel for defendants in the matter of *United States of America* v. *Jacor Communications, Inc., and Citicasters, Inc.*

Phillip A. Proger, Esquire, Jones, Day, Reavis & Pogue, 1450 G Street, NW, Washington, D.C. 20005–2088, Counsel for Defendant, Jacor Communications, Inc.—BY HAND

Dated: December 5, 1996.

Respectfully submitted,

Andrew S. Cowan,

Attorney, Telecommunications Task Force, U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Room 8104, Washington, D.C. 20001, (202) 514–5621.

Sabre Communications Inc.

August 15, 1996.

Mr. Donald J. Russell,

Chief, Telecommunications Task Force, Antitrust Division, U.S Department of Justice, Room 8104, 555 Fourth Street, NW, Washington, DC 20001.

Dear Mr. Russell: After reading various accounts of the Justice Department's investigation re: the Jacor Broadcasting/Citicasters acquisition as it applies to the Cincinnati market, I have concluded that the Department has made a dreadful decision probably because it failed to grasp the essence of the advertising business and arrived at faulty conclusions after comparing apples to oranges.

Obviously the Department is concerned about a monopoly, but in this case, monopoly is impossible. Please note that, while it is true that the purchase of radio advertising is often decided by determining specific demographic groups reached by individual stations, it is also fact that radio captures only 7% of all advertising dollars (in a typical US market, the local newspaper annually generates more revenue from classified ads than that revenue generated by all of the radio stations combined). This means that 93% of all advertising dollars are spent elsewhere. Advertisers have a multitude of choices other than a couple of radio stations, among them, newspaper, newspaper inserts, magazines, penny savers, specialty publications, TV [also *very* demographically specific], cable [much different from broadcast TV], billboards, direct mail [again, very demographically specific], matchbook covers and other specialty items, other radio stations, etc. And advertisers use *those* media (not radio), and spend 93% of their dollars doing it. By the way, don't tell any of the ''other'' media that they ''. . . lack . . . ability to provide efficient targeting.'' Each believes that they provide efficiency better than radio or any of the others, and they passionately present that case to advertisers every day. All in the spirit of true competition!

Radio a monopoly? Under no circumstances! Even though there are over 10,000 commercial radio stations in the United States, the pure fact is that if one person owned every one of them, that person still could never achieve a monopoly over either the spending of advertising dollars or the opportunity for the advertiser to reach consumers in any of the various demographic groups. That is unless 7% of something has suddenly become a monopoly. Anyway, the topic is moot because owning all radio stations in any given market is not only impractical, it is against the law.

I would suggest that if the Department is truly interested in investigating advertising monopolies it should investigate the newspaper business. Almost every market in our country has only one newspaper thereby giving every potential newspaper advertiser no choice. Where I went to school, we were taught that one was the ultimate monopoly and monopoly meant no choice.

My recommendation is that the Justice Department spend some time learning about the advertising business and the fierce competition that exists between the media. The result of that effort will be a clear understanding that, given radio's tiny piece of the advertising pie and the multitude of choices offered to the advertiser, monopoly is impossible and that, in this instance, the Congress of the United States and the Federal Communications Commission have got it right.

Respectfully,

Paul H. Rothfuss,

President, Sabre Communications, Inc.

Mr. Donald J. Russell,

Chief, Telecommunications Task Force, Antitrust Div., Department of Justice, Room 8104, 555 Fourth St N.W., Washington, D.C. 20001.

Dear Sir:

Re. civil suit no. C–1–97–757.

We think that you should be made aware that the citizens in Cincinnati, Hamilton County, and the Tristate area in southwest Ohio are finding it more and more difficult to get unbiased news and programming on radio, TV, and newspapers. Of the two daily Cincinnati newspapers, one is owned by the other. Jacor Communications already owns and puts Mr. Michael's ''flavor'' on several local radio stations. Three major TV stations are affiliated with networks which are owned by other corporate giants. WLW–TV, ch. 5 is the local NBC affiliate. NBC is owned by G.E. Co. and we seldom hear anything negative about G.E products, especially Jet Aircraft engines, even if there is news.

Advertising in the electronic media is becoming unbearable. In the past, programs were separated by a respectable number of informative commercials. Today, loud, hectic, demanding commercials are separated by brief segments of programs lasting only 3 to 5 minutes.

Indepth news lasting more than 90 seconds is available only on PBS, and our very own government is trying to abolish PBS!! Please don't compound the abusive assault on our radio listening senses by allowing Jacor to swallow up Citicasters Inc., thus giving Jacor a near monolistic control over program content and advertising in our Tristate area, with a population of about 2 million people.

To illustrate how controlled the local news already is, about 6 months ago we were active in a local tax issue and our group, which had the backing of a large number of petitioners could not get equal news coverage on any of the news media unless we paid for it. The opposing side, favored by the news media, got free ''news bits'' every day, giving the voters one side of the issues of a very controversial tax.

Please deny this monopolistic acquisition an keep healthy competition alive.

Respectfully yours,

John J. Oezer,

PE, 5050 Miami Road, Indian Hill, Cincinnati, Ohio 45243.

[FR Doc. 96–32339 Filed 12–19–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Biotechnology Research and Development Corporation (''BRDC'')

Notice is hereby given that, on December 6, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Biotechnology Research and Development Corporation (''BRDC'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain supplemental and additional information regarding (1) the identities of the parties to BRDC and (2) the nature and objectives of BRDC. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Hewlett

Packard Company, Palo Alto, CA, plans to withdraw effective May 14, 1997.

On November 1, 1996, BRDC issued to McDonald's Corporation and McDonald's purchased from BRDC, 653⅓ shares of common stock, without par value, of BRDC. Simultaneously, with the issuance and purchase of the shares of the common stock, BRDC and McDonald's entered into an Agreement to be Bound by BRDC Master Agreement whereby McDonald's agreed to be bound by the terms and conditions of the BRDC Master Agreement effective as of June 10, 1988, by and among BRDC and its common stockholders. McDonald's has the rights set forth in the BRDC Master Agreement in all project technology made, discovered, conceived, developed, learned, or acquired by or on behalf of BRDC in connection with, or arising out of or as the result of, a research project in existence while McDonald's is a common stockholder of BRDC.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and BRDC intends to file additional written notification disclosing all changes in membership.

On April 12, 1988, BRDC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on May 12, 1988, 53 FR 16919. The last notification was filed August 6, 1996. A notice was published in the Federal Register on August 28, 1996, 61 FR 44347.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–32341 Filed 12–19–96; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Seagate Technology, Inc., Advanced Research Corporation, Imation Corp., and Storage Technology Corporation

Notice is hereby given that, on November 20, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Seagate Technology, Inc., Advanced Research Corporation, Imation Corp., and Storage Technology Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Seagate Technology, Inc., Santa Maria, CA; Advanced Research Corporation, Minneapolis, MN; Imation Corp., Oakdale, MN; and Storage Technology Corporation, Louisville, CO. The general area of planned activity is to develop technologies for a small, reliable, low cost, high bandwidth, high capacity, fast access tape recorder and cartridge media.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–32340 Filed 12–19–96; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs; U.S. National Administrative Office; National Advisory Committee for the North American Agreement on Labor Cooperation; Notice of Open Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 94–463), the U.S. National Administrative Office (NAO) gives notice of a meeting of the National Advisory Committee for the North American Agreement on Labor Cooperation (NAALC), which was established by the Secretary of Labor.

The Committee was established to provide advice to the U.S. Department of Labor on matters pertaining to the implementation and further elaboration of the labor side accord to the North American Free Trade Agreement (NAFTA). The Committee is authorized under Article 17 of the NAALC.

The Committee consists of 12 independent representatives drawn from among labor organizations, business and industry, and educational institutions.

DATES: The Committee will meet on January 13, 1997 from 9:30 a.m. to 5:00 p.m.

ADDRESSES: U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–2217, Washington, DC 20210. The meeting is open to the public on a first-come, first served basis.

FOR FURTHER INFORMATION CONTACT: Irasema Garza, Designated Federal Officer, U.S. NAO, U.S. Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C–4327, Washington, DC 20210. Telephone 202–501–6653 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Please refer to the notice published in the Federal Register on December 15, 1994 (59 FR 64713) for supplementary information.

Signed at Washington, DC on December 16, 1996.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 96–32366 Filed 12–19–96; 8:45 am]

BILLING CODE 4510–28–M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that

section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

Volume IV

Illinois
IL960070 (Dec. 20, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA960001 (Mar. 15, 1996)
MA960002 (Mar. 15, 1996)
MA960003 (Mar. 15, 1996)
MA960005 (Mar. 15, 1996)
MA960006 (Mar. 15, 1996)
MA960007 (Mar. 15, 1996)
MA960009 (Mar. 15, 1996)
MA960014 (Mar. 15, 1996)
MA960015 (Mar. 15, 1996)
MA960017 (Mar. 15, 1996)
MA960018 (Mar. 15, 1996)
MA960019 (Mar. 15, 1996)
New Hampshire
NH960001 (Mar. 15, 1996)
NH960005 (Mar. 15, 1996)
NH960007 (Mar. 15, 1996)
NH960008 (Mar. 15, 1996)
New York
NY960004 (Mar. 15, 1996)
NY960008 (Mar. 15, 1996)
NY960011 (Mar. 15, 1996)
NY960018 (Mar. 15, 1996)
NY960020 (Mar. 15, 1996)
NY960026 (Mar. 15, 1996)
NY960031 (Mar. 15, 1996)
NY960032 (Mar. 15, 1996)
NY960037 (Mar. 15, 1996)
NY960040 (Mar. 15, 1996)
NY960042 (Mar. 15, 1996)
NY960073 (Mar. 15, 1996)
NY960075 (Mar. 15, 1996)

Volume II

Pennsylvania
PA960031 (Mar. 15, 1996)
Virginia
VA960001 (Mar. 15, 1996)
VA960016 (Mar. 15, 1996)

Volume III

South Carolina
SC960023 (Mar. 15, 1996)

Volume IV

Illinois
IL960001 (Mar. 15, 1996)
IL960007 (Mar. 15, 1996)
IL960016 (Mar. 15, 1996)
IL960017 (Mar. 15, 1996)
IL960019 (Mar. 15, 1996)
IL960066 (Mar. 15, 1996)
Indiana
IN960003 (Mar. 15, 1996)
Michigan
MI960003 (Mar. 15, 1996)
MI960063 (Mar. 15, 1996)

Volume V

Iowa
IA960004 (Mar. 15, 1996)
IA960019 (Mar. 15, 1996)

Volume VI

California
CA960001 (Mar. 15, 1996)
CA960002 (Mar. 15, 1996)
CA960028 (Mar. 15, 1996)
CA960031 (Mar. 15, 1996)
CA960032 (Mar. 15, 1996)
CA960033 (Mar. 15, 1996)
CA960034 (Mar. 15, 1996)
CA960035 (Mar. 15, 1996)
CA960036 (Mar. 15, 1996)
CA960037 (Mar. 15, 1996)
CA960038 (Mar. 15, 1996)
CA960039 (Mar. 15, 1996)
CA960040 (Mar. 15, 1996)
CA960053 (Apr. 12, 1996)
CA960054 (Apr. 12, 1996)
CA960056 (Apr. 12, 1996)
CA960057 (Apr. 12, 1996)
CA960058 (Apr. 12, 1996)
CA960059 (Apr. 12, 1996)
CA960060 (Apr. 12, 1996)
CA960061 (Apr. 12, 1996)
CA960062 (Apr. 12, 1996)
CA960063 (Apr. 12, 1996)
CA960065 (Apr. 12, 1996)
CA960066 (Apr. 12, 1996)
CA960067 (Apr. 12, 1996)
CA960069 (Apr. 12, 1996)
CA960070 (Apr. 12, 1996)
CA960071 (Apr. 12, 1996)
CA960072 (Apr. 12, 1996)
CA960073 (Apr. 12, 1996)
CA960074 (Apr. 12, 1996)
CA960076 (Apr. 12, 1996)
CA960078 (Apr. 12, 1996)
CA960081 (Apr. 12, 1996)
CA960082 (Apr. 12, 1996)
CA960084 (Apr. 12, 1996)
CA960085 (Apr. 12, 1996)
CA960087 (Apr. 12, 1996)
CA960088 (Apr. 12, 1996)
CA960089 (Apr. 12, 1996)
CA960090 (Apr. 12, 1996)
CA960092 (Apr. 12, 1996)
CA960093 (Apr. 12, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which

includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 13th Day of December 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–31963 Filed 12–19–96; 8:45 am]

BILLING CODE 4510–27–M

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be assessed properly. Currently, the Bureau of Labor Statistics (BLS) is soliciting comment concerning the proposed reinstatement of the ''Work Schedules Supplement to the Current Population Survey.''

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 18, 1997.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used:
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC 20212. Ms. Kurz can be reached on (202) 606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION

I. Background

The Current Population Survey (CPS) has been the principal source of the official Government statistics on employment and unemployment for over 50 years. Over the past several decades, the economy of the United Stats has been undergoing a fundamental restructuring. Advances in computer and communications technology increasingly have enabled some workers to perform part or all of their work at home. The growth of this phenomenon represents an important development in this country's labor markets. This supplement will provide a comprehensive and objective set of data about telecommuting, work at home, and work in home-based businesses, as well as valuable new information on work schedules. The work schedules supplement will provide information on the work schedules of employed persons, that is, the beginning and ending times of work, type of shift worked, and calendar days worked. It also will provide information about employed persons who work at home.

II. Current Actions

Work schedule supplements have been conducted since the 1970s. Questions on home-based work were included in May 1985 and again in May 1991. Due to changes in the questionnaire, however, work at home data for 1991 were not comparable to data from the 1985 survey. While the 1991 supplement has provided a valuable source of data on work schedules and work at home, it furnishes no information on trends in work at home. A key purpose of the May 19976 collection is to provide a point of comparison. This will enable the BLS and other researchers to examine the changes in work schedules and work at home that are taking place over time.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: May 1997 Work Schedules Supplement to CPS.

OMB Number: 1220-0119.

Affected Public: Individuals.

Total Respondents: 48,000 households.

Frequency: Monthly.

Total Responses: 48,000 households.

Average Time Per Response: 4.5 Minutes.

Estimated Total Burden Hours: 3,600 Hours.

Total Burden Cost (capital/startup): $0

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 16th day of December, 1996.

W. Stuart Rust, Jr.,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 96–32365 Filed 12–19–96; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL SCIENCE FOUNDATION

Proposed Collection: Comment Request

Title of Collection: Public Understanding of and Attitudes Toward Science and Technology.

In compliance with the requirement of Section 3508(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) publishes periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the NSF Reports Clearance Officer on (703) 306–1243.

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 data collection techniques and other forms of information.

Proposed Project: Study of the Public Understanding of and Attitudes toward Science and Technology—New—A telephone survey of approximately 2,000 adults aged 18 and over. The proposed survey continues a series of national surveys of public understanding of and attitudes toward science and technology that began in 1972 and is used in the preparation of a chapter in the Science and Engineering Indicators reports by the National Science Board, as mandated by Section 4(j)(1) of the National Science Foundation Act of 1950, as amended. The Science and Engineering Indicators report and the chapter on public understanding and attitudes are widely used by planners and program development staff in federal and state agencies, universities, research centers, and similar institutions and by journalists and other individuals seeking to communicate with the public concerning science and technology.

The average burden per respondent is estimated to be 22 minutes, producing a total burden of 733 hours for the complete study.

Send comments to Herman Fleming, Division of Contracts Policy and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Written comments should be received by February 17, 1997.

Dated: December 17, 1996.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 96–32318 Filed 12–19–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Action of 1995 (44 U.S.C. Chapter 35).

Information Pertaining to the Requirement To Be Submitted

1. *The title of the information collection:* Application/Permit for Use of the Two White Flint (TWFN) Auditorium.

2. *Current OMB approval number:* No. 3150–0181.

3. *How often the collection is required:* Each time public use of the auditorium is requested.

4. *Who is required or asked to report:* Member of the public requesting use of the NRC Auditorium.

5. *The number of annual respondents:* 48.

6. *The number of hours needed annually to complete the requirement or request:* 12.

7. *Abstract:* In accordance with the Public Buildings Act of 1959, an agreement was reached between the Maryland-National Capital Park and Planning Commission (MPPC), the General Services Administration (GSA) and the Nuclear Regulatory Commission, the auditorium will be made available for public use. Public users who wish to use the auditorium will be required to complete NRC Form 590. Application/Permit for Use of Two White Flint North (TWFN) Auditorium. The information is needed to allow for administrative review, security review, approval of the requester, to facilitate scheduling, and to make a determination that there are no anticipated problems with the requester prior to utilization of the facility.

A copy of the draft supporting statement may be reviewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov(Telnet). The document will available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 16th day of December 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–32344 Filed 12–19–96; 8:45 am]

BILLING CODE 7590–01–M

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to Office of Management & Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information Pertaining to the Requirement To Be Submitted

1. *The title of the information collection:* 10 CFR Part 60—Disposal of High-Level Radioactive Wastes in Geologic Repositories.

2. *Current OMB approval number:* 3150–0127.

3. *How often the collection is required:* The information need only be submitted one time.

4. *Who is required or asked to report:* States or Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of a potential high-level waste geologic repository site, or wishing to participate in a license application review for a potential geologic repository.

5. *The number of annual respondents:* 2.

6. *The number of hours needed annually to complete the requirement or request:* An average of 40 hours per response for consultation requests, 80 hours per response for license application review participation proposals, and one hour per response for statements of representative authority. The total burden for all responses is estimated to be 242 hours.

7. *Abstract:* 10 CFR Part 60 requires State and Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning the review of a potential repository site, or wish to participate in a license application review for a potential repository. Representatives of States Indian Tribes must submit a statement of their authority to act in such a representative capacity. The information submitted by the States and Indian Tribes is used by the Director of the Office of Nuclear Material Safety and safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts.

Submit, by (insert date 60 days after publication in the Federal Register, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modern on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice, If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 16th day of December, 1996.

For the U.S. Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–32347 Filed 12–19–96; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corporation Oyster Creek Nuclear Generating Station Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that by letters dated May 11 and June 14, 1996, Mr. deCamp, on behalf of Oyster Creek Nuclear Watch (Petitioner), requested NRC, pursuant to 10 CFR 2.206, to investigate and correct a highly inaccurate public statement in the ''Neighborhood Update'' (the licensee's news magazine) and apparently false public testimony given by GPU management at a local zoning board hearing and to take appropriate disciplinary action in the matter. Specifically, Petitioner's concerns relate to (1) the statement that GPU and the Commission agree that a license amendment request that involves the movement of spent fuel from the Oyster Creek Nuclear Generating Station spent fuel pool to the storage facility while the plant is at power ''is not a safety issue but a procedural one'' and (2) whether there is some special factor at Oyster Creek that would indeed justify Mr. Barton's sworn statement that it is unsafe to operate the Oyster Creek reactor without full core offload capacity. If no special situation is found that prevents Oyster Creek from operating without full offload capacity, Petitioner requests that the Commission take appropriate disciplinary action against GPU Nuclear management for making a false statement under oath.

As a basis for the request regarding the first concern that the statement in the ''Neighborhood Update'' is untrue, Petitioner referenced the following excerpts from NRC Bulletin 96–02 (NRCB 96–02) of April 11, 1996:

> The NRC staff audited both the initial and updated 10 CFR 50.59 evaluations performed by the licensee [GPU Nuclear] and determined that the proposed cask movement activities represent an unreviewed safety question that should be submitted to the NRC for review and approval pursuant to the requirements of 10 CFR 50.59 and 50.90. * * * Accordingly, as defined in 10 CFR 50.59(c), if an activity is found to involve an unreviewed safety question, an application for a license amendment must be filed with the Commission pursuant to 10 CFR 50.90.

As a basis for the Petitioner's other concerns, the Petitioner sets forth the relevant excerpts from Mr. Barton's testimony of March 7, 1994, and states that ''the NRC ruled in February 1985 in 10 CFR Part 53 that reactors may safely be run without full core offload capacity.''

Notice is hereby given that by a Director's Decision (DD 96–22) dated December 11, 1996, the Acting Director, Office of Nuclear Reactor Regulation, has denied the Petitions. The staff concluded that the issues raised by the Petitioner are without merit and that there is no basis to take disciplinary action against GPU, as explained in the ''Director's Decision Pursuant to 10 CFR 2.206'' (DD 96–22), the complete text of which follows this notice and is available for inspection at the Commission's Public Document Room at 2120 L Street, NW, Washington DC, and at the local public document room located at Ocean County Library, Reference Department, 101 Washington Street, Tom's River, NJ.

Dated at Rockville, Maryland, this 11th day of December 1996.

For The Nuclear Regulatory Commission

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

Director's Decision Under 10 CFR 2.206

I. Introduction

By letters dated May 11 and June 14, 1996, Mr. William deCamp, Jr., requested on behalf of Oyster Creek Nuclear Watch (the Petitioner) that the U.S. Nuclear Regulatory Commission (NRC or Commission) take action to investigate statements made by GPU Nuclear Corporation (GPU) in the April 1996 publication ''Neighborhood Update'' (the licensee's news magazine) and during sworn testimony on March 7, 1996, before the Lacey Township Zoning Board of Adjustment (the Zoning Board). The Petitioner asserts that the statements are false. The Petitioner further requests that NRC take appropriate disciplinary action against GPU management. The Petitioner's requests are being treated as Petitions pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206).

The specific statements of concerns are (1) the statement in the ''Neighborhood Update'' that GPU and the Commission agree that a license amendment request that involves the movement of spent fuel from the Oyster

Creek Nuclear Generating Station spent fuel pool to the storage facility while the plant is at power ''is not a safety issue but a procedural one'' and (2) a sworn statement by Mr. Barton, who was the Director of the Oyster Creek Nuclear Generating Station, before the Zoning Board that it is unsafe to operate the Oyster Creek reactor without full core offload capacity. The Petitioner, furthermore, requests that if no special situation is found that prevents Oyster Creek from operating without full offload capacity, the Commission take appropriate disciplinary action against GPU management for making a false statement under oath.[1]

For the reasons stated below, I am denying the relief requested by the Petitioner.

II. Discussion

A. GPU Statement That the Movement of the Fuel Raises a Procedural Issue, Not a Safety Issue

As a basis for the request regarding the first concern that the statement in the ''Neighborhood Update'' is untrue, Petitioner referenced the following excerpts from NRC Bulletin 96–02 (NRCB 96–02), ''Movement of Heavy Loads Over Spent Fuel, Over Fuel in the Reactor Core, or Over Safety-Related Equipment,'' of April 11, 1996:

> The NRC staff audited both the initial and updated 10 CFR 50.59 evaluations performed by the licensee [GPU Nuclear] and determined that the proposed cask movement activities represent an unreviewed safety question that should be submitted to the NRC for review and approval pursuant to the requirements of 10 CFR 50.59 and 50.90 * * *. Accordingly, as defined in 10 C.F.R. 50.59(c), if an activity is found to involve an unreviewed safety question, an application for a license amendment must be filed with the Commission pursuant to 10 CFR 50.90.

GPU met with the NRC staff on November 19, 1993, to discuss plans for using the reactor building crane to move spent fuel out of the spent fuel pool in a transfer cask for transportation to the dry cask storage facility during power operations at Oyster Creek. During the discussions, the NRC staff raised concerns regarding the use of the crane and its ability to meet the heavy load criteria of NUREG–0612, ''Control of Heavy Loads at Nuclear Power Plants.'' GPU indicated that this special application of the crane would be evaluated pursuant to 10 CFR 50.59.[2] NRC stated that it would conduct an audit of the 50.59 evaluation.

In April 1995, GPU informed NRC that the 50.59 evaluation for use of the crane to move the transfer cask was complete. On May 2 and 3, June 12, and October 12 and 13, 1995, the NRC staff conducted onsite audits and met with GPU at Oyster Creek regarding the use of the crane. On November 2, 1995, in a telephone call between the NRC staff and Mr. Keaten, Vice President and Director, Technical Functions, GPU, the NRC staff advised GPU that the staff's concerns regarding the use of the non-single-failure-proof crane to move the 100-ton transfer cask while the plant was at power had not been resolved by its 50.59 evaluation. Specifically, the staff was concerned that the activity involved the movement of loads heavier than previously considered in the final safety analysis report (FSAR) and, therefore, might reduce the margin of safety, and that a load drop in the reactor building might result in consequences greater than previously evaluated in the FSAR and, therefore, may pose an unreviewed safety question.

Consequently, Mr. Keaten advised the staff that GPU was considering a plant modification, including reactor building crane upgrades, that would address the staff's concerns.

The NRC staff inspected the licensee's updated 10 CFR 50.59 evaluation which considered the reactor building crane upgrades. The NRC staff's inspections included sending a team to Oyster Creek. The staff concluded that its safety concerns had been addressed and resolved. The NRC staff also determined that the licensee's planned movement of spent fuel to the dry storage facility during plant operation was safe and in accordance with all license requirements. Notwithstanding the technical acceptability of the licensee's methodology and analysis in the updated 10 CFR 50.59 evaluation, NRC staff determined that since the possibility of an unreviewed safety question (USQ) had been involved before the licensee made modifications to upgrade the reactor building crane, GPU must submit a license amendment application for the proposed cask movement activities. At the public meeting on February 29, 1996, GPU was informed by the NRC staff that an amendment was required. When the NRC receives an amendment application, it is required to follow specific procedures set forth in 10 CFR 50.91.[3]

Accordingly, the staff finds, after its review and evaluation of the licensee's proposed action, that there are no safety issues preventing the adoption of the proposal, but procedures require amendment approval before the proposal can be implemented.

B. GPU Statement Concerning Safe Operation and Full Core Discharge Capability

As basis for the Petitioner's request concerning GPU statements about safety and full core discharge capability, the Petitioner sets forth excerpts from Mr. Barton's testimony of March 7, 1994, before the Zoning Board, and states that ''the NRC ruled in February 1985 in 10 CFR Part 53 that reactors may safely be run without full core offload capacity.''[4]

The Petitioner quoted in a letter and enclosed, underlined in red, copied portions of Mr. Barton's testimony as follows:

> If we do not install the dry spent fuel storage modules by 1996, the plant would not have the capacity of totally off-loading fuel from the reactor to the in-plant spent fuel pools. (transcript pp. 94–95)
>
> *In order to operate safely we should be able to remove this fuel from the reactor and store it in the spent storage pool* * * * (transcript p. 95)
>
> Without dry storage and without the ability to remove this fuel from the reactor, the plant would not be able to operate. (transcript p. 95)

Mr. Barton's full testimony in context with the Petitioner's extracted quotes is as follows:

[1] The petitioner is not asserting that the licensee has provided false information to the Nuclear Regulatory Commission. A licensee's obligation to ensure the completeness and accuracy of its communications with the Commission is set forth in 10 CFR 50.9(a). This regulation requires, in part, that ''[i]nformation provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.''

[2] 10 CFR 50.59 provides, in part, that a licensee may make changes in the facility or procedures as defined in the safety analysis report without prior Commission approval unless the proposed change involves a change in the technical specifications or an unreviewed safety question. The regulation, furthermore, requires the licensee to prepare and maintain a written safety evaluation addressing the issue of whether the proposal involves an unreviewed safety question. A proposal is deemed to involve an unreviewed safety question if (1) it involves an increase in the probability or consequences of an accident previously evaluated; or (2) creates the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involves a reduction in a margin of safety as defined in the basis for any technical specification.

[3] 10 CFR 50.91 requires the Commission to use specified procedures when it receives an application requesting an amendment to an operating license including procedures that concern consulting the State in which the facility is located and procedures concerning providing notification to the public of the licensee's amendment, the Commission's findings or determinations regarding the amendment, and opportunity for a hearing.

[4] The Commission has stated that a full core reserve capability is not an NRC safety requirement. 50 FR 5548, 5549 (1985)

The fall of 1996 is a critical time for plant operations. If we do not install the dry spent fuel storage modules by 1996, the plant would not have the capability of totally off-loading fuel from the reactor to the in-plant spent fuel pool. This is not a desirable operating configuration, should the plant need to conduct internal inspections of the reactor vessel that would require fuel to be removed from the reactor. In order to operate safely we should be able to remove this fuel from the reactor and store it in the spent fuel storage pool inside the plant, and after 1996 we will not have the flexibility to do that. Without dry storage and without the ability to remove all the fuel from the reactor, the plant would not be able to operate. (transcript p. 95)

Taken in context, it appears that what Mr. Barton is stating is that he is concerned with operations management due to the inability to have full core off-load capability and that having full core off-load capability can in certain situations enhance safety. The plant has the capacity to complete one more refueling operation before they will not be able to operate without dry storage capability as Mr. Barton stated. The Commission has stated a similar view with regard to the issue of maintaining full core reserve storage capability:

While a full core reserve capability is not an NRC licensing or safety requirement, maintenance of full core reserve would enhance safety to some extent, and would also be needed to prevent extended reactor outages in the event a core must be discharged in order to inspect the reactor pressure vessel and perform other routine and unscheduled maintenance operations.[5]

The December 6, 1993, Zoning Board hearing testimony of Mr. Gordon Bond, Director of Nuclear Analysis and Fuel for GPU Nuclear, also supports the view that the concern is with operations management. When asked whether it is important to maintain full core discharge capability, Mr. Bond responded as follows:

We believe it is. It's not required by Federal Regulations, but we believe it's prudent to allow sufficient reserve capacity in our pool to be able to offload the core any time that we may have to. For example, you may want to do some inspections inside the vessel, and to do that you'll need to remove all of the fuel. (transcript p. 32)

Accordingly, the staff finds that the statements and remarks of Mr. Barton in their context are not false or misleading.

V. Conclusion

The NRC staff has reviewed the statements made by GPU in the April 1996 ''Neighborhood Update'' (the licensee's news magazine) and the testimony of GPU managers before a local Zoning Board and concluded that the assertions raised by the Petitioner are without merit and that there is no basis to take any action against GPU. Accordingly, the Petitioner's requests are denied.

A copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review as stated in 10 CFR 2.206(c). This Decision will become the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 11th day of December 1996.

For the Nuclear Regulatory Commission

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–32349 Filed 12–19–96; 8:45 am]

BILLING CODE 7590–01–P

[5] The NRC's Statements of Consideration concerning the amendment of 10 CFR Parts 1 and 53 entitled, ''Criteria and Procedures for Determining the Adequacy of Available Spent Nuclear Fuel Storage Capacity,'' 50 FR 5548, 5549 (1985)

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in 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.

Regulatory Guide 4.20, ''Constraint on Releases of Airborne Radioactive Materials to the Environment for Licensees Other than Power Reactors,'' provides guidance on methods acceptable to the NRC staff for compliance with the constraint on air emissions to the environment. This constraint is required by the NRC's regulations in 10 CFR Part 20, ''Standards for Protection Against Radiation,'' in Section 20.1101(d). The draft of this Regulatory Guide 4.20 was issued in December 1995 as DG–8016.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or copying for a fee at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides, both active and draft, may be obtained free of charge by writing the Office of Administration, Attn: Distribution and Services Section, USNRC, Washington, DC 20555–0001, or by fax at (301) 415–2260. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 4th day of December 1996.

For the Nuclear Regulatory Commission

Themis P. Speis,

Deputy Director, Office of Nuclear Regulatory Research.

[FR Doc. 96–32348 Filed 12–19–96; 8:45 am]

BILLING CODE 7590–01–P

Availability of Final Branch Technical Position on the Use of Expert Elicitation in the High-Level Waste Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of NUREG–1563, the ''Branch Technical Position (BTP) on the Use of Expert Elicitation in the High-Level Waste (HLW) Program.''

ADDRESSES: A copy of NUREG–1563 and the staff's responses to public comments on the February 1996 draft BTP are available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street (Lower Level), NW, Washington, DC 20555–0001. Copies of the NUREG–1563 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, D.C., 20013–7082, telephone 202/512–2249. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: Michael P. Lee, Performance Assessment and High-Level Waste Integration Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, 11545

Rockville Pike, MD 20852–2738, telephone 301/415–6677.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) is conducting a program of site characterization to gather enough information, about the Yucca Mountain (Nevada) site, to be able to evaluate the waste isolation capabilities of a potential geologic repository. Should the site be found suitable, DOE will apply to the NRC for permission to construct and then operate a proposed geologic repository for the disposal of spent nuclear fuel and other high-level radioactive waste at Yucca Mountain.

As with other licensing decisions, NRC's decision to grant or deny a license for a proposed repository will be based on a combination of fact and judgment, as set forth by DOE in any potential license application. The subjective judgments of individual experts and, in some cases, groups of experts, will be used by DOE to interpret data obtained during site characterization and to address the many technical issues and inherent uncertainties associated with predicting the performance of a geologic repository system for thousands of years.

NRC has traditionally accepted, for review, expert judgment to evaluate and interpret the factual bases of license applications. Judgment has been used to complement and supplement other sources of scientific and technical information, such as data collection, analyses, and experimentation. In NUREG–1563, the NRC staff has developed specific technical positions that: (1) provide general guidelines on those circumstances that may warrant the use of a formal process for obtaining the judgments of more than one expert (i.e., expert elicitation); and (2) describe acceptable procedures for conducting expert elicitation when formally elicited judgments are used to support a demonstration of compliance with NRC's geologic disposal regulation, currently set forth in 10 CFR Part 60.

Current NRC policy is to encourage the use of probabilistic risk assessment (PRA) state-of-the-art technology and methods as a complement to the deterministic approach in nuclear regulatory activities (60 FR 42622). Although routinely used in deterministic analyses that do not involve PRA (or performance assessments, in the case of waste management systems), expert judgment can, and frequently does, provide information essential to the conduct of probabilistic assessments. Consistent with the Commission's policy, the NRC staff has developed this BTP to identify acceptable procedures for the use and formal elicitation of such judgments in the area of HLW.

Although there are several examples of the use of expert elicitation in a nuclear regulatory context, no formal Agency guidance on this subject exists. Thus, in developing this BTP, the Division of Waste Management staff has drawn upon the prior experience of other NRC program offices with the use of expert judgment and has relied on various Agency resource documents to help formulate its position statements. Consequently, the staff believes that this BTP is largely consistent with these other resource documents in substance.

On February 28, 1996, the NRC published a ''Notice of Availability'' in the Federal Register of the draft BTP (61 FR 7568) and solicited public comments. As a result, about 20 twenty comments, questions, and recommendations were received from three parties —DOE, the State of Nevada, and the U.S. Nuclear Waste Technical Review Board—which resulted in some changes and clarifications to the guidance. These changes and clarifications are documented in Appendix D of the NUREG. On August 22, 1996, the staff briefed the Advisory Committee on Nuclear Waste on the staff's final position statements. As a result of this briefing, further clarifications were requested and these clarifications are documented in Appendix F of the NUREG.

Finally, in its comments on the draft BTP, DOE indicated that it is in ''substantial agreement'' with the NRC staff's technical positions on the formal use of expert elicitation in the HLW program. Therefore, the staff is inclined to believe that with publication of the BTP, there is a sufficient basis to recommend that NRC's 1989 Site Characterization Analysis Comment (SCA) 3, concerning DOE's use of expert judgment in the HLW program, be closed, at the staff level. Appendix E of the NUREG contains the staff's views with regard to a possible course of resolution for SCA Comment 3.

Dated at Rockville, Maryland, this 16th day of December 1996.

For the Nuclear Regulatory Commission

John H. Austin,

Chief, Performance Assessment and High-Level Waste Integration Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–32350 Filed 12–19–96; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer That Contributes to a Multiemployer Plan; Dunham-Bush, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Dunham-Bush, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Sheet Metal Workers National Pension Fund. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for the five- plan-year period beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Before granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The purpose of this notice is to advise interested persons of the exemption request and solicit their views on it.

DATES: Comments must be submitted on or before February 3, 1997.

ADDRESSES: All written comments (at least three copies) should be addressed to: Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street, N.W., Washington, D.C. 20005–4026, or hand-delivered to Suite 340 at the above address between 9:00 a.m. and 4:00 p.m., Monday through Friday. The non-confidential portions of the request for an exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, at the above address, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Thomas T. Kim, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, N.W., Washington, D.C. 20005–4026; telephone 202–326–4028 (202–326–4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, (''ERISA'' or the ''Act''), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1) (A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contributions base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1). Such questions are to be decided by the plan sponsor in the first instance, and any disputes are to be resolved in arbitration. 29 U.S.C. 1382, 1399, 1401.

Under the PBGC's regulation on variances for sales of assets (29 C.F.R. Part 2643, recodified at 29 C.F.R. Part 4204), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (sections 4204.12–4204.13) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the three regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of section 552(b)(4) of the Freedom of Information Act.

Under section 4204.22 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 4204.22(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Dunham-Bush, Inc. (the ''Buyer'') for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of certain of the assets of Allagash Fluid Controls, Inc., which was formerly known as Dunham-Bush, Inc. (the ''Seller'') on January 6, 1995. In the request, the Buyer represents among other things that:

1. The Buyer was established on January 6, 1995.

2. Included among the assets purchased was a plant in Harrisonburg, Virginia, for which the seller had an obligation to contribute to the Sheet Metal Workers' National Pension Fund (the ''Plan'').

3. The Buyer has assumed the Seller's obligation to contribute to the Plan at the purchased operations, and continues to make contributions for substantially the same number of contribution base units as the Seller.

4. The Seller has agreed to be secondarily liable for any withdrawal liability it would have had with respect to the sold operations (if not for section 4204) should the Buyer withdraw from the Plan within the five plan years following the sale should the Buyer withdraw and fail to pay withdrawal liability.

5. The estimated amount of the unfunded vested benefits allocated to the Seller with respect to the operations sold is $3,000,000.

6. The amount of the bond/escrow required under section 4204(a)(1)(B) is $545,409.29.

7. On December 29, 1995, the Buyer placed in escrow an amount equal to the amount required under 4204(a)(1)(B).

8. The Buyer submitted its financial statement as of January 26, 1996. According to that statement, the Buyer's net tangible assets are just over $20 million.

9. A copy of the request, excluding the financial statements of the Buyer, was sent to the Plan and to the collective bargaining representative of the Seller's employees.

Comments

All interested persons are invited to submit written comments on the pending exemption request to the above address. All comments will be made a part of the record. Comments received, as well as the relevant non-confidential information submitted in support of the request, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 16th day of December, 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–32360 Filed 12–19–96; 8:45 am]

BILLING CODE 7708–01–P

POSTAL RATE COMMISSION

[Order No. 1145; Docket No. C96–1]

Complaint of Coalition Against Unfair USPS Competition; Declaratory Order Finding Complaint to be Justified and Providing For Further Proceedings

Before Commissioners: Edward J. Gleiman, Chairman; H. Edward Quick, Jr., Vice-

Chairman; George W. Haley; and W.H. ''Trey'' LeBlanc III
December 16, 1996.

I. Introduction and Procedural History

This somewhat unusual proceeding concerns a complaint lodged by private-sector competitors of the Postal Service against the Service's provision of a packaging service which it is offering under the name ''Pack & Send.'' This service, which is performed by Postal Service personnel for postal customers according to a variable schedule of fees, has never been submitted for the Commission's consideration and possible recommendation in a mail classification or rate change proceeding. Thus, it is not a service recognized within the comprehensive Domestic Mail Classification Schedule which officially codifies all services provided in the Nation's postal system, and the fees charged by the Postal Service have never been reviewed or recommended. On this basis alone, the Complainant asks the Commission to find that the Postal Service is charging rates which do not conform to the policies and requirements set out in Title 39 of the United States Code.

This docket was initiated by a Complaint filed by the Coalition Against Unfair USPS Competition (CAUUC) on May 23, 1996. Complainant identifies itself as a coalition consisting of organizations and individuals doing business in the Commercial Mail Receiving Agency (''CMRA'') industry, and states that ''[e]ach of the individual stores offer pack and send services as part of the overall retail value-added services provided in these stores.'' Complaint at 2. Inasmuch as the Postal Service is rendering a packaging service without first having requested a recommended decision on the service and its rates from the Commission, Complainant alleges that the Postal Service is charging rates which do not conform to the policies of the Postal Reorganization Act. Additionally, the Complaint alleges, by offering the Pack & Send service the Postal Service ''is in effect going into direct competition with the CMRA industry * * *.'' Ibid.

Accompanying the Complaint are several attachments intended to document particulars of the Pack & Send service, its competitive purpose, and the terms under which it is being offered. Complaint, Attachments 2–3, 5. Also included is an affidavit reporting the experience of an individual customer who purchased Pack & Send service in a Postal Service retail store in Anchorage, Alaska. Id., Attachment 4.

The Postal Service responded to the Complaint in an Answer filed on June 24, 1996. The Answer denies most of the Complaint's allegations, but concedes that the Service ''has begun to offer packaging on an experimental basis at a few selected retail outlets.'' Answer at 2. The Service also denies that Pack & Send is a ''bundled'' service that necessarily entails mailing, but admits that the packaging service has not been the subject of a rate or classification proceeding pursuant to 39 U.S.C. 3622 or 3623 respectively, and that the Domestic Mail Classification Schedule does not include a separate classification for packaging. Id. at 2, 5 and 7. However, the Postal Service also takes the position that the Complaint is not properly before the Commission, on the grounds that Pack & Send is no more than a ''limited parcel packaging trial,'' (id. at 8), and that it ''is not a postal service, within previous interpretations of the term.'' Id. at 9.

Three days after filing its Answer, the Postal Service submitted a motion to dismiss the proceeding with prejudice ''on the grounds that the subject matter of this proceeding does not fall within the scope of 39 U.S.C. 3662.'' Motion of the United States Postal Service to Dismiss Proceeding, June 27, 1996, at 1. The Service argues that Pack & Send is a service that properly belongs in the category of ''non-postal'' services, over which the Commission exercises no jurisdiction, and relies on Commission precedent and judicial authority for support.

In Order No. 1128, issued July 30, 1996, the Commission denied the Service's motion to dismiss, finding that some of the information proffered by Complainant would tend to support an inference that Pack & Send is a postal service. In light of its tentative conclusion that available facts did not warrant a summary determination, and that the Complaint might be justified, the Commission decided to conduct formal proceedings in conformity with 39 U.S.C. 3624, established a deadline for filing notices of intervention, and appointed W. Gail Willette, Director of the Commission's Office of the Consumer Advocate, to represent the general public in the proceeding. Complainant was also directed to provide a statement estimating the amount of time it would require to develop and file a direct case. PRC Order No. 1128 at 13. On the same date, the Chairman issued a notice designating Commissioner George W. Haley to serve as Presiding Officer in the docket.

On September 13, the Complainant proffered its direct case, accompanied by a Motion for Summary Judgment,[1] and a supporting memorandum. Recognizing that disposition of Complainant's motion could ''involve a final determination of the proceeding[,]'' (39 C.F.R. 3001.27(a)(7)), the Presiding Officer certified it to the full Commission on the same date. P.O. Ruling C96–1/2 at 1.

In Order No. 1135, issued October 4, 1996, the Commission noted the parties' consensus that only one issue—namely, the ''postal'' character of Pack & Send—requires resolution by the Commission, and that this consensus greatly simplifies the case. However, the Commission found that it would not be appropriate to conclude the proceeding by granting Complainant's motion, in light of the existence of genuine issues of material fact and the requirements of procedural fairness. Consequently, the Commission declined to curtail the opportunities of the Postal Service or any other interested party to develop further relevant and material information for inclusion in the record of the proceeding, but appropriately limited that evidence to factual matters that bear directly on the ''postal'' or ''non-postal'' character of the Pack & Send service. Although the Commission found that the procedural status of CAUUC's complaint made it inappropriate to reach the merits on the CAUUC Motion for Summary Judgment, it stated an expectation that the Presiding Officer would expedite the initial phase of Docket No. C96–1 in light of the urgent considerations of competitive harm cited by Complainant. PRC Order No. 1135 at 4–7.

A prehearing conference was held in this docket on October 8, 1996.[2] In accordance with the procedural schedule established in P.O. Ruling C96–1/6, an opportunity was provided for a hearing on Complainant's direct case. However, the Postal Service and all other parties declined the opportunity to conduct oral cross-examination. The Presiding Officer extended the deadline for filing rebuttal testimony to November 1, 1996, in granting a Postal Service motion in part. P.O. Ruling C96–1/7. The deadline was further extended as requested in a second Postal Service motion. P.O. Ruling C96–1/8. A hearing was

[1] Complainant Coalition Against Unfair USPS Competition's Direct Case; Motion of Complainant for Summary Judgment, September 13, 1996. On September 16, Complainant filed a related motion which sought to compel additional responses by the Postal Service to Complainant's discovery requests in the event its Motion for Summary Judgment was denied. Complainant Coalition Against Unfair USPS Competition's Alternative Motion to Compel Discovery, September 16, 1996.

[2] *See* Transcript Volume 1.

conducted on the rebuttal testimony of Postal Service witness Patricia M. Gibert on November 12, 1996.[3]

Initial briefs were filed by the Complainant, the Postal Service, and OCA on November 22, 1996. The same parties submitted reply briefs on November 27, 1996.

In light of the foregoing proceedings, the central issue posed by the Complaint is now ripe for determination.

II. Criteria for Distinguishing ''Postal'' From ''Non-Postal'' Services

As all parties to this proceeding recognize, a determination of the merits of the instant Complaint depends upon applying legal criteria for distinguishing ''postal'' from ''non-postal'' service to the facts contained in record evidence. Thus, it is appropriate to begin with a review of these criteria and the history of their application in prior proceedings.

A. Early Institutional History

In the first and second omnibus rate proceedings before the Commission, the Postal Service did not include any proposed changes in fees for special services in its requests.[4] Shortly after filing its request in Docket No. R76–1, the Postal Service gave separate notice of its intention to increase fees for 11 special services after a period for submission of written comments, and provided details of these changes to the Commission for informational purposes only. A mailer organization, Associated Third Class Mail Users (ATCMU), filed a suit in U.S. District Court to enjoin implementation of the changes in special service fees, arguing that fees could not be changed without submitting a request to the Commission. The District Court agreed with ATCMU, finding with respect to the 11 special services at issue:

> It is clear that nearly all of these other services are very closely related to the delivery of mail. The single possible exception is the selling of money orders, since they can be used equally as well without being delivered by mail. But it does seem that the vast majority of money orders sold at post offices are actually sent by mail. Therefore, it appears safe to say that all of these services would be considered ''postal services'' in ordinary parlance.

Associated Third Class Mail Users v. *Postal Service*, 405 F.Supp. 1109, 1115 (D.D.C. 1975). The court also observed that ''the fees set for these services have substantial public effect[,]'' (ibid.), which apparently reinforced its conclusion that the services were ''postal'' in nature. It then went on to reject the Postal Service's claim of unilateral authority to change fees applicable to the special services, concluding from its analysis of the Reorganization Act, ''that the Postal Rate Commission has jurisdiction over changes in the fees for the services at issue here. Therefore, * * * the Postal Service cannot increase its fees for these services until it has complied with the [formal rate-change procedures] of Chapter 36 of the Act.'' Id. at 1118.

On review, the Court of Appeals affirmed the District Court's judgment, without adopting all of its reasoning. The court said:

> Giving ''postal services'' a plain meaning, all of the services here at issue may reasonably be so classified. With one possible exception, each clearly involves an aspect in the posting, handling and delivery of mail matter. (citation omitted) * * * As for the one possible exception—money orders—it is undisputed that the great majority of these are sent through the mail and that therefore the provision of money orders may itself reasonably be viewed as intimately a part of postal services * * *
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> * * * * *
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> In sum, we agree with the district court that a plain reading is the proper reading of section 3622: ''postal services'' as used there is a generic term and was meant to include all the special services here at issue.

National Association of Greeting Card Publishers v. *Postal Service*, 569 F.2d 570, 596–97 (D.C. Cir. 1976), *vacated on other grounds*, 434 U.S. 884 (1977) (commonly known as ''NAGCP I''). (Emphasis added.)

In Docket No. R76–1, after the Postal Service had supplemented its initial rate request to include special services in response to the District Court's decision in ATCMU, the Commission addressed the question of which services are within its jurisdiction for ratesetting purposes, and which are not. In the Commission's view, a number of the services furnished by the Postal Service in addition to the actual collection, transmission, and delivery of mail ''are clearly nonpostal in character.'' PRC Op. R76–1, Vol. 1, at 266. The Commission discussed the principles governing its determinations of ratesetting jurisdiction for individual special services in an appendix to its opinion,[5] but also stated as its general conclusion:

> Special postal services—that is, those which fall within the ambit of section 3622—are services other than the actual carriage of mail but supportive or auxiliary thereto. They enhance the value of service rendered under one of the substantive mail classes by providing such features as added security, added convenience or speed, indemnity against loss, correct information as to the current address of a recipient, etc. We believe that this standard is consistent with the decision in *Associated Third Class Mail Users, supra*, that special postal fees are within the jurisdiction of the Commission.

Id. at 266–67. (Footnotes omitted.) (Emphasis added.)

B. Subsequent Developments

There have been few subsequent disputes regarding the ''postal'' or ''non-postal'' character of service innovations adopted by the Postal Service.[6] However, one area in which a ''postal'' versus ''non-postal'' dispute has been litigated recently concerns the Postal Service's provision of philatelic services.

The Postal Service is explicitly authorized ''to provide philatelic services'' in a provision that is separate from the grant of power to provide all aspects of mail service. 39 U.S.C. 404(a)(1), (a)(5). Courts presented with controversies regarding philatelic services have generally interpreted these portions of the Reorganization Act to mean that the Postal Service has authority to exercise broad and unilateral discretion over philatelic operations.[7] They have also found that the rights and procedural safeguards provided for users of the mail in the Reorganization Act do not extend to users of philatelic services.[8] On these grounds, courts have found that philatelic customers have no enforceable right of action against the Postal Service for allegedly improper philatelic activities.[9]

In the single Commission complaint proceeding that has involved philatelic services, the disposition is consistent with the judicial treatment described above. In Docket No. C95–1,

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[3] *See* Transcript Volume 2.

[4] See PRC Op. R71–1, June 5, 1972; PRC Op. R74–1, August 28, 1975.

[5] See PRC Op. R76–1, Vol. 2, Appendix F.

[6] More commonly, litigation has involved claims that a service change contemplated or implemented by the Postal Service is a ''change in the nature of postal services'' requiring the submission of a proposal to the Commission under section 3661; the ''postal'' quality of the service has not been in controversy. The first dispute of this type was litigated in *Buchanan* v. *United States Postal Service*, 375 F.Supp. 1014 (N.D. Ala. 1974), affirmed in part, 508 F.2d 259 (5th Cir. 1975), in which a Postal Service nationwide plan to reconfigure retail facilities was found to be a ''change in the nature of postal services,'' thus requiring a request and proceedings under section 3661. The Postal Service subsequently filed a complying request, and proceedings were held in Docket No. N75–1.

[7] *Morris et al.* v. *Runyon et al.*, 870 F.Supp. 362, 368–69 (D.D.C. 1994), appeal dismissed, No. 94–5344 (D.C. Cir. 1994).

[8] *Unicover et al.* v. *United States Postal Service*, 859 F.Supp. 1437, 1446 (D. Wyo. 1994), appeal dismissed, No. 94–8085 (10th Cir. 1994). See also Morris, supra, at 368–69.

[9] Morris, supra, at 370–71; Unicover, supra, at 1446.

complainant David B. Popkin challenged planned increases in the shipping and handling charges for orders placed with the Postal Service Philatelic Fulfillment Service (PFSC) catalog sales program. The Postal Service moved to dismiss the proceeding, primarily on the ground that, ''the subject matter * * * concerns philatelic services which are not within the scope of 39 U.S.C. 3662.'' Motion of the United States Postal Service to Dismiss Proceeding, April 13, 1995, at 2. (Footnote omitted.) The Service also claimed that the absence of the word ''fee'' from section 3662 should be construed to preclude adjudication of complaints concerning fees for postal services, as distinguished from rates. Id. at 3, n. 3.

In Order No. 1075, the Commission rejected the latter argument, concluding that, ''complaints concerning fees for postal services do fall within the scope of section 3662[.]'' PRC Order No. 1075, September 11, 1995, at 5. However, the Commission concurred with the Postal Service's primary jurisdictional argument, based on an application of the District Court's standard in the ATCMU decision:

> Applying the rationale of the District Court to the facts involved in the present complaint, the Commission finds that the services involved—the handling and shipping of catalog orders placed with the Philatelic Fulfillment Service Center—are not closely related to the delivery of mail and, therefore, the charges for such services do not constitute ''fees for postal services'' within the scope of section 3662 of title 39, United States Code.

Ibid. Having reached this conclusion, the Commission dismissed the complaint.[10]

III. Applying the Criteria to the Facts

A. Which Test or Tests Should Apply?

Determining whether the Pack & Send service is ''postal'' or ''non-postal'' in character is complicated by a disagreement among the parties in this case regarding which legal standard or standards should govern that determination. Among other arguments they present, both Complainant and the OCA claim that the Pack & Send service should be deemed ''postal'' on the same basis on which the *ATCMU* and *NAGCP* courts found money orders to constitute a postal service: the ''great likelihood'' that use of the service will be coupled with mailing of the parcel so prepared. OCA Initial Brief at 6; CAUUC Brief at 12–13. The Postal Service argues against use of this so-called ''statistical'' test, citing misgivings expressed in the R76–1 opinion regarding its application to money orders, and stating that it would be ''unwise for the Commission now to rely on allegations concerning the proportion of postal-packaged parcels that are also mailed in determining whether packaging service is a postal service.'' Postal Service Initial Brief at 16. The Postal Service argues for application of a ''structural'' analysis of the Pack & Send service, which it claims the Commission applied to certain special services in the R76–1 opinion, and under which the Service argues that Pack & Send is ''non-postal'' in character. Id. at 9–17; Postal Service Reply Brief at 3–5. Both Complainant and the OCA challenge the validity of the Postal Service's ''structural'' standard.

It is understandable that each party would advance the standard which it considers to provide the strongest support of its position on the ''postal'' or ''non-postal'' nature of Pack & Send. However, from the Commission's perspective, it is neither necessary nor productive to canonize any one particular test in preference to, or to the exclusion of, every other potentially applicable criterion. The courts have stated that the fundamental inquiry to be made is whether the service under scrutiny is a ''postal service'' in ordinary parlance, the ''plain meaning'' of which is established by reference to the routine postal functions of accepting, handling and delivering mail matter. *ATCMU, supra,* at 1115; *NAGCP, supra,* at 596–97. It is also appropriate to consider the extent to which fees set for the service have ''substantial public effect,'' as suggested in the *ATCMU* opinion. As the Commission has recognized in prior proceedings, most notably Docket No. R76–1, there are a variety of analytical lenses through which potential relationships to customary postal functions may be usefully viewed. PRC Op. R76–1, Appendix F, *passim*.[11] Accordingly, in considering the ''postal'' or ''non-postal'' character of the Pack & Send service, the Commission will assess the utility and persuasive force of all the theories and interpretations of the factual record advanced by the parties to this proceeding.

B. Relationship to Non-Postal Statutory Functions of the Postal Service

As was noted in the earlier review of criteria for distinguishing ''postal'' from ''non-postal'' services, one conclusive basis on which a service can be found to be ''non-postal'' applies where the service pertains exclusively to performance of a statutory function of the Postal Service that is distinct from the carriage of mail. Philatelic sales and services, performed pursuant to the separate grant of authority in 39 U.S.C. 404(a)(5), exemplify such statutorily non-postal services.

The Postal Service makes no such claim regarding the Pack & Send service. Instead, the Service characterizes the service as ''an enhancement to the retail sale of packaging materials[,]'' which is intended ''to provide a higher level of service that our existing customers have requested.'' Rebuttal Testimony of Patricia M. Gibert, USPS–RT–1, at 3. Consequently, as Complainant has argued, the Pack & Send service is unlike the Postal Service's sale of migratory waterfowl stamps or distribution of information pertaining to civil service examinations, which fulfill a distinctly governmental, non-postal function. Therefore, the Pack & Send service cannot be found ''non-postal'' on this particular ground.

C. Intrinsic and ''Structural'' Features of the Pack & Send Service

Although there appears to be little disagreement regarding the basic factual details of the Pack & Send service, the parties characterize the service, and portray its relationship to mailing, very differently. The Service espouses what might be called a ''free-standing'' view of Pack & Send: a mere extension of the sale of packaging materials, with no relation to any aspect of mail service nor to any operational objective or benefit of the Postal Service. USPS–RT–1 at 3–4; Initial Brief at 5–7, 11–17. By contrast, Complainant and the OCA present a perspective in which the Pack & Send service transaction is intertwined with mailing. OCA argues that the service is postal in character because ''packing'' and ''sending'' are integrated in a ''seamless'' operation that intermingles packaging and mailing activities, in a transaction throughout which the Postal Service retains custody of the item tendered by the customer for service. OCA Initial Brief at 1–4.

In the Commission's opinion, the Postal Service's characterization of the Pack & Send service is seriously flawed in several respects. Moreover, it is fundamentally at odds with the significance of adding a parcel

[10] Complainant subsequently petitioned for reconsideration of the Commission's determination to dismiss the Complaint. The Commission denied his motion in Order No. 1088, issued November 15, 1995.

[11] The Postal Service summarizes some of these considerations in its Initial Brief at 10–12.

packaging service to the current array of services offered at postal facilities.

First, the Commission rejects the Postal Service's blanket assertion that Pack & Send service ''is not an aspect of the acceptance, handling, or delivery of the mail[.]'' Postal Service Initial Brief at 6. The record clearly establishes that Pack & Send service is an optional aspect of the acceptance of parcels for mailing. A postal customer may either tender a finished parcel to a window clerk for mailing, or purchase the Pack & Send service for packaging the contents. In either case, the criterion of mailability applies; the Postal Service will not provide Pack & Send service for non-mailable contents. USPS–RT–1 at 6, n. 2; Exhibit USPS–1B. In response to a question from Chairman Gleiman, witness Gibert testified: ''The first question [Postal Service employees] are trained to ask is, is the item mailable?'' Tr. 2/204. When asked why this determination is important, the witness stated, in part, ''[b]ecause a significant number of the pieces that will be packed will also be sent via Postal Service[.]'' Id. at 205. Thus, acceptability for mailing applies equally to finished parcels and materials tendered for Pack & Send service.

Second, the Commission finds no persuasive force in the Postal Service's arguments that Pack & Send service does not achieve any operational objective of, or confer any operational benefit upon, the Postal Service. As an initial matter, these assertions are unproven on the record and far from self-evident. For example, by complying with packaging requirements prescribed in a Postal Service Training Manual, see Tr. 2/72, a parcel prepared in a Pack & Send transaction would be unlikely to suffer damage to the contents or cause damage to postal equipment,[12] and thereby confer an operational benefit to the Service. More importantly, operational objectives and benefits would not appear to be particularly useful reference criteria for establishing that a given service is non-postal. By restricting scrutiny to considerations internal to the Postal Service, employing these criteria would neglect the needs of, and potential benefits to, postal customers. Moreover, it is unlikely that several current special services subject to the Commission's mail classification and rate jurisdiction would pass muster as ''postal'' under such criteria. As witness Gibert confirmed in response to a question from Chairman Gleiman, ''[i]n the case of certificate of mailing [service], it appears that the benefit is to the customer.'' Id. at 233.

Finally, the Commission is in fundamental disagreement with the Postal Service's characterization of the Pack & Send service and its significance in the universe of postal and non-postal services. Contrary to the Service's formalistic insistence on brief that packaging ''cannot properly be called 'mail preparation' '' because the latter is a term of art ''not applied to the non-technical activities that every mailer must undertake to enter an item into the mail,'' Postal Service Initial Brief at 5, n. 1, the Commission concludes that, in ordinary parlance, Pack & Send service constitutes mail preparation for a fee. It also constitutes an entirely new form of access to the parcel services offered by the Postal Service, which allows a potential parcel mailer to tender the items they wish to send, rather than finished packages. For this reason, Pack & Send can properly be viewed as a value-added special service for parcels; the added value results from the alternative form of acceptance it makes possible.

For these reasons, the Commission concludes that the Pack & Send service is both structurally related to mailing in the acceptance function, and intrinsically postal. The ability of Pack & Send customers, who are so disposed, to purchase the packaging service without also purchasing a category of parcel delivery service does not alter these conclusions.

D. Correlation Between Use of Pack & Send Service and Use of the Mail

Both the Complainant and OCA argue that the Pack & Send service should be found to be ''postal'' on the same ground that the *ATCMU* and *NAGCP* courts found the sale of money orders to be ''postal'': that the vast majority of transactions lead to actual use of the mail. Complainant cites the Postal Service's rebuttal testimony as establishing that a typical Pack & Send transaction involves the purchase of postage. CAUUC Brief at 9. CAUUC also presents the affidavits of Michael L. Phillips and Edward N. Frye, both of whom testify that only a very small percentage—1 percent or less—of the parcels packed by their stores will not be mailed or shipped by those stores. Tr. 2/82, 88; CAUUC Initial Brief at 5. Citing the same affidavits and witness Gibert's concession that ''the likelihood of [Pack & Send customers] mailing is fairly high[,]'' OCA argues that the ''great likelihood that Pack and Send will be coupled with mailing would constitute a dispositive tendency * * *'' toward a finding that the Service is ''postal'' under the *ATCMU* court's standard. OCA Initial Brief at 5–6.

The Postal Service argues that CAUUC's and OCA's invocation of the test it labels ''statistical'' is both inconsistent with the ''structural'' standard it espouses and flawed. The first flaw in the approach, the Service argues, ''is that the record is devoid of this statistic.'' Postal Service Reply Brief at 5. The Service characterizes the Phillips and Frye affidavits as ''an attempt to fabricate an ersatz statistic'' because the record is devoid of evidence that would support an analogy between the packaging operations in affiants'' stores and the Postal Service's implementation of Pack & Send service. Id. at 5–6. Additionally, the Service argues that the record rebuts CAUUC's and OCA's conclusion that the sale of Pack & Send is combined with the sale of postage for accounting purposes, because a separate Account Identifier Code (AIC) has been established for Pack & Send transactions. Id. at 6–7.

Notwithstanding the Postal Service's arguments against application of what it calls the ''statistical'' standard, the Commission agrees with Complainant and the OCA that the available information regarding Pack & Send service indicates a high correlation between purchase of the Pack & Send service and use of the mail for the parcel so prepared. The Postal Service concedes it has no records that would indicate how many Pack & Send transactions to date have culminated in a parcel mailing, Reply Brief at 6, but witness Gibert's best ''judgmental answer'' is that ''a fairly high proportion are shipped.'' Tr. 2/189. Furthermore, while the Phillips and Frye affidavits submitted by Complainant report experience in private stores, not Postal Service operations, they serve to confirm the common-sense expectation that a customer who brings an unpackaged item into a facility that offers both packing and shipping services is likely to use both. Therefore, in the Commission's view, the available facts justify a reasonable degree of certainty that the Pack & Send service would satisfy the standard applied by the *ATCMU* court to money orders. The Commission agrees with OCA that the likely coupling of the service with parcel mailing establishes a ''dispositive tendency'' toward a finding that the Service is ''postal.''

E. Public Representations and Public Effect

The record of this proceeding is replete with public declarations of the Postal Service, and inducements to

[12] As witness Gibert illustrated this point, in ''follow[ing] our own packaging requirements'' a Postal Service employee ''wouldn't use string'' in securing the parcel, because ''[i]t could get hung up in machinery.'' Tr. 2/239.

potential customers, that present Pack & Send service conjunctively with the mailing of parcels, or in the context of the parcel mailing services it offers. The Report of the Postmaster General for 1995 describes Pack & Send as ''a value-added service designed to strengthen the Postal Service's retail parcel service while adding an important convenience to customers.'' Tr. 3/264. See also Tr. 2/38, 2/227. Part of a written response of the Postmaster General to Chairman McHugh of the Subcommittee on the Postal Service of the House Committee on Government Reform and Oversight describes Pack & Send as ''[a] value added service that allows customers to bring items to selected post offices and have them packaged and mailed.'' Tr. 3/271. Internal communications of the Postal Service have contained similar characterizations. Tr. 2/36, 43, 49, 51–52. Advertising has urged potential customers to ''Let Us Box, Pack and Ship Your Gifts,'' and offered the inducement of discount coupons applicable to the cost of packing material and labor. Tr. 2/45, 42, 55, 59–60.

All these materials would lead an objective observer to conclude that the Pack & Send service is a new feature and an enhancement of the Postal Service's pre-existing parcel delivery services, and that in offering Pack & Send the Postal Service is pursuing both potential users of the service and additional use of parcel services. The Postal Service does not dispute the authenticity of any of these materials.[13]

The public effect of offering the Pack & Send service appears to be minor to date, as witness Gibert testifies that the ''current sales average is about one parcel packaging transaction per business day per Pack & Send site.'' USPS–RT–1 at 4. However, should the Postal Service decide to expand the availability of the service significantly, the potential competitive injury anticipated by CAUUC could occur, depending on the Service's success in attracting Pack & Send customers. The Phillips and Frye affidavits establish that a customer for a store's packaging service will almost certainly purchase shipping in the same transaction. Therefore, diversion of a potential packaging customer from a store to the Postal Service would represent not only the loss of the packaging business, but also whatever revenue would be associated with the shipping transaction. This being the case, the levels of fees charged for Pack & Send service are likely to have a significant public effect, particularly on stores in the Commercial Mail Receiving Agency industry.

F. General Conclusion

Application of the legal standards that have been employed in prior decisions to distinguish ''postal'' from ''non-postal'' services leads the Commission to conclude that the Pack & Send service is definitely ''postal'' in character. By offering postal customers a parcel preparation service for items they bring to retail facilities, the Postal Service has introduced a wholly new method of accepting mailable items for ultimate delivery as parcels. Thus, Pack & Send service has a direct structural relationship to the provision of postal services. Intrinsically, it is a value-added service available for the categories of parcel service provided by the Postal Service; the locus of the added value is the alternative form of acceptance it provides. For this reason, Pack & Send is a service ''other than the actual carriage of mail but supportive or auxiliary thereto[,]'' which ''enhance[s] the value of service rendered under * * * substantive mail classes[,]'' and thus satisfies the general criterion for ''postal'' services formulated by the Commission in Docket No. R76–1. PRC Op. R76–1 at 267. In common parlance, as well as under these more analytical legal tests, it is a postal service.

In addition, as might reasonably be expected, there is a high correlation between a postal customer's use of the Pack & Send service and mailing of the finished parcels it produces. This is the very response that the Postal Service's public representations outside this proceeding anticipate, and that the Service's advertising to the public seeks to produce. Furthermore, because of this effective linkage between parcel preparation and mailing, the availability of the Pack & Send service and the level of its fees have the potential for causing a significant impact on competing stores in the private sector that offer packaging service and access to alternative means of shipping parcels.

For all these reasons, the Commission finds that the Pack & Send service is ''postal'' in character, and that establishment of the service and recommendations concerning its fees are functions that the Postal Reorganization Act contemplates to be within the jurisdiction of the Postal Rate Commission.

IV. Allegations Regarding Pack & Send Costs and Pricing

While the parties apparently concur that the costs of providing the Pack & Send service and the levels of the fees set for it by the Postal Service are matters of secondary importance in this proceeding, in comparison with a determination of the service's postal or non-postal character, they have been subjects of controversy. CAUUC's Complaint alleges that, ''the Postal Service is not pricing this service based on any attribution of costs[,]'' but instead on ''what our competitors charge.'' Complaint at 3. In her rebuttal testimony, witness Gibert testifies that the price set for the Pack & Send service is based on the cost of packaging material, together with the cost of the labor time involved in performing the packaging service, plus a markup of approximately 60 percent. USPS–RT–1 at 2; Tr. 2/133–34. Regarding the prices charged for the service, which are not uniform for all locations that offer it, witness Gibert testifies that the Service selects ''prices in the upper end of the local market'' for privately-offered packaging services. USPS–RT–1 at 2–3. On brief, the Postal Service claims that it ''has applied appropriate, generous markups in calculating the prices for its packaging service,'' and also ''has affirmatively priced its packaging service * * * to avoid underpricing with respect to alternative sources.'' Postal Service Initial Brief at 17. (Footnote omitted.)

Both Complainant and the OCA argue, to the contrary, that the Postal Service has set the prices for Pack & Send service at levels that are unlikely to recover the average costs of providing the service. Both parties argue that, at the reported average labor cost of $3.24 per Pack & Send transaction, a labor rate of $29.04 per hour, and a 60 percent markup of the labor cost, the average Pack & Send transaction would have to be accomplished in 4.2—minutes which CAUUC characterizes as ''unbelievable'' (Initial Brief at 14) and OCA as ''preposterous'' (Initial Brief at 9). Based on the reported costs of administering the service (Tr. 3/271), CAUUC also calculates an average of $7.22 per transaction, which would also require that labor time be ''minimal.'' Initial Brief at 14.

Finally, both Complainant and the OCA argue that Pack & Send prices are likely to be set too low in their respective markets in light of the higher wage rates paid by the Postal Service to its unionized work force. CAUUC Initial Brief at 14–15; OCA Initial Brief 10–13. On the basis of these analyses and

[13] However, witness Gibert did testify that, ''we have subsequently said no promotional materials may be produced in this regard unless they get cleared by my organization, because of some of the issues around wording in the coupons.'' Tr. 2/228.

considerations, OCA claims ''that the Postal Service is offering Pack and Send at predatory prices.'' Id. at 7.

In its reply brief, the Postal Service denies the claims of predatory pricing and cross-subsidization, and challenges the calculations on which CAUUC and OCA base their arguments that Pack & Send prices are not likely to be compensatory. The Service notes that the parties' calculations used the retail prices of packaging material, rather than their costs to the Postal Service, and that substituting the latter would leave enough labor cost to allow for almost 7 minutes of clerk time per transaction. Postal Service Reply Brief at 9–10. Additionally, the Service argues that the parties' calculations fail to take into account that the average hourly rate for labor used in Pack & Send transactions is likely to be lower than the average hourly rate for window and window distribution clerks, who are generally senior employees, because in some instances the packaging service is performed by part-time or lower-wage postal employees. Id. at 10–11. To illustrate these points, the Service appends a table which purports to demonstrate that the average Pack & Send charge could cover costs and bear some markup with varying amounts of labor per transaction. Id., Table 1.

After examining the scant record evidence available on these issues, the Commission concludes that it is simply impossible to reach any informed conclusion regarding the costs of providing the Pack & Send service, or whether the fees charged by the Postal Service are compensatory. Apparently the prices charged for the service have not been uniform across all areas where Pack & Send has been offered,[14] and comprehensive volume and revenue information is unavailable. While the Postal Service purportedly begins with labor cost in arriving at Pack & Send prices, that figure (or range of figures) has not been quantified on the record of this proceeding.[15] As CAUUC and OCA point out, costs recovery would depend on the duration of the transaction, and data on this critical operational question are likewise unavailable. Finally, there is no information concerning price levels that prevail in the Commercial Mail Receiving Industry for competing packaging services. These are all matters that would either require or warrant exploration should the Pack & Send service be considered on its merits in a proceeding conducted pursuant to sections 3622 and 3623.

V. Disposition of the Complaint and Provision For Further Proceedings

Having found that the Complaint of CAUUC is justified, the Commission must decide on an appropriate course of action. Complainant asks the Commission to declare its finding that Pack & Send is a postal service being offered in violation of the Reorganization Act, and to commence a second phase of this docket which would consider the Pack & Send service on its merits pursuant to sections 3622 and 3623. CAUUC Initial Brief at 16. Similarly, OCA argues that the Commission should issue a threshold jurisdictional order now, and simultaneously initiate a second stage of this proceeding to establish classification provisions and rate levels for the Pack & Send service. OCA Initial Brief at 14–16. However, the Postal Service argues that the procedures suggested by OCA would be inconsistent with the statutory scheme of the Reorganization Act, the terms of section 3662, and section 3001.87 of the Commission's rules of practice. Postal Service Reply Brief at 16–18. Should the Commission find the Complaint to be justified, the Postal Service argues that the Commission ''should only issue a recommended decision to the Governors to that effect.'' Id. at 17.

In a typical proceeding under section 3662 concerning rates or fees charged by the Postal Service, the Commission would issue a substantive recommended decision pursuant to section 3662 and section 87 of the rules of practice. For example, if the Commission found justified a Complaint that the rates for a subclass of mail were no longer compensatory, the Commission would recommend appropriate adjustments in those rates after a proceeding conducted pursuant to section 3624. Similarly, if the Commission found justified a Complaint that the Postal Service was applying rates in a preferential or unduly discriminatory manner, the Commission would issue a decision recommending appropriate changes in Postal Service rate application practices.

However, in this case there is no substantive recommendation for the Commission to make under section 3622 or section 3623. The Postal Service contends that as it has never requested that a rate be set for the Pack & Send service, the Commission is not authorized to make a substantive recommendation pursuant to section 3622.[16] Even if it were, for reasons presented above the Commission would lack an evidentiary basis on which to make findings concerning costs, volumes and revenues for Pack & Send service. There is a similar dearth of evidence on which the Commission could base substantive findings on the merits of Pack & Send service as a potential mail classification, in response to the criteria of section 3623(c). Furthermore, a recommended decision simply declaring that Pack & Send is a postal service, and thus subject to the Commission's jurisdiction, would be a hollow vessel lacking any recommendation of substance upon which the Governors could act under section 3625.

For this reason, the Commission will issue a declaratory order, as suggested by Complainant and the OCA. However, the Commission will not initiate a second stage of this proceeding *sua sponte,* as these parties request, in order to accommodate the considerations cited by the Postal Service:

> In this regard, if only as a practical matter, but also as a matter related to the relative responsibilities of the Commission and the Postal Service, if the Commission concludes that Pack & Send is a postal service, it should defer to the Postal Service's determination as to whether it should seek authorization to continue the service by filing a request for a recommendation from the Commission.

In the footnote to this sentence, the Service states:

> As an additional practical matter, until such time as the Postal Service has developed and documented the data needed to support a rate or fee, it would be unwise and inefficient for a proceeding to go forward.

Postal Service Reply Brief at 17–18 (footnote omitted) and 18, n. 16. Therefore, further proceedings in this docket shall be held in abeyance pending the filing of a Request of the Governors of the United States Postal Service for establishment of Pack & Send service as a mail classification and for the recommendation of rates for that service, or the filing of a notice by the United States Postal Service to the effect that Pack & Send service has been discontinued. The Commission expects that postal management will devote its prompt attention to reaching a decision on this matter, and will collaborate with the Governors to achieve an expeditious resolution.

[14] In response to a question posed by Commissioner LeBlanc, witness Gibert testified that ''different prices have been tested in different markets.'' Tr. 2/213.

[15] The Postal Service states that Pack & Send prices are intended to recover a variety of associated costs in addition to window transaction labor cost, but that: ''Our analysis has not yet extended to determining the associated cost segments and components.'' Tr. 3/273.

[16] ''Congress made the deliberate decision to confer rate origination authority solely upon the Postal Service.'' *Dow Jones & Co.* v. *United States Postal Service,* 656 F.2d 786, 790 (D.C. Cir. 1981).

It is ordered: 1. Having conducted hearings pursuant to 39 U.S.C. § 3662 for the purpose of considering the Complaint of the Coalition Against Unfair USPS Competition, filed May 23, 1996, the Commission finds that Complaint to be justified.

2. For the reasons set out at length in the body of this Order, the Commission finds the Pack & Send service currently offered on a limited basis by the United States Postal Service to be a postal service subject to the Commission's ratemaking jurisdiction pursuant to 39 U.S.C. 3622 and its mail classification jurisdiction pursuant to 39 U.S.C. 3623.

3. Further proceedings in this docket shall be held in abeyance pending the filing of a Request of the Governors of the United States Postal Service for establishment of Pack & Send service as a mail classification and for the recommendation of rates for that service, or the filing of a notice by the United States Postal Service to the effect that Pack & Send service has been discontinued.

4. The Secretary of the Commission shall notify the Complainant, the Postal Service, and all other parties to this proceeding of the actions taken in this Order, as well as the Governors of the United States Postal Service, and shall submit it for publication in the Federal Register.

By the Commission.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 96–32288 Filed 12–19–96; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Employee's Certification.

(2) *Form(s) submitted:* G–346.

(3) *OMB Number:* 3220–0140.

(4) *Expiration date of current OMB clearance:* February 28, 1997.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 5,400.

(8) *Total annual responses:* 5,400.

(9) *Total annual reporting hours:* 450.

(10) *Collection description:* Under Section 2 of the Railroad Retirement Act, spouses of retired railroad employees may be entitled to an annuity. The collection obtains information from the employee about the employee's previous marriages, if any, to determine if any impediment exists to the marriage between the employee and his or her spouse.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–32299 Filed 12–19–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35—26625]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

December 13, 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 January 6, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

AYP Capital, Inc., et al. (70–8951)

AYP Capital, Inc. ("AYP"), a nonutility subsidiary company of Allegheny Power System, Inc. ("APS"), a registered holding company, both located at 10435 Downsville Pike, Hagerstown, Maryland 21720, have filed an application under sections 9(a) and 10 of the Act and rule 54 thereunder.

By order dated July 14, 1994 (HCAR No. 26085), APS was authorized, among other things, to organize and finance AYP to invest in companies: (1) Engaged in new technologies related to the core utility business of APS; and (2) that acquire and own exempt wholesale generators ("EWGs"). By subsequent order dated February 3, 1995 (HCAR No. 26229), AYP was authorized to engage in the development, acquisition, construction, ownership and operation of EWGs and in development activities with respect to: (1) Qualifying cogeneration facilities and small power production facilities ("SPPs"); (2) non-qualifying cogeneration facilities, non-qualifying SPPs, and independent power production facilities ("IPPs") located within the service territories of APS public utility subsidiary companies; (3) EWGs; (4) companies involved in new technologies related to the core business of APS; and (5) foreign utility companies ("FUCOS"). APS was also authorized to increase its investment in AYP from $500,000 to $3 million.

By order dated October 27, 1995 (HCAR No. 26401) ("October Order"), the Commission authorized AYP or a special-purpose subsidiary ("NEWCO") to provide certain enumerated energy management services ("EMS") and demand-side management services ("DSM") to non-associated customers at market prices and to associated companies at cost,[1] and AYP to engage

[1] The EMS services authorized included: (1) Identification of energy cost reduction and efficiency opportunities; (2) design of facility and process modifications to realize such efficiencies; (3) management of or the direct construction and installation of energy conservation and equipment; (4) training of client personnel in operation of equipment; (5) maintenance of energy systems; (6) design, management, construction and installation of energy management systems and structures; (7) performance contracts; (8) identifying energy conservation or efficiency programs; (9) system

Continued

in activities relating to the development, acquisition, ownership, construction and operation of FUCOS; and to invest in FUCOs through various types of investment vehicles, including limited partnerships or other types of funds, the sole objective of which is to make investments in one or more FUCOs. The October Order also authorized: (1) APS to invest directly and indirectly in AYP and NEWCOs up to an aggregate of $100 million through December 31, 1999 through loans to finance activities related to EMS and DSM services, accounts receivable, real estate, FUCOs and EWGs (''Approved Activities''); (2) APS and AYP to acquire the securities of NEWCOs that own FUCOs or EWGS (''Project NEWCOs''); (3) AYP or a NEWCO to factor the accounts receivable of associate companies and of nonassociate companies whose primary revenues are derived from the sale of electric power; and (4) AYP or a NEWCO, as agent for APS system companies, to manage the real estate portfolio of APS and its associate companies, to market excess or unwanted real estate and to facilitate the exploitation of resources contained on or in real estate.

AYP, the NEWCOs, and the Project NEWCOs were authorized to obtain loans from banks or issue other recourse obligations which could be guaranteed by APS or AYP. Such third-party borrowings by AYP, the NEWCOs and the Project NEWCOs that are guaranteed by APS or AYP are subject to the $100 million investment authority. Through December 31, 1999, APS and AYP were authorized to guarantee or act as surety and bonds, indebtedness and performance and other obligations issued or undertaken by AYP, the NEWCOs or the Project NEWCOs subject to the $100 million investment authority.

By order dated October 9, 1996 (HCAR No. 26590), the Commission authorized APS and AYP to increase the limit on loans and guarantees from $100 million to $300 million for all Approved Activities.

Applicants now request authority, through December 31, 1999, to allow AYP and one or more special purpose subsidiaries (''NEWMARKETCOs'') to engage in marketing, selling, acquisition and installation of a new type of heat pump to and for: (1) Nonassociated industrial, commercial and residential customers located within the five states in which APS's operating subsidiaries provide electric service and (2) persons and businesses located in Washington, D.C. AYP proposes to finance the above-mentioned activities up to an aggregate principal amount of five hundred thousands dollars ($500,000).

AYP or the NEWMARKETCO will contract with a representative of the heat pump's manufacturer for exclusive distribution rights. The heat pump is currently installed primarily in the southern United States. AYP or the NEWMARKETCO proposes to serve as a distributor and provide a sales force in an exclusive territory that will include Maryland, Ohio, Pennsylvania, Virginia, West Virginia, and Washington, D.C. Earnings are projected to be approximately 25% of total revenues. Current analysis estimates profits at approximately $150,000 in the first year of the project, rising steadily to approximately $600,000 in year four. It is estimated that two full-time employees will be necessary to handle shipping, logistics, billing, reporting, and general administration (one full-time office associate and two staff members sharing responsibility).

The applicants propose that Allegheny Power Service Corporation (''APSC'') will assist AYP or NEWMARKETCO with marketing, customer billing, accounting or other energy-related services. It is anticipated that any services provided by APSC can be done with current staff and that the number of APSC personnel involved will not be of such magnitude that utility services would in any way be impaired. All services provided by APSC to AYP or NEWMARKETCO will be in accordance with the cost standard established in section 13(b) of the Act and rules 90 and 91 thereunder.

Appalachian Power Company (70–8957)

Appalachian Power Company (''APCO''), 1 Riverside Plaza, Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, a registered holding company, has filed a declaration under section 6(a) of the Act.

APCO is party to a utility mortgage (the ''Mortgage'') dated December 1, 1940 with Bankers Trust Company (the ''Trustee''). Under Section 40 of the Mortgage, APCO covenants that it will ''make or cause to be made such expenditures by means of repairs, maintenance, substitutions of property or otherwise as shall be necessary to maintain, preserve and keep the mortgaged property to good repair, working order and condition as an operating system or systems * * *.''

In furtherance of this maintenance obligation, APCO annually must furnish the Trustee with a treasurer's maintenance certificate. Part I of the maintenance certificate requires that the maintenance obligation be calculated on a 15% of base operating revenue test. Part II of the maintenance certificate supplements Part I by requiring that the maintenance obligation be calculated on the basis of a percentage of depreciable property, currently 2.25% (the ''Applicable Percentage'').

In a previous order dated May 7, 1979 (HCAR No. 21040), the Commission authorized APCO, among other things, to amend its Mortgage to facilitate (by removing the requirement of prior bondholder approval) the future deletion of Part I of the two-part maintenance certificate requirement, and, upon such deletion, to change the Applicable Percentage specified in Part II of the maintenance certificate requirement from 2.25% to 2.90%, ''unless a different percentage is authorized or approved by [the] Commission.'' The order specified that the contemplated future amendment of the Mortgage to delete Part I of the maintenance certificate requirement and change the Applicable Percentage in Part II from 2.25% to 2.90% could not take place as long as bonds issued under the original two-part maintenance certificate requirement were outstanding. Since no such bonds remain outstanding, APCO now proposes to delete Part I of the maintenance certificate requirement, but seeks authorization to retain the 2.25% Applicable Percentage in Part II instead of increasing it to 2.90%.

Applicant states that the current 2.25% Applicable Percentage is a reasonable annual requirement for the replacement of the book cost of depreciable mortgaged property and that retention of the 2.25% Applicable Percentage will benefit the holders of outstanding bonds by not increasing the amount of their outstanding bonds subject to redemption at par, thus preserving the holders' anticipated interest income over the life of the bonds.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

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BILLING CODE 8010–01–M

commissioning; (10) reporting system results; and (11) other similar or related energy management activities. The DSM services authorized included: (i) design of energy conservation programs; (ii) implementation of energy conservation programs; (iii) performance contracts for DSM work; (iv) monitoring and evaluating DSM programs; and (v) other similar or related DSM activities.

[File No. 1–11150]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Urohealth Systems, Inc., Common Stock, $.001 Par Value; Stock Purchase Rights; Warrants To Purchase Common Stock)

December 16, 1996.

Urohealth Systems, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on October 1, 1996 to withdraw the Securities from listing on the Amex and instead, to list the Securities on the National Association of Securities Dealers Automated Quotations National Market System (''Nasdaq/NMS'').

The decision of the Board followed a through study of the matter and was based upon the belief that listing the Securities on the Nasdaq/NMS will be more beneficial to the Company's stockholders than the present listing on the Amex because:

The Board anticipates additional market coverage by institutional investors and greater market support among analysts and an increase in liquidity of the Company's Common Stock and Warrants will result from the transfer to the Nasdaq/NMS.

Any interested person may, on or before January 8, 1997 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–32284 Filed 12–19–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38054; File No. SR–CBOE–95–48]

Self-Regulatory Organizations: Chicago Board Options Exchange, Inc.; Order Approving a Proposed Rule Change Relating to the Use of Proprietary Brokerage Order Routing Terminals on the Floor of the Exchange

December 16, 1996.

I. Introduction

On August 25, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal relating to the use of proprietary brokerage order routing terminals on the floor of the Exchange. On October 3, 1995, the Exchange filed Amendment No. 1 to its proposal.[3] The proposed rule change was published for comment and appeared in the Federal Register on October 13, 1995.[4] Three comment letters were received.[5] The CBOE responded to the November 1995 Comment Letter.[6] This order approves the proposal.

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] Letter from Burton R. Rissman, Shiff Hardin & Waite, to Francois Mazur, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), dated October 3, 1995 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 36332 (October 4, 1995), 60 FR 53442.

[5] Letters from David C. Bohan, Jenner & Block, writing on behalf of Interactive Brokers Inc. (''IBI''), to Jonathan G. Katz, Secretary, Commission, dated November 2, 1995 (''November 1995 Comment Letter''), and February 1, 1996 (''February 1996 Comment Letter''). IBI submitted a comment letter on November 6, 1996 withdrawing its opposition to the rule filing but reserving its right to comment further on the scope of activity permitted by CBOE to users of proprietary brokerage order routing terminals. *See* Letter from Thomas Peterffy, Chairman, IBI, to Howard L. Kramer, Senior Associate Director, Division, Commission, dated November 6, 1996 (''November 1996 Letter'').

[6] Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Jonathan G. Katz, Secretary, Commission, dated January 16, 1996 (''CBOE Response Letter'').

II. Description of the Proposal

A. Introduction

The rule change approved today adopts a policy pursuant to CBOE Rule 6.23 [7] that will allow the use of a proprietary brokerage order routing terminal and its related system (''Terminal'') in the S&P 500 Index (''SPX'') options trading crowd. Written Exchange approval will be required prior to a member establishing, maintaining, or using a Terminal. The Exchange will not approve a Terminal unless and until the member who proposes to establish one on the floor of the Exchange has filed with the Exchange an ''Application & Agreement for Brokerage/Order Routing Terminals in Trading Crowds'' (''Application Agreement''), and Terminals could be used only in the crown trading SPX options to route orders in SPX options.[8]

The rule change also specifies the permitted order-routing uses of Terminals in light of a pending application which seeks Exchange approval to establish and use a Terminal in the SPX options crowd.[9] The firm's proposed Terminal would be a wireless, hand-held device designed to receive orders entered by the firm or its customers from off the floor. Use of the Terminal would enable the firm and its customers to transmit orders electronically from off the trading floor to one or more of its floor brokers on the floor of the Exchange, including to a broker who is in the trading crowd. The firm's application for use of a Terminal, which is the only such application that has been received to date by the Exchange, has raised a number of issues that the Exchange has determined to resolve as a matter of policy that will be applicable to all members in connection with its proposal to allow Terminals in the SPX options crowd. The policy primarily is contained in the Application Agreement, as described below.

B. Surveillance, Audit Trails and Compliance

Paragraph D of the Application Agreement will require an applicant to agree that the use of its Terminal will conform to all applicable laws, the rules, policies and procedures of the

[7] CBOE Rule 6.23 provides that no member shall establish or maintain any telephone or other wire communications between his or its office and the Exchange without prior approval by the Exchange. The Exchange may direct discontinuance of any communication facility terminating on the floor of the Exchange.

[8] *See infra* note 10.

[9] The firm that submitted the application, which is IBI, has been approved for membership by the CBOE.

Commission and the Exchange, and the provisions of the Application Agreement. Paragraph F of the Application Agreement will require an applicant to agree that the operation and use of all aspects of its Terminal and all orders entered through the Terminal will be subject to inspection and audit by the Exchange at any time upon reasonable notice. It also will require the applicant to furnish the Exchange with such information as the Exchange may request concerning the Terminal.

C. Physical, Electrical and Communications Requirements

The Application Agreement will require an applicant to specify the necessary physical, electrical and communication requirements of its proposed Terminal and to describe its Terminal system in detail. Paragraph H of the Application Agreement will require the applicant to coordinate the installation, maintenance and use of the Terminal on the trading floor through the Exchange's Telecommunications Department, and Paragraph K permits the Exchange to reallocate the space allocated to the applicant's Terminal. Moreover, although the Exchange will not immediately require the Terminals to interface with other Exchange systems (such as the Exchange trade match and price reporting systems), Paragraph K of the Application Agreement will allow the Exchange to require such interfaces in the future.

D. Market Making Restriction

Paragraph C of the Application Agreement will require an applicant to agree that its Terminal will be used to receive brokerage orders only, and that it will not be used to perform a market making function. Any system used to operate the Terminal must be separate and distinct from any system that may be used by the applicant or its associated persons in connection with market making. For purposes of Paragraph C, orders initiated from off the floor of the Exchange that are not counted as ''market maker transactions'' within the meaning of Exchange Rule 8.1 and that do not create a pattern of offering in the aggregate either to make two-sided markets or simultaneously to represent opposite sides of the market in any class of options are not deemed to be used to perform a market making function.

According to the Exchange, the speed with which Terminals could be used to transmit orders directly to the point of the trade on the Exchange floor could make it possible for persons not subject to Exchange control to perform market making functions from off the floor of the Exchange without being burdened by the cost of maintaining an Exchange membership, or the obligations imposed on Exchange market makers. CBOE expressed concern that if Terminals can be used to perform market making functions from off the floor of the Exchange, it may become undesirable for Exchange market makers to continue to assume the costs and obligations associated with being a registered market maker, which in turn could harm the liquidity and quality of the Exchange's market.

E. Use of Information

Paragraph E of the Application Agreement will require an applicant to agree that neither it nor its associated persons (as defined in the Application Agreement) will trade with orders transmitted through the Terminal, except in two limited situations as described below. First, an applicant or an associated person would be able to trade with an order in the Terminal system if no one else wanted to trade with it (*i.e.*, the member is the contra-party of last recourse). Second, an applicant or an associated person would be able to participate in the order on the same basis that other market makers who do not have priority participate. Under this exception to the trading restriction, the member or an associated person may trade with an order as long as (a) the member in the trading crowd who is the first to respond to such order (other than the applicant or an associated person) has priority in taking the other side of such order, and (b) the aggregate portion of such order taken by the applicant and associate persons is not greater than the portion of the order taken by every other Exchange market maker in the crowd who wishes to participate in the order in the same aggregate quantity. Paragraph E also will prohibit an applicant or an associated person from using for their own benefit any information contained in any order in the Terminal system until that information has been disclosed to the trading crowd.

F. Termination

Paragraph L of the Application Agreement allows the Exchange, upon 30 days notice, to terminate all approvals for Terminals in trading crowds on the CBOE floor or at particular posts. In addition, if the CBOE gives a member notice that any statement in a member's Application Agreement is inaccurate or incomplete, that the member has failed to comply with any provision of the Application Agreement, or that the operation of the Terminal is causing operational difficulties on the floor of the Exchange, the member normally would have seven calendar days to address the matter. The CBOE Office of the Chairman may then determine to terminate summarily the operation of that member's Terminal. Paragraph L does not affect a member's right to seek relief pursuant to Chapter XIX of the Exchange's Rules (Hearings and Review).

G. Initial Scope of the Proposal

Initially, the Exchange proposes to limit the use of Terminals to the SPX options trading crowd for routing of orders in SPX options. The Exchange stated that this limitation should give it the opportunity to observe how the Terminals are being used in a crowd which is active enough to bring to light any unforeseen problems and to gain experience with the use of Terminals in that trading crowd before floor-wide implementation of the policy were to occur.[10]

III. Summary of Comments

A. November 1995 Comment Letter

In its November 1995 Comment Letter, IBI expressed support for the proposal's aim to open the SPX pit to the Terminals, but objected to Paragraph C of the Application Agreement that would prohibit a Terminal from being used to perform a market making function. IBI interpreted Paragraph C to prohibit the use of Terminals to receive two-sided limit orders. IBI requested the Commission to commence disapproval proceedings with respect to the prohibition against the receipt of two-sided limit orders for a number of reasons. First, IBI argued that Paragraph C is overly broad because it effectively would prohibit an investor from occasionally using a Terminal to enter two-sided limit orders. IBI noted that although Paragraph C purported to ban only two-sided limit orders that created a pattern of offering in the aggregate either to make two-sided markets or simultaneously to represent opposite sides of the market, CBOE provided no guidelines that would enable a member firm to determine when a combination of buy and sell orders would establish a pattern, and would even prohibit buy and sell orders represented by the member from different customers. Second, IBI argued it would be impractical for a floor broker to determine whether its customers are performing a market making function. In this context, IBI noted that the Terminal

[10] The Commission notes that any decision to extend the policy floor-wide would have to be submitted to the Commission as a proposed rule change pursuant to Section 19(b) of the Act.

identifies the firm transmitting the order, but not the customer. Accordingly, the only way a floor broker could ensure it was not performing a market making function would be to restrict orders to buy or sell sides only. Third, because Terminal users would be restricted from entering certain two-sided limit orders, whereas other customers and brokers using telephones or other means to place such orders would face no similar restrictions, IBI claimed the provision is inconsistent with Section 6(b)(5) of the Act which requires that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Fourth, IBI argued the proposal would place an unnecessary burden on competition by limiting ''quote competition.'' IBI argued that because two-sided limit orders can result in narrower spreads, improved liquidity, and better executions, the restriction is inconsistent with the requirement of Section 6(b)(8) of the Act that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Fifth, IBI argued that the proposal would inhibit price discovery and better executions for customers, inconsistent with requirements set forth in Section 6(b)(5) of the Act that the rules of an exchange remove impediments to and perfect the mechanism of a free and open market. Sixth, IBI also maintained that the proposal is inconsistent with Section 11A(a) of the Act concerning economically efficient execution of securities transactions, fair competition, and best execution. IBI noted that the Act acknowledges the benefit of new data processing and communications techniques, and argued, consistent with the Commission's views, that the Terminals will provide investors with a cheaper and speedier means to route orders to the floor. IBI argued that the CBOE's market making restriction imposes restrictions that do not apply to other devices, and thereby would unfairly penalize IBI for its technological achievements. Finally, IBI argued that the provision provides no regulatory benefit, merely serving to protect market makers from competition. IBI claimed that the CBOE's concern that without the prohibition market makers will withdraw from its floor is not true. IBI noted that other benefits accrue to being on the floor, and believes that by increasing volume, the Terminals could encourage market maker floor participation, rather than discourage it.

B. CBOE Response Letter

The CBOE Response Letter to the November 1995 Comment Letter stated that IBI misread Paragraph C to prohibit two-sided limit orders. Rather, the provision is meant to restrict the acceptance of orders placed in the performance of a market making function. According to the CBOE, this would require an aggregate pattern of orders from an investor indicating the performance of a market making function, not merely the entry from time to time of two-sided limit orders. Therefore, the CBOE believes that Paragraph C is not overly broad because it would permit two-sided limit orders occasionally to be entered by the same customer and would not, as IBI suggests, restrict different investors from inputting orders on opposite sides of the market.

In response to IBI's concerns about the enforcement of the restriction by floor brokers, the CBOE argued that it is the member's responsibility to ensure compliance with the market making restriction. In support of this, the CBOE noted that the Application Agreement is between the Exchange and a member organization doing business with the public, and, in addition, Paragraph F of the Application Agreement would require a member to maintain an adequate audit trail of transactions and customer activities, ensuring the ability of the Exchange to enforce Paragraph C. In support of its argument, the CBOE cited various rules which require members to know their customers and what their customers are doing with respect to their transactions on the CBOE. The Exchange noted that compliance with the market making restriction lies with the member firm and not the floor broker.

The CBOE further argued that Paragraph C does not discriminate between customers as IBI alleges because the restriction applies equally to all customers. According to the CBOE, the reason a market making prohibition does not exist for other CBOE order delivery systems is that it would be impractical for customers to use such systems to perform market making functions. The CBOE argued that allowing investors to use terminals to perform off-floor market making functions in SPX options would grant them all the advantages enjoyed by a market maker without imposing any of the concomitant obligations, thereby compromising the viability of CBOE's markets. The CBOE also noted that the off-floor market maker would receive other benefits not available to CBOE market makers.[11] In this context, the CBOE notes that if a market maker had the freedom to leave the floor and perform market making through a Terminal, many would do so to avoid the obligations of being a market maker. The CBOE believes this would compromise the continued viability of its markets.

The CBOE also disputed the ''burden on competition'' and ''price discovery'' arguments by repeating that the provision does not bar all two-sided limit orders, just the entry of such orders that constitute market making. The CBOE also argued that to the extent the market making prohibition could be deemed a burden on competition, it is necessary and appropriate in furtherance of the Act, including Sections 6(b)(5) and 11A of the Act, given the CBOE's expressed concern that, absent the prohibition, the introduction of Terminals would cause CBOE market makers to leave the floor.

C. February 1996 Comment Letter

In its February 1996 Comment Letter, IBI disputed the CBOE Response Letter's contention that to allow Terminals to be used to perform market making functions could compromise the quality and viability of the CBOE's markets. First, IBI claimed that CBOE market makers enjoy many benefits and few burdens. In doing so, IBI referred to CBOE Rule 8.7, Interpretation .03B., which states that only 25% of a market maker's trades need be executed in person in a given calendar quarter.[12] Second, IBI claimed that there is no evidence that market makers would leave the CBOE floor if IBI's position were to prevail. Finally, IBI argued that if the public benefits from market participants' willingness to make continuous two-sided markets, then there is no reason to restrict those investors who have no obligation to make two-sided markets from making regular or continuous two-sided markets. IBI concluded that for these reasons, Paragraph C does not represent a proper exercise of the CBOE's rulemaking authority under the Act. Rather, IBI argued that the market

[11] For example, an off-floor market maker would be entitled to the firm quote accorded customers under CBOE Rule 8.51, Retail Automatic Execution System executions, participate in cross transactions under Rule 6.74(b), and enter its orders in the limit order book under CBOE Rule 7.4.

[12] The Commission notes, however, that for a market maker to receive market maker treatment for off-floor orders, the market maker must execute at least 80% of its transactions in person. CBOE Rule 8.7, Interpretation .03B. Moreover, at least 75% of a market maker's total contract volume must be in option classes to which it has been appointed. CBOE Rule 8.7, Interpretation .03A.

making restriction contravenes the policies of the Act favoring competition among market participants, investor protection, and the introduction of new communication technologies.

D. November 1996 Letter

The November 1996 Letter withdrew without prejudice IBI's objection to the proposed rule change, in order to permit floor brokers to begin using terminals to represent customer orders in accordance with the CBOE's proposal. In withdrawing its opposition, IBI stated that it is in the best interest of its customers in the short run to permit use of the Terminals quickly. The November 1996 Letter also requested that the Commission interpret the term ''market making function'' used in Paragraph C in a manner that could not be used to restrict unduly market access and broad competition. The November 1996 Letter asked the Commission to provide specific examples of permitted conduct in an approval order of the proposed rule change, such that market participants would be able to provide more efficient pricing.

The November 1996 Letter expressed concern that a Commission order recognize that there is less depth and liquidity prevailing in certain equity options and industry index products than in the SPX. IBI requested that the Commission recognize the role of two-sided limit orders in narrowing spreads and providing liquidity in markets that are not as deep and liquid as the SPX.[13]

IV. Discussion

A. General

Section 6(b)(5) of the Act[14] requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principals of trade, remove impediments to and perfect the mechanism of a free and open market, and in general to protect investors and the public interest. Section 6(b)(7) of the Act[15] requires that the rules of an Exchange be in accordance with Section 6(d) of the Act,[16] and in general provide a fair procedure for the disciplining of members and the prohibition or limitation by an exchange of a person's access to services offered by the exchange. Section 6(b)(8) of the Act[17] requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Section 11A(a)(1)(C)(ii) of the Act[18] states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers. For the reasons set forth below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Sections 6(b)(5), 6(b)(7), 6(b)(8), and 11A(a)(1)(C) of the Act.

The Commission believes that the CBOE's proposal should foster coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest by expediting and making more efficient the process by which members can receive and execute SPX orders on the floor of the Exchange. The proposal also will promote fair competition among brokers and dealers and facilitate transactions in options on the Exchange. The Commission also believes that the requirement that an applicant file the Application Agreement with the Exchange and comply with it is reasonable and ensures adequate surveillance and compliance with CBOE Rules. Finally, for the reasons described in more detail below, the Commission believes that the market making prohibition on the use of the Terminals adequately balances the potential benefits to the derived from Terminals with the important regulatory issues that are raised in connection with the potential use of Terminals for market making in SPX options.

B. Application Agreement

Paragraphs H and K of the Application Agreement address the physical, electrical and communication issues presented by the introduction of Terminals. These provisions should allow the Exchange to take into consideration the needs of all members in the allocation of limited space and communication resources to ensure that Terminals do not interfere with one another or with other Exchange systems.

Paragraph E of the Application Agreement generally will prohibit a member or associated person from trading with orders transmitted through a Terminal, unless no other member were to trade with the order, or the applicant were to trade on the same basis as other members who do not have priority. In addition, Paragraph E will prohibit a member from using for its benefit information transmitted through a Terminal before that information is disclosed to the trading crowd.[19] The Commission believes that these restrictions are appropriate given the two concerns the Exchange asserted Paragraph E is designed to address. First, that the applicant or one of its associated persons might interact with an order—in effect internalizing it—prior to information relating to such order becoming known to the trading crowd, which would be inconsistent with the open auction market principles governing the Exchange's trading system. Second, the knowledge of order information in the system could give the applicant or an associated person the ability to effect transactions or to change quotes in the Exchange's market or in the markets for the underlying interest or related interests before the information were available in the market. The Commission also believes that the two exceptions to the general restriction on trading with orders in the Terminal system are consistent with these concerns, and ensure that members using Terminals trade on the same terms and conditions as other market participants and do not receive any trading advantages to interact with orders transmitted through the Terminals.

Paragraphs D and F of the Applicant Agreement relate to surveillance, audit trails, and compliance. The Commission believes that these provisions should serve to ensure that an applicant clearly understands its obligation to adhere to the applicable laws, rules, policies, and procedures of the Application Agreement, Exchange, and Commission. The Exchange will oversee that obligation through inspection and audit.

[13] The Commission recognizes that markets for certain equity options can be less deep and liquid than the SPX market. However, the rule change approved today concerns the use of Terminals only in the SPX crowd. The Commission will consider the merits of permitting the use of Terminals to represent two-sided limit orders that effectively create regular two-sided markets in less liquid options crowds when it is presented with that issue.

[14] 15 U.S.C. § 78f(b)(5) (1988).

[15] 15 U.S.C. § 78f(b)(7) (1988).

[16] 15 U.S.C. § 78f(d) (1988). Section 6(d) of the Act, among other things, requires that an exchange, in any proceeding to determine whether a member should be disciplined, bring specific charges, notify such member of and provide him with an opportunity to defend himself against such charges, and keep a record.

[17] 15 U.S.C. § 78f(b)(8) (1988).

[18] 15 U.S.C. § 78k–1(a)(1)(C) (1988).

[19] The Exchange believes that it would be inconsistent with just and equitable principles of trade for a member or its associated persons to use, or to permit the use of, information in a customer's order prior to the disclosure of that information to the market, except if such use is in accordance with the instructions of the customer and is consistent with Exchange rules. Amendment No. 1, *supra* note 3.

The Application Agreement explicitly limits the use of a Terminal to the SPX options trading crowd. The Commission believes that it is consistent with the Act for the Exchange to limit the introduction of Terminals at this time given the Exchange's stated desire to gain experience in their use and address any problems which may arise. The Commission notes that any decision to expand the use of Terminals beyond the SPX options trading crowd would require that the CBOE submit a proposed rule change to the Commission pursuant to Section 19(b) of the Act.

Paragraph L of the Application Agreement provides for the termination of the Exchange's approval of a member's Terminal under certain circumstances. As noted above, Paragraph L allows the Exchange, with 30 days notice, to terminate all approvals for Terminals in trading crowds on the CBOE floor or at particular posts. In addition, the Exchange summarily could terminate its approval of a member's Terminal use following a determination by the Office of the Chairman of the Exchange that the Exchange has given a member notice that a statement in that member's Application Agreement is inaccurate or incomplete, the member has failed to comply with any provision of the Application Agreement, or the Terminal is causing operational difficulties on the floor of the Exchange, and that member has failed to cure the same within seven calendar days following the giving of such notice. The Commission believes that the Paragraph L termination procedures are consistent with the Act, including Sections 6(b)(7) and 6(d) of the Act,[20] and are designed to provide affected members with adequate due process. The Commission notes that a member so affected could seek relief pursuant to the Hearings and Review provisions of Chapter XIX of the Exchange's Rules. These provisions provide specific procedures to seek Exchange hearing and review for persons aggrieved by action of the Exchange in terminating or enforcing the terms of the Application Agreement.[21]

C. Market Making Restriction

Paragraph C of the Application Agreement will allow a Terminal to be used to receive brokerage orders only, and not to perform a market making function. Orders that will be deemed to ''perform a market making function'' are those that create a pattern of offering in the aggregate either to make two-sided markets or simultaneously to represent opposite sides of the market in any class of options.

Although IBI has withdrawn its objections to Paragraph C of the Application Agreement,[22] for the reasons set forth below, the Commission believes that the November 1995 Comment Letter and the February 1996 Comment Letter raise some valid concerns about the CBOE proposal. For the reasons set forth below, the Commission finds that these objections have been adequately addressed and finds that the market maker restriction is consistent with the Act. Specifically, the Commission believes that Paragraph C currently represents an acceptable balancing by the Exchange of the potential benefits to be derived from Terminals against the CBOE's stated concern that to allow unrestricted off-floor market making could undermine the CBOE market maker system and could create disincentives for CBOE market makers to remain on the floor of the Exchange. The CBOE expressed concern that such off-floor market making effectively would establish a market making structure devoid of affirmative market making obligations. This could result in less deep and liquid markets, particularly during periods of market stress, when Terminal users engaged in unrestricted off-floor market making would be under no obligation to continue making markets. The Commission believes these concerns are reasonable, and disagrees with IBI's contention that Paragraph C represents an unacceptable exercise of the Exchange's rulemaking authority. Similarly, the Commission disagrees with IBI that the CBOE is attempting to limit the introduction of new technology. The CBOE's proposal will allow the introduction of an innovative technology into one of its most active trading crowds, while doing so in a manner designed to ensure the continued viability of its market maker system.

IBI claimed that CBOE market makers enjoy many benefits, but few burdens. The Commission notes, however, that while market makers derive certain benefits in connection with their market making functions, the obligations they assume are substantial. For example, CBOE Rule 8.7 requires generally that a market maker's transactions constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market. Specific requirements include a market maker's continuous obligation to deal for his or her own account when there is a lack of price continuity, or when there is a disparity between supply and demand for a particular option contract, or between option contracts of the same class. In fulfilling these requirements, a market maker must, among other things, compete with other market makers to improve markets, make markets, and update market quotations in response to changed market conditions. Moreover, market makers are specifically required to establish firm quotes with regard to public customer transactions, must meet specific trading requirements within their assigned options classes, and generally participate in Exchange sponsored automated trading systems. Although it is true as IBI states that only 25% of a market maker's trades must be executed in person, in actuality a much greater percentage of its transactions must be in person to be able to avail itself of the full benefits of market maker status.[23] In contrast, a customer using a Terminal to make markets would be entitled to benefits denied CBOE market makers.[24] Consequently, the Commission does not agree with IBI's contention that CBOE market makers' obligations are illusory. Rather, it is legitimate for the CBOE to be concerned about significant unfair competition if IBI customers were allowed to make markets whenever they so chose while still receiving the benefits of being a public customer under CBOE rules.

IBI maintained that a non-market maker should be able to make two-sided markets on a continuous or regular basis even though he has no obligation to do so because it would benefit the public. The Commission believes, however, that any purported benefit to be derived from such off-floor market making could be more than off-set by the potential harm identified by the CBOE regarding such activity. Notably, Terminal users acting as market makers by making, in the aggregate, a pattern of two-sided markets would not be subject to CBOE requirements to make continuous markets, nor to direct CBOE surveillance and monitoring. Because off-floor market makers potentially would enjoy the benefits of other ''public customers,'' while not having the concomitant obligations and responsibilities of CBOE market makers, the Commission does not believe it is unreasonable for the CBOE to determine that the introduction of unregulated

[20] *See supra* notes 15–16, and accompanying text.

[21] *See* CBOE Rules 19.4, Hearing, and 19.5, Review.

[22] November 1995 Comment Letter and February 1996 Comment Letter, *supra* note 5; and *supra* Parts III.A. and C.

[23] *See supra* note 12.

[24] *See supra* note 11.

market making through Terminals could undermine its market maker system.

The Commission also believes that the CBOE restriction on market making through the use of Terminals has been effected in a clear and reasonable manner that is not ambiguous nor overboard, and that takes into account regulatory and market impact concerns, including those relating to quote competition and price discovery.[25] Notably, the CBOE's proposal does not bar all two-sided limit orders. Instead it only restricts the acceptance of orders placed in the performance of a market making function. The distinction between market making and brokerage activity is well established among market participants. Moreover, the language of Paragraph C expressly restricts only an aggregate pattern of orders from an investor which indicates whether an investor is performing a market making function, not the occasional entry of two-sided limit orders. Thus, the restriction on Terminal use for routing limit orders is the minimum necessary for the CBOE to bar Terminal use for off-floor market making.

By approving this proposed rule change, the Commission is not stating that it is impermissible for an options exchange to permit users of Terminals or other similar devices to make two-sided markets. Indeed, the CBOE may determine to reconsider its decision not to permit users to Terminals to engage in market making at some future time. Nevertheless, while it is not illegal to permit off-floor market making, the Commission believes that it is within the CBOE's prerogative as a exchange to prohibit it. The Commission notes that the CBOE is particularly concerned that off-floor market making effectively would establish a market making structure devoid of affirmative market making obligations that could result in less deep and liquid markets during periods of market stress, when off-floor Terminal market makers would not be required to continue making markets. The Commission believes that these concerns are reasonable. Moreover, as noted above, surveillance of market making through the Terminals currently would be particularly difficult. The Commission's approval of the CBOE rule change reflects the Commission's belief that the CBOE may act incrementally in approving the use of Terminals for transactions in SPX options given that the CBOE does not know the possible impact of Terminals upon its market.

The Commission also emphasizes that it expects the CBOE to interpret the term ''market making'' in accordance with its traditional definition as defined under the Act, *i.e.*, holding one's self out as being willing to buy *and* sell a particular security on a regular or continuous basis.[26] The definition of market making should not capture parties who enter orders on one side of the market; nor would it capture parties who enter two-sided limit orders on occasion. A party would not be deemed to be engaging in market making unless it regularly or continuously holds itself out as willing to buy and sell the security.[27]

For the same reasons described below, the Commission does not believe that the CBOE's proposal imposes a burden on competition or restraint on technology not necessary or appropriate under the Act. As noted above, regulatory and compliance issues are raised by off-floor market making through the Terminals. The CBOE's restriction also serves to ensure fair competition among persons making markets on the CBOE consistent with Section 11A of the Act. Accordingly, the Commission believes that any burden on competition that arguably exists by the restriction on Terminal use is justified as reasonable and appropriate to ensure adequate regulation of the CBOE's markets.

IBI also has claimed that the CBOE's rule change unfairly discriminates between Terminal users and customers using other means such as telephones to transmit orders. The Commission, however, agrees with the CBOE that, unlike the use of Terminals, other means of transmitting orders do not allow a customer effectively to engage in market making. As the CBOE notes, other systems on its floor ''do not have the technical capability to permit an investor to make and change, with adequate speed, the wide range of quotes necessary to perform a market making function effectively.'' The CBOE's proposal, therefore, does not discriminate between customers using different methods of transmitting orders, but rather serves to delineate the distinction between market makers and customers. In summary, the prohibition does not unfairly discriminate because it applies equally to all investors using a Terminal, which, unlike other available technologies, have the capability to allow market making functions.

Finally, the Commission disagrees with IBI's contention that the CBOE's proposal places a burden on floor brokers by requiring them to determine whether customers are engaged in market making. As noted by the CBOE, the Application Agreement would be between the Exchange and a member organization doing business with the public. Under the terms of the Application Agreement, a member would be required to maintain an audit trail sufficient to determine adherence to Paragraph C of the Application Agreement. Thus, floor brokers would not be required to monitor such adherence, and compliance would be within the member's responsibilities. In any event, as noted above, the Commission believes the CBOE's market making restriction is clear enough to provide guidance to monitor trading activity for compliance with the restriction.

In summary, while the CBOE's restrictions on the use of Terminals raise regulatory issues, the Commission believes that, within the context of the SPX options trading crowd, the market making restriction is an acceptable exercise of the Exchange's rulemaking authority. While the Commission recognizes that there may be different ways to address the regulatory issues presented by off-floor market making through the use of Terminals, the Act does not dictate that any particular approach be taken. The Commission believes that the manner in which the Exchange has chosen to address the regulatory issues presented by off-floor market making reflects the considered judgement of the CBOE regarding the attributes of Exchange membership and the organization of its trading floor, and is a fair exercise of its powers as a national securities exchange.

V. Conclusion

In view of the above, the Commission finds that the proposal is reasonable and is consistent with the Act, and, in particular, Sections 6(b)(5), 6(b)(7), 6(b)(8), and 11A(a)(1)(C)(ii) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the

[25] *Cf.*, Securities Exchange Act Release No. 25842 (June 23, 1988), 53 FR 24359 (approving certain restrictions on the use of telephones on the floor of the New York Stock Exchange), *aff'd per curiam*, 866 F.2d 47 (2d Cir. 1989).

[26] *See e.g.*, 15 U.S.C. § 78c(a)(38); Securities Exchange Act Release No. 36719A (Sept. 6, 1996), 61 FR 48290, 48316 (Sept. 12, 1996).

[27] Securities Exchange Act Release No. 36719A (Sept. 6, 1996), 61 FR 48290, 48316 (Sept. 12, 1996). The Commission notes that a broker using a Terminal may receive numerous orders from multiple customers, some of which are on the bid side and others on the offer side of an SPX series. This is consistent with a brokerage function, not a market making function. If, however, a particular customer of a broker regularly or continuously places two-sided limit orders, then the CBOE might, under certain circumstances, reach a different conclusion as to the nature of the function being performed by the broker and the customer.

[28] 15 U.S.C. § 78s(b)(2) (1988).

proposed rule change (File No. SR–CBOE–95–48) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32333 Filed 12–19–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38048; File No. SR–GSCC–96–13]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Relating to the Eligibility of Treasury Inflation Protection Securities for Netting Services

December 13, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 21, 1996, the Government Securities Clearing Corporation (''GSCC'') 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 GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will make the U.S. Department of Treasury's Treasury Inflation Protection Security eligible for clearance and settlement at GSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC 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

The purpose of the proposed rule change is to make the Treasury Inflation Protection Security eligible for clearance and settlement at GSCC. The Treasury Inflation Protection Security is a marketable, book-entry inflation protection security that is being issued by the Department of the Treasury,[3] GSCC believes that in order to maximize the desirability of the Treasury Inflation Protection Security from a trading perspective and to ensure that their introduction does not result in any increased clearance and settlement risk for the marketplace, GSCC should be able to compare, net, and settle these securities. Therefore, GSCC is planning to make the Treasury Inflation Protection Security eligible for its netting process prior to the U.S. Department of Treasury's first auction of the Treasury Inflation Protection Security, which is scheduled for the January 1997 auction of the ten-year note. Other maturities will be issued later.

The Treasury Inflation Protection Security provides inflation protection by adjusting semiannually the principal amount of investors' holdings by multiplying the stated value at issuance (*i.e.*, par amount) by an index ratio. The applicable index will be the U.S. City Average All Items Consumer Price Index for All Urban Consumers (''CPI'') published by the Bureau of Labor Statistics of the U.S. Department of Labor. The Treasury Inflation Protection Security will be redeemed at maturity at the greater of its inflation adjusted principal or its par amount.

The Treasury Inflation Protection Security will be issued with a stated fixed rate of interest based on the rate determined at auction. Although the interest rate is fixed, because the interest rate is paid on a varying amount of principal, the coupon payments will also be variable. This will be the first time that GSCC has made a variable-rate security eligible for netting.

For GSCC to process the Treasury Inflation Protection Security, the following enhancements must be made to GSCC's automated system.

1. Creation and maintenance of a database of historical CPI indexes. This data is necessary for determining accrued interest, which is used in valuing positions for settlement purposes and for forward margin and clearing fund calculations.

2. Modification of the security database to permit GSCC to designate the Treasury Inflation Protection Security as a variable rate security.

3. Modifications to participant input and output formats to take into account different and additional data elements.

After these enhancements have been made, GSCC plans to test with GSCC members before ''going live'' with the new service in order to ensure that participants are able to properly provide and receive data regarding transactions in these new securities.

GSCC worked with the Public Securities Association to determine a uniformly acceptable method for the industry to reflect the inflation index in the calculation of final money on Treasury Inflation Protection Security transactions. Consistent with these discussions, participants will submit transactions using a price that has not been adjusted for inflation. GSCC will compare and report transactions based on its Final Settlement Money formula. Final Settlement Money will equal the original par value multiplied by the CPI index ratio multiplied by the unadjusted price plus the inflation adjusted accrued interest. Inflation adjusted accrued interest will equal the original par value multiplied by the inflation ratio multiplied by the CPI index ratio multiplied by the interest rate multiplied by the term.

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act[4] and the rules and regulations thereunder because it is designed to promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement of Burden on Competition

GSCC does not believe that the proposed rule change 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

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing, and comments will be solicited by an important notice. GSCC will notify the

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[29] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 789s(b)(1).

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] The Department of Treasury has proposed amendments to 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds) to accommodate the issuance of the Treasury Inflation Protection Security. Department of Treasury Circular, Public Debt Service No. 1–93 (September 23, 1966), 61 FR 50924 (September 27, 1996).

[4] 15 U.S.C. 78q-1(b) (3) (F).

Commission of any written comments it receives.

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 reasons for so finding or (ii) as to which GSCC 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 the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 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 GSCC. All submissions should refer to the file number SR–GSCC–96–13 and should be submitted by January 13, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32335 Filed 12–19–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 17 CFR 200.30–3(a)(12) (1996).

[Release No. 34–38052; File No. SR–NASD–96–40]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending the Inclusion Criteria for the Supplemental List of the Mutual Fund Quotation Service

December 16, 1996.

On October 18, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19B–4 thereunder.[2] The proposed rule change amends NASD Rule 6800 to provide new criteria to permit smaller mutual funds and money market funds to disseminate their prices via the Mutual Fund Quotation Service (''Service''). Notice of the proposed rule change, together with the substance of the proposal, was published in the Federal Register.[3] No comment letters were received. The Commission is approving the proposed rule change.

I. Background

The Service provides for the collection and dissemination of prices for both mutual funds and money market funds. The Service consists of two lists: the News Media List and the Supplemental List. The News Media List,[4] which is not being amended by this rule filing, consists of data on more than 6,000 funds which Nasdaq distributes daily to newspapers and to vendors through its Level 1 Service.

Eligible funds that do not qualify for the News Media List have been eligible for price dissemination solely through the Level 1 Service. The criteria for inclusion in this list of smaller funds has been a size test, requiring 300 fund shareholders at the time of initial application for inclusion in the Supplemental List. According to the Investment Company Institute (''ICI''), approximately 2,100 funds do not qualify for either the News Media or Supplemental Lists. In the course of discussions with ICI, the Nasdaq determined that, while many smaller funds may have smaller numbers of beneficial owners that keep such funds from meeting the 300 shareholder test, the same funds often have substantial net assets. Because these funds do not qualify for the Nasdaq Stock Market, Inc. (''Nasdaq'') Service, these smaller funds do not have a centralized means of disseminating their prices to broker-dealers, rating services and individual investors. Instead, these funds distribute their prices to various entities by fax or telephone.

II. The Terms of Substance of the Proposed Rule Change

The proposed rule change amends NASD Rule 6800 to revise the Service's Supplemental List criteria to delete the requirement that a fund have 300 shareholders and replace it with two alternative standards. First, a mutual fund may meet the Supplemental List inclusion standard if the fund has net assets at the time of application of $10 million or more. In the alternative, a fund would qualify regardless of net assets or shareholder members if it has operated for two full years.

III. Discussion

The Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act in that it promotes better processing of pricing information in securities, protects investors and the public interest, and is designed to produce fair and informative prices for smaller mutual funds. The Association has represented that the new informative prices for smaller mutual funds. The Association has represented that the new Supplemental List criteria for the Service should permit approximately 1,400 more funds to provide Nasdaq with price information through its Level 1 Service, which is distributed over more than 280,000 terminals. Because of the present inefficiencies, costs, and lack of transparency associated with communicating by fax or telephone, the Commission believes that distribution of Net Asset Value information for smaller fund through the Service significantly aids investors in such funds. The Commission believes that the Service promotes efficient, centralized dissemination of critical information to a wide audience, and thereby promotes the transparency of smaller funds prices. Furthermore, the Commission believes the Service may help the affected funds reduce the costs associated with distributing Net Asset Value information to various entities by fax or telephone.

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] Securities Exchange Act Release No. 37922 (November 5, 1996), 61 FR 58271 (November 13, 1996).

[4] The criteria for inclusion in the News Media List are: (1) for initial inclusion—at least 1,000 shareholders or $25 million in net assets; (2) for continued inclusion—at least 750 shareholders or $15 million in net assets.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change SR–NASD–96–40 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32334 Filed 12–19–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 12/13/96

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–96–2011.
Date filed: December 9, 1996.
Parties: Members of the International Air Transport Association.
Subject:
COMP Telex Reso 024f
Local Currency Fare Changes—Pakistan
Intended effective date: December 16, 1996

Docket Number: OST–96–2017.
Date filed: December 11, 1996.
Parties: Members of the International Air Transport Association.
Subject:
TC31 Telex Mail Vote 845
Japan-North America/Caribbean PEX fares
Intended effective date: April 1, 1997

Myrna F. Adams,

Acting Chief, Documentary Services.

[FR Doc. 96–32386 Filed 12–18–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending December 13, 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–96–2008.
Date filed: December 9, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 6, 1997.
Description: Application of China Southern Airlines Company Limited, pursuant to 49 U.S.C. Section 41301 and Subpart Q of the Regulations, requests a foreign air carrier permit to perform scheduled service from Guangzhou, China to Los Angeles, California.

Docket Number: OST–96–2013.
Date filed: December 10, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 7, 1997.
Description: Application of Societe Caribeenne de Transport Aerien d/b/a Air St. Martin, pursuant to 49 U.S.C. Section 41302, and Subpart Q of the Regulations, applies for a foreign air carrier permit authorizing it to engage in charter foreign air transportation of passengers and their property between points in the French West Indies and points in the United States. Air St. Martin also seeks authority to operate fifth freedom charters between the U.S. and third countries subject to Part 212 of the Department's Economic Regulations.

Myrna F. Adams,

Acting Chief, Documentary Services.

[FR Doc. 96–32385 Filed 12–19–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Draft Appendix for Emergency Flotation Systems to Advisory Circular 27–1, Certification of Normal Category Rotorcraft, and Advisory Circular 29–2A, Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration(FAA), DOT.

ACTION: Notice of availability of advisory circular (AC) draft appendix; request for comments.

SUMMARY: This notice announces the availability of and request for comments on the draft appendix for Emergency Flotation Systems to AC 27–1, Certification of Normal Category Rotorcraft, and AC 29–2A, Certification of Transport Category Rotorcraft.

DATES: Comments must be received on or before January 15, 1997.

ADDRESSES: Submit Written comments to FAA, Rotorcraft Standards Staff, ASW–110, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110.

FOR FURTHER INFORMATION CONTACT: Kathy Jones, Rotorcraft Standards Staff, ASW–110, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth,Texas 76193–0110, telephone (817) 222–5359; facsimile (817) 222–5961.

SUPPLEMENTARY INFORMATION: Copies of the draft appendix have been mailed to all known affected industry and government entities, both foreign and domestic, Any interested person not receiving this draft appendix may obtain a copy by contacting the person named under the caption **FOR FURTHER INFORMATION CONTACT**.

Interested person are invited to submit written comments on this draft appendix by January 15, 1997. Comments must identify Draft Appendix for Emergency Flotation Systems to ACs 27–1 and 29–2A. These comments will be discussed at public meeting on February 5, 1997, at the Anaheim Hilton and Towers, 777 Convention Way, Anaheim, California. Written comments received may be inspected at the office of the Rotorcraft Standards Staff, FAA, 4th floor, 2601 Meacham Boulevard, Fort Worth, Texas.

Issued in Forth Worth, Texas on December 11, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–32403 Filed 12–19–96; 8:45 am]

BILLING CODE 4919–13–M

Receipt of Noise Compatibility Program and Request for Meadows Field, Bakersfield, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program for Meadows Field, Bakersfield, California, that was submitted by Kern County, California under the provision of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193). (hereinafter referred to as ''the Act'') and 14 CFR Part 150. This program was submitted subsequent to a determination by the FAA that the associated noise exposure maps submitted under 14 CFR Part 150 for Meadows Field were in compliance with applicable requirements effective April 14, 1995. The proposed noise

[5] 15 U.S.C. § 78s(b)(2).
[6] 17 CFR 200.30–3(a)(12).

compatibility program will be approved or disapproved on or before June 9, 1997.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is December 12, 1996. The public comment period ends on February 10, 1997.

FOR FURTHER INFORMATION CONTACT: Bahman H. Tash, Airport Planner, AWP–611.5, Planning Section, Western-Pacific Region, Federal Aviation Administration, Telephone: (310) 725–3616. Mailing Address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007. Street Address: 15000 Aviation Boulevard, Room 3012, Hawthorne, California 90261. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Meadows Field which will be approved or disapproved on or before June 9, 1997. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA formally received the noise compatibility program for Meadows Field effective on December 12, 1996. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as noise compatibility program under Section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before June 9, 1997.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue, SW., Room 617, Washington, D.C. 20591

Federal Aviation Administration, Western-Pacific Region Office, Airports Division, Room, 3012, 15000 Aviation Boulevard, Hawthorne, California 90261

Mr. Raymond C. Bishop, Director, Kern County Department of Airports, 1401 Skyway Drive, Suite 200, Bakersfield, California 93308–1697

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on December 12, 1996.

Herman C. Bliss,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 96–32405 Filed 12–19–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss Aircraft Certification Procedures issues.

DATES: The meeting will be held on January 16, 1997, at 9:00 a.m. Arrange for oral presentations by January 6, 1997.

ADDRESSES: The meeting will be held at GAMA, 1400 K St. NW., Suite 801, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Jeanne Trapani, Office of Rulemaking (ARM–208), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–7624.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking advisory committee to be held on January 16, 1997, at GAMA, 1400 K St. NW., Suite 801, Washington, DC 20005. The agenda for the meeting will include:

Opening Remarks.

Report on ARAC Regulatory Review meeting.

Old Business, to include approval of previous meeting minutes, status of Technical Standard Order C148, status of Emergency Locator Transmitters, status of notice of proposed rulemaking recommendation regarding changes to certification procedures.

Working Group Reports.

Production Certification

Parts

Delegation

New Business.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by January 6, 1997, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Aircraft Certification Procedures or by bringing the copies to him at the meeting. 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 meeting.

Issued in Washington, DC, on December 16, 1996.

Ava L. Mims,

Assistant Executive Director, ARAC on Aircraft Certification Procedures Issues.

[FR Doc. 96–32404 Filed 12–19–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 159; Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee (SC) 159 meeting to be held January 6–10, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, 1140

Connecticut Avenue, NW., Washington DC 20036.

The agenda will be as follows:

Specific Working Group (WG) Sessions

January 6: WG 2, WAAS Precision

January 7: WG 2, WAAS Precision (continued); WG 2A, GPS/GLONASS; WG 4B, Airport surface Surveillance (WG–4B will meet at ALPA, 1625 Massachusetts Avenue, 8th Floor, Washington, DC.)

January 8–9: WG 4A, Precision Landing Guidance (LAAS CAT I/II/III).

Plenary Session

January 10: (1) Chairman's Introductory Remarks; (2) Review/Approval of Minutes of Previous Meeting; (3) Review WG Progress and Identify Issues for Resolution: GPS/WAAS (WG 2); GPS/GLONASS (WG 2A); GPS/Precision Landing Guidance and Airport Surface Surveillance (WG 4); (4) Review of EUROCAE Activities; (5) Assignment/Review of Future Work; (6) Other Business; (7) Date and Location 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, NW., 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 December 16, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–32401 Filed 12–19–96; 8:45 am]

BILLING CODE 4810–13–M

RTCA, Inc., Joint RTCA Special Committee 189/EUROCAE Working Group 53; Air Traffic Services Safety and Interoperability Requirements

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee (SC) 189/EUROCAE Working Group (WG) 53 meeting to be held January 6–10, 1997, starting at 9:00 a.m. The meeting will be held at EUROCAE, 17 rue Hamelin, 75116 Paris, Cedex 16, France. The point of contact is Mr. Francis Grimal, Secretary General, EUROCAE, 33–1–450–57–188 (phone) and 33–1–455–30–393 (fax).

The agenda will be as follows:

January 6, Plenary Session: Review and Approval of Terms of Reference; Discussion on SC 189–WG 53 Process, as Defined in Position Paper P001–C (Ref. RTCA Paper No. 402–96/SC–189–004); Overview of Position Paper Issues, Nomenclature, and Procedures; Integration of the Sub-Groups (SG), with Identification of Co-Chairs and Members; SG External Organizations Interface Process; Work Program Expectations, Product Deliverables, and Schedule; Role of CAA Advisory Group; SG Program Updates and Status Reports (SG 1 Interoperability Requirements; SG 2 Safety Objectives; SG 3 Performance Objectives); Co-Chair Summary and Action Item Review.

January 7–9, Separate SG Meetings: SG 1 Interoperability Requirements; SG 2 Safety Objectives; SG 3 Performance Objectives; CAA Advisory Group, as Necessary.

Friday, January 10, Plenary Session/Wrap-up: SG Reports (SG 1, SG 2, SG 3); Summaries, Open Issues, and Action Item Review; Review of Preliminary Meeting Summary; Co-Chair Wrap-up; Follow-on Meeting(s) Venue and Schedule.

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 December 16, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–32402 Filed 12–19–96; 8:45 am]

BILLING CODE 4810–13–M

Surface Transportation Board

[STB Docket No. AB–167 (Sub-No. 1163X)]

Consolidated Rail Corporation—Abandonment Exemption—in Northampton County, PA

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the requirements of 49 U.S.C. 10903 the abandonment by Consolidated Rail Corporation of 3.8 miles of rail line between milepost 79.0 and milepost 82.8 in Northampton County, PA, subject to: (1) standard labor protection conditions; (2) a public use condition; and (3) a trail use condition.

DATES: The exemption will be effective January 19, 1997 unless it is stayed or a formal statement of intent to file an offer of financial assistance (OFA) is filed. Statements of intent to file an OFA [1] under 49 CFR 1152.27(c)(2) and requests for a notice of interim trail use/rail banking under 49 CFR 1152.29 must be filed by December 30, 1996; petitions to stay must be filed by January 6, 1997; and petitions to reopen must be filed by January 14, 1997.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Docket No. AB–167 (Sub-No. 1163X) must be filed with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, NW., Washington, DC 20423; in addition, a copy of all pleadings must be served on petitioner's representative: Robert S. Natalini, Esq., Consolidated Rail Corporation, 2001 Market Street—16A, Philadelphia, PA 19101–1416.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call or pick up in person from: DC NEWS & DATA, INC., 1201 Constitution Avenue, NW., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: December 9, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32356 Filed 12–19–96; 8:45 am]

BILLING CODE 4915–00–P

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Information Collection; Comment Request

ACTION: Federal Register Pre-Clearance Notice.

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 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 Treasury Department's Office of Foreign Assets Control is soliciting comments concerning the civil penalty provisions, of the Foreign Assets Control Regulations, 31 CFR §§ 500.703 and 500.704.

DATES: Written comments should be received on or before February 18, 1997 to be assured of consideration.

ADDRESS: Direct all written comments to Dorene F. Erhard, Sr. Sanctions Advisor, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, (tel.: 202/622-2500). Internet Address: Dorene.Erhard@treas.sprint.com.

FOR FURTHER INFORMATION CONTACT: Mrs. B.S. Scott, Chief, Penalties Program (tel.: 202/622-6140); or William B. Hoffman, Chief Counsel (tel.: 202/622-2410); Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Title: Foreign Assets Control Regulations, Civil Penalties Provisions.

OMB Number: 1505–0147.

Abstract: A recipient of a prepenalty notice alleging a violation of the Foreign Assets Control Regulation is permitted to respond in writing requesting a hearing and/or setting forth his or her belief that a penalty should not be imposed, or if imposed, should be in a lesser amount than proposed.

Current Actions: Extension.

Type of Review: Extension.

Affected Public: Businesses and other for-profit institutions/ banking institutions/individuals.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 2 hours to process.

Estimated Annual Burden Hours: 100 hours.

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 agency's functions, including whether the information has 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; 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; (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 12, 1996.

William B. Hoffman,

Chief Counsel, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 96–32338 Filed 12–19–96; 8:45 am]

BILLING CODE 4810–25–M

Office of Thrift Supervision

[AC–55: OTS No. 5120]

First Federal Savings Bank of America, Fall River, Massachusetts; Modification to Approval of Conversion Application

Notice is hereby given that on December 17, 1996, the Executive Director, Supervision, Office of Thrift Supervision, acting pursuant to delegated authority, issued Order No. 96–123, which modified Order No. 96–108, dated November 12, 1996, which approved the application of First Federal Savings Bank of America, Fall River, Massachusetts (the ''Association''), to convert to the stock form of organization. The modification was made to withdraw approval of the local depositor preference provisions in the Association's Plan of Conversion and, if the Association proceeds with the proposed conversion offering, to require the deletion of the local depositor preference provisions from the Association's Plan of Conversion. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: December 18, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–32540 Filed 12–19–96; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Poverty Threshold; Notice

AGENCY: Department of Veterans Affairs.

SUMMARY: The Department of Veterans Affairs (VA) hereby gives notice of the weighted poverty threshold established for 1995 for one person (unrelated individual) as established by the Bureau of the Census. This amount is $7,763.

DATES: For VA determinations, the 1995 poverty threshold is effective September 26, 1996, the date on which it was established by the Bureau of the Census.

FOR FURTHER INFORMATION CONTACT:

Paul Trowbridge, Consultant, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: We published a final rule amending 38 CFR 4.16(a) in the Federal Register of August 3, 1990, 55 Fed. Reg. 31,579. The amendment provided that marginal employment generally shall be deemed to exist when a veteran's earned annual income does not exceed the amount established by the Bureau of Census as the poverty threshold for one person. The provisions of 38 CFR 4.16(a) use the poverty threshold as a standard in defining marginal employment when considering total disability ratings for compensation based on unemployability of an individual. We stated we would publish subsequent poverty threshold figures as notices in the Federal Register.

The Bureau of the Census recently published in the weighted average poverty thresholds for 1995. The threshold for one person (unrelated individual) is $7,763.

Dated: December 11, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 96–32300 Filed 12–19–96; 8:45 am]

BILLING CODE 8320–01–M

Friday
December 20, 1996

Part II

Office of Personnel and Management

5 CFR Part 581

Processing Garnishment Orders for Child Support and/or Alimony; Final Rule

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

RIN 3206–AH55

Processing Garnishment Orders for Child Support and/or Alimony

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: OPM is issuing a final rule to update the list of agents designated to accept legal process and the list of agents designated to facilitate the service of legal process on federal employees.

DATES: This amendment will become effective on December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Murray M. Meeker, Senior Attorney, Office of the General Counsel, (202) 606–1701.

SUPPLEMENTARY INFORMATION: Pursuant to section 301(b) of Executive Order No. 12953, this document updates the list of designated agents to receive support garnishment orders. Please note that among the changes is a change requested by the Defense Finance and Accounting Service (DFAS) which designates the Assistant General Counsel, Garnishment Operations Directorate, at the DFAS Cleveland Center to be the agent to accept legal process for all military members and civilian employees of the Department of Defense unless specifically excepted. This change affects the following headings under the Department of Defense, General Notice for Certain Civilian Employees of the Department of Defense, Army, Navy, Marine Corps, Air Force, Defense Advance Research Project Agency, Defense Communications Agency, Defense Contract Audit Agency, Defense Finance and Accounting Service, Defense Intelligence Service, Defense Investigative Service Agency, Defense Logistics Agency, Defense Mapping Agency, Defense Nuclear Agency, and the Uniformed Services University of the Health Sciences.

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days because there is no reason to delay the effective date of the updated lists.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because their effects are limited to Federal employees and their creditors.

List of Subjects in 5 CFR Part 581

Alimony, Child support, Government employees, and Wages.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending part 581 of Title 5, Code of Federal Regulations as follows:

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

1. The authority citation for part 581 continues to read as follows:

Authority: 42 U.S.C. 659, 661–662; 15 U.S.C. 1673; E.O. 12105 (43 FR 59465 and 3 CFR 262) (1979).

2. Appendix A to part 581 is revised to read as follows: Appendix A to Part 581—List of Agents Designated to Accept Legal Process

[This appendix lists the agents designated to accept legal process for the Executive Branch of the United States, the United States Postal Service, the Postal Rate Commission, the District of Columbia, American Samoa, Guam, the Virgin Islands, and the Smithsonian Institution.]

I. Departments

Office of the Secretary
Office of the Deputy Secretary
Office of the Under Secretaries
Office of the Assistant Secretaries
Director, Executive Resources and Services Division
Office of Personnel, Room 334 W—Administration Bldg., 14th St. and Independence Ave., SW., Washington, DC 20250 (202) 720–6047

Office of Inspector General

Chief Counsel to the Inspector General, Office of Inspector General, Room 27 E—Administration Bldg., 14th St. and Independence Ave., SW., Washington, DC 20250 (202) 720–9110
Administration
Board of Contract Appeals
Chief Financial Officer
Judicial Officer
Office of Administrative Law Judges
Office of Budget and Program Analysis
Office of Civil Rights Enforcement
Office of Communications
Office of Congressional and Intergovernmental Relations
Office of the General Counsel
Office of Information and Resources Management
Office of Operations
Office of Personnel
Office of Small and Disadvantaged Business Utilization

Chief, Employment and Compensation Branch, Office of Personnel—POD, Room 31 W—Administration Bldg., 14th St. and Independence Ave., SW., Washington, DC 20250–9630 (202) 720–7797
Chief Economist
Office of Risk Assessment and Cost-Benefit Analysis
World Agricultural Outlook Board

Chief, Economics and Statistics Operations Branch, Human Resources Division, Agricultural Research Service, Room 1424—South Bldg., 14th St. and Independence Ave., SW., Washington, DC 20250 (202) 720–7657

Farm and Foreign Agricultural Services, Consolidated Farm Service Agency, Foreign Agricultural Services

Chief, Employee and Labor Relations Branch, Human Resources Division, Consolidated Farm Service Agency, Room 6732—South Bldg., P.O. Box 2415, Washington, DC 20013 (202) 720–5964

Federal Crop Insurance Corporation

Chief, Labor Relations Branch, Federal Crop Insurance Corporation, Consolidated Farm Service Agency, Room 6732—South Bldg., 14th St. and Independence Ave., SW., Washington, DC 20250 (202) 720–5964

Food, Nutrition, and Consumer Services, Food and Consumer Service

Senior Employee Relations Specialist, Employee Relations Division, Food and Consumer Service, 3101 Park Center Drive, Room 623, Alexandria, VA 22302 (703) 305–2374

Marketing and Regulatory Programs

Agricultural Marketing Service (Except for employees of the Milk Marketing Administration)
Chief, Employee Relations Branch, Agricultural Marketing Service, PED, ERB, Room 1745—South Bldg., P.O. Box 96456, Washington, DC 20090–6456 (202) 720–5721

Agricultural Marketing Service, Milk Marketing Employees

Personnel Management Specialist, Agricultural Marketing Service, DA, Room 2754—South Bldg., P.O. Box 96456, Washington, DC 20090–6456 (202) 720–7258

Animal and Plant Health Inspection Service, Grain Inspection, Packers and Stockyards Administration

Chief, Personnel Branch, Animal and Plant Health Inspection Service, HRD, HRO, Butler Square West, 5th Floor, 100 N. 6th St., Minneapolis, MN 55403 (612) 370–2107

Food Safety, Food Safety and Inspection Service

Chief, Classification and Organization Branch, Personnel Division, Food Safety and Inspection Service, Room 3821—South Bldg., 14th St. and Independence Ave., SW., Washington, DC 20250–3700 (202) 720–6287

Rural Economic and Community Development

Rural Housing and Community Development Service, Rural Business and Cooperative Development Service

Chief, Employee Information Systems Branch, Human Relations Division, Rural Housing and Community Development Service, 501 School St., SW., Washington, DC 20250 (202) 245–5573

Rural Utilities Service

Chief, Rural Utilities Service, Personnel Operations Branch, Human Relations Division, Rural Housing and Community Development Service, Room 4031—South Bldg., 14th St. and Independence Ave., SW., Washington, DC 20250–1382 (202) 720–1382

Natural Resources and Environment

Forest Service

Washington Office

Director, Personnel Management, 900 RP–E, P.O. Box 96090, Washington, DC 20090–6090 (703) 235–8102

International Institute of Tropical Forestry

Director, Call Box 25000, UPR Experimental Station Grounds, Rio Piedras, PR 00928–2500 (809) 766–5335

Region 1

Regional Forester, Regional Office, Federal Bldg., P.O. Box 7669, Missoula, MT 59807 (406) 329–3003

Idaho

Clearwater—Forest Supervisor, 12730 Highway 12, Orofino, ID 83544 (208) 476–4541

Idaho Panhandle National Forests—Forest Supervisor, 1201 Ironwood Dr., Coeur d'Alene, ID 83814 (208) 765–7223

Nez Perce—Forest Supervisor, Rt. 2, Box 475, Grangeville, ID 83530 (208) 983–1950

Montana

Beaverhead—Forest Supervisor, 420 Barrett St., Dillion, MT 59725–3572 (406) 683–3900

Bitterroot—Forest Supervisor, 1801 N. lst St., Hamilton, MT 59840 (406) 363–7121

Custer—Forest Supervisor, Box 2556, Billings, MT 59103 (406) 657–6361

Deerlodge—Forest Supervisor, Federal Bldg., Box 400, Butte, MT 59701 (406) 496–3400

Flathead—Forest Supervisor, 1935 3rd Ave., E., Kalispell, MT 59901 (406) 755–5401

Gallatin—Forest Supervisor, Federal Bldg., 10 E. Babcock Ave., Box 130, Bozeman, MT 59771 (406) 587–6701

Helena—Forest Supervisor, 2880 Skyway Dr., Helena, MT 59601 (406) 449–5201

Kootenai—Forest Supervisor, 506 Highway 2 W., Libby, MT 59923 (406) 293–6211

Lewis and Clark—Forest Supervisor, P.O. Box 869, 1101 15th St. N., Great Falls, MT 59403 (406) 791–7700

Lolo—Forest Supervisor, Bldg. 24, Ft. Missoula, Missoula, MT 59801 (406) 329–3750

Region 2

Regional Forester, Regional Office, 740 Simms St., Lakewood, CO 80255 (303) 275–5306

Colorado

Arapaho and Roosevelt—Forest Supervisor, 240 W. Prospect, Fort Collins, CO 80526 (303) 498–1100

Grand Mesa, Uncompahgre, and Gunnison—Forest Supervisor, 2250 Highway 50, Delta, CO 81416 (303) 874–7691

Pike and San Isabel—Forest Supervisor, 1920 Valley Dr., Pueblo, CO 81008 (719) 545–8737

Rio Grande—Forest Supervisor, 1803 West Highway 160, Monte Vista, CO 81144 (719) 852–5941

Routt—Forest Supervisor, 29587 W. US 40, Suite 20, Steamboat Springs, CO 80487–9550 (303) 879–1722

San Juan—Forest Supervisor, 701 Camino Del Rico, Room 301, Durango, CO 81301 (303) 247–4874

White River—Forest Supervisor, Old Federal Bldg., Box 948, Glenwood Springs, CO 81602 (303) 945–2521

Nebraska

Nebraska—Forest Supervisor, 125 N. Main St., Chadron, NE 69337 (308) 432–0300

South Dakota

Black Hills—Forest Supervisor, R.R. 2, Box 200, Custer, SD 57730–9504,(605) 673–2251

Wyoming

Bighorn—Forest Supervisor, 1969 So. Sheridan Ave., Sheridan, WY 82801 (307) 672–0751

Medicine Bow—Forest Supervisor, 2468 Jackson St., Laramie, WY 82070–6535 (307) 745–8971

Shosone—Forest Supervisor, 808 Meadow Lane, Cody, WY 82414 (307) 527–6241

Region 3

Regional Forester, Regional Office, Federal Bldg., 517 Gold Ave., SW., Albuquerque, NM 87102 (505) 842–3380

Arizona

Apache—Sitgreaves—Forest Supervisor, Federal Bldg., Box 640, Springerville, AZ 85938 (602) 333–4301

Coconino—Forest Supervisor, 2323 E. Greenlaw Lane, Flagstaff, AZ 86004 (602) 527–3600

Coronado—Forest Supervisor, 300 W. Congress, Tucson, AZ 85701 (692) 670–4552

Kaibab—Forest Supervisor, 800 S. 6th St., Williams, AZ 86046 (602) 635–2681

Prescott—Forest Supervisor, 344 South Cortez, Prescott, AZ 86303 (602) 771–4700

Tonto—Forest Supervisor, 2324 E. McDowell Rd., Phoenix, AZ 85006 (602) 225–5200

New Mexico

Carson-Forest Supervisor, 208 Cruz Alta Rd., P.O. Box 558, Taos, NM 87571 (505) 758–6200

Cibola—Forest Supervisor, 2113 Osuna Rd., NE., Suite A, Albuquerque, NM 87113–1001 (505) 761–4650

Gila—Forest Supervisor, 3005 E. Camino del Bosque, Silver City, NM 88061 (505) 388–8201

Lincoln—Forest Supervisor, Federal Bldg., 1101 New York Ave., Alamogordo, NM 88310–6992 (505) 434–7200

Santa Fe—Forest Supervisor, 1220 St. Francis Dr., Santa Fe, NM 87504 (505) 988–6940

Region 4

Regional Forester, Regional Office, Federal Bldg., 324 25th St., Ogden, UT 84401 (801) 625–5298

Idaho

Boise—Forest Supervisor, 1750 Front Street, Boise, ID 83702 (208) 364–4100

Caribou—Forest Supervisor 250 S. 4th Ave., Suite 282, Federal Bldg., Pocatello, ID 83201 (208) 236–7500

Challis—Forest Supervisor, HC 63 Box 1671, F.S. Bldg., Challis, ID 83226 (208) 879–2285

Payette—Forest Supervisor, Box 1026 or 106 W. Park, McCall, ID 83638 (208) 634–0700

Salmon—Forest Supervisor, P.O. Box 729, Salmon, ID 83467–0729 (208) 765–2215

Sawtooth—Forest Supervisor, 2647 Kimberly Rd. East, Twin Falls, ID 83301–7976 (208) 737–3200

Targhee—Forest Supervisor, 420 N. Bridge St., P.O. Box 208, St. Anthony, ID 83445 (208) 624–3151

Nevada

Humbolt—Forest Supervisor, 976 Mountain City Highway, Elko, NV 89801 (702) 738–5171

Toiyabe—Forest Supervisor, 1200 Franklin Way, Sparks, NV 89431 (702) 355–5300

Utah

Ashley—Forest Supervisor, 355 North Vernal Ave., Vernal, UT 84078 (801) 789–1181

Dixie—Forest Supervisor, 82 No. 100 E. St., P.O. Box 580, Cedar City, UT 84721–0580 (801) 865–3700

Fishlake—Forest Supervisor, 115 E. 900 N, Richfield, UT 84701 (801) 896–9233

Manti—La Sal—Forest Supervisor, 599 W. Price River Drive, Price, UT 84501 (801) 637–2817

Uinta—Forest Supervisor, 88 W. 100 N., Provo, UT 84601 (801) 342–5100

Wasatch—Cache—Forest Supervisor, 8236 Federal Bldg., 125 S. State St., Salt Lake City, UT 84138 (801) 524–5030

Wyoming

Bridger—Teton—Forest Supervisor, F.S. Bldg., 340 N. Cache, Box 1888, Jackson, WY 83001 (307) 739–5500

Region 5

Regional Forester, Regional Office, 630 Sansome St., San Francisco, CA 94111 (415) 705–2856

California

Angeles—Forest Supervisor, 701 N. Santa Anita Ave., Arcadia, CA 91006 (818) 574–1613

Cleveland—Forest Supervisor, 10845 Rancho Bernardo Rd., Suite 200, San Diego, CA 92127–2107 (619) 673–6180

Eldorado—Forest Supervisor, 100 Forni Rd., Placerville, CA 95667 (916) 622–5062

Inyo—Forest Supervisor, 873 North Main St., Bishop, CA 93514 (619) 873–2400

Klamath—Forest Supervisor, 1312 Fairlane Rd., Yreka, CA 96097 (916) 842–6131

Lassen—Forest Supervisor, 55 So. Sacramento St., Susanville, CA 96130 (916) 257–2151

Los Padres—Forest Supervisor, 6144 Calle Real, Goleta, CA 93117 (805) 683–6711

Mendocino—Forest Supervisor, 420 E. Laurel St., Willows, CA 95988 (916) 934–3316

Modoc—Forest Supervisor, 800 W. 12th St., Alturas, CA 96101 (916) 233–5811
Plumas—Forest Supervisor, 159 Lawrence St., Box 11500, Quincy, CA 95971–6025 (916) 283–2050
San Bernardino—Forest Supervisor, 1824 S. Commercenter Cir., San Bernardino, CA 92408–3430 (909) 383–5588
Sequoia—Forest Supervisor, 900 W. Grand Ave., Porterville, CA 93257–2035 (209) 784–1500
Shasta—Trinity—Forest Supervisor, 2400 Washington Ave., Redding, CA 96001 (916) 246–5222
Sierra—Forest Supervisor, 1600 Tollhouse Rd., Clovis, CA 93611 (209) 297–0706
Six Rivers—Forest Supervisor, 1330 Bayshore Way, Eureka, CA 95501–3834 (707) 441–3517
Stanislaus—Forest Supervisor, 19777 Greenley Rd., Sonora, CA 95370 (209) 532–3671
Tahoe—Forest Supervisor, 631 Coyote St., P.O. Box 6003, Nevada City, CA 95959–6003 (916) 265–4531

Region 6

Regional Forester, Regional Office, 333 S.W. 1st Ave., P.O. Box 3623, Portland, OR 97208 (503) 326–3630

Oregon

Deschutes—Forest Supervisor, 1645 Highway 20 E., Bend, OR 97701 (503) 388–2715
Fremont—Forest Supervisor, 524 North G St., Lakeview, OR 97630 (503) 947–2151
Malheur—Forest Supervisor, 139 N.E. Dayton St., John Day, OR 97845 (503) 575–1731
Mt. Hood—Forest Supervisor, 2955 N.W. Division St., Gresham, OR 97030 (503) 666–0700
Ochoco—Forest Supervisor, Box 490, Prineville, OR 97754 (503) 447–6247
Rogue River—Forest Supervisor, Federal Bldg., 333 W. 8th St., Box 520, Medford, OR 97501 (503) 776–3600
Siskiyou—Forest Supervisor, Box 440, Grants Pass, OR 97526 (503) 471–6500
Siuslaw—Forest Supervisor, Box 1148, Corvallis, OR 97339 (503) 750–7000
Umatilla—Forest Supervisor, 2517 S.W. Hailey Ave., Pendleton, OR 97801 (503) 278–3721
Umpqua—Forest Supervisor, Box 1008, Roseburg, OR 97470 (503) 672–6601
Wallowa—Whitman—Forest Supervisor, Box 907, Baker City, OR 97814 (503) 523–6391
Willamette—Forest Supervisor, Box 10607, Eugene, OR 97440 (503) 465–6521
Winema—Forest Supervisor, 2819 Dahlia, Klamath Falls, OR 97601 (503) 883–6714

Washington

Colville—Forest Supervisor, 765 S. Main, Colville, WA 99114 (509) 684–7000
Gifford Pinchot—Forest Supervisor, 6926 E. 4th Plain Blvd., Vancouver, WA 98668–8944 (206) 750–5000
Mt. Baker—Snoqualmie—Forest Supervisor, 21905 65th Avenue West, Mountlake Terrace, WA 98043 (206) 744–3200
Okanogan—Forest Supervisor, 1240 South Second Ave., Okanogan, WA 98840 (509) 826–3275
Olympic—Forest Supervisor, 1835 Black Lake Blvd., SW., Olympia, WA 98512 (206) 956–2300
Wenatchee—Forest Supervisor, 301 Yakima St., P.O. Box 811, Wenatchee, WA 98807 (509) 662–4335

Region 8

Regional Forester, Regional Office, 1720 Peachtree Rd., NW., Atlanta, GA 30367 (404) 347–3841

Alabama

National Forests in Alabama—Forest Supervisor, 2946 Chestnut St., Montgomery, AL 36107–3010 (205) 832–4470

Arkansas

Ouachita—Forest Supervisor, Box 1270, Federal Bldg., Hot Springs National Park, AR 71902 (501) 321–5200
Ozark—St. Francis—Forest Supervisor, 605 West Main, Box 1008, Russellville, AR 72801 (501) 968–2354

Florida

National Forests in Florida—Forest Supervisor, Woodcrest Office Park, 325 John Knox Rd., Suite F–100, Tallahassee, FL 32303 (904) 681–7265

Georgia

Chattahoochee and Oconee—Forest Supervisor, 508 Oak St., NW., Gainesville, GA 30501 (404) 536–0541

Kentucky

Daniel Boone—Forest Supervisor, 100 Vaught Rd., Winchester, KY 40391 (606) 745–3100

Louisiana

Kisatchie—Forest Supervisor, 2500 Shreveport Hwy., P.O. Box 5500, Pineville, LA 71361–5500 (318) 473–7160

Mississippi

National Forests in Mississippi—Forest Supervisor, 100 W. Capital St., Suite 1141, Jackson, MS 39269 (601) 965–4391

North Carolina

National Forests in North Carolina—Forest Supervisor, Post and Otis Streets, P.O. Box 2750, Asheville, NC 28802 (704) 257–4200

Puerto Rico and the Virgin Islands

Caribbean National Forest—Forest Supervisor, Call Box 25000, Rio Piedras, PR 00928–2500 (809) 766–5335

South Carolina

Francis Marion and Sumter National Forests—Forest Supervisor, 4923 Broad River Rd., Columbia, SC 29212 (803) 765–5222

Tennessee

Cherokee—Forest Supervisor, 2800 N. Ocoee St., NE., P.O. Box 2010, Cleveland, TN 37320 (615) 476–9700

Texas

National Forests in Texas—Forest Supervisor, Homer Garrison Federal Bldg., 701 N. First St., Lufkin, TX 75901 (409) 639–8501

Virginia

George Washington—Forest Supervisor, P.O. Box 233, Harrison Plaza, Harrisonburg, VA 22801 (703) 433–2491

Region 9

Regional Forester, Regional Officer, 310 W. Wisconsin Ave., Room 500, Milwaukee, WI 53203 (414) 297–3674

Illinois

Shawnee—Forest Supervisor, 901 S. Commercial St., Harrisburg, IL 62946 (618) 253–7114

Indiana

Hoosier—Forest Supervisor, 811 Constitution Ave., Bedford, IN 47421 (812) 275–5987

Michigan

Hiawatha—Forest Supervisor, 2727 N. Lincoln Rd., Escanaba, MI 49829 (906) 786–4062
Huron—Manistee—Forest Supervisor, 421 S. Mitchell St., Cadillac, MI, 49601 (616) 775–2421
Ottawa—Forest Supervisor, 2100 E. Cloverland Dr., Ironwood, MI 49938 (906) 932–1330

Minnesota

Chippewa—Forest Supervisor, Rt. 3 Box 244, Cass Lake, MN 56633 (218) 335–8600
Superior—Forest Supervisor, Box 338, Federal Bldg., 515 W. First St., Duluth, MN 55802 (218) 720–5324

Missouri

Mark Twain—Forest Supervisor, 401 Fairgrounds Rd., Rolla, MO 65401 (314) 4621
New Hampshire and Maine White Mountain—Forest Supervisor, Federal Bldg., 719 Main St., P.O. Box 638, Laconia, NH 03247 (603) 528–8721

Ohio

Wayne—Forest Supervisor, 219 Columbus Rd., Athens, OH 45701–1399 (614) 592–6644

Pennsylvania

Allegheny—Forest Supervisor, 222 Liberty St., Box 847, Warren, PA 16365 (814) 723–5150

Vermont

Green Mountain and Finger Lakes—Forest Supervisor, 231 N. Main St., Rutland, NY 05701 (802) 747–6700

West Virginia

Monongahela—Forest Supervisor, USDA Bldg., 200 Sycamore St., Elkins, WV 26241–3962 (304) 636–1800

Wisconsin

Chequamegon—Forest Supervisor, 1170 4th Ave. South, Park Falls, WI 54552 (715) 762–2461
Nicolet—Forest Supervisor, Federal Bldg., 68 S. Stevens, Rhinelander, WI 54501 (715) 362–1300

Region 10

Regional Forester, Regional Office, Federal Office Bldg., Box 21628, Juneau, AK 99802–1628 (907) 586–8719

Alaska

Chugach—Forest Supervisor, 3301 C St., Suite 300, Anchorage, AK 99503–3998 (907) 271–2500

Tongass—Chatham Area—Forest Supervisor, 204 Siginaka Way, Sitka, AK 99835 (907) 747–6671
Tongass—Ketchikan Area—Forest Supervisor, Federal Bldg., Ketchikan, AK 99901 (907) 225–3101
Tongass—Stikine Area—Forest Supervisor, Box 309, Petersburg, AK 99833 (907) 772–3841

Forest and Range Experiment Stations

Intermountain Research Station, Director, 324 25th Street, Ogden, UT 84401 (801) 625–5412
North Central Forest Experiment Station, Director, 1992 Folwell Ave., St. Paul, MN 55108 (612) 649–5249
Northeastern Forest Experiment Station, Director, 5 Radnor Corporate Center, Suite 200, P.O. Box 6775, Radnor, PA 19087–8775 (610) 975–4017
Pacific Northwest Research Station, Director, P.O. Box 3890, Portland, OR 97208–3890 (503) 326–5640
Pacific Southwest Forest and Range Experiment Station, Director, 800 Buchanan St., West Building, Albany, CA 94710–0011 (510) 559–6310
Rocky Mountain Forest and Range Experiment Station, Director, 240 W. Prospect Rd., Fort Collins, CO 80526–2098 (303) 498–1126
Southeastern Forest Experiment Station, Director, 200 Weaver Blvd., P.O. Box 2680, Ashville, NC 28802 (704) 257–4300
Southern Forest Experiment Station, Director, T–10210, U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, LA 70113 (504) 589–3921
Forest Products Laboratory, Director, One Gifford Pinchot Dr., Madison, WI 53705–2398 (608) 231–9318
Northeastern Area State and Private Forestry, Director, 5 Radnor Corporate Center, Suite 200, P.O. Box 6775, Radnor, PA 19087–8775 (610) 975–4103

Natural Resources Conservation Service

Regional Administrative Officer, Natural Resources Conservation Service, Midwest Regional Office, 2820 Walton Commons West, Suite 123, Madison, WI 53704–6785 (608) 224–3000
Regional Administrative Officer, Natural Resources Conservation Service, West Regional Office, 650 Capitol Mall, Room 6072, Sacramento, CA 95814 (916) 498–5240
Regional Administrative Officer, Natural Resources Conservation Service, Southeast Regional Office, 1720 Peachtree Road, NW., Suite 716–N, Atlanta, GA 30309–2439 (404) 347–6153
Regional Administrative Officer, Natural Resources Conservation Service, East Regional Office, 11710 Beltsville Drive, Suite 100, Calverton Office Bldg., #2, Beltsville, MD 20705 (301) 586–1328
Regional Administrative Officer, Natural Resources Conservation Service, South Central Regional Office, P.O. Box 6459, Ft. Worth, TX 76115–0459 (817) 334–5258, ext. 3504
Regional Administrative Officer, Natural Resources Conservation Service, Northern Plains Regional Office, 100 Centennial Mall North, Room 152, Lincoln, NE 68508–3866 (402) 437–5315
Human Resources Officer, Natural Resources Conservation Service, National Business Management Center, Bldg. 23, 501 W. Felix Street, P.O. Box 6567, Ft. Worth, TX 76115 (817) 334–5427, ext. 3750
Human Resources Officer, Natural Resources Conservation Service, P.O. Box 2890, Room 5215—South Bldg., Washington, DC 20013–2890 (202) 720–4264
Human Resources Officer, Natural Resources Conservation Service, 665 Opelika Road, P.O. Box 311, Auburn, AL 36830–0311 (334) 887–4543
Human Resources Officer, Natural Resources Conservation Service, 3003 N. Central Ave., Suite 800, Phoenix, AZ 85012–2945 (602) 280–8800
Human Resources Officer, Natural Resources Conservation Service, 700 West Capitol Avenue, Federal Bldg., Room 5404, Little Rock, AR 72201–3225 (501) 324–5479
Human Resources Officer, Natural Resources Conservation Service, 2121–C 2nd Street, Davis, CA 95616 (916) 757–8294
Human Resources Officer, Natural Resources Conservation Service, 655 Parfet Street, Room E200C, Lakewood, CO 80215–5517 (303) 236–2891, ext. 219
Human Resources Officer, Natural Resources Conservation Service, 16 Professional Park Road, Storrs, CT 06268–1299 (860) 487–4034
Human Resources Officer, Natural Resources Conservation Service, 1203 College Park Drive, Suite 101, Dover, DE 19904–8713 (302) 678–4173
Human Resources Officer, Natural Resources Conservation Service, 2614 N.W. 43rd Street, Gainesville, FL 32606 (352) 338–9525
Human Resources Officer, Natural Resources Conservation Service, Federal Bldg., Box 13, 355 E. Hancock Avenue, Athens, GA 30601 (706) 546–2270
Human Resources Officer, Natural Resources Conservation Service, 300 Ala Moana Blvd., Rm 4316, P.O. Box 50004, Honolulu, HI 96850–0002 (808) 514–1896
Human Resources Officer, Natural Resources Conservation Service, 693 Federal Bldg., 210 Walnut Street, Des Moines, IA 50309 (515) 284–4588
Human Resources Officer, Natural Resources Conservation Service, 3244 Elder Street, Room 124, Boise, ID 83705–4711 (208) 378–5712
Human Resources Officer, Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820 (217) 398–5288
Human Resources Officer, Natural Resources Conservation Service, 6013 Lakeside Blvd., Indianapolis, IN 46278 (317) 290–3207, ext. 335
Human Resources Officer, Natural Resources Conservation Service, 760 S. Broadway, Salina, KS 67401 (913) 823–4510
Human Resources Officer, Natural Resources Conservation Service, 771 Corporate Drive, Suite 110, Lexington, KY 40503–5479 (606) 224–7353
Human Resources Officer, Natural Resources Conservation Service, 3737 Government Street, Alexandria, LA 71302–3327 (318) 473–7786
Human Resources Officer, Natural Resources Conservation Service, 451 West Street, Amherst, MA 01002–2955 (413) 253–4353
Human Resources Officer, Natural Resources Conservation Service, John Hanson Business Center, 339 Busch's Frontage Road, Suite 301, Annapolis, MD 21401–5534 (410) 757–0861, ext. 337
Human Resources Officer, Natural Resources Conservation Service, 5 Godfrey Drive, Orono, ME 04473 (207) 866–7245
Human Resources Officer, Natural Resources Conservation Service, 1405 S. Harrison Road, Room 101, East Lansing, MI 48823–5243 (517) 337–6701, ext. 1233
Human Resources Officer, Natural Resources Conservation Service, 600 FCS Bldg., 375 Jackson St., St. Paul, MN 55101–1854 (612) 290–3678
Human Resources Officer, Natural Resources Conservation Service, 100 West Capitol Street, Federal Bldg., Suite 1321, Jackson, MS 39269 (601) 965–5183
Human Resources Manager, Natural Resources Conservation Service, 601 Business Loop 70 West, Parkade Center, Suite 250, Columbia, MO 65203 (573) 876–0904
Human Resources Manager, Natural Resources Conservation Service, Federal Building, Room 443, 10 East Babcock Street, Bozeman, MT 59715 (406) 587–6866
Human Resources Manager, Natural Resources Conservation Service, 4405 Bland Road, Suite 205, Raleigh, NC 27609 (919) 873–2108
Human Resources Manager, Natural Resources Conservation Service, 220 Rosser Avenue, P.O. Box 1458, Room 278, Bismarck, ND 58502–1458 (701) 250–4761
Human Resources Manager, Natural Resources Conservation Service, 100 Centennial Mall, N., Federal Bldg., Room 152, Lincoln, NE 68508–3866 (402) 437–4057
Human Resources Manager, Natural Resources Conservation Service, 2 Madbury Road, Federal Building, Durham, NH 03824–1499 (603) 868–7581
Human Resources Manager, Natural Resources Conservation Service, 1370 Hamilton Street, Somerset, NJ 08873 (908)246–1171, ext. 166
Human Resources Manager, Natural Resources Conservation Service, 6200 Jefferson Street, NE., Alburquerque, NM 87109–3734 (505) 761–4409
Human Resources Manager, Natural Resources Conservation Service, 5301 Longley Lane, Bldg. F, Suite 201, Reno, NV 89511 (702) 784–5867
Human Resources Manager, Natural Resources Conservation Service, 441 South Salina Street, Suite 354, Syracuse, NY 13202–2450 (315) 477–6512
Human Resources Manager, Natural Resources Conservation Service, 200 North High Street, Room 522, Columbus, OH 43215 (614) 469–6977
Human Resources Manager, Natural Resources Conservation Service, 100 USDA, Suite 203, Stillwater, OK 74074–2655 (405) 742–1209
Human Resources Manager, Natural Resources Conservation Service, 101 SW Main Street, Suite 1300, Portland, OR 97204 (502) 414–3211
Human Resources Manager, Natural Resources Conservation Service, One

Credit Union Place, Suite 340, Harrisburg, PA 17110–2993 (717) 782–3716
Human Resources Manager, Natural Resources Conservation Service, 1835 Assembly Street, Room 950, Columbia, SC 29201 (803) 253–3920
Human Resources Manager, Natural Resources Conservation Service, Federal Bldg., 200 4th St. SW., Huron, SD 57350–2475 (605) 352–1224
Human Resources Manager, Natural Resources Conservation Service, 675 U.S. Courthouse, 801 Broadway, Nashville, TN 37203 (615) 736–5388
Human Resources Manager, Natural Resources Conservation Service, W.R. Poage Federal Bldg., 101 South Main St., Temple, TX 76501–7682 (817) 774–1246
Human Resources Manager, Natural Resources Conservation Service, 125 S. State Street, Room 4402, P.O. Box 11350, Salt Lake City, UT 84147 (801) 524–5068
Human Resources Manager, Natural Resources Conservation Service, 69 Union Street, Winooski, VT 05404–1999 (802) 951–6795, ext. 223
Human Resources Manager, Natural Resources Conservation Service, 1606 Santa Rosa Road, Culpeper Bldg., Suite 209, Richmond, VA 23229–5014 (804) 287–1625
Human Resources Manager, Natural Resources Conservation Service, Rock Pointe Tower II, Suite 450, W. 316 Boone Avenue, Spokane, WA, 99201–2348 (509) 353–2333
Human Resources Manager, Natural Resources Conservation Service, 75 High Street, Room 301, Morgantown, WV 26505 (304) 291–4152, ext. 176
Human Resources Manager, Natural Resources Conservation Service, 6515 Watts Road, Suite 200, Madison, WI 53719–2726 (608) 264–5341, ext. 161
Human Resources Manager, Natural Resources Conservation Service, 100 East B Street, Room 3124, Casper, WY 82601–1911 (307) 261–6492

Research, Education, and Economics

Agricultural Research Service,
Cooperative State Research, Education, and Extension Service,
National Agricultural Statistics Service,
Economic Research Service
Chief, Personnel Operations Branch, Agricultural Research Service, Personnel Division—POB, 6305 Ivy Lane, Room 301, Greenbelt, MD 20770 (301) 344–3151

National Appeals Division

Administrative Officer, National Appeals Division, 3101 Park Center Drive, Room 1020, Alexandria, VA 22302 (703) 305–2566

Department of Commerce

1. Bureau of the Census:

For employee-obligors employed by Headquarters, the Hagerstown Telephone Center and the Tucson Telephone Center:

Bureau of the Census, Personnel Division, ATTN: Chief, Personnel & Pay Systems Branch, Room 3254, FOB #3, Washington, DC 20230, (301) 763–1520

For employee-obligors employed by the Data Preparation Division:

Bureau of the Census, Data Preparation Division, Chief, Personnel Management Staff, Room 113, Bldg. 66, Jeffersonville, IN 47132, (812) 288–3323

For employee-obligors employed by a Regional Office, to the Regional Director in the Regional Office to which they are assigned. The Bureau's 12 Regional Offices are as follows:

Bureau of the Census, Atlanta Regional Office, 101 Marietta Street, NW., Suite 3200, Atlanta, GA 30303–2700, (404) 730–3832
Bureau of the Census, Boston Regional Office, 2 Copley Place, Suite 301, P.O. Box 9108, Boston, MA 02117–9108 (617) 424–0500
Bureau of the Census, Charlotte Regional Office, 901 Center Park Drive, Suite 106, Charlotte, NC 28217–2935, (704) 344–6142
Bureau of the Census, Chicago Regional Office, 2255 Enterprise Drive, Suite 5501, Westchester, IL 60154–5800, (708) 562–1788
Bureau of the Census, Dallas Regional Office, 6303 Harry Hines Blvd., Suite 210, Dallas, TX 75235–5269, (214) 767–7500
Bureau of the Census, Denver Regional Office, 6900 W. Jefferson Avenue, P.O. Box 272020, Denver, CO 80227–9020
Bureau of the Census, Detroit Regional Office, 1395 Brewery Park Blvd., P.O. Box 33405, Detroit, MI 48232–5405, (313) 259–1158
Bureau of the Census, Kansas City Regional Office, Gateway Tower II, Suite 600, 400 State Avenue, Kansas City, KS 66101–2410, (913) 551–6728
Bureau of the Census, Los Angeles Regional Office, 15350 Sherman Way, Suite 300, Van Nuys, CA 91406–4224, (818) 904–6393
Bureau of the Census, New York Regional Office, Jacob J. Javits Fed. Bldg., Room 37–130, 26 Federal Plaza, New York, NY 10278–0044, (212) 264–3860
Bureau of the Census, Philadelphia Regional Office, 105 South 7th Street, First Floor, Philadelphia, PA 19106–3395, (215) 597–4920
Bureau of the Census, Seattle Regional Office, 101 Stewart Street, Suite 500, Seattle, WA 98101–1098, (206) 728–5300

2. Patent and Trademark Office (PTO):

Human Resources Manager, Patent and Trademark Office, Box 3, Washington, DC 20231, (703) 305–8231

3. United States and Foreign Commercial Service (US&FCS):

Director, Office of Foreign Service Personnel, Room 3815, 14th & Constitution Avenue, NW., Washington, DC 20230 (202) 482–3133

4. International Trade Administration (ITA):

Director, Personnel Management Division, International Trade Administration, Room 4809, 14th and Constitution Avenue, NW., Washington, DC 20230, (202) 482–3438

5. National Institute of Standards and Technology (NIST) (For employee-obligors of the Headquarters offices in Gaithersburg only):

Human Resources Manager, Office of Personnel and Civil Rights, Administration Building, Room A–123, Gaithersburg, MD 20899 (301) 975–3000

6. Office of the Inspector General (For employee-obligors of the Headquarters/Washington, DC offices only):

Human Resources Manager, Resource Management Division, Room 7713, 14th & Constitution Avenue, NW., Washington, DC 20230 (202) 482–4948

7. National Oceanic and Atmospheric Administration (NOAA) (For employee-obligors in the Headquarters offices, Washington, DC, and the Silver Spring and Camp Springs, MD, and Sterling VA offices only):

Chief, Human Resources Services Division, NOAA, 1315 East-West Highway, Room 13619, Silver Spring, MD 20910 (301) 713–0524

8. Office of the Secretary, Bureau of Economic Analysis, Bureau of Export Administration (BXA), Economic Development Administration (EDA), Economics and Statistics Administration, Minority Business Development Agency (MBDA), National Technical Information Service, National Telecommunications and Information Administration (NTIA), Technology Administration, and United States Travel and Tourism Administration (For employee-obligors in the Washington, D.C. metro area offices only):

Human Resources Manager, Office of Personnel Operations, Office of the Secretary, 14th & Constitution Avenue, NW., Room 5005, Washington, DC 20230 (202) 482–3827

9. Regional employees of NOAA, NIST, OIG, BXA, EDA, MBDA, ITA, NTIA: to the Human Resources Manager servicing the region or State in which they are employed:

a. Central Region. For NOAA employee-obligors in the States of: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin; for National Marine Fisheries Service employees in the States of North Carolina, South Carolina, and Texas; for National Weather Service employees in the States of Colorado, Kansas, Nebraska, North Dakota, South Dakota, and Wyoming; and for employee-obligors in the Bureau of Export Administration (BXA), Economic Development Administration (EDA), Minority Business Development Agency (MBDA), International Trade Administration (ITA), in the States of Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Texas, West Virginia, and Wisconsin:

Human Resources Officer, Central Administration Support Center (CASC), NOAA CC, Federal Building, 601 East 12th Street, Room 1736, Kansas City, MO 64106 (816) 867–2056

b. Eastern Region. For NOAA employee-obligors in the States of: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York,

North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Puerto Rico, and the Virgin Islands; and for employee-obligors in the Bureau of Export Administration (BXA), Economic Development Administration (EDA), Minority Business Development Agency (MBDA), and International Trade Administration (ITA) in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Puerto Rico, and the Virgin Islands:

Human Resources Officer, Eastern Administrative Support Center (EASC), NOAA EC, 200 World Trade Center, Norfolk, VA 23510 (804) 441–6516

c. Mountain Region. For NOAA employee-obligors in the States of: Colorado, Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming; and for National Weather Service employees in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, Texas, and Puerto Rico; and for employee-obligors in the Bureau of Export Administration (BXA); Economic Development Administration (EDA) (Utah only); Minority Business Development Agency (MBDA); National Institute of Standards and Technology (NIST) (Hawaii only); Office of the Inspector General (OIG); National Telecommunications and Information Administration (NTIA); in the States of: Colorado, Iowa, Louisiana, Missouri, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Utah:

Human Resources Officer, Mountain Administrative Support Center (MASC), NOAA MC, 325 Broadway, Boulder, CO 80303–3328 (303) 497–6305

d. Western Region. For NOAA employee-obligors in the States of: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, American Samoa, and the Trust Territories, and for employee-obligors in the Bureau of Export Administration (BXA), Economic Development Administration (EDA), Minority Business Development Agency (MBDA), Office of the Inspector General (OIG), and International Trade Administration (ITA); in the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, Washington, American Samoa, and the Trust Territories:

Human Resources Officer, Western Administrative Support Center (WASC), NOAA WC, 7600 Sand Point Way NE, Bin C15700, Seattle, WA 98115–0070 (206) 526–6057

10. In cases where the name of the operating unit cannot be determined:

Director for Human Resources Management, Department of Commerce, 14th & Constitution Avenue, NW., Room 5001, Washington, DC 20230 (202) 482–4807

Department of Defense

Unless specifically listed below, all military members (active, retired, reserve, and national guard), and all civilian employees of the Department of Defense:

Assistant General Counsel for Garnishment Operations, Defense Finance and Accounting Service, Cleveland Center—Code L (DFAS–CL/L), P.O. Box 998002, Cleveland, OH 44199–8002 (216) 522–5301

Army

a. Civilian employees in Germany:

Commander, 266th Theater Finance Corps, Attention: AEUCF–CPF, Unit 29001, APO AE 09007 011–49–6221–57–7977/6044

b. Nonappropriated fund civilian employees of the Army:

Post Exchanges:

Army and Air Force Exchange Service, Attention: CM–C–RI, P.O. Box 660202, Dallas, TX 75266–0202 (214) 312–2011

Navy

a. Military Sealift Command Pacific Mariners

Office of Counsel (Code N2), Military Sealift Command, Pacific, 280 Anchor Way, Suite 1W, Oakland, CA 94625–5010

b. Military Sealift Command Atlantic Mariners

Office of Counsel, Military Sealift Command, Atlantic, Military Ocean Terminal, Building 42, Bayonne, NJ 07002–5399

c. Nonappropriated fund civilian employees of Navy Exchanges or related nonappropriated fund instrumentalities administered by the Navy Resale Systems Office:

Commanding Officer, Navy Exchange Service Command, 3280 Virginia Beach Blvd., Virginia Beach, VA 23452 (804) 631–3614

d. Nonappropriated fund civilian employees at Navy clubs, messes, or recreational facilities:

Chief of Navy Personnel, Director, Morale, Welfare, and Recreation Division (MWR), Washington, DC 20370 (202) 433–3005

e. Nonappropriated fund personnel of activities that fall outside the purview of the Chief of Navy Personnel or the Commanding Officer of the Navy Exchange Service Command, such as locally established morale, welfare and other social and hobby clubs, such process may be served on the commanding officer of the activity concerned.

Marine Corps

Nonappropriated fund civilian employees, process may be served on the commanding officer of the activity concerned.

Air Force

a. Nonappropriated fund civilian employees of base exchanges:

Army and Air Force Exchange Service, Attention: FA–F/R, P.O. Box 650038, Dallas, TX 75265–0038 (214) 312–2119

b. Nonappropriated fund civilian employees of all other Air Force nonappropriated fund activities:

Office of Legal Counsel, Air Force Services Agency, 10100 Reunion Place, Suite 503, San Antonio, TX 78216–4138 (210) 652–7051

Department of Education

Assistant Secretary, Office of Management, FB–10, Room 2164, 600 Independence Avenue, SW., Washington, DC 20202–2110 (202) 401–0470

Department of Energy

Power Administrations

1. Alaska Power Administration

Administrator, Alaska Power Administration, Department of Energy, P.O. Box 020050, Juneau, AK 99802–0050 (907) 586–7405

2. Bonneville Power Administration

Chief, Payroll Section DSDP, Bonneville Power Administration, Department of Energy, 905 NE. 11th Avenue, Portland, OR 97232 (503) 230–3203

3. Southeastern Power Administration

Chief, Payroll Branch, Department of Energy, Forrestal Building, Room 1E–184, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–5581

4. Southwestern Power Administration

Chief Counsel, Southwestern Power Administration, Department of Energy, P.O. Box Drawer 1619, Tulsa, OK 74101 (918) 581–7426

5. Western Area Power Administration

General Counsel, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401 (303) 231–1529

Field Offices

1. Albuquerque Operations Office:

Chief Counsel, Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, NM 87115 (505) 844–7265

2. Chicago Operations Office:

Chief Counsel, Chicago Operations Office, Department of Energy, 9800 South Cass Avenue, Argonne, IL 60439 (312) 972–2032

3. Idaho Operations Office:

Chief, Field Office Accounting Section, Finance and Budget Division, Department of Energy, 785 DOE Place, Idaho Falls, ID 83402 (208) 526–1822

4. Nevada Operations Office

Chief, Payroll Branch, CR–431, Department of Energy, GTN Building, Room 259, Washington, DC 20585 (301) 903–4012

5. Oak Ridge Operations Office

Chief Counsel, Oak Ridge Operations Office; Department of Energy; P.O. Box 20001, Oak Ridge, TN 37831–8510 (615) 576–1200

6. Richland Operations Office

Chief Counsel, Richland Operations Office, Department of Energy, P.O. Box 550, Richland, WA 99352 (509) 376–7311

7. Oakland Operations Office

Director, Finance and Accounting Division, Department of Energy, 1301 Clay Street, Oakland, CA 94612–52083 (510) 637–1542

8. Savannah River Operations Office:

Director, Financial Management and Program Support Division, Department of Energy,

P.O. Box A, Aiken, SC 29802 (803) 725–5590

9. Washington DC Headquarters, Pittsburgh Naval Reactors Office, Schnectady Naval Reactors Office, and all other organizations within the Department of Energy:

Chief, Payroll Branch, CR–431, Department of Energy, GTN Building, Room E–259, Washington, DC 20585 (301) 903–4012

Department of Health and Human Services

Garnishment Agent, Office of General Counsel, Room 5362–North Building, 330 Independence Ave., SW., Washington, DC 20201 (202) 619–0150

Department of Housing and Urban Development

Director, Systems Support Division, Employee Service Center, 451 7th Street, SW., Room 2256, Washington, DC 20410 (202) 708–0241

Department of the Interior

Chief, Payroll Operations Division, Attn: Code D–2605, Bureau of Reclamation, Administrative Service Center, Department of the Interior, P.O. Box 272030, 7201 West Mansfield Avenue, Denver, CO 80227–9030 (303) 969–7739

Department of Justice

Offices, Boards, and Divisions

Personnel Group/Payroll Operations, 1331 Pennsylvania Avenue, NW., Suite 1170, Washington, DC 20530 (202) 514–6008

Office of the Inspector General, Personnel Division, 1425 New York Avenue, NW., Suite 7000, Washington, DC 20005 (202) 616–4501

For employees of any office of a United States Attorney and for employees of the Executive Office for United States Attorneys:

Assistant Director, Executive Office for United States Attorneys, Personnel Staff, Bicentennial Building, 600 E Street, NW., Room 8017, Washington, DC 20530

United States Marshals Service

Personnel Office, 600 Army Navy Drive, Room 850, Arlington, VA 22202–4210 (202) 307–9637

Office of Justice Programs

Office of Personnel, 633 Indiana Avenue, NW., Room 600, Washington, DC 20530 (202) 307–0730

U.S. Trustees Programs

Personnel Office, 901 E Street, NW., Room 770, Washington, DC 20530 (202) 616–1000

Drug Enforcement Administration

Office of Personnel, Employee Relations Unit, 700 Army Navy Drive, Room 3164, Arlington, VA 22202–4210 (202) 307–1222

Immigration and Naturalization Service

Personnel Support, Immigration and Naturalization Service, 425 I Street, NW., Room 2038, Washington, DC 20536 (202) 514–2525

Human Resources and Career Development, Immigration and Naturalization Service, One Federal Drive #400, Whipple Bldg., Fort Snelling, MN 55111 (612) 725–3211

Human Resources and Career Development, Immigration and Naturalization Service, 70 Kimball Avenue, South Burlington, VT 05403 (802) 660–5137

Human Resources and Career Development, Immigration and Naturalization Service, 7701 N. Stemmons Freeway, Dallas, TX 75247 (214) 655–6032

Personnel Office, Immigration and Naturalization Service, P.O. Box 30070, Laguna Niguel, CA 92607 (714) 643–4934

Federal Prisons Systems, U.S. Penitentiary, Personnel Office, 1300 Metropolitan, Leavenworth, KS 66048 (913) 682–8700

Federal Correctional Institution, Personnel Office, Route 37, Danbury, CT 06811 (203) 743–6471

Personnel Office, 320 1st Street, NW., Room 161, Washington, DC 20534 (202) 307–3135

U.S. Penitentiary, Personnel Office, Highway 63 South, Terre Haute, IN 47808 (812) 238–1531

U.S. Penitentiary, Personnel Office, RD#5, Lewisburg, PA 17837 (717) 523–1251

Federal Correctional Institution, Personnel Office, P.O. Box 1000, Anthony, NM 88021 (915) 886–3422

Federal Correctional Institution, Personnel Office, Kettler River Road, Sandstone, MN 55072 (612) 245–2262

U.S. Penitentiary, Personnel Office, 601 McDonough Blvd., SE., Atlanta, GA 30315 (404) 622–6241

Federal Correctional Institution, Personnel Office, P.O. Box 9999, Milan, MI 48160 (313) 439–1511

Federal Correctional Institution, Personnel Office, P.O. Box 888, Ashland, KY 41105 (606) 928–6414

Federal Correctional Institution, Personnel Office, 501 Capital Cir., NE., Tallahassee, FL 32301 (904) 878–2173

Federal Correctional Institution, Personnel Office, Greenbag Road, Morgantown, WV 26505 (304) 296–4416

U.S. Medical Center, Federal Prison, Personnel Office, 1900 W. Sunshine, Springfield, MO 65808 (417) 862–7041

Federal Correctional Institution, Personnel Office, 2113 N. HWY 175, Seagoville, TX 75159 (214) 287–2911

Federal Correctional Institution, Personnel Office, 1000 River Road, Petersburg, VA 23804–1000 (804) 733–7881

Federal Prison Camp, Personnel Office, Glen Ray Road, Box B, Alderson, WV 24910 (304) 445–2901

U.S. Penitentiary, Personnel Office, 3901 Klein Blvd., Lompoc, CA 93436 (805) 735–3245

Federal Correctional Institution, Personnel Office, Highway 66 West, El Reno, OK 73036 (405) 262–4875

Federal Correctional Institution, Personnel Office, 9595 W. Quincy Avenue, Englewood, CO 80123 (303) 985–1566

Federal Correctional Institution, Personnel Office, 1299 Seaside Avenue, Terminal Island, CA 90731 (310) 831–8961

U.S. Penitentiary, Personnel Office, Rt. 5, P.O. Box 2000, Marion, IL 62959 (618) 964–1441

Federal Correctional Institution, Personnel Office, 3150 Norton Road, Fort Worth, TX 76119 (817) 535–2111

Metropolitan Correctional Center, Personnel Office, 150 Park Row, New York, NY 10007 (212) 791–9130

Federal Correctional Institution, Personnel Office, P.O. Box 1000, Butner, NC 27509 (919) 575–4541

Federal Correctional Institution, Personnel Office, RR #2, Box 820, Safford, AZ 85546 (602) 348–1337

Bureau of Prisons, South Central Regional Office, Personnel Office, 4211 Cedar Springs, Suite 300, Dallas, TX 75219 (214) 767–9700

Federal Correctional Institution, Personnel Office, Oxford, WI 53952 (608) 584–5511

Federal Medical Center, Personnel Office, 3301 Leestown Road, Lexington, KY 40511 (606) 255–6812

Federal Correctional Institution, Personnel Office, 5701 8th Street, Dublin, CA 94568 (510) 833–7500

Federal Correctional Institution, Personnel Office, 8901 S. Wilmot Road, Tucson, AZ 85706 (602) 574–7100

Bureau of Prisons, Personnel Office, SE Regional Office, 523 McDonough Blvd., SE., Atlanta, GA 30315 (404) 624–5252

Bureau of Prisons, North Central Regional Office, Personnel Office, 4th & State Avenue, 8th Floor-Tower II, Kansas City, KS 66101–2492 (913) 551–1144

Bureau of Prisons, Personnel Office, NE Region, U.S. Customs, 2nd & Chestnut, 7th Floor, Philadelphia, PA 19106 (215) 597–6302

Bureau of Prisons, Personnel Office, W. Regional Office, 7950 Dublin Blvd., 3rd Floor, Dublin, CA 94568 (510) 803–4710

Metropolitan Correctional Center, Personnel Office, 71 W. Van Buren Street, Chicago, IL 60605 (312) 322–0567

Metropolitan Correctional Center, Personnel Office, 808 Union Street, San Diego, CA 92101 (619) 232–4311

Metropolitan Correctional Center, Personnel Office, 15801 SW 137th Avenue, Miami, FL 33177 (305) 255–6788

Federal Correctional Institution, Personnel Office, 1101 John A. Denie Road, Memphis, TN 38134 (901) 372–2269

Federal Prison Camp, Personnel Office, P.O. Box 1000, Montgomery, PA 17752 (717) 547–1641

Federal Correctional Institution, Personnel Office, P.O. Box 730, HWY 95, Bastrop, TX 78602–0730 (512) 321–3903

Federal Prison Camp, Personnel Office, Eglin AFB, Eglin AFB, FL 32542 (904) 882–8522

Federal Correctional Institution, Personnel Office, 565 E Renfroe Road, Talladega, AL 35160 (205) 362–0410

Federal Prison Camp, Personnel Office, P.O. Box 500, Boron, CA 93516 (619) 762–5161

Federal Correctional Institution, Personnel Office, 1900 Simler Avenue, Big Spring, TX 79720 (915) 263–8304

Federal Correctional Institution, Personnel Office, P.O. Box 600, Otisville, NY 10963 (914) 386–5855

Federal Correctional Institution, Personnel Office, P.O. Box 300, Raybrook, NY 12977 (518) 891–5400

Federal Correctional Institution, Personnel Office, 37900 North 45th Avenue, Dept. 1680, Phoenix, AZ 85027 (602) 465–5112

Federal Correctional Institution, Personnel Office, P.O. Box 5050, Oakdale, LA 71463 (318) 335–4070
Federal Medical Center, Personnel Office, P.O. Box 4600, Rochester, MN 55903 (507) 287–0674
Federal Correctional Institution, Personnel Office, P.O. Box 1000, Loretto, PA 15940 (814) 472–4140
Federal Prison Camp, Personnel Office, Maxwell AFB, Montgomery, AL 36112 (205) 834–3681
Federal Correctional Institution, Personnel Office, 3625 FCI Road, Marianna, FL 32446 (904) 526–6377
Metropolitan Detention Center, Personnel Office, 535 N. Alameda Street, Los Angeles, CA 90012 (213) 485–0439
Federal Prison Camp, Personnel Office, P.O. 680, Yankton, SD 57078 (605) 665–3265
Federal Prison Camp, Personnel Office, Drawer 2197, Bryan, TX 77803 (409) 823–1879
Federal Prison Camp, Personnel Office, Saufley Field, Pensacola, FL 32509 (904) 457–1911
Federal Correctional Institution, Personnel Office, 3600 Guard Road, Lompoc, CA 93436 (805) 736–4154
Federal Correctional Institution, Personnel Office, P.O. Box 5000, Bradford, PA 16701 (814) 362–8900
Federal Prison Camp, Personnel Office, Seymour Johnson AFB, Goldsboro, NC 27533 (919) 735–9711
Federal Prison Camp, Personnel Office, Nellis AFB, Nellis, NV 89191 (702) 644–5001
Federal Correctional Institution, Personnel Office, P.O. Box 5001, Sheridan, OR 97378 (503) 843–4442
Federal Correctional Institution, Personnel Office, 2600 Highway 301 South, Jesup, GA 31545 (912) 427–0870
Federal Correctional Institution, Personnel Office, P.O. Box 280, Fairton, NJ 08320 (609) 453–4068
Federal Prison Camp, Personnel Office, P.O. Box 1400, Duluth, MN 55814 (218) 722–8634
Federal Prison Camp, Personnel Office, P.O. Box 16300, El Paso, TX 79906 (915) 540–6150
Federal Correctional Institution, Personnel Office, P.O. Box 4000, Three Rivers, TX 78071 (512) 786–3576
Federal Detention Center, Personnel Office, P.O. Box 5060, Oakdale, LA 71463 (318) 335–4070
Federal Prison Camp, Personnel Office, 6696 Navy Road, Millington, TN 38053 (901) 872–2277
Federal Medical Center, Personnel Office, P.O. Box 68, Carville, LA 70721 (504) 389–5044
Federal Correctional Institution, Personnel Office, P.O. Box 789, Minersville, PA 17954 (717) 544–7121
Federal Prison Camp, Personnel Office, Homestead, FL 33039 (305) 258–9676
Federal Prison Camp, Personnel Office, Box 40150, Tyndall AFB, FL 32403 (904) 286–6777
Metropolitan Detention Center, Personnel Office, P.O. Box 34028, Ft. Buchanan, PR 00934 (809) 749–4480
Bureau of Prisons #580, Personnel Office, Management & Specialist Training Center, 791 Chambers Road, Aurora, CO 80011 (303) 361–0567
LSCI, P.O. Box 1500, White Deer, PA 17887 (717) 547–1990
Federal Correctional Institution, Personnel Office, Rt. 8 Box 58, Fox Hollow Road, Manchester, KY 40962 (606) 598–4153
Metropolitan Detention Center, Personnel Office, 100 29th Street, Brooklyn, NY 11232 (718) 832–1039
U.S. Penitentiary—High, 5880 State Hwy, 67 South, Florence, CO 81226 (719) 784–9454
Federal Correctional Institution, Personnel Office, 5880 State Hwy, 67 South, Florence, CO 81226 (719) 784–9100
Federal Correctional Institution, Personnel Office, P.O. Box 699, Estill, SC 29918 (803) 625–4607
Federal Correctional Institution, Personnel Office, P.O. Box 2500, White Deer, PA 17887 (717) 547–7950
Federal Detention Center, Personnel Office, 1638 Northwest 82nd Avenue, Miami, FL 33126 (305) 597–4884
Bureau of Prisons, Personnel Office, Mid Atlantic Region, 10010 Junctions Dr., #100–N, Annapolis Junction, MD 20701 (301) 317–3199
U.S. Penitentiary, Personnel Office, P.O. Box 3500, White Deer, PA 17887 (717) 547–0963
North Central Regional Office, Personnel Office, 4th & State Ave., 8th Floor—Tower II, Kansas City, KS 66101–2492, (913) 551–1144
Federal Prison Camp, Personnel Office, Glen Ray Road—Box B, Alderson, WV 24910–0700 (304) 445–2901
Federal Correctional Complex, Personnel Office, P.O. Box 999, 904 NE 50th Way, Coleman, FL 33521–0999 (904) 748–0999
Federal Correctional Institution, Personnel Office, Fort Dix, P.O. Box 38, Trenton, NJ 08640 (609) 723–1100
Federal Medical Center, Personnel Office, P.O. Box 27066, J St., Bldg. 3000, Ft. Worth, TX 76127–7066 (817) 782–3834

Federal Bureau of Investigation

Personnel Officer, FBI Headquarters, J. Edgar Hoover Building, 10th Street & Pennsylvania Avenue, NW., Room 6012, Washington, DC 20535 (202) 324–3514

Department of Labor

1. Payment to employees of the Department of Labor:

Director, Office of Accounting, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202) 219–8314

2. Process relating to those exceptional cases where there is money due and payable by the United States under the Longshoreman's Act should be directed to the:

Associate Director for Longshore and Harbor Workers' Compensation, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202) 219–8721

3. Process relating to benefits payable under the Federal Employees' Compensation Act should be directed to the appropriate district office of the Office of Workers' Compensation Programs:

District No. 1

District Director, Office of Workers' Compensation Program, John F. Kennedy Building, Room 1800, Government Center, Boston, MA 12203 (617) 565–2137

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

District No. 2

District Director, Office of Workers' Compensation Programs, 201 Varick Street, Room 750, P.O. Box 566, New York, NY 10014–0566 (212) 337–2075

New Jersey, New York, Puerto Rico, and the Virgin Islands

District No. 3

District Director, Office of Workers' Compensation Programs, Gateway Building, 3535 Market Street, Philadelphia, PA 19104 (215) 596–1457

Delaware, Pennsylvania, and West Virginia

District No. 6

District Director, Office of Workers' Compensation Programs, 214 N. Hogan Street, Suite 1026, Jacksonville, FL 32202 (904) 232–2821

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

District No. 9

District Director, Office of Workers' Compensation Programs, 1240 East 9th Street, Cleveland, OH 44199 (216) 522–3800

Indiana, Michigan, and Ohio

District No. 10

District Director, Office of Workers' Compensation Programs, 230 S. Dearborn Street, 8th Floor, Chicago, IL 60604 (312) 353–5656

Illinois, Minnesota, and Wisconsin

District No. 11

Regional Director, Office of Workers' Compensation Programs, 1910 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106 (816) 426–2195

Iowa, Kansas, Missouri, and Nebraska

District No. 12

District Director, Office of Workers' Compensation Programs, 1801 California Street, Suite 915, Denver, CO 80202 (303) 391–6000

Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming

District No. 13,

District Director, Office of Workers' Compensation Programs, 71 Stevenson Street, 2nd Floor, P.O. Box 3769, San Francisco, CA 94119–3769 (415) 744–6610

Arizona, California, Hawaii, Guam, and Nevada

District No. 14

District Director, Officer of Workers' Compensation Programs, 111 Third Avenue, Suite 615, Seattle, WA 98101 (206) 553–5508

Alaska, Idaho, Oregon, and Washington

District No. 16

District Director, Office of Workers' Compensation Programs, 525 Griffin Street, Room 100, Dallas, TX 75202, (214) 767–2580

Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

District No. 25

District Director, Office of Workers' Compensation Programs, 800 N. Capitol Street, Room 800, Washington, DC 20211 (202) 724–0713

District of Columbia, Maryland, and Virginia

4. Process relating to claims arising out of the places set forth below and process seeking to attach Federal Employees' Compensation Act benefits payable to employees of the Department of Labor should be directed to the:

Regional Director, Office of Workers' Compensation Programs, 1910 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106 (816) 426–2195

Department of State

Executive Director (L/EX), Office of the Legal Adviser, Department of State, 22nd and C Street, NW., Room 5519A, Washington, DC 20520 (202) 647–8323

Department of Transportation

Office of the Secretary

General Counsel, Department of Transportation, 400 7th Street, SW., Washington, DC 20590 (202) 366–4702

Agent designated to accept legal process issued by courts in the District of Columbia:

Assistant Chief Counsel, AGC–100, Department of Transportation, 701 Pennsylvania Avenue, NW., Suite 925, Washington, DC 20004 (202) 376–6416

Agent designated to accept legal process issued by courts in the State of Oklahoma:

Assistant Chief Counsel, MC–7, Department of Transportation, P.O. Box 25082, Oklahoma City, OK 73125 (405) 954–3296

Agent designated to accept legal process issued by courts in the State of New Jersey:

Assistant Chief Counsel, ACT–7, FAA Technical Center, Department of Transportation, Atlantic City, NJ 08405 (609) 485–7087

United States Coast Guard

Commanding Officer (L), Coast Guard Pay and Personnel Center, Federal Building, 444 SE. Quincy Street, Topeka, KS 66683–3591 (913) 295–2520

Federal Aviation Administration

1. Headquarters (Washington, DC) and overseas employees:

Agent designated to accept legal process issued by courts in the District of Columbia:

Assistant Chief Counsel, AGC–100, Federal Aviation Administration, 701 Pennsylvania Avenue, NW., Suite 925, Washington, DC 20004 (202) 376–6416

Agent designated to accept legal process issued by courts in the State of Oklahoma:

Assistant Chief Counsel, AMC–7, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125 (405) 954–3296

Agent designated to accept legal process issued by courts in the State of New Jersey:

Assistant Chief Counsel, ACT–7, FAA Technical Center, Federal Aviation Administration, Atlantic City, NJ 08405 (609) 485–7087

Agent designated to accept legal process issued by courts in the State of Alaska:

Assistant Chief Counsel, AAL–7, Federal Aviation Administration, 222 West 7th Avenue, #14, Anchorage, AL 99533 (907) 271–5269

Agent designated to accept legal process issued by courts in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut:

Assistant Chief Counsel, ANE–7, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803 (617) 238–7040

Agent designated to accept legal process issued by courts in the States of New York, Pennsylvania, Maryland, West Virginia, Delaware, and Virginia:

Assistant Chief Counsel, AEA–7, Federal Aviation Administration, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430 (718) 553–1035

Agent designated to accept legal process issued by courts in the States of Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi:

Assistant Chief Counsel, ASO–7, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320 (404) 763–7204

Agent designated to accept legal process issued by courts in the States of Louisiana, Arkansas, Texas, and New Mexico:

Assistant Chief Counsel, ASW–7, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76137–4298 (817) 222–5064

Agent designated to accept legal process issued by courts in the States of Nebraska, Iowa, Missouri, and Kansas:

Assistant Chief Counsel, ACE–7, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106 (816) 426–5446

Agent designated to accept legal process issued by courts in the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, North Dakota, and South Dakota:

Assistant Chief Counsel, AGL–7, Federal Aviation Administration, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018 (708) 294–7108

Agent designated to accept legal process issued by courts in the States of Colorado, Utah, Wyoming, Montana, Idaho, Oregon, and Washington:

Assistant Chief Counsel, AMN–7, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98055–4056 (206) 227–2007

Agent designated to accept legal process issued by courts in the States of Hawaii, Arizona, Nevada, and California:

Assistant Chief Counsel, AWP, Federal Aviation Administration, P.O. Box 92007, World Postal Center, Los Angeles, CA 90009 (310) 297–1270

Department of the Treasury

(1) Departmental Offices

Assistant General Counsel (Administrative and General Law), Treasury Department, 1500 Pennsylvania Avenue, NW., Room 1410, Washington, DC 20220 (202) 622–0450

(2) Office of Foreign Assets Control

Chief Counsel, Second Floor, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220 (202) 622–2410

(3) Financial Management Service

Chief Counsel, Financial Management Service, 401 14th Street, SW., Room 531, Washington, DC 20227 (202) 874–6680

(4) Internal Revenue Service

Chief, Special Processing Unit, Garnishing Processing Center, 214 North Kanawha Street, Beckley, WV 25801 (304) 256–6200

(5) Bureau of Alcohol, Tobacco & Firearms

Chief Counsel, 650 Massachusetts Avenue, NW., Room 6100, Washington, DC 20226 (202) 927–7772

(6) Bureau of the Public Debt

Deputy Chief Counsel, Bureau of the Public Debt, Room 119, Hintgen Building, Parkersburg, WV 26106–1328 (304) 480–5192

(7) Secret Service

Legal Counsel, 1800 G Street, NW., Room 842, Washington, DC 20223 (202) 435–5771

(8) Bureau of Engraving & Printing

Legal Counsel, 14th & C Streets, NW., Room 306M, Washington, DC 20228 (202) 874–2500

(9) Office of the Comptroller of the Currency

Washington Headquarters

Director of Litigation, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219–0001 (202) 874–5280

District Offices

District Counsel, Office of the Comptroller of the Currency, Northeastern District, 1114 Avenue of the Americas, Suite 3900, New York, NY 10036–7703 (212) 790–4010

District Counsel, Office of the Comptroller of the Currency, Southeastern District, Marquis One Tower, Suite 600, 245 Peachtree Center Ave., NE., Atlanta, GA 30303–1223 (404) 588–4520

District Counsel, Office of the Comptroller of the Currency, Central District, One Financial Place, Suite 2700, 440 South LaSalle St., Chicago, IL 60605–1073 (312) 663–8020

District Counsel, Office of the Comptroller of the Currency, Midwestern District, 2345 Grand Avenue, Suite 700, Kansas City, MO 64108–2683 (816) 556–1870

District Counsel, Office of the Comptroller of the Currency, Southwestern District, 1600

Lincoln Plaza, 500 North Akard Street, Dallas, TX 75201–3345 (214) 720–7012
District Counsel, Office of the Comptroller of the Currency, Western District, 50 Fremont Street, Suite 3900, San Francisco, CA 94105–2292 (415) 545–5980

(10) United States Mint

Chief Counsel, 633 3rd Street, NW., Room 733, Washington, DC 20220 (202) 874–6040

(11) Federal Law Enforcement Training Center

Legal Counsel, Building 69, Glynco, GA 31524 (912) 267–2100

(12) Customs Service

Assistant Chief Counsel, P.O. Box 68914, Indianapolis, IN 46278 (317) 298–1233

(13) Office of Thrift Supervision

Chief Counsel, 1700 G Street, NW., Fifth Floor, Washington, DC 20552 (202) 906–6251

Department of Veterans Affairs

The fiscal officer at each Department of Veterans Affairs (VA) facility shall be the designated agent for VA employee obligors at that facility. When a facility at which an individual is employed does not have a fiscal officer, the address and telephone number listed is for the fiscal officer servicing such a facility. In those limited cases where a portion of VA service-connected benefits may be subject to garnishment, service of process, unless otherwise indicated below, should be made at the regional office nearest the veteran obligor's permanent residence.

Alabama

Fiscal Officer, Birmingham Medical Center, Send to: Fiscal Officer, VA Medical Center, 215 Perry Hill Road, Montgomery, AL 36193 (205) 272–4670, ext. 4709
National Cemetery Area Office, 700 South 19th Street, Birmingham, AL 35233 (205) 939–2103
Mobile Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, Gulfport, MS 39501 (601) 863–1972, ext. 225
Fiscal Officer, Montgomery Regional Office, 474 South Court Street, Montgomery, AL 36104 (205) 832–7172
Fiscal Officer Montgomery Medical Center, 215 Perry Hill Road, Montgomery AL 36109 (205) 272–4670, ext. 204
Fiscal Officer, Tuscaloosa Medical Center, Tuscaloosa, AL 35401 (205) 553–3760
Fiscal Officer, Tuskegee Medical Center, Tuskegee, AL 36083 (205) 727–0550, ext. 0622

Alaska

Fiscal Officer, Anchorage Regional Office, Outpatient Clinic, 235 East 8th Avenue, Anchorage, AK 99501 (907) 271–2250
Juneau VA Office, Sent to: Fiscal Officer, VA Regional Office, 235 East 8th Avenue, Anchorage, AK 99501 (907) 271–2250
Sitka National Cemetery Area Office, Send to: Fiscal Officer, VA Regional Office, 235 East 8th Avenue, Anchorage, AK 99501 (907) 271–2250

Arizona

Cave Creek National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Seventh Street & Indian School Road, Phoenix, AZ 85012 (602) 277–5551
Fiscal Officer, Phoenix Regional Office, 3225 North Central Avenue, Phoenix, AZ 85012 (606) 241–2735
Fiscal Officer, Phoenix Medical Center, Seventh Street & Indian School Road, Phoenix, AZ 85012 (602) 277–5551
Fiscal Officer, Prescott Medical Center, Prescott, AZ 86313 (602) 445–4860, ext. 264
Prescott National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Prescott, AZ 86313 (602) 445–4860, ext. 264
Fiscal Officer, Tucson Medical Center, Tucson, AZ 85723 (602) 792–1450, ext. 710

Arkansas

Fayetteville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Fayetteville, AR 72701 (510) 443–4301
Fiscal Officer, Fayetteville Medical Center, Fayetteville, AR 72701 (501) 443–4301
Fort Smith National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Fayetteville, AR 72701 (501) 443–4301
Fiscal Officer, Little Rock Regional Office, 1200 W. 3d Street, Little Rock, AR 72201 (501) 378–5142
Fiscal Officer, John L. McClellan Memorial Veterans Hospital, 4300 West 7th Street (04), Little Rock, AR 72205 (501) 661–1202, ext. 1310
Fiscal Officer, VA Regional Office, Send to: VA Medical Center, 11000 N. College Avenue, Fayetteville, AR 72701 (501) 444–5007
Fiscal Officer, VA Regional Office, Building 65, Fort Roots, P.O. Box 1280, North Little Rock, Little Rock, AR 72115 (501) 370–3741

California

Bell Supply Depot, Send to: Fiscal Officer, VA Supply Depot, P.O. Box 27, Hines, IL 60141 (312) 681–6800
Fiscal Officer, Fresno Medical Center, 2615 East Clinton Avenue, Fresno, CA 94703 (209) 225–6100
Fiscal Officer, Livermore Medical Center, Livermore, CA 94550 (415) 447–2560, ext. 317
Fiscal Officer, Loma Linda Medical Center, 11201 Benton Street, Loma Linda, CA 92357 (714) 825–7084, ext. 2550/2551
Fiscal Officer, Long Beach Medical Center, 5901 East Seventh Street, Long Beach, CA 90822 (213) 498–1313, ext. 2101
Fiscal Officer, Los Angeles Regional Office, Federal Building, 11000 Wilshire Blvd., Los Angeles, CA 90024 (213) 209–7565

Jurisdiction over the following counties in California: Inyo, Kern, Los Angeles, Orange, San Bernadino, San Luis Obispo, Santa Barbara and Ventura.

Los Angeles Data Processing Center, Send to: Fiscal Officer, VA Regional Office, Federal Bldg., 11000 Wilshire Blvd., Los Angeles, CA 90024 (213) 209–7565
Fiscal Officer, Los Angeles Medical Center—Brentwood Division, Los Angeles, CA 90073 (213) 478–3478
Fiscal Officer, Los Angeles Medical Center—Wadsworth Division, Los Angeles, CA 90073 (213) 478–3478
Fiscal Officer, Los Angeles Outpatient Clinic, 425 South Hill Street, Los Angeles, CA 90013 (213) 894–3870
Los Angeles Regional Office of Audit, Send to: Fiscal Officer, VA Medical Center—Brentwood Division, Los Angeles, CA 90073 (213) 824–4402
Los Angeles Field Office of Audit, Send to: Fiscal Officer, VA Medical Center—Wadsworth Division, Los Angeles, CA 90073 (213) 478–3478
Los Angeles National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center—Brentwood Division, Los Angeles, CA 90073 (213) 478–3478
Fiscal Officer, Martinez Medical Center, 150 Muir Rd., Martinez, CA 94553 (415) 228–6680, ext. 235
Fiscal Officer, Palo Alto Medical Center, 3801 Miranda Avenue, Palo Alto, CA 94304 (415) 493–5000, ext. 5643
Riverside National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center—Wadsworth Division, Los Angeles, CA 90073 (213) 478–3478
San Bruno National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 4150 Clement Street, San Bruno, CA 94121 (415) 221–4810, ext. 315/316
Fiscal Officer, San Diego Medical Center, 3350 La Jolla Village Drive, San Diego, CA 92161 (714) 453–7500, ext. 3351
San Diego Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 3350 La Jolla Village Drive, San Diego, CA 92161 (714) 453–7500, ext. 3351
Fiscal Officer, San Diego Regional Office, 2022 Camino Del Rio North, San Diego, CA 92108 (714) 289–5703

Jurisdiction over the following counties in California: Imperial, Riverside and San Diego.

San Francisco National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Officer, 4150 Clement Street, San Francisco, CA 94121 (415) 556–0483
Fiscal Officer, San Francisco Regional Office, 211 Main Street, San Francisco, CA 94105 (415) 974–0160

Jurisdiction over all counties in California except Inyo, Kern, Los Angeles, Orange, San Bernardino, San Luis Obispo, Santa Barbara, Ventura, Imperial, Riverside, San Diego, Alpine, Lassen, Modoc and Mono.

Fiscal Officer, San Francisco Medical Center, 4150 Clement Street, San Francisco, CA 94121 (415) 221–4810, ext. 315/316
Fiscal Officer, Sepulveda Medical Center, 16111 Plummer Street, Sepulveda, CA 91343 (818) 891–2377

Colorado

Fiscal Officer, Denver Regional Office, Denver Federal Center, Building 20, Denver, CO 80225 (303) 234–3920
Fiscal Officer, Denver Medical Center, 1055 Clermont Street, Denver, CO 80220 (303) 393–2813
Denver National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1055 Clermont Street, Denver, CO 80220 (303) 393–2813

Fort Logan National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1055 Clermont Street, Denver, CO 80220 (303) 393–2813
Fort Lyon National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Fort Lyon, CO 81038 (719) 384–3987
Fiscal Officer, Fort Lyon Medical Center, Fort Lyon, CO 81038 (719) 384–3987
Fiscal Officer, Grand Junction Medical Center, 2121 North Avenue, Grand Junction, CO 81501 (303) 242–0731, ext. 275

Connecticut

Fiscal Officer, Hartford Regional Office, 450 Main Street, Hartford, CT 06103 (202) 244–3217
Fiscal Officer, Newington Medical Center, 555 Willard Avenue, Newington, CT 06111 (203) 666–6951, ext. 369
Fiscal Officer, West Haven Medical Center, 950 Campbell Avenue, West Haven, CT 06516 (203) 932–5711, ext. 859

Delaware

Fiscal Officer, Wilmington Medical and Regional Office Center, 1601 Kirkwood Highway, Wilmington, DE 19805 (302) 633–5432

District of Columbia

Finance Division Chief (047H), Washington Central Office, 810 Vermont Avenue, NW., Room C–50, Washington, DC 20420 (202) 233–3901
Washington Veterans Canteen Service Field Office, Send to: Finance Division Chief (047H), VA Central Office, 810 Vermont Avenue, NW., Room C–50, Washington, DC 20420 (202) 233–3901
Fiscal Officer, Washington Regional Office, 941 North Capitol Street, NE., Washington, DC 20421 (202) 208–1349

Jurisdiction over all foreign countries or overseas areas except Mexico, American Samoa, Guam, Midway, Wake, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Philippines. Also, jurisdiction over Prince George's and Montgomery Counties in Maryland; Fairfax and Arlington Counties and the cities of Alexandria, Fairfax and Falls Church in Virginia.

Fiscal Officer, Washington Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8229

Florida

Fiscal Officer, Bay Pines Medical Center, National Cemetery Area Office, Bay Pines, FL 33504 (813) 398–9321
Fiscal Officer, Gainesville Medical Center, Archer Road, Gainesville, FL 32601 (904) 376–1611, ext. 6685
Jacksonville Outpatient Clinic Substantion, Send to: Fiscal Officer, VA Medical Center, 1601 SW. Archer Road, Gainesville, FL 32602 (904) 374–1611, ext. 6685
Jacksonville VA Office, Send to: Fiscal Officer, VA Regional Office, 144 First Avenue, South, St. Petersburg, FL 33731 (813) 893–3236
Fiscal Officer, Lake City Medical Center, 801 South Marion Street, Lake City, FL 32055 (904) 755–3016
Miami VA Officer, Send to: Fiscal Officer, VA Regional Office, 144 First Avenue, South, St. Petersburg, FL 33731 (813) 893–3236
Fiscal Officer, Miami Medical Center, 1201 Northwest 16th Street, Miami, FL 33125 (305) 324–4284
Orlando Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 1300 North 30th Street, Tampa, FL 33612 (813) 971–4500
Fiscal Officer, James A. Haley Veterans' Hospital, 13000 Bruce B. Downs Blvd., Tampa, FL 33612 (813) 972–7501
Riviera Beach Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 1201 Northwest 16th Street, Miami, FL 33125 (305) 324–4284
Pensacola National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Gulfport, MS 39501 (601) 863–1972, ext. 225
St. Augustine National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Archer Road, Gainesville, FL 32602 (904) 376–1611, ext. 6685
Fiscal Officer, St. Petersburg Regional Office, 144 First Avenue, South, St. Petersburg, FL 33612 (813) 893–3236

Georgia

Fiscal Officer, Atlanta Regional Office, 730 Peachtree Street, NE., Atlanta, GA 30365 (404) 347–5008
Atlanta Veterans Canteen Service Field Office, Send to: Fiscal Officer, VA Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 321–6111
Atlanta National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Office, 1670 Clairmont Road, Decatur, GA 30033 (404) 321–6111
Atlanta Field Office of Audit, Send to: Fiscal Officer, VA Regional Office, 730 Peachtree Street, NE. Atlanta, GA 30301 (404) 347–5008
Fiscal Officer, Augusta Medical Center, Augusta, GA 30904 (404) 733–4471, ext. 675/676
Fiscal Officer, VA Medical Center, 2460 Wrightsboro Road, Augusta, GA 30910 (404) 742–5116
Fiscal Officer, Decatur Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 321–6111, ext. 6320
Fiscal Officer, Dublin Medical Center, Dublin, GA 31021 (912) 272–1210, ext. 373
Marietta National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 321–6111

Hawaii

Fiscal Officer, Honolulu Regional Office, P.O. Box 50188, Honolulu, HI 96850 (808) 541–1490

Jurisdiction over Islands of American Samoa, Guam, Wake Midway and Trust Territory of the Pacific Islands.

Honolulu National Cemetery Area Office, Send to: Fiscal Officer, VA Regional Office, P.O. Box 50188, Honolulu, HI 96850 (808) 546–2109

Idaho

Fiscal Officer, Boise Medical Center, 500 West Fort Street, Boise, ID 83702 (208) 336–5100, ext. 7312
Fiscal Officer, Boise Gegional Office, Federal Bldg. & U.S. Courthouse, 550 West Fort Street, Box 044, Boise, ID 83724 (208) 334–1009

Illinois

Alton National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, St. Louis, MO 63125 (314) 894–4631
AMF O'Hare Field Office of Audit, Send to: Fiscal Officer, VA Medical Center, Hines, IL 60141 (312) 343–7200, ext. 2481
Fiscal Officer, Chicago Medical Center (Lakeside), 33 East Huron Street, Chicago, IL 60611 (312) 943–6600
Fiscal Officer, Chicago Medical Center (West Side), 820 South Damen Avenue, Chicago, IL 60612 (312) 666–6500, ext. 3338
Fiscal Officer, Chicago Regional Office, 536 South Clark Street, Chicago, IL 60680 (312) 886–9417
Fiscal Officer, Danville Medical Center, 1900 E. Main Street, Danville, IL 61832 (217) 442–8000
Danville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1900 E. Main Street, Danville, IL 61832 (217) 442–8000, ext. 210
Fiscal Officer, Hines Medical Center, Hines, IL 60141 (312) 343–7200, ext. 2481
Hines Marketing Center, Send to: Fiscal Officer, VA Supply Depot, P.O. Box 27, Hines, IL 60141 (312) 681–6800
Fiscal Officer, Hines Supply Depot, P.O. Box 27, Hines, IL 60141 (312) 681–6800
Fiscal Officer, Hines Data Processing Center, P.O. Box 66303, AMF O'Hare, Hines, IL 60666 (312) 681–6650
Fiscal Officer, Marion Medical Center, Marion, IL 62959 (618) 997–5311
Mound City National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 2401 West Main Street, Marion, IL 62959 (618) 997–5311
Fiscal Officer, North Chicago Medical Center, North Chicago, IL 60064 (312) 689–1900
Quincy National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Iowa City, IA 52240 (319) 338–0581, ext. 304
Rock Island National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Iowa City, IA 52240 (319) 338–0581, ext. 304
Springfield National Cemetery Area Officer, Send to: Fiscal Officer, VA Medical Center, 1900 E. Main Street, Danville, IL 61832 (217) 442–8000

Indiana

Evansville Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, Marion, IL 62959 (618) 997–5311
Fiscal Officer, Fort Wayne Medical Center, 1600 Randalia Drive, Fort Wayne, IN 46805 (219) 426–5431
Fiscal Officer, Indianapolis Regional Office, 575 North Pennsylvania Street, Indianapolis, IN 46204 (317) 269–7840
Fiscal Officer, Indianapolis Medical Center, 1481 West 10th Street, Indianapolis, IN 46202 (317) 635–7401, ext. 2363
Indianapolis National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center,

1481 West 10th Street, Indianapolis, IN 46202 (317) 635–7401, ext. 2363
Fiscal Officer, Marion Medical Center, Marion, IN 46952 (317) 674–3321, ext. 214
Marion National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Marion, IN 46952 (317) 674–3321, ext. 211
New Albany National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 800 Zorn Avenue, Louisville, KY 40202 (502) 895–3401

Iowa

Fiscal Officer, Des Moines Regional Office, 210 Walnut Street, Des Moines, IA 50309 (515) 284–4220
Fiscal Officer, Des Moines Medical Center, 30th & Euclid Avenue, Des Moines, IA 50310 (515) 255–2173
Fiscal Officer, Iowa City Medical Center, Iowa City, IA 52246 (319) 338–0581, ext. 7702
Keokuk National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Iowa City, IA 52246 (319) 338–0581, ext. 7702
Keokuk National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Iowa City, IA 52246 (319) 338–0581, ext. 7702

Kansas

Ft. Leavenworth National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Leavenworth, KS 66048 (913) 682–2000, ext. 214
Ft. Scott National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Leavenworth, KS 66048 (913) 682–2000, ext. 214
Leavenworth National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Leavenworth, KS 66048 (913) 682–2000, ext. 214
Fiscal Officer, Leavenworth Medical Center, Leavenworth, KS 66048 (913) 682–2000, ext. 214
Fiscal Officer, Topeka Medical Center, 2200 Gage Blvd., Topeka, KS 66622 (913) 272–3111, ext. 521
Fiscal Officer, Wichita Medical Center, 5500 East Kellogg, Wichita, KS 67211 (316) 685–2221, ext. 256
Wichita Regional Office, Send to: VA Medical Center, 5500 East Kellogg, Wichita, KS 67211 (316) 685–2111, ext. 256

Process for VA service-connected benefits should also be sent to the Wichita Medical Center rather than to the Wichita Regional Office.

Fiscal Officer, VA Regional Office, 901 George Washington Blvd., Wichita, KS 67211 (316) 269–6813

Kentucky

Danville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Lexington, KY 40507 (606) 223–4511
Fiscal Officer, Knoxville Medical Center, Knoxville, KY 50138 (515) 842–3101, ext. 241
Lebanon National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Lexington, KY 40507 (606) 233–4511
Lexington National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Lexington, KY 40507 (606) 233–4511
Fiscal Officer, Lexington Medical Center, Lexington, KY 40507, (606) 233–4511
Fiscal Officer, Louisville Regional Office, 600 Federal Place, Louisville, KY 40202 (502) 582–6482
Fiscal Officer, Louisville Medical Center, 800 Zorn Avenue, Louisville, KY 40202 (502) 895–3401, ext. 241
Louisville National Cemetery Area Office, (Zachary Taylor), Send to: Fiscal Officer, VA Medical Center, 800 Zorn Avenue, Louisville, KY 40202 (502) 895–3401, ext. 241
Louisville National Cemetery Area Office (Cave Hill), Send to: Fiscal Officer, VA Medical Center, 800 Zorn Avenue, Louisville, KY 40202 (502) 895–3401, ext. 241
Nancy National Cemetery Area Office, Send to: Fiscal Office, VA Medical Center, Lexington, KY 40507 (606) 233–4511
Nicholasville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Lexington, KY 40507 (606) 233–4511
Perryville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Lexington, KY 40507 (606) 233–4511

Louisiana

Fiscal Officer, Alexandria Medical Center, Alexandria, LA 71303 (318) 473–0010, ext. 2281
Baton Rouge National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1601 Perdido Street, New Orleans, LA 70146 (504) 568–0811
Fiscal Officer, New Orleans Regional Office, 701 Loyola Avenue, New Orleans, LA 70133 (504) 589–6604
Fiscal Officer, New Orleans Medical Center, 1601 Perdido Street New Orleans, LA 70146 (504) 568–0811
Baton Rouge National Cemetery, 220 North 19th Street, Baton Rouge, LA 70806 (504) 389–0788
Pineville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Alexandria, LA 71301 (318) 442–0251
Fiscal Officer, Shreveport Medical Center, 510 East Stoner Avenue, Shreveport, LA 71101 (318) 221–8411, ext. 722
Shreveport VA Office, Send to: Fiscal Officer, VA Regional Officer, 701 Loyola Avenue, New Orleans, LA 70113 (504) 589–6604
Port Hudson (Zachary) National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1601 Perdido Street, New Orleans, LA 70146 (504) 568–0811

Maine

Portland VA Office, Send to: Fiscal Officer, VA Center Togus, ME 04330 (207) 623–8411
Fiscal Officer, Togus Medical & Regional Office Center, Togus, ME 04330 (207) 623–8411
Togus National Cemetery Area Office, Send to: Fiscal Officer, VA Center, Togus, ME 04330 (207) 623–8411

Maryland

Annapolis National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 3900 Loch Raven Blvd., Baltimore, MD 21218 (301) 467–9932, ext. 5281/5282
Fiscal Officer, Baltimore Regional Office, Federal Bldg., 31 Hopkins Plaza, Baltimore, MD 21201 (301) 962–4410

Jurisdiction does not include Prince George's and Montgomery Counties which are included under the Washington, DC Regional Office

Baltimore Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 39090 Loch Raven Blvd., Baltimore, MD 21218 (301) 467–9932, ext. 5281/5282
Fiscal Officer, Baltimore Medical Center, 3900 Loch Raven Blvd., Baltimore, MD 21218 (301) 467–9932, ext. 5281/5282
Baltimore National Cemetery Area Office (Loudon Park), Send to: fiscal Officer, VA Medical Center, 3900 Loch Raven Blvd., Baltimore, MD 21218 (301) 467–9932, ext. 5281/5282
Fiscal Officer, Fort Howard Medical Center, Fort Howard, MD 21052 (301) 687–8768, ext. 328
Hyattsville Field Office of Audit, Send to: Fiscal Division Chief (047H), VA Central Office, Room C–50, 810 Vermont Avenue, Washington, DC 20420 (202) 389–3901
Fiscal Officer, Perry Point Medical Center, Perry Point, MD 21902 (301) 642–2411, ext. 5224/5225

Massachusetts

Fiscal Officer, Bedford Medical Center, 200 Springs Road, Bedford, MA 01730 (617) 275–75000
Fiscal Officer, Boston Regional Office, John F. Kennedy Bldg., Room 400C, Government Center, Boston, MA (617) 565–2616

Jurisdiction over certain towns in Bristol and Plymouth Counties and the counties of Barnstable, Dukes and Nantucket is allocated to the Providence, Rhode Island Regional Office.

Boston Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 150 South Huntington Avenue, Boston, MA 02130 (617) 232–9500, ext. 427/420
Fiscal Officer, Boston Medical Center, 150 South Huntington Avenue, Boston, MA 02130 (617) 232–9500, ext. 427/420
Bourne National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Brockton, MA 02401 (617) 583–4500, ext. 266
Fiscal Officer, Brockton Medical Center, Brockton, MA 02401 (617) 583–4500, ext. 266
Lowell Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 150 South Huntington Avenue, Boston, MA 02130 (617) 322–9500, ext. 427/420
New Bedford Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, Providence, RI 02908 (401) 273–7100
Fiscal Officer, Northampton Medical Center, Northampton, MA 01060 (413) 584–4040
Springfield Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, Northampton, MA 01060 (413) 584–4040
Springfield VA Office, Send to: Fiscal Officer, VA Regional Office, John F. Kennedy Bldg., Room 400C, Government Center, Boston, MA 02203 (617) 565–2616
Fiscal Officer, West Roxbury Medical Center, 1400 Veterans of Foreign Wars Parkway, West Roxbury, MA 02132, (617) 323–7700, ext. 5650

Worcester Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 1400 Veterans of Foreign Wars Parkway, West Roxbury, MA 02132 (617) 322–7700, ext. 5650

Michigan

Fiscal Officer, Allen Park Medical Center, Allen Park, MI 48101 (313) 562–6000, ext. 535
Fiscal Officer, Ann Arbor Medical Center, 2215 Fuller Road, Ann Arbor, MI 48105 (313) 769–7100, ext. 288/289
Fiscal Officer, Battle Creek Medical Center, Battle Creek, MI 49016 (616) 966–5600, ext. 3566
Grand Rapids Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, Battle Creek, MI 49016 (616) 966–5600, ext. 3566
Fiscal Officer, Detroit Regional Office, 477 Michigan Avenue, Detroit, MI 48226 (313) 226–4190
Fiscal Officer, Iron Mountain Medical Center, Iron Mountain, MI 49801 (906) 774–3300, ext. 308
Fiscal Officer, Saginaw Medical Center, 1500 Weiss Street, Saginaw, MI 48602 (517) 793–2340, ext. 3061

Minnesota

Fiscal Officer, Minneapolis Medical Center, 54th & 48th Avenue, South Minneapolis, MN 55417 (612) 725–6767, ext. 6311
Fiscal Officer, St. Cloud Medical Center, St. Cloud, MN 56301 (612) 252–1600, ext. 411
Fiscal Officer, St. Paul Center (Regional Office), Federal Building, FT. Snelling, St. Paul, MN 55111 (612) 725–4075
Fiscal Officer, VA Medical Center, One Veterans Drive, Minneapolis, MN 55417 (612) 725–2150

Jurisdiction over the counties of Becker, Beltrami, Clay, Clearwater, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau and Wilkin is allocated to the Fargo, North Dakota Center.

St. Paul National Cemetery Area Office, Send to: VA Medical Center, 54th & 48th Avenue, South, Minneapolis, MN 55417 (612) 725–6767, ext. 6311
St. Paul Data Processing Center, Send to: Fiscal Officer, VA Center, Federal Building, Ft. Snelling, St. Paul, MN 55111 (612) 725–3075
St. Paul Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 54th & 48th Avenue, Minneapolis, MN 55111 (612) 725–6767, ext. 6311

Mississippi

Biloxi National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Biloxi, MS 39531 (601) 863–1972, ext. 225
Fiscal Officer, Biloxi Medical Center, Biloxi, MS 39531 (601) 863–1972, ext. 225
Corrinth National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1030 Jefferson Avenue, Memphis, TN 38104 (901) 523–8990
Fiscal Officer, Gulfport Medical Center, Gulfport, MS 39601 (601) 863–1972. ext. 225
Fiscal Officer, Jackson Medical Center, 1500 East Woodrow Wilson Drive, Jackson, MS 39216 (601) 362–4471, ext. 1281
Fiscal Officer, VA Regional Office, Federal Building, 100 W. Capitol St., Suite 207, Jackson, MS 39269 (601) 965–4853
Natchez National Cemetary, Send to: Fiscal Officer, VA Medical Center, 1500 E. Woodrow Wilson Dr., Jackson, MS 39216 (601) 362–4471, ext. 1281

Process for VA service-connected benefits should also be sent to the Jackson Medical Center rather than to the Jackson Regional Office.

Missouri

Fiscal Officer, Columbia Medical Center, 800 Stadium Road, Columbia, MO 62501 (314) 443–2511
Jefferson City National Cemetary Area Office, Send to: Fiscal Officer, VA Medical Center, 800 Stadium Road, Columbia, MO 65201 (314) 443–2511, ext. 6050
Fiscal Officer, Kansas City Medical Center, 4801 Linwood Blvd., Kansas City, MO 64128 (816) 861–4700, ext. 214
Fiscal Officer, Poplar Bluff Medical Center, Poplar Bluff, MO 63901 (314) 686–4151
St. Louis National Cemetary Area Office, Send to: Fiscal Officer, VA Medical Center, St. Louis, MO 63125 (314) 894–4931
Fiscal Officer, St. Louis Regional Office, 1520 Market Street, St. Louis, MO 63103 (314) 539–3112
Fiscal Officer, VA Medical Center, 1500 N. Westwood Blvd., Poplar Bluff, MO 63901 (314) 686–4151, ext. 265
St. Louis Veterans Canteen Service Field Office, Send to: Fiscal Officer, VA Medical Center, St. Louis, MO 63125 (314) 894–4631
Fiscal Officer, St. Louis Medical Center, St. Louis, MO 63125 (314) 894–4631
St. Louis Records Processing Center, Send to: Fiscal Officer, VA Regional Office, 1520 Market Street, St. Louis, MO 63103 (314) 539–3112
Springfield National Cemetary Area Office, Send to: Fiscal Officer, VA Medical Center, Fayetteville, AR 72701 (501) 443–4301

Montana

Fiscal Officer, Fort Harrison Medical & Regional Office Center, Fort Harrison, MT 59636 (406) 442–6410
Fiscal Officer, Miles City Medical Center, 210 N. Broadwell, Miles City, MT 59301 (406) 232–3060

Nebraska

Fiscal Officer, Grand Island Medical Center, 2201 N. Broadwell, Grand Island, NE 68801 (308) 382–3660, ext. 244
Fiscal Officer, Lincoln Regional Office, 100 Centennial Mall North, Lincoln, NE 68510 (402) 437–5041
Fiscal Officer, Lincoln Medical Center, 600 South 70th Street, Lincoln, NE 68510 (402) 489–3802, ext. 332
Maxwell National Cemetary Area Office, Send to: Fiscal Officer, VA Medical Center, Grand Island, NE 68801 (308) 382–3660, ext. 244
Fiscal Officer, Omaha Medical Center, 4101 Woolworth Avenue, Omaha, NE (402) 346–8800, ext. 4538

Nevada

Las Vegas Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 100 Locust Street, Reno, NV 89250 (702) 786–7200, ext. 244
Fiscal Officer, Reno Regional Office, 1201 Terminal Way, Reno, NV (702) 784–5637

Jurisdiction over the following counties in California: Alpine, Lassen, Modoc and Mono.

Fiscal Officer, Reno Medical Center, 1000 Locust Street, Reno, NV 89520 (702) 786–7200, ext. 244
Henderson Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 1000 Locust Street, Reno, NV 89520 (702) 786–7200. ext. 244

New Hampshire

Fiscal Officer, Manchester Regional Office, 275 Chestnut Street, Manchester, NH 03103 (603) 666–7638
Fiscal Officer, Manchester Medical Center, 718 Smyth Road, Manchester, NH 03104 (603) 624–4366

New Jersey

Beverly National Cemetary Area Office, Send to: Fiscal Officer, VA Medical Center, University & Woodland Avenues, Philadelphia, PA 19104 (215) 382–2400, ext. 291/292
Fiscal Officer, East Orange Medical Center, Tremont Avenue & So. Center Street, East Orange, NJ 07019 (201) 676–1000, ext. 1771
Fiscal Officer, Lyons Medical Center, Lyons, NJ 07939 (201) 647–0180, ext. 4302
Newark Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, Tremont Avenue & So. Center Street, East Orange, NJ 07019 (201) 676–1000, ext. 125
Fiscal Officer, Newark Regional Office, 20 Washington Place, Newark NJ 07102 (201) 645–3507
Salem National Cemetery Area Office, Send to: Fiscal Officer, VA Center, 1601 Kirkwood Highway, Wilmington, DE 19805 (302) 994–2511
Fiscal Officer, Somerville Supply Depot, Somerville, NJ 08876 (210) 725–2540

New Mexico

Fiscal Officer, Albuquerque Regional Office, 500 Gold Avenue, SW., Albuquerque, NM 87102 (505) 766–2204
Fiscal Officer, Albuquerque Medical Center, 2100 Ridgecrest Drive, SE., Albuquerque, NM 87108 (505) 265–1711
Santa Fe National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 2100 Ridgecrest Drive, SE., Albuquerque, NM 87108 (505) 265–1711, ext. 2214

New York

Fiscal Officer, Albany Medical Center, 113 Holland Ave., Albany, NY 12202 (518) 462–3311, ext. 355
Fiscal Officer, VA Medical Center, 800 Irving Center, Syracuse, NY 13210 (315) 476–7461, ext. 2358
Albany VA Office, Send to: Fiscal Officer, VA Regional Office, 252 Seventh Avenue & 24th Street, New York, NY 10001 (211) 620–6293
Fiscal Officer, Batavia Medical Center, Redfield Parkway, Batavia, NY 14020 (716) 345–7500, ext. 215
Fiscal Officer, Bath Medical Center, Bath, NY 14810 (607) 776–2111, ext. 1502

Fiscal Officer, Bronx Medical Center, 140 W. Kings Bridge Road, Bronx, NY 10408 (212) 584–9000, ext. 1502/1717
Fiscal Officer, Brooklyn Medical Center, 800 Poly Place, Brooklyn, NY 11209 (718) 630–3542
Brooklyn National Cemetery Area Office, Fiscal Officer, VA Medical Center, 800 Poly Place, Brooklyn, NY 11209 (718) 630–3541
Brooklyn Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 800 Poly Place, Brooklyn, NY 11209 (718) 630–3542
Fiscal Officer, Buffalo Regional Office, 111 West Huron Street, Buffalo, NY 14202 (716) 846–5251
Brooklyn Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 800 Poly Place, Brooklyn, NY 11209 (718) 630–3542
Fiscal Officer, Buffalo Regional Office, 111 West Huron Street, Buffalo, NY 14202 (716) 846–5251

Jurisdiction over all counties in New York not listed under the New York Regional Office.

Fiscal Officer, Buffalo Medical Center, 3495 Bailey Avenue, Buffalo, NY 14215 (716) 862–3335/(716) 834–9200, ext. 3335
Calverton National Cemetery Area Office, Send to: Fiscal Office, VA Medical Center, Northport, NY 11768 (516) 261–4400, ext. 7101/7103
Fiscal Officer, Canandaigua Medical Center, Canandaigua, NY 14424 (716) 394–2000, ext. 3368
Fiscal Officer, Castle Point Medical Center, Castle Point, NY 12511 (914) 882–5404
Elmira National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Bath, NY 14810 (607) 776–2111
Farmingdale National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Northport, NY 11768 (516) 261–4400, ext. 2462/2463
Fiscal Officer, Montrose Medical Center, Montrose, NY 10548 (914) 737–4400, ext. 2463
Fiscal Officer, New York Medical Center, First Avenue at East 24th Street, New York, NY 10010 (212) 686–7320
New York Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, First Avenue at East 24th Street, New York, NY 10010 (212) 686–7320
New York Prosthetics Center, Send to: Fiscal Officer, VA Regional Office, 252 Seventh Avenue, New York, NY 10001 (212) 620–6293
Fiscal Officer, New York Regional Office, 252 Seventh Avenue at 24th Street, New York, NY 10001 (212) 620–6293

Jurisdication over the following counties in New York: Albany, Bronx, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Kings, Montgomery, Nassau, New York, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schharie, Suffolk, Sullivan, Ulstger, Warren, Washington and Weschester.

New York Veterans Canteen Service Field Office, Send to: Fiscal Officer, VA Medical Center, First Avenue at East 24th Street, New York, NY 10010 (212) 686–7320
Fiscal Officer, Northport Medical Center, Northport, NY 11768 (516) 261–4400, ext. 2462/2463
Rochester VA Office, Send to: Fiscal Officer, VA Regional Office, 111 West Huron Street, Buffalo, NY 14202 (716)846–5251
Rochester Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, Batavia, NY 14020 (716) 343–7500, ext. 215
Fiscal Officer, Syracuse Medical Center, Irving Avenue & University Place, Syracuse, NY 13210 (315) 476–7461
Syracuse VA Office, Send to: Fiscal Officer, VA Regional office, 111 West Huron Street, Buffalo, NY 14202 (716) 846–5251

North Carolina

Fiscal Officer, Asheville Medical Center, 1100 Tunnel Road, Asheville, NC 28801 (704) 298–7911, ext. 5616
Fiscal Officer, Durham Medical Center, 508 Fulton Street, Durham, NC 27705 (919) 671–6913
Fiscal Officer, Fayetteville Medical Center, 2300 Ramsey Street, Fayetteville, NC 28301 (919) 488–2120
New Bern National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 2300 Ramsey Street, Fayetteville, NC 28301 (191(488–2120
Raleigh National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 508 Fulton Street, Durham, NC 27705 (919) 286–0411, ext. 6469
Fiscal Officer, Salisbury Medical Center, Salisbury, NC 28144 (704) 636–2351
Salisbury National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Salisbury, NC 28144 (704) 636–2351
Wilmington National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 2300 Ramsey Street, Fayetteville, NC 28301 (919) 488–2120
Fiscal Officer, Winston-Salem Regional Office, 251 North Main Street, Winston-Salem, NC 27102 (919) 761–3513
Winston-Salem Outpatient Regional Office, Send to: Fiscal Officer, VA Medical Center, Salisbury, NC 28144 (704) 636–2351

North Dakota

Fiscal Officer, Fargo Medical and Regional Office Center, 21st & Elm, Fargo, ND 58102 (701) 232–3241, ext. 249

See listing under the St. Paul, Minnesota Center for the names of the counties in Minnesota which come under the jurisdiction of the Fargo, North Dakota Center.

Ohio

Fiscal Officer, Chillicothe Medical Center, 17273 State Route 104, Chillicothe, OH 45601 (614) 773–1141, ext. 203
Fiscal Officer, Cincinnati Medical Center, 3200 Vine Street, Cincinnati, OH 45220 (513) 550–5040, ext. 4113
Fiscal Officer, VA Medical Center, 2090 Kenny Road, Columbus, OH 43221 (614) 469–6712
Cincinnati VA Office, Send to: Fiscal Officer, VA Regional Office, 1240 East Ninth Street, Cleveland, OH 44199 (216) 522–3540
Fiscal Officer, Cleveland Regional Office, 1240 East Ninth Street, Cleveland, OH 44109 (216) 522–3540
Fiscal Officer, Cleveland Medical Center, 10,000 Brecksville Rd, Brecksville, OH 44141 (216) 526–3030, ext. 7170
Fiscal Officer, Columbus Outpatient Clinic, 456 Clinic Drive, Columbus, OH 43210 (614) 469–6712
Columbus VA Office, Send to: Fiscal Officer, VA Regional Office, 1240 East Ninth Street, Cleveland, OH 44199 (216) 522–3540
Dayton National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Dayton, OH 45248 (513) 268–6511, ext. 262–2157
Fiscal Officer, VA Medical Center, 4100 W. Third Street, Dayton, OH 45428 (513) 262–2157

Oklahoma

Fort Gibson National Cemetery Area Office, Fiscal Officer, VA Medical Center, Memorial Station, Honor Heights Drive, Muskogee, OK 74401 (918) 683–3261, ext. 392
Fiscal Officer, Muskogee Regional Office, 125 South Main Street, Muskogee, OK 74401 (918) 687–2169
Fiscal Officer, Muskogee Medical Center, Memorial Station, Honor Heights Drive, Muskogee, OK 74401 (918) 683–3261, ext. 392
Fiscal Officer, Oklahoma City Medical Center, 921 Northeast 13th Street, Oklahoma City, OK 73104 (405) 272–9876, ext. 500
Oklahoma City VA Office, Send to: Fiscal Officer, VA Regional Office, 125 South Main St., Muskogee, OK 74401 (908) 687–2169

Oregon

Portland National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 3710 SW U.S. Veterans Hospital Road, Portland, OR 97201 (503) 220–8262, ext. 6948
Fiscal Officer, Portland Regional Office, 1220 SW 3rd Avenue, Portland, OR 97204 (503) 221–2521
Fiscal Officer, Portland Medical Center, 3710 SW U.S. Veterans Hospital Road, Portland, OR 97201 (503) 220–8262, ext. 6948
Portland Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 3710 SW U.S. Veterans Hospital Road, Portland, OR 97210 (503) 222–9221, ext. 6984
Fiscal Officer, VA Medical Center, Garden Valley Blvd., Roseburg, OR 97470 (503) 440–1000 ext. 4261
Roseburg National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Garden Valley Blvd., Roseburg, OR 97470 (503) 672–4411
Fiscal Officer, White City Domiciliary, White City, OR 97501 (503) 826–2111, ext. 241
White City National Cemetery Area, Send to: Fiscal Officer, VA Office Domiciliary, White City, OR 97503 (503) 826–2111, ext. 241

Pennsylvania

Fiscal Officer, Altoona Medical Center, Altoona, PA 16603 (814) 943–8164, ext. 7046
Annville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Lebanon, PA 17042 (717) 272–6621, ext. 229

Fiscal Officer, VA Medical Center, Butler, PA 16001 (412) 287–4781, ext. 4505
Fiscal Officer, Coatsville Medical Center, Coatsville, PA 19320 (215) 384–7711, ext. 342
Fiscal Officer, Erie Medical Center, 135 East 38th Street, Erie, PA 16501 (814) 868–8661
Harrisburg Outpatient Clinic Substation, Fiscal Officer, VA Medical Center, Lebanon, PA 17042 (717) 272–6621, ext. 229
Fiscal Officer, Lebanon Medical Center, Lebanon, PA 17042 (717) 272–6621, ext. 229
Fiscal Officer, Philadelphia Center (Regional Office), P.O. Box 8079, Philadelphia, PA 19101 (215) 951–5321

Jurisdiction over the following counties in Pennsylvania: Adams, Berks, Bradford, Bucks, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monore, Montgomery, Monroe, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York.

Philadelphia Data Processing Center, Send to: Fiscal Officer, VA Medical Center, P. O. Box 13399, Philadelphia, PA 19101 (215) 951–5321
Philadelphia National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, University & Woodland Avenues, Philadelphia, PA 19104 (215) 951–5321
Fiscal Officer, VA Medical Center, University & Woodland Avenues, Philadelphia, PA 19104 (215) 951–5321
Fiscal Officer, Pittsburgh Regional Office, 1000 Liberty Avenue, Pittsburgh, PA 15222 (412) 644–4394

Jurisdiction over all of the counties in Pennsylvania that are not listed under the Philadelphia Center (Regional office) and jurisdiction over the following counties in West Virginia: Brooke, Hancock, Marshall and Ohio.

Fiscal Officer, Pittsburgh Medical Center, Highland Drive, Pittsburgh, PA 15206 (412) 363–4900, ext. 4235
Fiscal Officer, Pittsburgh Medical Center, University Drive C, Pittsburgh, PA 15240 (412) 683–3000, ext. 675
Fiscal Officer, Wilkes-Barre Medical Center, 1111 East End Blvd., Wilkes-Barre, PA 18711 (717) 824–3521, ext. 7211

Philippines

Manila Regional Office Outpatient Clinic and Manila Regional Office Center

For either of the above, send to:

Director, Department of Veterans Affairs, APO, San Francisco, CA 96528 011–632–521–7116, ext. 2560

Puerto Rico

Raymon National Cemetery Area Office, Send to: Fiscal Officer, VA Center, GPO, Box 4867, San Juan, PR 00936 (890) 766–5115
Hato Regional Office, GPO Box 4867, San Juan, PR 00936 (809) 766–5115
Mayaguez Outpatient Clinic Substation, Send to: Fiscal Officer, VA Center, GPO, Box 4867, San Juan, PR 00936 (809) 763–0275
Rio Piedras Medical and Regional Office Center, Send to: Fiscal Officer, VA Center, GPO, Box 4867, San Juan, PR 00936 (809) 758–7575 ext. 4953
Fiscal Officer, VA Medical Center, One Veterans Plaza, San Juan, PR 00927–5800, (809) 766–5365/(809) 766–5953

Rhode Island

Fiscal Officer, Providence Regional Office, 321 South Main Street, Providence RI 02903 (401) 528–4439

Jurisdiction over the following towns and counties in Massachusetts: all towns in Bristol County except Mansfield and Easton, the towns of Lakeville, Middleboro, Carver, Rochester, Mattapoisett, Marion and Wareham in Plymouth County; and the counties of Dukes, Nantucket and Barnstable.

Fiscal Officer, Providence Medical Center, Davis Park, Providence, RI 02908 (401) 475–3019

South Carolina

Beaufort National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 109 Bee Street, Charleston, SC 29403 (803) 577–5011, ext. 222
Fiscal Officer, Charleston Medical Center, 109 Bee Street, Charleston, SC 29403 (803) 577–5011, ext. 222
Fiscal Officer, Columbia Regional Office, 1801 Assembly Street, Columbia, SC 29201 (803) 765–5210
Fiscal Officer, Columbia Medical Center, Columbia, SC 29201 (803) 776–4000, ext. 150
Florence National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Columbia, SC 29201 (803) 776–4000, ext. 149
Greenville Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, Columbia, SC 29201 (803) 776–4000, ext. 149

South Dakota

Fort Meade National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Fort Meade, SD 57741 (605) 347–2511, ext. 272
Fiscal Officer, VA Medical Center, Fort Meade, SD 57741 (605) 347–2511, ext. 272
Hot Springs National Cemetery Area Office, Fiscal Officer, VA Medical Center, Hot Springs, SD 57747 (605) 745–4101, ext. 246
Fiscal Officer, Hot Springs Medical Center, Hot Springs, SD 57747 (605) 745–4101
Fiscal Officer, Sioux Falls Medical and Regional Office Center, P.O. Box 5046, Sioux Falls, SD 57117 (605) 333–6823

Tennessee

Chattanooga Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 1310 24th Avenue, South, Nashville, TN 37203 (615) 327–4651
Chattanooga National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Murfreesboro, TN 37123 (615) 893–1360
Knoxville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Mountain Home, TN 37684 (615) 926–1171, ext. 7601
Knoxville Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 1320 24th Avenue, South, Nashville, TN 37203 (615) 327–4651, ext. 553
Madison National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1320 24th Avenue, South, Nashville, TN 37203 (615) 327–4651, ext. 553
Fiscal Officer, Memphis Medical Center, 1030 Jefferson Avenue, Memphis, TN 38104 (901) 523–8990, ext. 5838
Memphis National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1030 Jefferson Avenue, Memphis, TN 38104 (901) 523–8990, ext. 5838
Fiscal Officer, Mountain Home Medical Center, Mountain Home, TN 37684 (615) 926–1171, ext. 7601
Mountain Home National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Mountain Home, TN 37684 (615) 926–1171
Fiscal Officer, Murfreesboro Medical Center, Murfreesboro, TN 37130 (615) 893–1360, ext. 3198
Fiscal Officer, National Regional Office, 110 Ninth Avenue South, Nashville, TN 37203 (615) 736–5352
Fiscal Officer, Medical Center, 1310 24th Avenue, South, Nashville, TN 37212 (615) 327–4751, ext. 5147

Texas

Fiscal Officer, Amarillo Medical Center, 6010 Amarillo Blvd. W., Amarillo, TX 79106 (806) 355–9703, ext. 7370
Fiscal Officer, Austin Data Processing Center, 1615 East Woodward Street, Austin, TX 78772 (512) 482–4028
Beaumont Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 2002 Holcombe Blvd., Houston, TX 77211 (713) 795–7493
Fiscal Officer, Big Spring Medical Center, Big Spring, TX 79720 (915) 263–7361, ext. 326
Fiscal Officer, Bonham Medical Center, East 96th & Lipscomb Street, Bonham, TX 75418 (218) 583–2111, ext. 240
Corpus Christi Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (512) 696–9660, ext. 5871
Fiscal Officer, Dallas Medical Center, 4500 South Lancaster Road, Dallas, TX 75216 (214) 376–5451, ext. 5238
Dallas VA Office, Send to: Fiscal Officer, VA Regional Office, 1400 North Valley Mills Drive, Waco, TX 76799 (817) 757–6464
Fiscal Officer, El Paso Outpatient Clinic, 5919 Brook Hollow Drive, El Paso, TX 79925 (915) 579–7960
Fort Bliss National Cemetery Area Office, Send to: Fiscal Officer, VA Outpatient Clinic, 5919 Brook Hollow Drive, El Paso, TX 79925 (915) 579–7960
Fiscal Officer, Houston Medical Center, 2002 Holcombe Blvd., Houston, TX 77211 (713) 795–7493
Fiscal Officer, Houston Regional Office, 2515 Murworth Drive, Houston, TX 77054 (713) 660–4121

Jurisdiction over the country of Mexico and the following counties in Texas: Angelina, Aransas, Atascosa, Austin, Bandera, Bee, Bexar, Blanco, Brazoria, Brewster, Brooks, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, Crockett, DeWitt, Dimmitt, Duval, Edwards,

Fort Bend, Frio, Galveston, Gillespie, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Hidalgo, Houston, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kenndall, Kennedy, Kerr, Kimble, Kinney, Kleberg, LaSalle, Lavaca, Liberty, Live Oak, McCulloch, McMullen, Mason, Matagorda, Maverick, Medina, Menard, Montgomery, Necogdoches, Newton, Nueces, Orange, Pecos, Polk, Real, Refugio, Sabine, San Augustine, San Jacinto, San Patrico, Schleicher, Shelby, Starr, Sutton, Terrell, Trinity, Tyler, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Wilson, Zapata and Zavala.

Houston National Cemetery Area Office, Sent to: Fiscal Officer, VA Medical Center, 2002 Holcombe Blvd., Houston, TX 77211 Houston, TX 77211 (713) 795–7493

Fiscal Officer, Kerrville Medical Center, Kerrville, TX 78028 (512) 896–2020, ext. 300

Kerrville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Kerrville, TX 78028 (512) 896–2020, ext. 300

Lubbock VA Office, Send to: Fiscal Officer, VA Regional Office, 1400 North Valley Mills Drive, Waco, TX 76799 (817) 657–6464, ext. 635

Fiscal Officer, Lubbock Outpatient Clinic, 1205 Texas Avenue, Lubbock, TX 79401 (806) 762–7209

Fiscal Officer, Marlin Medical Center, 1016 Ward Street, Marlin, TX 76661 (817) 883–3511, ext. 224

McAllen Outpatient Clinic Substation, Send to: Fiscal Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (512) 696–9660, ext. 5871

Fiscal Officer, San Antonio Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (512) 696–9660, ext. 5871

San Antonio VA Office, Send to: Fiscal Officer, VA Regional Office, 2515 Murworth Drive, Houston, TX 77054 (713) 226–4185

San Antonio National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (512) 696–9660, ext. 5871

San Antonio National Cemetery Area Office (Fort Sam Houston), Send to: Fiscal Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (512) 696–9660, ext. 5871

Fiscal Officer, Temple Medical Center, Temple, TX 76501 (817) 778–4811

Fiscal Officer, Waco Regional Office, 1400 North Valley Mills Drive, Waco, TX 76710 (817) 756–6454

Jurisdiction over all counties in Texas not listed under the Houston Regional Office.

Fiscal Officer, Waco Medical Center, Memorial Drive, Waco, TX 76703 (817) 752–6581

Waco Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, Memorial Drive, Waco, TX 76703 (817) 752–6581

Utah

Fiscal Officer, Salt Lake City Regional Office, 125 South State Street, Salt Lake City, UT 84147 (801) 524–5361

Fiscal Officer, Salt Lake City Medical Center, 500 Foothill Blvd., Salt Lake City, UT 85148 (810) 584–1213

Vermont

Fiscal Officer, White River Junction, Medical and Regional Office Center, White River Junction, VT 05001 (802) 295–9363, ext. 1034

Virginia

Alexandria National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8228

Culpeper National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Martinsburg, WV 25401 (304) 263–0811, ext. 3176

Danville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Salem, VA 24153 (703) 982–2463

Hopewell National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1201 Broad Rock Road, Richmond, VA 23249 (804) 230–1304

Leesburg National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8228

Mechanicsville National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1201 Broad Rock Road, Richmond, VA 23249 (804) 230–1304

Fiscal Officer, Hampton Medical Center, Hampton, VA 23667 (804) 722–9961

Hampton National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Hampton, VA 23667 (807) 722–9961

Quantico National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8228

Fiscal Officer, Richmond Medical Center, 1201 Broad Rock Road, Richmond, VA 23249 (804) 230–1304

Richmond National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1201 Broad Rock Road, Richmond, VA 23249 (804) 230–1304

Fiscal Officer, Roanoke Regional Office, 210 Franklin Road, SW., Roanoke, VA 24011 (703) 982–6116

Jurisdiction over Fairfax and Arlington Counties and the cities of Alexandria, Fairfax, and Falls Church is allocated to the Washington, DC Regional Office.

Fiscal Officer, Salem Medical Center, Salem, VA 24153 (703) 982–2463

Sandston National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, 1201 Broad Rock Road, Richmond, VA 23249 (804) 231–9011, ext. 205

Staunton National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Salem, VA 24135 (703) 982–2463

Winchester National Cemetery Area Office, Send to: Fiscal Officer, VA Medical Center, Martinsburg, WV 25401 (304) 263–0811, ext. 3176

Washington

Fiscal Officer, American Lake Medical Center, Tacoma, WA 98493 (206) 582–8440, ext. 6049

Fiscal Officer, Seattle Regional Office, 915 Second Avenue, Seattle, WA 98714 (206) 442–5025

Fiscal Officer, Seattle Medical Center, 1160 S. Columbian Way, Seattle, WA 98198 (206) 764–2226

Seattle Outpatient Clinic, Send to: Fiscal Officer, VA Medical Center, 1160 S. Columbia Way, Seattle, WA 98198 (206) 764–2226

Fiscal Officer, Spokane Medical Center—North, 4815 Assembly Street, Spokane, WA 99205 (509) 327–0283, ext. 286

Vancouver Medical Center, Send to: Fiscal Officer, VA Medical Center, 3710 SW U.S. Veterans Hospital Road, Portland, OR 97201 (503) 220–8262, et. 6948

West Virginia

Fiscal Officer, Beckley Medical Center, 200 Veterans Avenue, Beckley, WV 25801 (304) 225–2221, ext. 4174

Fiscal Officer, Clarksburg Medical Center, Clarksburg, WV 26301 (304) 623–3461, ext. 3389

Grafton National Cemetery Area Office, Fiscal Officer, VA Medical Center, Clarksburg, WV 26301 (304) 623–3461, ext. 335

Fiscal Officer, Huntington Regional Office, 640 West Avenue, Huntington, WV 25701 (304) 529–5477

Jurisdiction over the counties of Brooke, Hancock, Marshall and Ohio is allocated to the Pittsburg, Pennsylvania Regional Office.

Fiscal Officer, Huntington Medical Center, 1540 Spring Valley Drive, Huntington, WV 25704 (304) 4289–6741, ext. 2422

Fiscal Officer, Martinsburg Medical Center, Martinsburg, WV 25401 (304) 263–0811, ext. 3176

Wheeling Outpatient Clinic Substation, Fiscal Officer, VA Medical Center, University Drive C Pittsburgh, PA 15240 (412) 683–7675

Wisconsin

Fiscal Officer, Madison Medical Center, 2500 Overlook Terrace, Madison, WI 53705 (608) 262–7050

Fiscal Officer, Milwaukee (Wood) Regional Office, P.O. Box 6, Wood, WI 53193 (414) 671–8121

Fiscal Officer, Tomah Medical Center, Tomah, WI 54660 (608) 372–1786

Fiscal Officer, VA Medical Center, 5000 West National Avenue, Milwaukee, WI 53295 (414) 384–2000, ext. 2591

Wood National Cemetery Area Officer, Fiscal Officer, VA Medical Center, 5000 West National Avenue, Milwaukee, WI 53295 (414) 384–2000, ext. 2591

Wyoming

Fiscal Officer, Cheyenne Medical & Regional, Office Center, 2360 East Pershing Blvd., Cheyenne, WY 82001 (307) 778–7339

Fiscal Officer, Sheridan Medical Center, Sheridan, WY 82801, (307) 672–3473

II. Agencies

(Unless otherwise indicted below, all agencies of the executive branch shall be subject to service of legal process brought for the enforcement of an individual's obligation to provide child support and/or make

alimony payments where such service is sent by certified or registered mail, return receipt requested, or by personal service, upon the head of the agency.)

Agency for International Development

For employees of the Agency For International Development and the Trade and Development Program:

Payroll Division, Office of Financial Management (FM/P), U.S. Agency for International Development, Room 403 SA–2, Washington, DC 20523 (202) 663–2011, fax 663–2354

Arms Control and Disarmament Agency

General Counsel, Arms Control and Disarmament Agency, 320 21st Street, NW., Washington, DC 20451 (202) 647–3596

Central Intelligence Agency

Office of Personnel Security, Attn: Chief, Special Activities Staff, Washington, DC 20505 (703) 482–1217

Commission on Civil Rights

Solicitor, Commission on Civil Rights, 624 9th Street, NW., Suit 632, Washington, DC 20425 (202) 376–8351

Commodity Futures Trading Commission

Director, Office of Personnel, Commodity Futures Trading Commission, Three Lafayette Center, Room 7200, 1155 21st Street, NW., Washington, DC 20581 (202) 418–5003

Consumer Product Safety Commission

(Mail Service), General Counsel, Consumer Product Safety Commission, Washington, DC 20207–0001 (202) 504–0980

(Personal Service), General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Room 700, Bethesda, MD 20814–4408 (301) 504–0980

Environmental Protection Agency

Chief, Headquarters Accounting Operations Branch, Financial Management Division (3303), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 260–5116

Export-Import Bank of the United States

General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Room 947, Washington, DC 20571 (202) 566–8334

Equal Employment Opportunity Commission

Director, Financial Management Division, United States Equal Employment Opportunity Commission, 1801 L Street, NW., Room 2002, Washington, DC 20507 (202) 663–4224

Farm Credit Administration

Chief, Fiscal Management Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 (703) 883–4122

Federal Deposit Insurance Corporation

Counsel, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (202) 898–3686

Federal Election Commission

Accounting Officer, Federal Election Commission, 999 E Street, NW., Washington, DC 20463 (202) 376–5270

Federal Emergency Management Agency

Office of General Counsel, General Law Division, 500 C Street, SW., Washington, DC 20472 (202) 646–4105

Feberal Labor Relations Authority

Director of Personnel, Federal Labor Relations Authority, 607 14th Street, NW., Suite 430, Washington, DC 20424 (202) 482–6690

Federal Maritime Commission

Director of Personnel or Deputy Director of Personnel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573 (202) 523–5773

Federal Mediation and Conciliation Service

General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427 (202) 653–5305

Federal Retirement Thrift Investment Board

Payments to Board employees:

Director of Administration, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005 (202) 942–1670

Benefits from the Thrift Savings Fund:

General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005 (202) 942–1662

Federal Trade Commission

Garnishment orders for employees of the Federal Trade Commission should be sent to:

Director, Kansas City Finance Division (6BC), General Services Administration, 1500 East Bannister Road, Room 1107, Kansas City, MO 64131 (816) 926–7625

General Services Administration

1. Region 1 (Maine, Vermont, New Hampshire, Massachusetts, Connecticut):

Regional Counsel, 10 Causeway Street, Boston, MA 02222 (617) 835–5896

2. Region 2 (New York, New Jersey, Puerto Rico, the Virgin Islands):

Regional Counsel, 26 Federal Plaza, New York, NY 10007 (212) 264–8306

3. Region 3 (Pennsylvania, West Virginia, Maryland, Virginia, less the greater metropolitan area of Washington, DC):

Regional Counsel, Ninth and Market Streets, Philadelphia, PA 19107 (215) 597–1319

4. Region 4 (Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, Florida):

Regional Counsel, R.B. Russell Federal Building and U.S. Courthouse, 75 Spring Street, SW., Atlanta, GA 30303 (404) 331–0915

5. Region 5 (Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio):

Regional Counsel, 230 South Dearborn Street, Chicago, IL 60604 (312) 353–5392

6. Region 6 (Nebraska, Iowa, Kansas, Missouri):

Regional Counsel, 1500 E. Bannister Road, Kansas City, MO 64131 (816) 926–7212

7. Region 7 (New Mexico, Texas, Oklahoma, Arkansas, Louisiana):

Regional Counsel, 819 Taylor Street, Fort Worth, TX 76102 (817) 334–2325

8. Region 8 (Montana, North Dakota, South Dakota, Wyoming, Utah, Colorado):

Regional Counsel, Building 41, Denver Federal Center, Denver, CO 80225 (303) 776–7352

9. Region 9 (California, Nevada, Arizona, Hawaii, Guam):

Regional Counsel, 525 Market Street, San Francisco, CA 94105 (415) 744–5057

10. Region 10 (Washington, Oregon, Idaho, Alaska):

Regional Counsel, GSA Center, Auburn, WA 98002 (206) 396–7007

11. Greater metropolitan area of Washington, DC (includes parts of Maryland and Virginia):

Regional Counsel, 7th & D Streets, NW., Washington, DC 20547 (202) 708–5155

Institute of Peace

Personnel & Benefits Manager, 1550 M Street, NW., Suite 700, Washington, DC 20005

Interstate Commerce Commission

Chief, Budget and Fiscal Office, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423 (202) 927–5827

Merit Systems Protection Board

Director, Office of Administration, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419 (202) 653–5805

National Aeronautics and Space Administration

NASA Headquarters

Associate General Counsel (General), Attention: SN Code GG, NASA Headquarters, 300 E Street, SW., Washington, DC 20546 (202) 358–2465

NASA Field Installations

Chief Counsel, Ames Research Center, Moffett Field, CA 94035 (415) 694–5055

Chief Counsel, Dryden Flight Research Center, Edwards, CA 93523 (805) 258–2827

Chief Counsel, Goddard Space Flight Center (including Wallops Flight Center), Greenbelt, MD 20771 (301) 286–9181

Chief Counsel, Johnson Space Center, Houston, TX 77058 (713) 483–3021

Chief Counsel, Kennedy Space Center, Kennedy Space Center, FL 32899 (407) 867–2550

Chief Counsel, Langley Research Center, Hampton, VA 23665 (804) 864–3221

Chief Counsel, Lewis Research Center, Cleveland, OH 44135 (216) 433–2318

Chief Counsel, Marshall Space Flight Center, Marshall Space Flight Center, AL 35812 (205) 544–0012

Chief Counsel, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000 (601) 688–2164

National Archives and Records Administration

General Counsel (NSL), Room 305 Archives Building, National Archives and Records Administration, 7th and Pennsylvania Avenue, NW., Washington, DC 20408 (202) 501–5535

National Capital Planning Commission

Administrative Officer, National Capital Planning Commission, 1325 G. Street, NW., Washington, DC 20576 (202) 724–0170

National Credit Union Administration

General Counsel, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314–3428 (703) 518–6540

National Endowment for the Arts

General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 522, Washington, DC 20506 (202) 682–5418

National Endowment for the Humanities

General Counsel, National Endowment for the Humanities, Room 530, Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786–0322

National Labor Relations Board

Director of Personnel, National Labor Relations Board, 1099 14th Street, NW., Room 6700, Washington, DC 20570–0001 (202) 273–3904

National Mediation Board

Administrative Officer, National Mediation Board, 1301 K Street, NW., Suite 250 East, Washington, DC 20572 (202) 523–5950

National Railroad Adjustment Board

Staff Director/Grievances, National Railroad Adjustment Board, 175 West Jackson Boulevard, Chicago, IL 60604 (312) 886–7300

National Science Foundation

General Counsel, National Science Foundation, 1800 G Street, NW., Washington, DC 20550 (202) 634–4266

National Security Agency

General Counsel, National Security Agency, 9800 Savage Road, Ft. Meade, MD 20755–6000 (301) 688–6054

National Transportation Safety Board

Director, Personnel and Training Division, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594, ATTN: AD–30 (202) 382–6718

Navajo and Hopi Indian Relocation Commission

Attorney, Navajo and Hopi Indian Relocation Commission, 201 East Birch, Room 11, P.O. Box KK, Flagstaff, AZ 86002 (602) 779–2721

Nuclear Regulatory Commission

Controller, Nuclear Regulatory Commission, Washington, DC 20555 (301) 492–4750

Office of Personnel Management

Payment to OPM employees:

General Counsel, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415 (202) 606–1700

Payments of retirement benefits under the Civil Service Retirement System and the Federal Employees Retirement System:

Associate Director for Retirement and Insurance, Office of Personnel Management, Court Ordered Benefits Branch, P.O. Box 17, Washington, DC 20044 (202) 606–0218

Overseas Private Investment Corporation

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527 (202) 336–8524

Panama Canal Commission

Secretary, Office of the Secretary, International Square, 1825 I Street, NW., Suite 1050, Washington, DC 20006–5402 (202) 634–6441

Pension Benefit Guaranty Corporation

General Counsel or Deputy General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005 (202) 326–4123

Railroad Retirement Board

Deputy General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611 (312) 751–4935

Securities and Exchange Commission

Branch Chief, Fiscal Operations, Office of the Comptroller, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 (202) 942–0349

Selective Service System

General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209–2425 (703) 235–2050

Small Business Administration

District Director, Birmingham District Office, 908 South 20th Street, Birmingham, AL 35205 (205) 254–1344

District Director, Anchorage District Office, 1016 West 6th Avenue, Anchorage, AK 99501 (907) 271–4022

District Director, Phoenix District Office, 3030 North Central Avenue, Phoenix, AZ 85012 (602) 261–3611

District Director, Little Rock District Office, 611 Gaines Street, Little Rock, AR 72201 (501) 378–5871

District Director, Los Angeles District Office, 350 S. Figueroa Street, Los Angeles, CA 90071 (213) 688–2956

District Director, San Diego District Office, 880 Front Street, San Diego, CA 92188 (714) 291–5440

District Director, San Francisco District Office, 211 Main Street, San Francisco, CA 94105 (415) 556–7490

District Director, Denver District Office, 721 19th Street, Denver, CO 80202 (303) 837–2607

District Director, Hartford District Office, One Financial Plaza, Hartford, CT 06106 (203) 244–3600

District Director, Washington District Office, 1030 15th Street, NW., Washington, DC 20417 (202) 655–4000

District Director, Jacksonville District Office, 400 West Bay Street, Jacksonville, FL 32202 (904) 791–3782

District Director, Miami District Office, 222 Ponce De Leon Blvd., Coral Gables, FL 33134 (305) 350–5521

District Director, Atlanta District Office, 1720 Peachtree Street, NW., Atlanta, GA 30309 (404) 347–2441

District Director, Honolulu District Office, 300 Ala Moana, Honolulu, HI 96850 (808) 546–8950

District Director, Boise District Office, 1005 Main Street, Boise, ID 83701 (208) 384–1096

District Director, Des Moines District Office, 210 Walnut Street, Des Moines, IA 50309 (515) 284–4433

District Director, Chicago District Office, 219 South Dearborn Street, Chicago, IL 60604 (312) 353–4528

District Director, Indianapolis District Office, 575 N. Pennsylvania Street, Indianapolis, IN 46204 (317) 269–7272

District Director, Wichita District Office, 110 East Waterman Street, Wichita, KS 67202 (316) 267–6571

District Director, Louisville District Office, 600 Federal Place, Louisville, KY 40201 (502) 582–5978

District Director, New Orleans District Office, 1001 Howard Avenue, New Orleans, LA 70113 (504) 589–6685

District Director, Augusta District Office, 40 Western Avenue, Augusta, ME 04330 (207) 622–6171

District Director, Baltimore District Office, 8600 LaSalle Road, Towson, MD 21204 (301) 862–4392

District Director, Boston District Office, 150 Causeway Street, Boston, MA 02114 (617) 223–2100

District Director, Detroit District, 477 Michigan Avenue, Detroit, MI 48116 (313) 226–6075

District Director, Minneapolis District Office, 12 South 6th Street, Minneapolis, MN 55402 (612) 725–2362

District Director, Jackson District Office, 101 West Capitol Street, Suite 400, Jackson, MS 39201 (601) 965–5371

District Director, Kansas City District Office, 1150 Grande Avenue, Kansas City, MO 64106 (816) 374–3416

District Director, St. Louis District Office, One Mercantile Center, St. Louis, MO 63101 (314) 425–4191

District Director, Helena District Office, 301 South Park Avenue, Helena, MT 59601 (406) 449–5381

District Director, Omaha District Office, 19th & Farnum Street, Omaha, NE 68102 (404) 221–4691

District Director, Las Vegas District Office, 301 East Stewart, Las Vegas, NV 89101 (702) 385–6611

District Director, Concord District Office, 55 Pleasant Street, Concord, NH 03301 (603) 224–4041

District Director, Newark District Office, 970 Broad Street, Newark, NJ 07102 (201) 645–2434

District Director, Albuquerque District Office, 5000 Marble Avenue, NE., Albuquerque, NM 87110 (505) 766–3430
District Director, New York District Office, 26 Federal Plaza, New York, NY 10007 (212) 264–4355
District Director, Syracuse District Office, 100 South Clinton Street, Syracuse, NY 13260 (315) 423–5383
District Director, Charlotte District Office, 230 South Tryon Street, Charlotte, NC 28202 (704) 371–6111
District Director, Fargo District Office, 657 2nd Avenue, North, Fargo, ND 58108 (701) 237–5771
District Director, Sioux Falls District Office, 101 South Main Avenue, Sioux Falls, SD 57102 (605) 336–2980
District Director, Cleveland District Office, 1240 East 9th Street, Cleveland, OH 44199 (216) 522–4180
District Director, Columbus District Office, 85 Marconi Boulevard, Columbus, OH 43215 (614) 469–6860
District Director, Oklahoma City District Office, 200 NW. 5th Street, Oklahoma City, OK 73102 (405) 231–4301
District Director, Portland District Office, 1220 SW. Third Avenue, Portland, OR 97204 (503) 221–2682
District Director, Philadelphia District Office, 231 St. Asaphs Road, Bala Cynwyd, PA 19004 (215) 597–3311
District Director, Pittsburgh District Office, 1000 Liberty Avenue, Pittsburgh, PA 15222 (412) 644–2780
District Director, Hato Rey District Office, Chardon & Bolivia Streets, Hato Rey, PR 00918 (809) 753–4572
District Director, Providence District Office, 57 Eddy Street, Providence, RI 02903 (401) 528–4580
District Director, Columbia District Office, 1835 Assembly Street, Columbia, SC 29201 (803) 765–5376
District Director, Nashville District Office, 404 James Robertson Parkway, Nashville, TN 37219 (615) 251–5881
District Director, Dallas District Office, 1100 Commerce Street, Dallas, TX 75242 (214) 767–0605
District Director, Houston District Office, 500 Dallas Street, Houston, TX 77002 (713) 226–4341
District Director, Lower Rio Grande Valley District Office, 222 East Van Buren Street, Harlington, TX 78550 (512) 423–4534
District Director, Lubbock District Office, 1205 Texas Avenue, Lubbock, TX 79401 (806) 762–7466
District Director, San Antonio District Office, 727 East Durango Street, San Antonio, TX 78206 (512) 229–6250
District Director, Salt Lake City District Office, 125 South State Street, Salt Lake City, UT 84138 (314) 425–5800
District Director, Montpelier District Office, 87 State Street, Montpelier, VT 05602 (802) 229–0538
District Director, Richmond District Office, 400 North 8th Street, Richmond, VA 23240 (804) 782–2617
District Director, Seattle District Office, 915 Second Avenue, Seattle, WA 98174 (206) 442–5534
District Director, Spokane District Office, West 920 Riverside Avenue, Spokane, WA 99210 (509) 456–5310
District Director, Clarksburg District Office, 109 North 3rd Street, Clarksburg, WV 26301 (304) 623–5631
District Director, Madison District Office, 212 East Washington Avenue, Madison, WI 53703 (608) 264–5261
District Director, Casper District Office, 100 East B Street, Casper, WY 82602 (307) 265–5266

Social Security Administration

1. For the garnishment of the remuneration of employees:

Garnishment Agent, Office of the General Counsel, Room 611, Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235 (410) 965–4202

2. For the garnishment of benefits under Title II of the Social Security Act, legal process may be served on the officer manager at any Social Security District or Branch Office. The addresses and telephone numbers of Social Security District and Branch Offices may be found in the local telephone directory.

Tennessee Valley Authority

Payments to TVA employees:

Chairman, Board of Directors, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902 (423) 632–2101

Payments of retirement benefits under the TVA Retirement System:

Chairman, Board of Directors, TVA Retirement System, 500 West Summit Hill Drive, Knoxville, TN 37902 (423) 632–0202

United States Information Agency

Counsel, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547 (202) 485–7976

United States Soldiers' & Airmen's Home

Chief, Employee Management Branch, United States Soldiers' and Airmen's Home, Box 1200, 3700 North Capitol Street, NW., Washington, DC 20317 (202) 722–3425

III. United States Postal Service and Postal Rate Commission

United States Postal Service and Postal Rate Commission

Manager, Payroll Processing Branch, 1 Federal Drive, Ft. Snelling, MN 55111–9650 (612) 293–6300

IV. The District of Columbia, American Samoa, Guam, and the Virgin Islands

The District of Columbia

Assistant City Administrator for Financial Management, The District Building, Room 412, 14th and Pennsylvania Avenue, NW, Washington, DC 20004 (202) 727–6979

American Samoa

Director of Administrative Service, American Samoa Government, Pago Pago, American Samoa 96799 (684) 633–4155

Guam

Attorney General, P.O. Box DA, Agana, Guam 96910, 472–6841 (Country Code 671)

The Virgin Islands

Attorney General, P.O. Box 280, St. Thomas, VI 00801 (809) 774–1163

V. Instrumentality

Smithsonian Institution

For services of process in garnishment proceedings for child support and/or alimony of present Smithsonian Institution employees:

General Counsel, The Smithsonian Institution, MRC 012, 1000 Jefferson Drive, SW., Washington, DC 20560 (202) 357–2583

For service of process in garnishment proceedings for child support and/or alimony involving retirement annuities of former trust fund employees of the Smithsonian Institution:

General Counsel, Teachers Insurance and Annuity Association of America, College Retirement Equity Fund (TIAA/CREF), 730 Third Avenue, New York, NY 10017 (212) 490–9000

VI. Executive Office of the President

Executive Office of the President

General Counsel, Office of Administration, Old Executive Office Building, Washington, DC 20503 (202) 395–2273

3. Appendix B to part 581 is revised to read as follows: appendix B to Part 581—List of Agents Designated to Facilitate the Service of Legal Process on Federal Employees [The agents designated to accept legal process for the garnishment of the remuneration for employment due from the United States are listed in appendix A to part 581. Appendix B to part 581 lists the agents designated to assist in the service of legal process in civil actions pursuant to orders of State courts to establish paternity and to establish or to enforce support obligations by making Federal employees and members of the Uniformed Services available for service of process, regardless of the location of the employee's workplace or of the member's duty station. Agents are listed in Appendix B only for those executive agencies where the designations differ from those found in appendix A to part 581.]

I. Departments

Department of Commerce

In addition to the agents listed for the Department of Commerce in Appendix A, the Department of Commerce designates the following agent for purposes of orders affecting Commissioned personnel of the NOAA CORPS:

Chief, Officer Services Division, Commissioned Personnel Center, 1315 East West Highway, Room 12100, Silver Spring, MD (301) 713–3453

Department of Defense

The Department of Defense officials identified pursuant to Executive Order 12953, section 302, shall facilitate an employee's or member's availability for service of process. Additionally, these officials shall be responsible for answering inquiries about their respective organization's service of process rules. Such

officials are not responsible for actual service of process and will not accept requests to make such service.

Office of the Secretary of Defense

Personnel Management Specialist, DoD Civilian Personnel Management Service, 1400 Key Blvd., Level A, Arlington, VA 22209

Department of the Army

Members of the uniformed service, active, reserve, and retired:

Office of the Judge Advocate General, ATTN: DAJA–LA, 2200 Army Pentagon, Washington, DC 20310–2200 (703) 697–3170

Federal civilian employees of the Army, both appropriated fund and nonappropriated fund:

Deputy Assistant Secretary, (Civilian Personnel Policy/Director of Civilian Personnel), 111 Army Pentagon, Washington, DC 20310–0111 (703) 695–4237

Active duty, reserve, and appropriated fund and nonappropriated fund employees of the Department of the Army employed within the United States.

Appropriated fund and nonappropriated fund Federal civilian employees employed in Panama.

Deputy Chief of Staff for Resource Management, U.S. Army Southern Command, Finance & Accounting Office, Civilian Personnel Section, ATTN: Unit 7153, SORM–FA–C, APO AA 34004

Department of the Navy

In order to locate, or determine the cognizant command and mailing address of a Navy Member:

Bureau of Naval Personnel, Worldwide Locator, (Pers 324D), 2 Navy Annex, Washington, DC 20370–3000 (703) 614–3155/5011

In order to obtain assistance in the service of legal process in civil actions pursuant to orders of State courts:

Bureau of Naval Personnel, Office of Legal Counsel (Pers 06) 2 Navy Annex, Washington, DC 20370–5006 (703) 614–4110

Members of the Marine Corps:

Paralegal Specialist, Headquarters, U.S. Marine Corps (JAR), 2 Navy Annex, Washington, DC 20380–1775 (703) 614–2510

For assistance in service of process on Department of the Navy civilian employees:

Department of the Navy, Office of Civilian Personnel Mgmt., Office of Counsel (Code OL), 800 N. Quincy Street, Arlington, Va 22203 (703) 696–4717

Department of the Air Force

For all personnel, military and civilian:

AFLSA/JACA, 1420 Air Force Pentagon, Washington, DC 20330–1420 (703) 695–2450

Defense Intelligence Agency

Defense Intelligence Agency, ATTN: Office of the General Counsel, The Pentagon—Room 2E–238, Washington, DC 20301–7400

Defense Mapping Agency

Defense Mapping Agency, Office of Legal Services, 3200 South Second Street, St. Louis, MO 63118

Defense Nuclear Agency

Associate General Counsel, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398 (703) 325–7681

On-Site Inspection Agency

General Counsel, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398 (703) 325–7681

Department of Justice

Federal Bureau of Investigation

Chief, Payroll Administration, and Processing Unit, Room 1885, 10th Street & Pennsylvania Avenue, NW, Washington, DC 20535 (202) 324–5881

Department of Transportation

HPT–1 (FHWA), Room 4317, Department of Transportation, Washington, DC 20590

G–PC (USCG), Room 4100E, CGHQ, Department of Transportation, Washington, DC 20590

RAD–10 (FRA), Room 8232, Department of Transportation, Washington, DC 20590

NAD–20 (NHTSA), Room 5306, Department of Transportation, Washington, DC 20590

TAD–30 (FTA), Room 7101, Department of Transportation, Washington, DC 20590

DMA–12 (RSPA), Room 8401, Department of Transportation, Washington, DC 20590

JM–20 (OIG), Room 7418, Department of Transportation, Washington, DC 20590

MAR–360 (MARAD), Room 8101, Department of Transportation, Washington, DC 20590

Personnel Officer (SLSDC), 180 Andrews Street, Masena, NY 13662–1763

AHR–1 (FAA), FOB–10A, Room 500E, Department of Transportation, Washington, DC 20590

Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh St., SW., Room 5424, Washington DC 20590

Department of Veterans Affairs

Alabama

Human Resources Management Officer, Birmingham Medical Center, 700 South 19th Street, Birmingham, AL 35233 (205) 933–4478

Montgomery Regional Office, Send to: VBA Southern Area Human Resources Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Human Resources Management Officer, Montgomery Medical Center, 215 Perry Hill Road, Montgomery, AL 36109–3798 (334) 272–4670

Human Resources Management Officer, Tuskegee Medical Center, 2400 Hospital Road, Tuskegee, AL 36083–5001 (334) 727–0550

Human Resources Management Officer, Tuscaloosa Medical Center, 3701 Loop Road, Tuscaloosa, AL 35404 (205) 554–2000, ext. 2542

Fort Mitchell National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 2400 Hospital Road, Tuskegee, AL 36083–5001 (334) 727–0550

Mobile Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 400 Veterans Blvd., Biloxi, MS 39531 (601) 388–5541, ext. 5780

Alaska

Fort Richardson (Sitka) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center & Regional Office, 2925 DeBarr Road, Anchorage, AK 99508–2989 (907) 257–4750

Human Resources Management Officer, Anchorage Medical Center & Regional Office, 2925 DeBarr Road, Anchorage, AK 99508–2989 (907) 257–4750

Arizona

Human Resources Management Officer, Prescott Medical Center, 500 N. Highway 89, Prescott, AZ 86313–5000 (520) 776–6015

Prescott National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 500 N. Highway 89, Prescott, AZ 86313–5000 (520) 776–6015

Human Resources Management Officer, Phoenix Medical Center, 650 E. Indian School Road, Phoenix, AZ 85012, (602) 277–5551, ext. 7594

Human Resources Management Officer, Tucson Medical Center, 3601 South Sixth Avenue, Tucson, AZ 85723–0001 (520) 629–1803

Phoenix Regional Office, Send to: VBA Western Area Human Resources Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855

Arizona (Cave Creek) Memorial National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 650 E. Indian School Road, Phoenix, AZ 85012 (602) 277–5551, ext. 7594

Arkansas

Fayetteville National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1100 N. College Avenue, Fayetteville, AR 72703 (501) 444–5020

Fort Smith National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1100 N. College Avenue, Fayetteville, AR 72703 (501) 444–5020

Little Rock National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 4300 West 7th Street, Little Rock, AR 72114 (501) 370–6677

Little Rock Regional Office, Send to: VBA Southern Area Human Resources Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Human Resources Management Officer, Little Rock Medical Center, 4300 West 7th Street, Little Rock, AR 72114 (501) 370–6677

Human Resources Management Officer, Fayetteville Medical Center, 1100 N. College Avenue, Fayetteville, AR 72703 (501) 444–5020

California

Human Resources Management Officer, Palo Alto Medical Center, 3801 Miranda

Avenue, Palo Alto, CA 94304–1207 (415) 493–5000, ext. 5515
Human Resources Management Officer, Loma Linda Medical Center, 11201 Benton Street, Loma Linda, CA 92357–0002 (909) 825–7084, ext. 3058
San Diego Regional Office, Send to: VBA Western Area Human Resources Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855
Sepulveda VCS Western Region, Send to: Human Resources Management Officer, VA Medical Center, 16111 Plummer Street, Sepulveda, CA 91343–2099 (818) 895–9377
Human Resources Management Officer, San Francisco Medical Center, 4150 Clement Street, San Francisco, CA 94121–1598 (415) 750–2107
Human Resources Management Officer, Fresno Medical Center, 2615 E. Clinton Avenue, Fresco, CA 93703–2223 (209) 225–6100, ext. 5005
Human Resources Management Officer, San Diego Medical Center, 3350 La Jolla Village Drive, San Diego, CA 92161–0001 (619) 552–8585
Oakland Regional Office, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215, (303) 231–5855
Human Resources Management Officer, Sepulveda Medical Center, 16111 Plummer Street, Sepulveda, CA 91343–2099, (818) 895–9377
Human Resources Management Officer, Los Angeles Medical Center, Wilshire & Sawtelle Blvds., Los Angeles, CA 90073, (310) 824–3153
Los Angeles Field Office of Audit, Send to: Human Resources Management Officer, VA Medical Center, Wilshire & Sawtelle Blvds., Los Angeles, CA 90073, (310) 824–3153
Los Angeles Regional Office of Audit, Send to: Human Resources Management Officer, VA Medical Center, Wilshire & Sawtelle Blvds., Los Angeles, CA 90073, (310) 824–3153
Human Resources Management Officer, Los Angeles Outpatient Clinic, 351 E. Temlple St. Los Angeles, CA 90012–3328, (213) 253–2677
Pleasant Hill Northern California System of Clinics, Human Resources Management Officer, 2300 Contra Costa Blvd., Suite 440, Pleasant Hill, CA 94523–3961, (510) 372–2008
Human Resources Management Officer, Long Beach Medical Center, 5901 E. Seventh Street, Long Beach, CA 90882–5201, (310) 494–5642
Los Angeles Regional Office, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215, (303) 231–5855
San Bruno (Golden Gate) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 4150 Clement Street, San Francisco, CA 94121–1598, (415) 750–2107
Fort Rosecrans National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 3350 La Jolla Village Drive, San Diego, CA 92161–0001, (619) 552–8585
Los Angeles National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Wilshire & Sawtelle Blvds., Los Angeles, CA 90073, (310) 824–3153
San Joaquin Valley National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 2615 E. Clinton Avenue, Fresno, CA 93703–2223, (209) 225–6100, ext. 5005
Riverside National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 11201 Benton Street, Loma Linda, CA 92357–0002, (909) 825–7084, ext. 3058
San Francisco National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 4150 Clement Street, San Francisco, CA 94121–1598, (415) 750–2107
San Diego Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 3350 La Jolla Village Drive, San Diego, CA 92161–0001, (619) 552–8585

Colorado

Human Resources Management Officer, Grand Junction Medical Center, 2121 North Avenue, Grand Junction, CO 81501 (970) 252–0731, ext. 2062
Human Resources Management Officer, Denver Medical Center, 1055 Clermont Street, Denver, CO 80220–0166 (303) 393–2815
Denver Regional Office, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855
Human Resources Management Officer, Fort Lyon Medical Center, Fort Lyon, CO 81038–5000 (719) 384–3190
Fort Logan National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1055 Clermont Street, Denver, CO 80220–0166 (303) 393–2815
Denver National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1055 Clermont Street, Denver, CO 80220–0166 (303) 393–2815
VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855
Denver Civilian Health and Medical program (CHAMPVA), Human Resources Management Officer, 300 S. Jackson St., Denver, CO 80206 (303) 331–7514
Denver Distribution Center, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855

Connecticut

Hartford Regional office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090
Human Resources Management Officer, Newington Medical Center, 555 Willard Avenue, Newington, CT 0611 (203) 667–6710
Human Resources Management Officer, West Haven Medical Center, 950 Campbell Avenue, West Haven, CT 06516 (203) 932–5711

District of Columbia

Human Resources Management Officer, Washington DC Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8200
Director, Central Office Human Resources, Management Service, VA Central Office, 810 Vermont Ave., NW., Washington, DC 20420 (202) 273–4950
Washington DC Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Delaware

Human Resources Management Officer, Wilmington Medical and Regional Office Center, 1601 Kirkwood Highway, Wilmington, DE 19805 (302) 633–5340

Florida

Pensacola (Barrancas) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 400 Veterans Blvd., Biloxi, MS 39531 (601) 388–5541, ext. 5780
Human Resources Management Officer, Bay Pines Medical Center, 10000 Bay Pines Blvd., Bay Pines, FL 33504 (813) 398–6661, ext. 4116
Florida National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 13000 Bruce B. Downs Blvd., Tampa, FL 33612 (813) 972–7524
Riviera Beach Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 1201 Northwest 16th Street, Miami, FL 33125 (305) 324–4455, ext. 3343
Orlando Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 13000 Bruce B. Downs Blvd., Tampa, FL 33612 (813) 972–7524
Miami VA Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Jacksonville VA Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Jacksonville Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 1601 SW Archer Road, Gainesville, FL 32608–1197 (904) 374–6045
Daytona Beach Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 1601 SW Archer Road, Gainesville, FL 32608–1197 (904) 374–6045
Jacksonville Vet Center, Send to: Human Resources Management Officer, VA Medical Center, 1601 SW Archer Road,

Gainesville, FL 32608–1197 (904) 374–6045
Human Resources Management Officer, Tampa Medical Center, 13000 Bruce B. Downs Blvd., Tampa, FL 33612 (813) 972–7524
Bay Pines National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 10000 Bay Pines Blvd., Bay Pines, FL 33504 (813) 398–6661, ext. 4116
Human Resources Management Officer, Gainesville Medical Center, 1601 SW Archer Road, Gainesville, FL 32608–1197 (904) 374–6045
St. Petersburg Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Human Resources Management Officer, Palm Beach Gardens Medical Center, P.O. Box 33207, Palm Beach Gardens, FL 33420 (407) 691–8251
Human Resources Management Officer, Miami Medical Center, 1201 Northwest 16th Street, Miami, FL 33125 (305) 324–4455, ext. 3343
Human Resources Management Officer, Lake City Medical Center, 801 S. Marion Street, Lake City, FL 32025–5898 (904) 755–3016

Georgia

Marietta National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 728–7636
Atlanta Veterans Canteen Service Field Office, Send to: Human Resources Management Officer, VA Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 728–7636
Human Resources Management Officer, Augusta Medical Center, 1 Freedom Way, Augusta, GA 30904–6285 (706) 823–3955
Human Resources Management Officer, Dublin Medical Center, 1826 Veterans Blvd., Dublin, GA 31021 (912) 277–2753
Atlanta Field Office of Audit, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Atlanta National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 728–7636
Human Resources Management Officer, Atlanta Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 728–7636
Income Verification Match Center, Send to: Human Resources Management Officer, VA Medical Center, 1670 Clairmont Road, Decatur, GA 30033 (404) 728–7636
Atlanta Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Hawaii

Human Resources Management Officer, Honolulu Medical and Regional Office Center, 300 Ala Moana Blvd., P.O. Box 50188, Honolulu, HI 96850 (808) 566–1470
Pacific Memorial National Cemetery, Send to: Human Resources Management Officer, VA Medical and Regional Office Center, 300 Ala Moana Blvd., P.O. Box 50188, Honolulu, HI 96850 (808) 566–1470

Idaho

Human Resources Management Officer, Boise Medical Center, 500 W. Fort Street, Boise, ID 83702–4598 (208) 338–7218
Boise Regional Office, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855

Illinois

Human Resources Management Officer, North Chicago Medical Center, 3001 Green Bay Road, North Chicago, IL 60064 (708) 578–3763
Human Resources Management Officer, Hines Medical Center, Edward Hines Jr. Hospital, 5th Avenue & Roosevelt Road, Hines, IL 60141 (708) 216–2601
Rock Island National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Highway 6 West, Iowa City, IA 52246 (319) 338–0581, ext. 7720
Danville National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1900 E. Main Street, Danville, IL 61832 (217) 431–6548
Human Resources Management Officer, Chicago Lakeside Medical Center, 333 E. Huron Street, Chicago, IL 60611 (312) 943–6600
Camp Butler National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1900 E. Main Street, Danville, IL 61832 (217) 431–6548
Hines Systems Delivery Center, Send to Human Resources Management Officer, Hines Benefits Delivery Center, P.O. Box 27 (901A1), Hines, IL 60141 (708) 681–6680
Human Resources Management Officer, Chicago Medical Center, 820 South Damen Avenue, P.O. Box 8195, Chicago, IL 60680 (312) 633–2174
Chicago Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830
Human Resources Management Officer, Marion Medical Center, 2401 W. Main Street, Marion, IL 62959 (618) 997–5311, ext. 4116
Hines Finance Center, Send to: Human Resources Management Officer, Hines Benefits Delivery Center, P.O. Box 27 (901A1), Hines, IL 60141 (708) 681–6680
Human Resources Management Officer, Danville Medical Center, 1900 E. Main Street, Danville, IL 61832 (217) 431–6548
Hines National Acquisition Center, Send to: Human Resources Management Officer, Hines Benefits Delivery Center, P.O. Box 27 (901A1), Hines, IL 60141 (708) 681–6680
Hines Benefits Delivery Center, Human Resources Management Officer, P.O. Box 27 (901A1), Hines, IL 60141 (708) 681–6680
Alton National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, Jefferson Barracks, St. Louis, MO 63106 (314) 894–6620
Mound City National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 2401 W. Main Street, Marion, IL 62959 (618) 997–5311, ext. 4116
Quincy National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, Highway 6 West, Iowa City, IA 52246 (319) 338–0581, ext. 7720

Indiana

Marion National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1700 East 38th, Marion, IN 46953–4589 (317) 677–3101
Human Resources Management Officer, Marion Medical Center, 1700 East 38th, Marion, IN 46953–4589 (317) 677–3101
Human Resources Management Officer, Indianapolis Medical Center, 1481 West 10th Street, Indianapolis, IN 46202 (317) 267–8758
Human Resources Management Officer, Fort Wayne Medical Center, 2121 Lake Avenue, Fort Wayne, IN 46805–5100 (219) 460–1342
Indianapolis Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830
New Albany National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 800 Zorn Avenue, Louisville, KY 40206 (502) 895–3401, ext. 5866
Evansville Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 2401 W. Main Street, Marion, IL 62959 (618) 997–5311, ext. 4116
Indianapolis National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1481 West 10th Street, Indianapolis, IN 46202 (317) 267–8758

Iowa

Des Monies Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830
Keokuk National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Highway 6 West, Iowa City, IA 52246 (319) 338–0581, ext. 7720
Human Resources Management Officer, Knoxville Medical Center, 1515 W. Pleasant Street, Knoxville, IA 50138 (515) 842–3101, ext. 6219
Human Resources Management Officer, Des Moines Medical Center, 3600 30th Street, Des Moines, IA 50310 (515) 271–5812
Human Resources Management Officer, Iowa City Medical Center, Highway 6 West, Iowa City, IA 52246 (319) 338–0581, ext. 7720

Kansas

Human Resources Management Officer, Topeka Medical Center, 2200 Gage Blvd., Topeka, KS 66622 (913) 271–4310
Human Resources Management Officer, Leavenworth Medical Center, 4101 S. 4th

St. Trafficway, Leavenworth, KS 66048 (913) 682–2000, ext. 2500

Leavenworth National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 4101 S. 4th St. Trafficway, Leavenworth, KS 66048 (913) 682–2000, ext. 2500

Human Resources Management Officer, Wichita Medical and Regional Office Center, 901 George Washington Blvd., Wichita, KS 67211 (316) 651–3625

Fort Scott National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 4101 S. 4th St. Trafficway, Leavenworth, KS 66048 (913) 682–2000, ext. 2500

Ft. Leavenworth National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 4101 S. 4th St. Trafficway, Leavenworth, KS 66048 (913) 682–2000, ext. 2500

Kentucky

Nicholasville (Camp Nelson) National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 2250 Leestown Road, Lexington, KY 40511–1093 (606) 281–3924

Zachary Taylor National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 800 Zorn Avenue, Louisville, KY 40206 (502) 895–3401, ext. 5866

Human Resources Management Officer, Louisville Medical Center, 800 Zorn Avenue, Louisville, KY 40206 (502) 895–3401, ext. 5866

Lebanon National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 800 Zorn Avenue, Louisville, KY 40206 (502) 895–3401, ext. 5866

Louisville Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Cave Hill National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 800 Zorn Avenue, Louisville, KY 40206 (502) 895–3401, ext. 5866

Human Resources Management Officer, Lexington Medical Center, 2250 Leestown Road, Lexington, KY 40511–1093 (606) 281–3924

Danville National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 2250 Leestown Road, Lexington, KY 40511–1093 (606) 281–3924

Lexington National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 2250 Leestown Road, Lexington, KY 40511–1093 (606) 281–3924

Nancy National Cemetery Area Office, Sent to: Human Resources Management Officer, VA Medical Center, 2250 Leestown Road, Lexington, KY 40511–1093 (606) 281–3924

Perryville National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 2250 Leestown Road, Lexington, KY 40511–1093 (606) 281–3924

Louisiana

Human Resources Management Officer, New Orleans Medical Center, 1601 Perdido Street, New Orleans, LA 70146 (504) 568–0811

Port Hudson (Zachary) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1601 Perdido Street, New Orleans, LA 70146 (504) 568–0811

Human Resources Management Officer, Alexandria Medical Center, Highway 171, Alexandria, LA 71301 (318) 473–0010, ext. 2262

Human Resources Management Officer, Shreveport Medical Center, 510 E. Stoner Avenue, Shreveport, LA 71101–4295 (318) 424–6028

Alexandria (Pinesville) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Highway 171 Alexandria, LA 71301 (318) 473–0010, ext. 2262

New Orleans Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Baton Rouge National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1601 Perdido Street, New Orleans, LA 70146 (504) 568–0811

Shreveport VA Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Maine

Human Resources Management Officer, Togus Medical and Regional Office Center, Togus, ME 04330 (207) 623–5713

Portland VA (Vet Center) Office, Send to: Human Resources Management Officer, VA Medical and Regional Office Center, Togus, ME 04330 (207) 623–5713

Togus National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical and Regional Office Center, Togus, ME 04330 (207) 623–5713

Maryland

Human Resources Management Officer, Ft. Howard Medical Center, 9600 N. Point Road, Ft. Howard, MD 21052 (410) 687–8343

Ft. Howard VCS Eastern Region, Send to: Human Resources Management Officer, VA Medical Center, 9600 N. Point Road, Ft. Howard, MD 21052 (410) 687–8343

Baltimore Regional Office, Sent to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Human Resources Management Officer, Baltimore Medical Center, 10 N. Greene Street, Baltimore, MD 21201 (410) 605–7200

Baltimore National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 10 N. Greene Street, Baltimore, MD 21201 (410) 605–7200

Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Human Resources Management Officer, Perry Point Medical Center, Building 101, Perry Point, MD 21902 (410) 642–2411, ext. 5193

Baltimore Rehabilitation, Research and Development Center, Send to: Human Resources Management Officer, VA Medical Center, 10 N. Greene Street, Baltimore, MD 21201 (410) 605–7200

Annapolis National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 10 N. Greene Street, Baltimore, MD 21201 (410) 605–7200

Baltimore Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 10 N. Greene Street, Baltimore, MD 21201 (410) 605–7200

Hyattsville Field Office of Audit, Send to: Director, CO Human Resources, Management Service, VA Central Office, 810 Vermont Ave., NW., Washington, DC 20420 (202) 273–4950

Massachusetts

Human Resources Management Officer, Boston Medical Center, 150 S. Huntington Ave., Boston, MA 02130 (617) 232–9500, ext. 5561

Human Resources Management Officer, Northampton Medical Center, Northampton, MA 01060–1288 (413) 582–3027

Boston Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Human Resources Management Officer, Bedford Medical Center, 200 Springs Road, Bedford, MA 01730 (617) 275–7500, ext. 2367

Bourne National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 940 Belmont Street, Brockton, MA 02401 (508) 583–4500, ext. 3260

Human Resources Management Officer, Brockton Medical Center, 940 Belmont Street, Brockton, MA 02401 (508) 583–4500, ext. 3260

Boston Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 150 S. Huntington Ave., Boston, MA 02130 (617) 232–9500, ext 5561

Lowell Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 150 S. Huntington Ave., Boston, MA 02130 (617) 232–9500, ext 5561

New Bedford Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 830 Chalkstone Avenue, Providence, RI 02908–4799 (401) 457–3072

Springfield Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, Northampton, MA 01060–1288 (413) 582–3027

Springfield VA Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

West Roxbury Medical Center, Send to: Human Resources Management Officer, VA Medical Center, 940 Belmont Street, Brockton, MA 02401 (508) 583–4500, ext. 3260

Worchester Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 940 Belmont Street, Brockton, MA 02401 (508) 583–4500, ext. 3260

Michigan

Fort Custer National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 5500 Armstrong Rd., Battle Creek, MI 49016 (616) 966–5600, ext. 3600

Grand Rapids Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 5500 Armstrong Rd., Battle Creek, MI 49016 (616) 966–5600, ext. 3600

Detroit Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Human Resources Management Officer, Battle Creek Medical Center, 5500 Armstrong Rd., Battle Creek, MI 49016 (616) 966–5600, ext. 3600

Human Resources Management Officer, Saginaw Medical Center, 1500 Weiss Street, Saginaw, MI 48602 (517) 793–2340, ext. 3070

VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Human Resources Management Officer, Iron Mountain Medical Center, H Street, Iron Mountain, MI 49801 (906) 774–3300, ext. 2280

Human Resources Management Officer, Ann Arbor Medical Center, 2215 Fuller Rd., Ann Arbor, MI 48105 (313) 761–7938

Human Resources Management Officer, Allen Park Medical Center, Southfield & Outer Drive, Allen Park, MI 48101 (313) 562–6000, ext. 3323

Minnesota

St. Paul Regional Office and Insurance Center, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Fort Snelling National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, One Veterans Drive, Minneapolis, MN 55417 (612) 725–2061

Fort Snelling Debt Management Center, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Human Resources Management Officer, Minneapolis Medical Center, One Veterans Drive, Minneapolis, MN 55417 (612) 725–2061

Human Resources Management Officer, St. Cloud Medical Center, 4801 8th Street North, St. Cloud, MN 56303 (612) 255–6301

St. Paul Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, One Veterans Drive, Minneapolis, MN 55417 (612) 725–2061

Mississippi

Corinth National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1030 Jefferson Avenue, Memphis, TN 38104 (901) 523–8990, ext. 5928

VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Human Resources Management Officer, Biloxi Medical Center, 400 Veterans Blvd., Biloxi, MS 39531 (601) 388–5541, ext. 5780

Biloxi National Cemetery, Human Resources Management Officer, VA Medical Center, 400 Veterans Blvd., Biloxi, MS 39531 (601) 388–5541, ext. 5780

Jackson Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Human Resources Management Officer, Jackson Medical Center, 1500 E. Woodrow Wilson Blvd., Jackson, MS 39216 (601) 364–1239

Natchez National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1500 E. Woodrow Wilson Blvd., Jackson, MS 39216 (601) 364–1239

Missouri

Human Resources Management Officer, St. Louis Medical Center, Jefferson Bks., St. Louis, MO 63106 (314) 894–6620

Human Resources Management Officer, Poplar Bluff Medical Center, 1500 N. Westwood Blvd., Poplar Bluff, MO 63901 (314) 686–4151, ext. 328

St. Louis Records Processing Center, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Human Resources Management Officer, Kansas City Medical Center, 4801 Linwood Blvd., Kansas City, MO 64128 (816) 861–4700, ext. 6926

Jefferson Barracks National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 800 Hospital Drive, Columbia, MO 65201 (314) 443–2511, ext. 6261

Human Resources Management Officer, Columbia Medical Center, 800 Hospital Drive, Columbia, MO 65201 (314) 443–2511, ext. 6261

St. Louis Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Veterans Canteen Service Field Office, Send to: Human Resources Management Officer, VA Medical Center, Jefferson Barracks, St. Louis, MO 63106 (314) 894–6620

Springfield National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1100 N. College Avenue, Fayetteville, AR 72703 (501) 444–5020

Montana

Human Resources Management Officer, Fort Harrison Medical Center and Regional Office, Fort Harrison, MT 59636 (406) 447–7933

Human Resources Management Officer, Miles City Medical Center, 210 South Winchester, Miles City, MT 59301–4798 (406) 232–8287

Nebraska

Lincoln Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Human Resources Management Officer, Lincoln Medical Center, 600 South 70th Street, Lincoln, NE 68510 (402) 489–3802, ext. 7819

Human Resources Management Officer, Grand Island Medical Center, 2201 N. Broadwell Ave., Grand Island, NE 68803 (308) 389–5177

Maxwell (Fort McPherson) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 2201 N. Broadwell Ave., Grand Island, NE 68803 (308) 389–5177

Human Resources Management Officer, Omaha Medical Center, 4101 Woolworth Avenue, Omaha, NE 68105 (402) 449–0614

Nevada

Human Resources Management Officer, Reno Medical Center, 1000 Locust Street, Reno, NV 89520–0111 (702) 328–1260

Reno Regional Office, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855

Las Vegas Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 1000 Locust Street, Reno, NV 89520–0111 (702) 328–1260

Henderson Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 1000 Locust Street, Reno, NV 89520–0111 (702) 328–1260

New Hampshire

Manchester Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Human Resources Management Officer, Manchester Medical Center, 718 Smyth Road, Manchester, NH 03104 (603) 624–4366, ext. 6608

New Jersey

Beverly National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, University & Woodland Avenues, Philadelphia, PA 19104 (215) 823–4088

Newark Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Human Resources Management Officer, East Orange Medical Center, 385 Tremont Avenue, East Orange, NJ 07018–0195 (201) 676–1000, ext. 1366

James J. Howard Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 385 Tremont Avenue, East Orange, NJ 07018–0195 (201) 676–1000, ext. 1366

Neward Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 385 Tremont Avenue, East Orange, NJ 07018–0195 (201) 676–1000, ext. 1366

Human Resources Management Officer, Lyons Medical Center, Knollcroft Road, Lyons, NJ 07939 (908) 647–0180, ext. 4002

New Mexico

Albuquerque Regional Officer, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855

Santa Fe National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 2100 Ridgecrest Dr., SE., Albuquerque, NM 87108–5138 (505) 256–5702

Human Resources Management Officer, Albuquerque Medical Center, 2100 Ridgecrest Dr., SE., Albuquerque, NM 87108–5138 (505) 256–5702

New York

Human Resources Management Officer, Bath Medical Center, Bath, NY 14810 (607) 776–2111, ext. 1239

Human Resources Management Officer, Brooklyn Medical Center, 800 Poly Place, Brooklyn, NY 11209 (718) 630–3660

Human Resources Management Officer, Montrose Medical Center, P.O. Box 100, Montrose, NY 10548–0100 (914) 737–4400, ext. 2553

Human Resources Management Officer, Syracuse Medical Center, 800 Irving Avenue, Syracuse, NY 13210–2799 (315) 477–4531

Human Resources Management Officer, Bronx Medical Center, 130 W. Kingsbridge Road, Bronx, NY 10468 (718) 584–9000, ext. 6590

Human Resources Management Officer, New York Medical Center, 423 East 23rd Street, New York, NY 10010 (212) 686–7500, ext. 7635

Human Resources Management Officer, Castle Point Medical Center, Route 9D, Castle Point, NY 12511 (914) 831–2000, ext. 5405

Human Resources Management Officer, Northport Medical Center, 79 Middleville Road, Northport, NY 11768 (516) 261–4400, ext. 2715

Human Resources Management Officer, Albany Medical Center, 113 Holland Avenue, Albany, NY 12208 (518) 462–3311, ext. 2231

Calverton National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 79 Middleville Road, Northport, NY 11768 (516) 261–4400, ext. 2715

Human Resources Management Officer, Buffalo Medical Center, 3495 Bailey Avenue, Buffalo, NY 14215 (716) 862–3605

New York Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Human Resources Management Officer, Batavia Medical Center, 222 Richmond Ave., Batavia, NY 14020 (716) 343–7500, ext. 7272

Bath (Elmira) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Bath, NY 14810 (607) 776–2111, ext. 1239

Long Island National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 79 Middleville Road, Northport, NY 11768 (516) 261–4400, ext. 2715

Albany VA (Vet Center) Office, Send to: Human Resources Management Officer, VA Medical Center, 113 Holland Avenue, Albany, NY 12208 (518) 462–3311, ext. 2231

Brooklyn National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 800 Poly Place, Brooklyn, NY 11209 (718) 630–3660

Brooklyn Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 800 Poly Place, Brooklyn, NY 11209 (718) 630–3660

New York Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 423 East 23rd Street, New York, NY 10010 (212) 686–7500, ext. 7635

New York Prosthetics Center, Send to: Human Resources Management Officer, VA Medical Center, 423 East 23rd Street, New York, NY 10010 (212) 686–7500, ext. 7635

New York Veterans Canteen Service Field Office, Send to: Human Resources Management Officer, VA Medical Center, 423 East 23rd Street, New York, NY 10010 (212) 686–7500, ext. 7635

Rochester VA (Vet Center) Office, Send to: Human Resources Management Officer, VA Medical Center, 222 Richmond Ave., Batavia, NY 14020 (716) 343–7500, ext. 7272

Buffalo Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Rochester Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 222 Richmond Ave., Batavia, NY 14020 (716) 343–7500, ext. 7272

Human Resources Management Officer, Canandaigua Medical Center, Canandaigua, NY 14424 (716) 394–2000, ext. 3700

Syracuse VA Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

North Carolina

Human Resources Management Officer, Fayetteville Medical Center, 2300 Ramsey Street, Fayetteville, NC 28301 (919) 822–7055

Raleigh National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 508 Fulton Street, Durham, NC 27705 (919) 286–6901

Human Resources Management Officer, Durham Medical Cetner, 508 Fulton Street, Durham, NC 27705 (910) 286–6901

Human Resources Management Officer, Asheville Medical Center, 1100 Tunnell Road, Asheville, NC 28805 (704) 299–2535

New Bern National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 2300 Ramsey Street, Fayetteville, NC 28301 (919) 822–7055

Salisbury National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1601 Brenner Avenue, Salisbury, NC 28144 (704) 638–3432

Winston-Salem Regional Office, Send to: VBA Southern Area Human Resources Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Human Resources Management Officer, Salisbury Medical Center, 1601 Brenner Avenue, Salisbury, NC 28144 (704) 638–3432

Wilmington National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 2300 Ramsey Street, Fayetteville, NC 28301 (919) 822–7055

Winston-Salem Outpatient Regional Office, Send to: Human Resources Management Officer, VA Medical Center, 1601 Brenner Avenue, Salisbury, NC 28144 (704) 638–3422

North Dakota

Human Resources Management Officer, Fargo Medical and Regional Office Center, 655 First Avenue, Fargo, ND 58102 (701) 232–3241

Ohio

Human Resources Management Officer, Columbus Outpatient Clinic, 2090 Kenny Road, Columbus, OH 43221 (614) 257–5501

Cleveland Regional Office, Send to: VBA Central Area Human Resources Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Dayton National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 4100 W. Third Street, Dayton, OH 45428 (513) 262–2107

Human Resources Management Officer, Cincinnati Medical Center, 3200 Vine Street, Cincinnati, OH 45220 (513) 559–5051

Cincinnati VA Office, Send to: VBA Central Area Human Resources Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Columbus VA Office, Send to: VBA Central Area Human Resources Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Human Resources Management Officer, Dayton Medical Center, 4100 W. Third Street, Dayton OH 45428 (513) 262–2107

Human Resources Management Officer, Cleveland Medical Center, 10000 Brecksville Rd., Brecksville, OH 44141 (216) 526–3030, ext. 7900

Human Resources Management Officer, Chillicothe Medical Center, 17273 State Route 104, Chillicothe, OH 45601 (614) 773–1141, ext. 7538

Oklahoma

Fort Gibson National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Honor Heights Drive, Muskogee, OK 74401 (918) 683–3261, ext. 404

Human Resources Management Officer, Oklahoma City Medical Center, 921 NE 13th Street, Oklahoma City, OK 73104 (405) 270–5157

Muskogee Regional Office, Send to: VBA Southern Area Human Resources Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Human Resources Management Officer, Muskogee Medical Center, Honor Heights Drive, Muskogee, OK 74401 (918) 683–3261, ext. 404

Oklahoma City VA Office, Send to: VBA Southern Area Human Resources Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Oregon

Portland Regional Office, Send to: VBA Western Area Human Resources Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855

Human Resources Management Officer, White City Medical Center, 8495 Craterlake Highway, White City, OR 97503–1088 (503) 826–2111, ext. 3204

Human Resources Management Officer, Roseburg Medical Center, 913 NW Garden Valley Blvd., Roseburg, OR 97470–6153 (503) 440–1260

Human Resources Management Officer, Portland Medical Center, 3710 SW US Veterans Hospital Rd., Portland, OR 97207–1034 (503) 220–3403

Eagle Point National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 8495 Craterlake Highway, White City, OR 97503–1088 (503) 826–2111, ext. 3204

Willamette National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 3710 SW US Veterans Hospital Rd., Portland, OR 97207–1034 (503) 220–3403

Pennsylvania

Human Resources Management Officer, Pittsburgh Medical Center, University Drive C, Pittsburgh, PA 15240 (412) 692–3240

Philadelphia Benefits Delivery Center, Send to: Human Resources Management Liaison, VA Regional Office, 5000 Wissahickon Avenue, P.O. Box 13399, Philadelphia, PA 19101 (215) 951–5534

Human Resources Management Officer, Wilkes-Barre Medical Center, 1111 East End Boulevard, Wilkes-Barre, PA 18711 (717) 821–7209

Philadelphia Systems Development Center, Send to: Human Resources Management Liaison, VA Regional Office, 5000 Wissahickon Avenue, P.O. Box 13399, Philadelphia, PA 19101 (215) 951–5534

Philadelphia National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, University & Woodland Avenues, Philadelphia, PA 19104 (215) 823–4088

Annville (Indiantown Gap) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1700 S. Lincoln Avenue, Lebanon, PA 17042 (717) 272–6621, ext. 4055

Human Resources Management Officer, Philadelphia Medical Center, University & Woodland Avenues, Philadelphia, PA 19104 (215) 823–4088

Human Resources Management Officer, Altoona Medical Center, 2907 Pleasant Valley Blvd., Altoona, PA 16602–4377 (814) 943–8164, ext. 7039

Human Resources Management Officer, Lebanon Medical Center, 1700 S. Lincoln Avenue, Lebanon, PA 17042 (717) 272–6621, ext. 4055

Harrisburg Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 1700 S. Lincoln Avenue, Lebanon, PA 17042 (717) 272–6621, ext. 4055

Human Resources Management Officer, Coastesville Medical Center, 1400 BlackHorse Hill Rd., Coatesville, PA 19320–2096 (610) 383–0234

Human Resources Management Officer, Pittsburgh (HD) Medical Center, 7180 Highland Drive, Pittsburgh, PA 15206–1297 (412) 365–4755

Human Resources Management Officer, Butler Medical Center, 325 New Castle Road, Butler, PA 16001–2480 (412) 477–5051

Pittsburgh Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Philadelphia Regional Office, Human Resources Management Liaison, 5000 Wissahickon Avenue, P.O. Box 13399, Philadelphia, PA 19101 (215) 951–5534

Human Resources Management Officer, Erie Medical Center, 135 East 38th Street, Erie, PA 16504 (814) 868–6205

Philippines

Manila Regional Office Outpatient Clinic, Manila Regional Office Center, Send to: Director, Department of Veterans Affairs, APO, San Francisco, CA 96528 011–632–521–7116

Puerto Rico

Puerto Rico National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, One Veterans Plaza, San Juan, PR 00927–5800 (809) 766–5485

Human Resources Management Officer, San Juan Medical Center, One Veterans Plaza, San Juan, PR 00927–5800 (809) 766–5485

Mayaguez Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, One Veterans Plaza, San Juan, PR 00927–5800 (809) 766–5485

San Juan Regional Officer, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Rhode Island

Human Resources Management Officer, Providence Medical Center, 830 Chalkstone Avenue, Providence, RI 02908–4799 (401) 457–3072

Providence Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

South Carolina

Florence National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 6439 Garners Ferry Rd., Columbia, SC 29201–1639 (803) 695–6835

Human Resources Management Officer, Columbia Medical Center, 6439 Garners Ferry Rd., Columbia, SC 29201–1639 (803) 695–6835

Greenville Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 6439 Garners Ferry Rd., Columbia, SC 29201–1639 (803) 695–6835

Human Resources Management Officer, Charleston Medical Center, 109 Bee Street, Charleston, SC 29401–5799 (803) 577–5011, ext. 7610

Beaufort National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 109 Bee Street, Charleston, SC 29401–5799 (803) 577–5011, ext. 7610

Columbia Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

South Dakota

Human Resources Management Officer, Hot Springs Medical Center, 500 North 5th Street, Hot Springs, SD 57747 (605) 745–2018

Hot Springs National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 500 North 5th Street, Hot Springs, SD 57747 (605) 745–2018

Human Resources Management Officer, Fort Meade Medical Center, 113 Comanche Road, Fort Meade, SD 57741 (605) 347–7090

Fort Meade (Black Hills) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 113 Comanche Road, Fort Meade, SD 57741 (605) 347–7090

Human Resources Management Officer, Sioux Falls Medical and Regional Office Center, PO box 5046, 2501 W. 22nd St., Sioux Falls, SD 57117 (605) 333–6852

Tennessee

Mountain Home National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Johnston City, Mountain Home, TN 37684 (615) 926–1171, ext. 7181

Nashville (Madison) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1310 24th Avenue South, Nashville, TN 37212–2637 (615) 327–5381

Chattanooga National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 3400 Lebanon Road, Murfreesboro, TN 37129–1236 (615) 893–1360, ext. 3317

Knoxville National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Johnston City, Mountain Home, TN 37684 (615) 926–1171, ext. 7181
Memphis National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1030 Jefferson Avenue, Memphis, TN 38104 (901) 523–8990, ext. 5928
Human Resources Management Officer, Memphis Medical Center, 1030 Jefferson Avenue, Memphis, TN 38104 (901) 523–8990, ext. 5928
Human Resources Management Officer, Mountain Home Medical Center, Johnston City, Mountain Home, TN 37684 (615) 926–1171, ext. 7181
Human Resources Management Officer, Nashville Medical Center, 1310 24th Avenue South, Nashville, TN 37212–2637 (615) 327–5381
Knoxville Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 1310 24th Avenue South, Nashville, TN 37212–2637 (615) 327–5381
Nashville Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140

Texas

Human Resources Management Officer, San Antonio Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (210) 617–5300, ext. 6732
Corpus Christi Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (210) 617–5300, ext. 6732
McAllen Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (210) 617–5300, ext. 6732
Human Resources Management Officer, Temple Medical Center, 1901 S. 1st Street, Temple, TX 76504 (817) 778–4811, ext. 4429
Human Resources Management Officer, Austin Automation Center, 1615 E. Woodard Street, Austin, TX 78772 (512) 326–6054
Human Resources Management Officer, Waco Medical Center, 4800 Memorial Drive, Waco, TX 76711 (817) 752–6581, ext. 6346
Waco Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 4800 Memorial Drive, Waco, TX 76711 (817) 752–6581, ext. 6346
Human Resources Management Officer, Dallas Medical Center, 4500 S. Lancaster Road, Dallas, TX 75216 (214) 372–7032
Human Resources Management Officer, Houston Medical Center, 2002 Holcombe Blvd., Houston, TX 77030 (713) 794–7458
Beaumont Outpatient Clinic Substation, Send to: Human Resources Management Officer, VA Medical Center, 2002 Holcombe Blvd., Houston, TX 77030 (713) 794–7458
Lufkin Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 2002 Holcombe Blvd., Houston, TX 77030 (713) 794–7458
Human Resources Management Officer, Waco Medical Center, 4800 Memorial Drive, Waco, TX 76711 (817) 752–6581, ext. 6346
Human Resources Management Officer, El Paso Outpatient Clinic, 5919 Brook Hollow Drive, El Paso, TX 79925 (915) 540–7878
Fort Bliss National Cemetery, Send to: Human Resources Management Officer, El Paso Outpatient Clinic, 5919 Brook Hollow Drive, El Paso, TX 79925 (915) 540–7878
Houston Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
San Antonio VA Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Human Resources Management Officer, Big Spring Medical Center, 2400 Gregg St., Big Spring, TX 79720 (915) 264–4820
Austin Systems Development Center, Send to: Human Resources Management Officer, Austin Automation Center, 1615 E. Woodard Street, Austin, TX 78772 (512) 326–6054
Human Resources Management Officer, Amarillo Medical Center, 6010 Amarillo Blvd. West, Amarillo, TX 79106 (806) 354–7827
Houston National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 2002 Holcombe Blvd., Houston, TX 77030 (713) 794–7458
San Antonio National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (210) 617–5300, ext. 6732
Fort Sam Houston National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 7400 Merton Minter Blvd., San Antonio, TX 78284 (210) 617–5300, ext. 6732
Human Resources Management Officer, Kerrville Medical Center, 3600 Memorial Blvd., Kerrville, TX 78028 (210) 792–2518
Kerrville National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 3600 Memorial Blvd., Kerrville, TX 78028 (210) 792–2518
Human Resources Management Officer, Marlin Medical Center, 1016 Ward Street, Marlin, TX 76661 (817) 883–3511, ext. 4702
Human Resources Management Officer, Bonham Medical Center, East Ninth & Lipscomb Street, Bonham, TX 75418–4091 (903) 583–2111, ext. 6331
Waco Regional Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Dallas VA Office, Send to: VBA Southern Area Human Resources, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Lubbock VA Office, Send to: VBA Southern Area Human Resource, Management Office, Human Resources Management Director, 6508 Dogwood Parkway, Suite E, Jackson, MS 39213 (601) 965–4140
Lubbock Outpatient Clinic, Send to: Human Resources Management Officer, VA Medical Center, 6010 Amarillo Blvd. West, Amarillo, TX 79106 (806) 354–7827
Austin Finance Center, Send to: Human Resources Management Officer, Austin Automation Center, 1615 E. Woodard Street, Austin, TX 78772 (512) 326–6054

Utah

Salt Lake City Regional Office, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855
Human Resources Management Officer, Salt Lake City Medical Center, 500 Foothill Blvd., Salt Lake City, UT 84148–0001 (801) 584–1284

Vermont

Human Resources Management Officer, White River Junction Medical and Regional Office Center, White River Junction, VT 05009 (802) 295–9363, ext. 5350

Virginia

Human Resources Management Officer, Richmond Medical Center, 1201 Broad Rock Blvd., Richmond, VA 23249 (804) 230–1305
Human Resources Management Officer, Hampton Medical Center, 100 Emancipation Road, Hampton, VA 23667 (804) 722–9961, ext. 3160
Richmond National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1201 Broad Rock Blvd., Richmond, VA 23249 (804) 230–1305
Quantico National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8200
Hampton National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 100 Emancipation Road, Hampton, VA 23667 (804) 722–9961, ext. 3160
Culpeper National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, Route 9, Martinsburg, WV 25401 (304) 263–0811, ext. 3237
Roanoke Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090
Human Resources Management Officer, Salem Medical Center, 1970 Roanoke Blvd., Salem, VA 24153 (703) 982–2463, ext. 2812
Danville National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1970 Roanoke Blvd., Salem, VA 24153 (703) 982–2463, ext. 2812
Alexandria National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8200
Leesburg National Cemetery Area Office, Send to: Human Resources Management

Officer, VA Medical Center, 50 Irving Street, NW., Washington, DC 20422 (202) 745–8200

Mechanicsville National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1201 Broad Rock Blvd., Richmond, VA 23249 (804) 230–1305

Sandston National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1201 Broad Rock Blvd., Richmond, VA 23249 (804) 230–1305

Hopewell National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1201 Broad Rock Blvd., Richmond, VA 23249 (804) 230–1305

Staunton National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, 1970 Roanoke Blvd., Salem, VA 24153 (703) 982–2463, ext. 2812

Winchester National Cemetery Area Office, Send to: Human Resources Management Officer, VA Medical Center, Route 9, Martinsburg, WV 25401 (304) 263–0811, ext. 3237

Washington

Seattle Regional Office, Send to: VBA Western Area Human Resources, Management Office, Human Resources Management Director, 126000 W. Colfax Ave., Suite C–300, Lakewood, CO 80215 (303) 231–5855

Human Resources Management Officer, Walla Walla Medical Center, 77 Wainwright Drive, Walla Walla, WA 99362–3975 (509) 527–3453

Human Resources Management Officer, Seattle Medical Center, 1660 S. Columbian Way, Seattle, WA 98108–1597 (202) 764–2135

Seattle Outpatient Clinic (Vet Center), Send to: Human Resources Management Officer, VA Medical Center, 1660 S. Columbian Way, Seattle, WA 98108–1597 (206) 764–2135

Human Resources Management Officer, Tacoma Medical Center, American Lake, Tacoma, WA 98493 (206) 582–8440, ext. 6054

Human Resources Management Officer, Spokane Medical Center, 4815 North Assembly Street, Spokane, WA 99205–6197 (509) 327–0242

West Virginia

Human Resources Management Officer, Huntington Medical Center, 1540 Spring Valley Road, Huntington, WV 25704 (304) 429–6755, ext. 2343

Human Resources Management Officer, Beckley Medical Center, 200 Veterans Avenue, Beckley, WV 25801 (304) 225–2121, ext. 4461

Human Resources Management Officer, Clarksburg Medical Center, 1 Medical Center Dr., Clarksburg, WV 26301 (304) 623–7697

Human Resources Management Officer, Martinsburg Medical Center, Route 9, Martinsburg, WV 25401 (304) 263–0811, ext. 3237

West Virginia (Grafton) National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 1 Medical Center Dr., Clarksburg, WV 26301 (304) 623–7697

Huntington Regional Office, Send to: Eastern Area Servicing Assistance Center, Human Resources Management Director, 31 Hopkins Plaza, Baltimore, MD 21202–2004 (410) 962–4090

Wisconsin

Wood National Cemetery, Send to: Human Resources Management Officer, VA Medical Center, 5000 W. National Avenue, Milwaukee, WI 53295 (414) 384–2000

Milwaukee Regional Office, Send to: VBA Central Area Human Resources, Management Office, Human Resources Management Director, 38701 Seven Mile Road, Suite 345, Livonia, MI 48152 (313) 953–8830

Human Resources Management Officer, Milwaukee Medical Center, 5000 W. National Avenue, Milwaukee, WI 53295 (414) 384–2000, ext. 2930

Human Resources Management Officer, Tomah Medical Center, 500 E. Veterans Street, Tomah, WI 54660 (608) 372–1636

Human Resources Management Officer, Madison Medical Center, 2500 Overlook Terrace, Madison, WI 53705 (608) 262–7026

Wyoming

Human Resources Management Officer, Sheridan Medical Center, 1898 Fort Road, Sheridan, WY 82801–8320 (307) 672–1673

Human Resources Management Officer, Cheyenne Medical and Regional Office Center, 2360 East Pershing Blvd., Cheyenne, WY 82001 (307) 778–7331

II. Agencies

American Battle Monuments Commission

Chief, Administration, Room 5127, Pulaski Building, 20 Massachusetts Avenue, NW., Washington, DC 20314–0001 (202) 761–0533

Architectural and Transportation Barriers Compliance Board

General Counsel, 1331 F Street, NW., #1000, Washington, DC 20004–1111 (202) 272–5434, ext. 16

Equal Employment Opportunity Commission

Management Director, Office of Management, 1801 L Street, NW., Washington, DC 20507 (202) 663–4411

Export-Import Bank of the United States

Associate General Counsel, 811 Vermont Avenue, NW, Room 955, Washington, DC 20571 (202) 565–3432

Farm Credit Administration

Chief, Human Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 (703) 883–4122

Federal Communications Commission (FCC)

Chief, Payroll/Personnel Support Branch, 1919 M Street, NW., Room 212, Washington, DC 20554 (202) 481–0136

Federal Deposit Insurance Corporation

Chief, Operations Section, Office of Personnel Management, 550 17th Street, NW., PA–1730–5018, Washington, DC 20429 (202) 942–3401

Federal Election Commission

Assistant General Counsel-Administrative Law, 999 E Street, NW., Washington, DC 20463 (202) 219–3690

Federal Energy Regulatory Commission

Chief, Payroll Branch, Department of Energy, GTN Building, Room E–259, Washington, DC 20585 (301) 903–4012

Federal Housing Finance Board

Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006 (202) 408–2685 or (202) 408–2686

Federal Retirement Thrift Investment Board

Director of Personnel, 1250 H Street, NW., Suite 400, Washington, DC 20005 (202) 942–1680

Federal Trade Commission

Director, Division of Personnel, 6th & Pennsylvania Avenue, NW., Room H–148, Washington, DC 20580 (202) 326–2022

General Accounting Office

Comptroller General, Attn: Chief, Payroll/Personnel Systems Branch, Personnel, Room 1180, 441 G Street, NW., Washington, DC 20415 (202) 512–5811

General Services Administration

Office of Personnel, Personnel Operations Division, Office of General Counsel, 18th & F Streets, NW., Room 1100, Washington, DC 20405 (202) 501–0610

New England Region (ME, VT, NH, MA, RI, CT)

Office of Personnel, 10 Causeway Street, Room 1095, Boston, MA 02222 (617) 565–5860

Northeast and Caribbean Region (NY, NJ, PR, VI)

Office of Personnel, 26 Federal Plaza, Room 18–110, New York, NY 10278 (212) 264–8302 or (212) 264–8303

Mid-Atlantic Region (PA, WV, VA, MD, DE)

Office of Personnel, Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3396 (215) 656–5642

Southeast Region—Atlanta (KY, TN, MS, AL, GA, NC, SC, FL)

Office of Personnel, 401 West Peachtree Street, NW., Room 2802, Atlanta, GA 30365–2550 (404) 331–5171

Great Lakes Region (MN, WI, IL, MI, IN, OH)

Office of Personnel, 230 S. Dearborn Street, Room 3730, Mail Stop 37–7, Chicago, IL 60604 (312) 353–0992

The Heratland Region (KS, NE, IA, MO)

Office of Personnel, 1500 E. Bannister Road, Kansas City, MO 64131 (816) 926–7208

Greater Southwest Region (TX, NM, OK, AR, LA) and Rocky Mountain Region (MT, ND, SD, WY, UT, CO)

Office of Personnel, 819 Taylor Street, Room 9A00, Ft. Worth, TX 76102 (817) 334–2361 or (817) 334–3442 or (817) 334–2741

Pacific Rim Region (CA, NV, AZ, HI, GU, CM) and Northwest/Arctic Region (WA, ID, OR, AK)

Office of Personnel, 525 Market Street, San Francisco, CA 94105 (415) 744–5189

National Capital Region (DC, surrounding VA & MD counties)

Office of Personnel, 7th & D Streets, SW., Room 1030, Washington, DC 20407 (202) 708–5319

If initial contact is not made with one of the above agent offices, GSA employees (or designees) on site who are contacted by process servers have been instructed to contact the appropriate office listed above for guidance in fulfilling GSA's responsibilities for facilitation of service of process to establish paternity and establish a support obligation.

Inter-American Foundation

General Counsel, 901 N. Stuart Street, 10th Floor, Arlington, VA 22203 (703) 841–3894

Interstate Commerce Commission

Budget Officer, Payroll—Room 1330, 12th & Constitution Avenue, NW., Washington, DC 20423 (202) 927–5827

JFK Assassination Records Review Board

General Counsel, 600 E Street, NW., Washington, DC 20530

Merit Systems Protection Board

Director, Human Resources Management Division, Office of Planning and Resource Management, 1120 Vermont Avenue, NW., Washington, DC 20419 (202) 653–5916

National Archives & Records Administration

Supervisory Personnel Staffing Specialist, Personnel Operations Branch, 9700 Page Avenue, Room 2002, St. Louis, MO 63132 (314) 538–4953

National Capital Planning Commission

General Counsel, 801 Pennsylvania Avenue, NW., Suite 301, Washington, DC 20576 (202) 724–0174

National Endowment for the Humanities

Deputy General Counsel, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 606–8322

National Science Foundation

General Counsel, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 306–1060

Nuclear Regulatory Commission

Chief, Policy and Labor Relations, Office of Personnel, Washington, DC 20555 (301) 415–7526

Nuclear Waste Technical Review Board

Administrative Officer, 1100 Wilson Blvd., Suite 910, Arlington, VA 22209 (703) 235–4473

Office of Special Counsel

Director for Management and Associate Special Counsel for Planning and Advice, 1730 M Street, NW., Suite 201, Washington, DC 20036–4505 (202) 653–9485

Peace Corps

Associate General Counsel, 1990 K Street, NW., Room 8300, Washington, DC 20526 (202) 606–3114

Pennsylvania Avenue Development Corporation

Director, Finance & Administration, Pennsylvania Avenue Development Corp., 1331 Pennsylvania Avenue, NW., Suite 1220 North, Washington, DC 20004–1703 (202) 724–9067

Pension Benefit Guaranty Corporation

General Counsel, 1200 K Street, NW., Washington, DC 20005–4026 (202) 326–4020

Resolution Trust Corporation

Payroll Specialist/Paralegal Specialist, 1717 H Street, NW., Washington, DC 20434 (202) 736–3095

Securities and Exchange Commission

Personnel Management Specialist, Office of Administrative & Personnel Management, 450 5th Street, NW. (Stop 2–3), Washington, DC 20549

Small Business Administration

Chief, Personnel/Payroll Systems Branch or Payroll Analyst, 409 3rd Street, SW., Suite 4200, Washington, DC 20416 (202) 205–6148 or (202) 205–6213

III. United States Postal Service

United States Postal Service

The United States Postal Service will cooperate with process servers in the service of process regarding private civil or criminal matters only when service is attempted in person on the subject employee at the employee's place of employment, in accordance with the provisions of 39 C.F.R. 243.2(g). Service of summonses and complaints, in private matters, by mail to either the agent or employees at their workstations is not permitted. The Postal Service agent will attempt to facilitate and assist personnel of child support enforcement agencies within the limitations imposed by the Privacy Act, 5 U.S.C. 552a and relevant Postal regulations. The requester must furnish the name and social security number of the person who is the subject to the inquiry.

Manager, Payroll Processing Branch, 1 Federal Drive, Ft. Snelling, MN 55111–9650 (612) 293–6300

[FR Doc. 96–32137 Filed 12–19–96; 8:45 am]

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Federal Register

Friday
December 20, 1996

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Federal Acquisition Circular 90–43]

Federal Acquisition Regulation; Introduction of Miscellaneous Amendments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document serves to introduce and relate together the interim and final rule documents which follow and which comprise Federal Acquisition Circular (FAC) 90–43. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to issue FAC 90–43 to amend the Federal Acquisition Regulation (FAR) to implement changes in the areas listed below. All references, in this FAC, to the Federal Acquisition Reform Act of 1996 (FARA) also include the Clinger/Cohen Act which FARA was subsequently named.

Item	Subject	FAR case	Analyst
I	FASA and the Walsh-Healey Public Contracts Act (Interim)	96–601	O'Neill.
II	Individual and Class Deviations	96–004	O'Neill.
III	Use of Data Universal Numbering System as Primary Contractor Identification (Interim)	95–307	Klein.
IV	Inapplicability of Cost Accounting Standards to Contracts and Subcontracts for Commercial Items	96–310	Olson.
V	Allowable Cost and Payment Clause	93–024	Olson.
VI	Mentor/Protégé Program	93–308	Klein.
VII	Minority Small Business and Capital Ownership (Interim)	95–028	Klein.
VIII	Extension of Small Business Competitiveness Demonstration Program	96–328	Moss.
IX	Morale, Health, Welfare Costs/Contractor Overhead Certification	92–613	Olson.
X	Impairment of Long-Lived Assets	95–003	Olson.
XI	Local Government Lobbying Costs (Interim)	96–003	Olson.
XII	Clause Flowdown	92–035	Olson.
XIII	Collection of FASA-Related Information within the Federal Procurement Data System	95–310	Klein.
XIV	Technical Amendments	N/A	N/A.

DATES: For effective dates and comment dates, see individual documents which appear elsewhere in this separate part.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in relation to each FAR case or subject area. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405 (202) 501–4755. Please cite FAC 90–43 and FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90–43 amends the Federal Acquisition Regulation (FAR) as specified below:

Case Summaries

For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Item I—FASA and the Walsh-Healey Public Contracts Act (FAR Case 96–601)

This interim rule amends the Federal Acquisition Regulation (FAR) to eliminate the requirement that covered contractors under the Walsh-Healey Public Contracts Act must be either the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract. Section 7201 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) amended the Walsh-Healey Public Contracts Act to repeal the ''manufacturer'' or ''regular dealer'' requirement.

Item II—Individual and Class Deviations (FAR Case 96–004)

This final rule amends the FAR to eliminate the requirements for all agencies to submit copies of approved individual deviations to the FAR Secretariat and for DOD and NASA to submit copies of approved class deviations to the FAR Secretariat.

Item III—Use of Data Universal Numbering System as Primary Contractor Identification (FAR Case 95–307)

This interim rule amends the FAR by adding a new solicitation provision at 52.204–6, and revising Standard Forms 294 and 295 to replace the Contractor Establishment Code with the Data Universal Numbering System number as the means of identifying contractors in the Federal Procurement Data System.

Item IV—Inapplicability of Cost Accounting Standards to Contracts and Subcontracts for Commercial Items (FAR Case 96–310)

This final rule amends FAR Part 12 to implement Section 4205 of the Clinger-Cohen Act of 1996 (Pub. L. 104–106) (formerly Federal Acquisition Reform Act (FARA)). Section 4205 amends 41 U.S.C. 422(f) to provide that the statutory requirement for mandatory use of Cost Accounting Standards (CAS) need not apply to contracts or subcontracts for the acquisition of commercial items. While CAS generally will not apply to acquisitions of commercial items, CAS requirements may be invoked as a matter of policy by the CAS Board, pursuant to the authority provided in 41 U.S.C. 422.

Item V—Allowable Cost and Payment Clause (FAR Case 93–024)

This final rule amends the FAR to clarify that reimbursement of subcontract costs under cost-type contracts generally will not be made to a large business contractor until the contractor has made payment to the subcontractor.

Item VI—Mentor/Protégé Program (FAR Case 93–308)

The interim rule published as Item X of FAC 90–37 is finalized with minor clarifying changes. The rule permits a mentor firm under the DOD Pilot Mentor/Protégé Program to be granted credit toward subcontracting goals for certain costs incurred in providing developmental assistance to its protégé firms, and to award subcontracts on a noncompetitive basis to its protégé firms.

Item VII—Minority Small Business and Capital Ownership (FAR Case 95–028)

This interim rule amends the FAR to reflect revisions to the Small Business Administration's regulations at 13 CFR Parts 121 and 124, which address the Minority Small Business and Capital Ownership Development Program. The rule clarifies eligibility and procedural requirements for procurements under the 8(a) Program.

Item VIII—Extension of Small Business Competitiveness Demonstration Program (FAR Case 96–328)

This final rule amends FAR Subpart 19.10 to implement Section 108, Title I (Amendments to Small Business Administration Act), of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–208). Section 108 extends the Small Business Competitiveness Demonstration Program (15 U.S.C. 644 note) until September 30, 1997.

Item IX—Morale, Health, Welfare Costs/Contractor Overhead Certification (FAR Case 92–613)

This final rule amends the cost principle at FAR 31.205–1, Public Relations and Advertising Costs, by removing from paragraph (f)(5) the parenthetical reference to other cost principles to eliminate any confusion as to which cost principle governs.

Item X—Impairment of Long-Lived Assets (FAR Case 95–003)

This final rule amends the FAR to clarify the cost allowability rules concerning the recognition of losses when carrying values of impaired assets are written down for financial reporting purposes.

Item XI—Local Government Lobbying Costs (FAR Case 96–003)

This interim rule amends the FAR to make allowable the costs of lobbying activities to influence local legislation in order to directly reduce contract costs or to avoid material impairment of the contractor's authority to perform the contract.

Item XII—Clause Flowdown (FAR Case 92–035)

This final rule amends the FAR by eliminating requirements for prime contractors to flow down clause provisions to their subcontractors or suppliers from FAR clauses 52.215–26, 52.216–5, 52.216–6, 52.216–16, 52.216–17, 52.222–1, 52.236–21, 52.244–2(i), 52.246–23, 52.246–24, and 52.246–25.

Item XIII—Collection of FASA-Related Information Within the Federal Procurement Data System (FAR Case 95–310)

This final rule amends the FAR to change the Standard Form 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and Standard Form 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report ($25,000 or Less), to incorporate new information categories required by the Federal Acquisition Streamlining Act of 1994.

Item XIV—Technical Amendments

These technical amendments have been made to correct typographical errors, FAR citations, and clause dates.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

Number 90–43

Federal Acquisition Circular (FAC) 90–43 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

FAR cases 96–601, 93–308, 95–307, 96–328, 95–310, 95–028 and 96–003 are effective December 20, 1996. FAR case 96–310 is effective January 1, 1997. FAR cases 96–004, 93–024, 92–613, 95–003 and 92–035 are effective February 18, 1997.

Dated: December 10, 1996.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: December 10, 1996.

Ada M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

Dated: December 10, 1996.

Tom Luedtke,

Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 96–32000 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Parts 1, 9, 14, 19, 22, 33, and 52

[FAC 90–43, FAR Case 96–601, Item I]

RIN 9000–AH31

Federal Acquisition Regulation; FASA and the Walsh-Healey Public Contracts Act

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to eliminate the requirement that covered contractors under the Walsh-Healey Public Contracts Act must be either the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract. Section 7201 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) amended the Walsh-Healey Public Contracts Act to repeal the ''manufacturer'' or ''regular dealer'' requirement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* December 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 18, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90–43, FAR case 96–601, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 96–601.

SUPPLEMENTARY INFORMATION:

A. Background

On August 5, 1996 (61 FR 40714), the Department of Labor (DOL) published a final rule implementing the changes

made by the Federal Acquisition Streamlining Act of 1994 (FASA) to the Walsh-Healey Public Contracts Act (PCA). The FAR is being revised at this time, consistent with the DOL final rule.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely amends the FAR to conform to revisions to DOL regulations reflecting repeal of the ''manufacturer'' and ''regular dealer'' requirements under the PCA. DOL has determined that the revisions to its regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, these conforming FAR amendments are not expected to have a significant economic impact. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR parts also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C 601, *et seq.* (FAR case 96–601), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment, because implementation of this change is required by Section 7201 of the Federal Acquisition Streamlining Act of 1994 and Department of Labor regulations. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Parts 1, 9, 14, 19, 22, 33, and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 1, 9, 14, 19, 22, 33, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 9, 14, 19, 22, 33, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

2. The table in section 1.106 is amended under the ''FAR Segment'' and ''OMB Control Number'' columns by removing the entry for ''22.606–2(b)''.

PART 9—CONTRACTOR QUALIFICATIONS

9.103 [Amended]

3. Section 9.103 paragraph (b) is amended in the third sentence by removing ''and Determinations of Eligibility''.

9.104–1 [Amended]

4. Section 9.104–1 is amended in paragraphs (a), (e), and (f) by revising the citation ''9.104–3(b)'' to read ''9.104–3(a)''; and in paragraph (c) by revising the citation ''9.104–3(c)'' to read ''9.104–3(b)''.

9.104–3 [Amended]

5. Section 9.104–3 is amended by removing paragraph (a), and by redesignating paragraphs (b) through (e) as (a) through (d), respectively.

9.702 [Amended]

6. Section 9.702 is amended by removing paragraph (d), and by redesignating paragraphs (e) and (f) as (d) and (e), respectively.

PART 14—SEALED BIDDING

14.205–1 [Amended]

7. Section 14.205–1(d)(2) is amended by removing ''(the manufacturer or regular dealer)''.

PART 19—SMALL BUSINESS PROGRAMS

19.001 [Amended]

8. Section 19.001 is amended by removing the definition for ''Determination of eligibility''.

19.102 [Amended]

9. Section 19.102(f)(1) is amended by removing the fifth sentence, and in the last sentence by removing ''regular dealer'' and inserting ''nonmanufacturer'' in its place.

Subpart 19.6—Certificates of Competency

10. The subpart heading for Subpart 19.6 is revised to read as set forth above.

19.601 [Amended]

11. Section 19.601 is amended by removing paragraph (c) and by redesignating paragraph (d) as (c).

19.803 [Amended]

12. Section 19.803(a)(3) is amended by removing the last sentence.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.601 [Reserved]

13. Section 22.601 is removed and reserved.

14. Section 22.602 is revised to read as follows:

22.602 Statutory requirements.

Except for the exemptions at 22.604, all contracts subject to the Walsh-Healey Public Contracts Act (the Act) (41 U.S.C. 35–45) and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation (all the stock of which is beneficially owned by the United States) for the manufacture or furnishing of materials, supplies, articles, and equipment (referred to in this subpart as supplies) in any amount exceeding $10,000, shall include or incorporate by reference the stipulations required by the Act pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, and safe and sanitary working conditions.

22.604–2 [Amended]

15. Section 22.604–2 is amended by removing paragraph (b) and by redesignating paragraph (c) as (b).

22.606 [Reserved]

22.606–1 and 22.606–2 [Removed]

16. Section 22.606 and subsections 22.606–1 and 22.606–2 are removed and 22.606 is reserved.

22.607 [Reserved]

17. Section 22.607 is removed and reserved.

18. Section 22.608 is revised to read as follows:

22.608 Procedures.

(a) *Award.* When a contract subject to the Act is awarded, the contracting officer, in accordance with regulations or instructions issued by the Secretary of Labor and individual agency procedures, shall furnish to the contractor DOL publication WH–1313, Notice to Employees Working on Government Contracts.

(b) *Breach of stipulation.* In the event of a violation of a stipulation required under the Act, the contracting officer shall, in accordance with agency procedures, notify the appropriate regional office of the DOL, Wage and Hour Division (see 22.609), and furnish any information available.

22.608–1 through 22.608–6 [Removed]

19. Subsections 22.608–1 through 22.608–6 are removed.

22.609 [Amended]

20.–21. Section 22.610 is revised to read as follows:

22.610 Contract clause.

The contracting officer shall insert the clause at 52.222–20, Walsh-Healey Public Contracts Act, in solicitations and contracts covered by the Act (see 22.603, 22.604, and 22.605).

PART 33—PROTESTS, DISPUTES, AND APPEALS

22. Section 33.102(a) is amended by revising the last sentence to read as follows:

33.102 General.

(a) * * * (See 19.302 for protests of small business status.)

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.219–14 [Amended]

23. Section 52.219–14 is amended by revising the clause date to read ''(DEC 1996)'' and in paragraph (b)(2) by removing ''regular dealer in'' and inserting ''nonmanufacturer of'' in its place.

52.222–19 [Reserved]

24. Section 52.222–19 is removed and reserved.

52.222–20 [Amended]

25. Section 52.222–20 is amended in the introductory text by revising ''22.610(b)'' to read ''22.610'', by revising the clause date to read ''(DEC 1996)'', and in paragraph (a) by twice removing ''representations and''.

[FR Doc. 96–32001 Filed 12–19–96; 8:45 am]

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48 CFR Part 1

[FAC 90–43; FAR Case 96–004; Item II]

RIN 9000–AH32

Federal Acquisition Regulation; Individual and Class Deviations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to eliminate the requirements for all agencies to submit copies of approved individual deviations to the FAR Secretariat, and for DOD and NASA to submit copies of approved class deviations to the FAR Secretariat. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 96–004.

SUPPLEMENTARY INFORMATION:

A. Background

DOD and NASA monitor approved deviations to the FAR and recommend revisions to the regulation as appropriate. Accordingly, collection of their deviations by the FAR Secretariat is no longer considered necessary. Furthermore, collection of individual deviations approved by all agencies is no longer considered necessary and is being deleted from the regulation.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR part will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–43, FAR case 96–004), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 1 is amended as set forth below:

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citation for 48 CFR Part 1 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 1.403 is amended by revising the last sentence to read as follows:

1.403 Individual deviations.

* * * The justification and agency approval shall be documented in the contract file.

3. Section 1.404 is amended by revising the last sentence of the introductory text to read as follows:

1.404 Class deviations.

* * * For civilian agencies other than NASA, a copy of each approved class deviation shall be furnished to the FAR Secretariat.

* * * * *

4. Section 1.405 is amended by revising paragraphs (d) and (e) to read as follows:

1.405 Deviations pertaining to treaties and executive agreements.

* * * * *

(d) For civilian agencies other than NASA, a copy of the text deviation authorized under paragraph (b) or (c) of this section shall be transmitted to the FAR Secretariat through a central agency control point.

(e) For civilian agencies other than NASA, if a deviation required to comply with a treaty or an executive agreement is not authorized by paragraph (b) or (c) of this section, then the request for deviation shall be processed through the FAR Secretariat to the Civilian Agency Acquisition Council.

[FR Doc. 96–32002 Filed 12–19–96; 8:45 am]

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48 CFR Parts 4, 52, and 53

[FAC 90-43, FAR Case 95-307, Item III]

RIN 9000-AH33

Federal Acquisition Regulation; Use of Data Universal Numbering System as Primary Contractor Identification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule which amends the FAR by adding a new solicitation provision at 52.204-6, and by revising Standard Forms 294 and 295, to replace the Contractor Establishment Code (CEC) with the Data Universal Numbering System (DUNS) number as the means of identifying contractors in the Federal Procurement Data System. This regulatory action was not subject to Office of Management and Budget (OMB) review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* December 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 18, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90-43, FAR case 95-307, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 95-307.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends FAR Parts 4, 52, and 53 (*i.e.*, block 2 of Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and SF 295, Summary Subcontract Report). Federal agencies report data to the Federal Procurement Data Center, which collects, processes, and disseminates official statistical data on Federal contracting.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely replaces the CEC with the DUNS number to identify contractors in the Federal Procurement Data System. It is estimated that it will take each contractor only 5 minutes to request a DUNS number from Dun and Bradstreet. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR parts also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR case 95-307), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) is deemed to apply because the interim rule contains information collection requirements. Contractors will now have to obtain/report a contractor identification number (i.e., DUNS number). Accordingly, a request for approval of a new information collection requirement has been submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. The Federal Procurement Data System (FPDS) reporting requirements are currently being revised to conform to the requirements of Section 10004 of the Federal Acquisition Streamlining Act of 1994 (FASA). This rule implements a determination made by the Office of Federal Procurement Policy to use the DUNS number for FPDS reporting purposes in place of the CEC and to identify vendors in the Federal Acquisition Computer Network (FACNET) vendor registration database. Agencies may begin reporting the DUNS number with FY 1996 first quarter submissions to the Federal Procurement Data Center. For this reason, and because of the interrelationship of this revision and the FASA-related changes to the FPDS, publication of an interim rule is considered necessary. However, pursuant to Pub. L. 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Parts 4, 52, and 53

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 4, 52, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

2. Section 4.602(d) is revised to read as follows:

4.602 Federal Procurement Data System.

* * * * *

(d) The contracting officer shall report a Contractor Identification Number for each successful offeror. A Data Universal Numbering System (DUNS) number, which is a nine-digit number assigned by Dun and Bradstreet Information Services to an establishment, is the Contractor Identification Number for Federal contractors. The DUNS number reported must identify the successful offeror's name and address exactly as stated in the offer and resultant contract. The contracting officer shall ask the offeror to provide its DUNS number by using the provision prescribed at 4.603(a). If the successful offeror does not provide its number, the contracting officer shall contact the offeror and obtain the DUNS number.

3. Section 4.603 is revised to read as follows:

4.603 Solicitation provisions.

(a) The contracting officer shall insert the provision at 52.204–6, Contractor Identification Number—Data Universal Numbering System (DUNS) Number, in solicitations that are expected to result in a requirement for the generation of an SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report (see 4.602(c)), or similar agency form.

(b) The contracting officer shall insert the provision at 52.204–5, Women-Owned Business, in all solicitations that are not set aside for small business concerns and that exceed the simplified acquisition threshold, when the contract

is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.204–5, introductory text, is revised to read as follows:

52.204–5 Women-Owned Business.

As prescribed in 4.603(b), insert the following provision:

* * * * *

5. Section 52.204–6 is added to read as follows:

52.204–6 Contractor Identification Number—Data Universal Numbering System (DUNS) Number.

As prescribed in 4.603(a), insert the following provision:

CONTRACTOR IDENTIFICATION NUMBER—DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (DEC 1996)

(a) *Contractor Identification Number,* as used in this provision, means ''Data Universal Numbering System (DUNS) number,'' which is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) Contractor identification is essential for complying with statutory contract reporting requirements. Therefore, the offeror is requested to enter, in the block with its name and address on the Standard Form 33 or similar document, the annotation ''DUNS'' followed by the DUNS number which identifies the offeror's name and address exactly as stated in the offer.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror should call Dun and Bradstreet at 1–800–333–0505. The offeror should be prepared to provide the following information:

(1) Company name.

(2) Company address.

(3) Company telephone number.

(4) Line of business.

(5) Chief executive officer/key manager.

(6) Date the company was started.

(7) Number of people employed by the company.

(8) Company affiliation.

(d) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at http://www.dbisna.com/dbis/customer/custlist.htm. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@dbisma.com.

(End of provision)

PART 53—FORMS

53.219 [Amended]

6. Section 53.219 is amended in paragraphs (a) and (b) by revising ''(Rev Oct 1995)'' to read ''(REV. 10/96)''.

7. Section 53.301–294 is revised to read as follows:

53.301–294 Subcontracting Report for Individual Contracts

BILLING CODE 6820–EP–P

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB No.: 9000-0006
Expires: 03/31/98

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED			3. DATE SUBMITTED
a. COMPANY NAME			
b. STREET ADDRESS			4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU:
c. CITY	d. STATE	e. ZIP CODE	☐ MAR 31 ☐ SEPT 30 YEAR
2. CONTRACTOR IDENTIFICATION NUMBER			5. TYPE OF REPORT ☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

☐ ARMY ☐ NAVY ☐ AIR FORCE ☐ GSA ☐ DOE ☐ DEFENSE LOGISTICS AGENCY ☐ NASA ☐ OTHER FEDERAL AGENCY *(Specify)*

7. REPORT SUBMITTED AS *(Check one and provide appropriate number)*		8. AGENCY OR CONTRACTOR AWARDING CONTRACT		
☐ PRIME CONTRACTOR	PRIME CONTRACT NUMBER	a. AGENCY'S OR CONTRACTOR'S NAME		
☐ SUBCONTRACTOR	SUBCONTRACT NUMBER	b. STREET ADDRESS		
9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS: ☐ DO INCLUDE INDIRECT COSTS ☐ DO NOT INCLUDE INDIRECT COSTS		c. CITY	d. STATE	e. ZIP CODE

SUBCONTRACT AWARDS

TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS *(Include SDB, WOSB, HBCU/MI) (Dollar Amount and Percent of 10c.)*				
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*				
10c. TOTAL *(Sum of 10a and 10b.)*				
11. SMALL DISADVANTAGED (SDB) CONCERNS *(Include HBCU/MI) (Dollar Amount and Percent of 10c.)*				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*				

13. REMARKS

14a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN	14b. TELEPHONE NUMBER	
	AREA CODE	NUMBER

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is not usable

STANDARD FORM 294 (REV. 10-96)
Prescribed by GSA-FAR (48 CFR) 53.219(a)

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This report is not required for commercial products for which a company-wide annual plan (i.e., **a Commercial Products Plan**) has been approved, nor from large businesses in the Department of Defense (DOD) **Test Program for Negotiation of Comprehensive Subcontracting Plans.** The Summary Subcontract Report (SF 295) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually during contract performance for the periods ended March 31st and September 30th. **A separate report is required for each contract at contract completion.** Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. **Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.**

5. Only subcontracts involving performance within the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands should be included in this report.

6. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. **Credit cannot be taken for awards made to lower tier subcontractors.**

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number availble that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and; (8) Company affiliation.

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated in this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. **A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7.** A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK 8: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 12. **To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the subcontracting plan included indirect costs in the goal.**

BLOCKS 10a through 12: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, and, WOSB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 13. The amounts entered in Blocks 10a through 12 should reflect the revised goals.) **Under "Actual Cumulative," enter actual subcontract achievements (dollar and percent) from the inception of the contract through the date of the report shown in Block 4.** In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs and WOSBs. **For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.**

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 and 12: Each of these items is a subcategory of Block 10a. **Note that in some cases the same dollars may be reported in both Block 11 and Block 12 (i.e., SDBs owned by women).**

BLOCK 11: Report all subcontracts awarded to SDBs **(including women-owned SDBs).** For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned firms **(including SDBs owned by women).**

BLOCK 13: Enter a short narrative explanation if (a) SB, SDB, or WOSB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the three goals was not met.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PRODUCTS PLANS

DEFINITIONS

1. Commercial products means products sold in substantial quantities to the general public and/or industry at established catalog or market prices.

2. Subcontract means a contract, purchase order, amendment, or other legal obligation executed by the prime contractor/subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

3. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

4. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

DISTRIBUTION OF THIS REPORT

For the Awarding Agency or Contractor:

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block 8. For contracts with DOD, a copy should also be provided to the Defense Logistics Agency (DLA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commerical Market Representative (CMR) at the time of a compliance review. **It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.**

STANDARD FORM 294 (REV. 10-96) **BACK**

BILLING CODE 6820-EP-C

8. Section 53.301–295 is revised to read as follows:

53.301–295 Summary Subcontract Report

BILLING CODE 6820–EP–P

SUMMARY SUBCONTRACT REPORT
(See instructions on reverse)

OMB No.: 9000-0007
Expires: 03/31/98

Public reporting burden for this collection of information is estimated to average 13 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED

a. COMPANY NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

2. CONTRACTOR IDENTIFICATION NUMBER

3. DATE SUBMITTED

4. REPORTING PERIOD:
☐ OCT 1 - MAR 31 ☐ OCT 1 - SEPT 30 YEAR

5. TYPE OF REPORT
☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

☐ ARMY ☐ NAVY ☐ AIR FORCE ☐ DEFENSE LOGISTICS AGENCY ☐ NASA ☐ GSA ☐ DOE ☐ OTHER FEDERAL AGENCY *(Specify)*

7. REPORT SUBMITTED AS *(Check one)*
☐ PRIME CONTRACTOR ☐ BOTH ☐ SUBCONTRACTOR

8. TYPE OF PLAN
☐ INDIVIDUAL ☐ COMMERCIAL PRODUCTS

IF PLAN IS A COMMERCIAL PRODUCT PLAN, SPECIFY THE PERCENTAGE OF THE DOLLARS ON THIS REPORT ATTRIBUTABLE TO THIS AGENCY. ▶

9. CONTRACTOR'S MAJOR PRODUCTS OR SERVICE LINES

a		c	
b		d	

CUMULATIVE FISCAL YEAR SUBCONTRACT AWARDS
(Report cumulative figures for reporting period in Block 4)

TYPE	WHOLE DOLLARS	PERCENT (To nearest tenth of a %)
10a. SMALL BUSINESS CONCERNS *(Include SDB, WOSB, HBCU/MI) (Dollar Amount and Percent of 10c.)*		
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*		
10c. TOTAL *(Sum of 10a and 10b.)*		
11. SMALL DISADVANTAGED (SDB) CONCERNS *(Dollar Amount and Percent of 10c.)*		
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*		
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)*		

14. REMARKS

15. CONTRACTOR'S OFFICIAL WHO ADMINISTERS SUBCONTRACTING PROGRAM

a. NAME | b. TITLE | c. TELEPHONE NUMBER (AREA CODE / NUMBER)

16. CHIEF EXECUTIVE OFFICER

a. NAME | c. SIGNATURE

b. TITLE | d. DATE

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is not usable

STANDARD FORM 295 (REV. 10-96)
Prescribed by GSA - FAR (48 CFR) 53.219(a)

GENERAL INSTRUCTIONS

1. **This report is not required from small businesses.**

2. **This form collects subcontract award data from prime contractors/subcontractors that:** (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) concerns under a subcontracting plan. **For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).**

3. **This report must be submitted semi-annually** (for the six months ended March 31st and the twelve months ended September 30th) **for contracts with the Department of Defense (DOD) and annually** (for the twelve months ended September 30th) **for contracts with civilian agencies,** except for contracts covered by an approved Commercial Products Plan (see special instructions in right-hand column). **Reports are due 30 days after the close of each reporting period.**

4. This report may be submitted on a corporate, company, or subdivision (e.g., plant or division operating on a separate profit center) basis, unless otherwise directed by the agency awarding the contract.

5. If a prime contractor/subcontractor is performing work for more than one Federal agency, **a separate report shall be submitted to each agency covering only that agency's contracts,** provided at least one of that agency's contracts is over $500,000 (over $1,000,000 for construction of a public facility) and contains a subcontracting plan. (Note that DOD is considered to be a single agency; see next instruction.)

6. **For DOD, a consolidated report should be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DOD prime contractors.** However, DOD contractors involved in construction and related maintenance and repair must submit a separate report for each DOD component.

7. Only subcontracts involving performance within the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands should be included in this report.

8. **Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.**

9. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. **Credit cannot be taken for awards made to lower tier subcontractors.**

10. See special instructions in right-hand column for Commercial Products Plans.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number availble that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and; (8) Company affiliation.

BLOCK 4: Check only one. Note that March 31 represents the six months from October 1st and that September 30th represents the twelve months from October 1st. Enter the year of the reporting period, (i.e., Mar

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. **A "Final" report should be checked only if the contractor has completed all the contracts containing subcontracting plans awarded by the agency to which it is reporting.** A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: This report encompasses all contracts with the Federal Government for the agency to which it is submitted, including subcontracts received from other large businesses that have contracts with the same agency. Indicate in this block whether the contractor is a prime contractor, subcontractor, or both (check only one).

BLOCK 8: Check only one. Check "Commercial Products Plan" only if this report is under an approved Commercial Products Plan. For a Commercial Products Plan, the contractor must specify the percentage of dollars in Blocks 10a through 13 attributable to the agency to which this report is being submitted.

BLOCK 9: Identify the major product or service lines of the reporting organization.

BLOCKS 10a through 13: These entries should include all subcontract awards resulting from contracts or subcontracts, regardless of dollar amount, received from the agency to which this report is submitted. If reporting as a subcontractor, report all subcontracts awarded under prime contracts. Amounts should include both direct awards and an appropriate prorated portion of indirect awards. (The indirect portion is based on the percentage of work being performed for the organization to which the report is being submitted in relation to other work being performed by the prime contractor/subcontractor.) Do not include awards made in support of commercial business unless "Commerical Products" is checked in Block 8 (see Special Instructions for Commercial products Plans in right hand column).

Report only those dollars subcontracted this fiscal year for the period indicated in Block 4.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs and WOSBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the grand total of all subcontracts (the sum of lines 10a and 10b).

BLOCKS 11 and 13: Each of these items is a subcategory of Block 10a. **Note that in some cases the same dollars may be reported on both Block 11 and Block 12** (i.e., SDBs owned by women); **likewise subcontracts to HBCUs or MIs should be reported on both Block 11 and 13.**

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned SDBs). **For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.**

BLOCK 12: Report all subcontracts awarded to Women-Owned Small Business firms (including SDBs owned by women).

BLOCK 13 (For contracts with DOD, NASA, and Coast Guard): Enter the dollar value of all subcontracts with HBCUs/MIs.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PRODUCTS PLANS

1. This report is due on October 30th each year for the previous fiscal year ended September 30th.

2. The annual report submitted by reporting organizations that have an approved company-wide annual subcontracting plan for commercial products shall include all subcontracting activity under commercial products plans in effect during the year and shall be submitted in addition to the required reports for other-than-commercial products, if any.

3. Enter in Blocks 10a through 13 the total of all subcontract awards under the contractor's Commercial Products Plan. **Show in Block 8 the percentage of this total that is attributable to the agency to which this report is being submitted.** This report must be submitted to each agency from which contracts for commercial products covered by an approved Commercial Products Plan were received.

DEFINITIONS

1. Commercial products means products sold in substantial quantities to the general public and/or industry at established catalog or market prices.

2. Subcontract means a contract, purchase order, amendment, or other legal obligation executed by the prime contractor/subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

3. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

4. Indirect Subcontract Awards are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

SUBMITTAL ADDRESSES FOR ORIGINAL REPORT

For DOD Contractors, send reports to the cognizant contract administration office as stated in the contract.

For Civilian Agency Contractors, send reports to awarding agency:

1. NASA: Forward reports to NASA, Office of Procurement (HC), Washington, DC 20546

2. OTHER FEDERAL DEPARTMENTS OR AGENCIES: Forward report to the OSDBU Director unless otherwise provided for in instructions by the Department or Agency.

FOR ALL CONTRACTORS:

SMALL BUSINESS ADMINISTRATION (SBA): Send "info copy" to the cognizant Commercial Market Representative (CMR) at the address provided by SBA. Call SBA Headquarters in Washington, DC at (202) 205-6475 for correct address if unknown.

STANDARD FORM 295 (REV. 10-96) BACK

[FR Doc. 96–32003 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–C

48 CFR Part 12

[FAC 90–43; FAR Case 96–310; Item IV]

RIN 9000–AH01

Federal Acquisition Regulation; Inapplicability of Cost Accounting Standards to Contracts and Subcontracts for Commercial Items

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement Section 4205 of the Clinger-Cohen Act of 1996 (Public Law 104–106) (formerly the Federal Acquisition Reform Act (FARA)). Section 4205 amends Section 26(f) of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 422(f)) by noting the current applicability of Cost Accounting Standards (CAS) to contracts and subcontracts for commercial items. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 96–310.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Part 12 to implement Section 4205 of the Clinger-Cohen Act of 1996 (Public Law 104–106). Section 4205 amends Section 26(f) of the OFPP Act (41 U.S.C. 422(f)), making the application of CAS to commercial items ''nonmandatory''. Therefore, the new coverage at FAR 12.214 indicates that CAS generally will not apply to commercial items unless so indicated at 48 CFR 9903.201. A cross-reference to FAR 12.214 is added at 12.503(c) and 12.504(c), to further clarify the effect of Section 4205.

A proposed rule was published in the Federal Register on June 21, 1996 (61 FR 32312). Three sources submitted comments in response to the proposed rule. All comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because contracts and subcontracts with small businesses are exempt from Cost Accounting Standards requirements.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 12

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 12 is amended as set forth below:

PART 12—ACQUISITION OF COMMERCIAL ITEMS

1. The authority citation for 48 CFR Part 12 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 12.214 is added to read as follows:

12.214 Cost Accounting Standards.

Cost Accounting Standards (CAS) generally will not apply to commercial items. If CAS does apply pursuant to 48 CFR 9903.201 (FAR Appendix B), the contracting officer shall insert the appropriate provisions and clauses as prescribed in that section.

3. Section 12.503(c)(3) is revised to read as follows:

12.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

* * * * *

(c) * * *

(3) 41 U.S.C. 422, Cost Accounting Standards (48 CFR chapter 99) (see 12.214).

* * * * *

4. Section 12.504(c)(3) is revised to read as follows:

12.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

* * * * *

(c) * * *

(3) 41 U.S.C. 422, Cost Accounting Standards (48 CFR chapter 99) (see 12.214).

[FR Doc. 96–32004 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Parts 16 and 52

[FAC 90–43; FAR Case 93–024; Item V]

RIN 9000–AG74

Federal Acquisition Regulation; Allowable Cost and Payment Clause

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to clarify that reimbursement of subcontract costs under cost-type contracts generally will not be made to a large business contractor until the contractor has made payment to the subcontractor. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 93–024.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of Federal Procurement Policy SWAT Team on Civilian Agency Contracting, in its report of December 3, 1992, entitled ''Improving Contracting Practices and Management Controls on Cost-Type Federal Contracts'', recommended several FAR revisions which were viewed to have Government-wide benefit. One area identified for clarification was the payment provisions in FAR clauses 52.216–7, Allowable Cost and Payment, and 52.232–7, Payments under Time-and-Materials and Labor-Hour

Contracts. The SWAT team concluded that these clauses did not clearly convey the Government's intent that payments to subcontractors by large business prime contractors were not billable to the Government until the contractor had actually paid the subcontractors.

This final rule amends FAR 52.216–7, Allowable Cost and Payment, and FAR 52.232–7, Payments under Time-and-Materials and Labor-Hour Contracts, to clarify that payments to subcontractors by large business prime contractors are not billable until the contractors have actually paid the subcontractors. The rule exempts, however, contractors who are awarded construction contracts that include the clauses at FAR 52.216–7, Allowable Cost and Payment, and FAR 52.232–27, Prompt Payment for Construction Contracts. Alternate I of FAR 52.216–7 provides for reimbursement of construction prime contractors for subcontract costs prior to the subcontractors actually being paid, as long as the prime contractor has included a provision in its subcontracts that requires that the subcontractor be paid within seven days of the prime contractor's receipt of payment from the Government.

A proposed rule was published in the Federal Register on December 21, 1995 (60 FR 66472). Five sources submitted public comments. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule only applies to large business prime contractors under time-and-materials, labor-hour, and cost-reimbursement type contracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 16 and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 16 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 16 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 16—TYPES OF CONTRACTS

2. Section 16.307(a) is amended by redesignating the text as paragraph (a)(1) and adding paragraph (a)(2) to read as follows:

§ 16.307 Contract clauses.

(a)(1) * * *

(2) If the contract is a construction contract and contains the clause at 52.232–27, Prompt Payment for Construction Contracts, the contracting officer shall use the clause at 52.216–7 with its Alternate I.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.216–7 is amended by revising the clause date and paragraph (b)(1)(iii), and by adding Alternate I to read as follows:

52.216–7 Allowable Cost and Payment.

* * * * *

ALLOWABLE COST AND PAYMENT (FEB 1997)

* * * * *

(b) * * *

(1) * * *

(iii) The amount of progress and other payments that have been paid by cash, check, or other form of payment to the Contractor's subcontractors under similar cost standards.

* * * * *

(End of clause)

Alternate I (FEB 1997). As prescribed in 16.307(a)(2), substitute the following paragraph (b)(1)(iii) for paragraph (b)(1)(iii) of the basic clause:

(iii) The amount of progress and other payments to the Contractor's subcontractors that either have been paid, or that the Contractor is required to pay pursuant to the clause of this contract entitled ''Prompt Payment for Construction Contracts.'' Payments shall be made by cash, check, or other form of payment to the Contractor's subcontractors under similar cost standards.

4. Section 52.232–7 is amended by revising the clause date and the second sentence of paragraph (b)(2) to read as follows:

§ 52.232–7 Payments under Time-and-Materials and Labor-Hour Contracts.

* * * * *

PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (FEB 1997)

* * * * *

(b) * * *

(2) * * * Reimbursable costs in connection with subcontracts shall be limited to the amounts paid to the subcontractor for items and services purchased directly for the contract only when cash, checks, or other form of payment has been made for such purchased items or services; however, this requirement shall not apply to a Contractor that is a small business concern.* * *

* * * * *

[FR Doc. 96–32005 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Parts 19 and 52

[FAC 90–43; FAR Case 93–308; Item VI]

RIN 9000–AG70

Federal Acquisition Regulation; Mentor Protégé Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final with a change.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule continuing an interim rule which amended the FAR. The interim rule published as Item X of FAC 90–37 is finalized with minor clarifying revisions. This final rule permits a mentor firm under the DOD Pilot Mentor-Protégé Program to be granted credit toward subcontracting goals for certain costs incurred in providing developmental assistance to its Protég3 firms and to award subcontracts on a noncompetitive basis to its Protégé firms. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 93–308.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements Section 814(c) of Public Law 102–190, which amended

the Small Business Act at 15 U.S.C. 637(d)(11) to authorize certain costs incurred by mentor firms under the DOD Pilot Mentor-Protégé Program to be credited toward subcontracting goals for awards to small disadvantaged businesses. This rule also further implements Section 831(f)(2) of Public Law 101–510, which permits mentor firms to award subcontracts on a noncompetitive basis to its Protégés under DOD or other contracts. An interim rule was published in the Federal Register on January 26, 1996 (61 FR 2637). One comment was received in response to the interim rule. As a result, in the second sentence of 19.702(d), the word ''firms'' was revised to read ''Protégé agreement'', and the address and telephone number were corrected. The clause at 52.244–5 is adopted as final without change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule only applies to participants in the DOD Pilot Mentor-Protégé Program. Presently, approximately 100 mentor firms and 240 protégé firms are enrolled in the program.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Accordingly, the interim rule amending 48 CFR Parts 19 and 52 and published at 61 FR 2637, January 26, 1996, is adopted as a final rule with the following changes:

1. The authority citation for 48 CFR Parts 19 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19–SMALL BUSINESS PROGRAMS

2. Section 19.702 is amended by revising the last sentence of paragraph (d) to read as follows:

§ 19.702 Statutory requirement.

* * * * *

(d) * * * However, the mentor-Protégé agreement must have been approved by the Office of Small and Disadvantaged Business Utilization, Office of the Deputy Under Secretary of Defense (International and Commercial Programs) DUSD(I&CP)SADBU, Room 2A338, 3061 Defense Pentagon, Washington, DC 20301–3061, (703) 697–9383, before developmental assistance costs may be credited against subcontract goals.

PART 52–SOLICITATION PROVISIONS AND CONTRACT CLAUSES

§ 52.244–5 [Amended]

3. The clause date for 52.244–5 is revised to read ''(DEC 1996)''.

[FR Doc. 96–32006 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

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48 CFR Parts 19 and 52

[FAC 90–43, FAR Case 95–028, Item VII]

RIN 9000–AH34

Federal Acquisition Regulation; Minority Small Business and Capital Ownership

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule that amends the Federal Acquisition Regulation (FAR) to reflect changes to the Small Business Administration's (SBA) regulations at 13 CFR Parts 121 and 124, which address the Minority Small Business and Capital Ownership Development Program. The rule clarifies eligibility and procedural requirements for procurements under the 8(a) Program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* December 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 18, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–43, FAR case 95–028, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 95–028.

SUPPLEMENTARY INFORMATION:

A. Background

On June 7, 1995, SBA published changes in their regulations at 13 CFR Parts 121 and 124, which cover the Minority Small Business and Capital Ownership Development Program (60 FR 29969). As a result of these modifications, the FAR has some inconsistencies regarding who is eligible for a particular 8(a) procurement. Amended FAR sections include: 19.801, 19.804–2, 19.804–3, 19.805–1, 19.805–2, 19.808–1, 19.809, 19.811–1, 19.811–3, 52.219–1, 52.219–11 (Alternate I), 52.219–12 (Alternate I), 52.219–17, and 52.219–18 (Alternate II).

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This rule does not impose any new requirements on contractors. The rule amends the FAR to reflect changes at 13 CFR 121 and 124 designed to streamline the operation of the 8(a) program and to ease certain restrictions perceived to be burdensome on Program Participants. The FAR is changed to eliminate inconsistencies with respect to who is eligible for particular 8(a) procurements; to eliminate obsolete definitions; and to eliminate coverage on certain aspects of the 8(a) program that are obsolete. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR parts also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C

601, *et seq.* (FAR case 95–028), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary in order to implement the changes in the Small Business Administration (SBA) Minority Small Business and Capital Ownership Development Program that are applicable for all 8(a) requirements accepted by the SBA on or after August 7, 1995. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 19 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19—SMALL BUSINESS PROGRAMS

19.801 [Reserved]

2. Section 19.801 is removed and reserved.

3. Section 19.804–2 is amended by revising paragraph (b) and adding (c) to read as follows:

19.804–2 Agency offering.

* * * * *

(b)(1) An agency offering a construction requirement should submit it to the SBA District Office for the geographical area where the work is to be performed.

(2) Sole source requirements, other than construction, should be forwarded directly to the district office that services the nominated firm. If the contracting officer is not nominating a specific firm, the offering letter should be sent to SBA Headquarters, Office of Minority and Capital Ownership Development, 409 3rd Street, SW, Washington, DC 20416.

(c) In order to ensure consistency and uniformity, all requirements for 8(a) competition shall be offered to and processed by the Division of Business Development, SBA Headquarters. All requirements, including construction, shall be synopsized in the Commerce Business Daily by the cognizant procuring agency. For construction, the synopsis shall include the geographical area of the competition as determined by the Assistant Administrator, Division of Business Development, in consultation with the local SBA district office where the work is to be performed.

19.804–3 [Amended]

4. Section 19.804–3 is amended by removing paragraph (c).

5. Section 19.805–1 is amended by redesignating paragraph (c) as (d) and revising the last sentence, and by adding a new paragraph (c). The added and revised text reads as follows:

19.805–1 General.

* * * * *

(c) A proposed 8(a) requirement with an estimated value exceeding the applicable competitive threshold amount shall not be divided into several requirements for lesser amounts in order to use 8(a) sole source procedures for award to a single firm.

(d) * * * Agency recommendations for competition below the threshold may be included in the offering letter or may be submitted by separate correspondence to the SBA Headquarters.

6. Section 19.805–2 is amended by revising the introductory text of paragraph (c) to read as follows:

19.805–2 Procedures.

* * * * *

(c) The SBA will determine the eligibility of the firms for award of the contract. Eligibility will be determined by the SBA as of the time of submission of initial offers which include price. Eligibility is based on Section 8(a) Program criteria.

* * * * *

7. Section 19.808–1(b) is revised to read as follows:

19.808–1 Sole source.

* * * * *

(b) The SBA should participate, whenever practicable, in negotiating the contracting terms. When mutually agreeable, the SBA may authorize the contracting activity to negotiate directly with the 8(a) contractor. Whether or not direct negotiations take place, the SBA is responsible for approving the resulting contract before award.

8. Section 19.809 is amended by revising the fourth sentence to read as follows:

19.809 Preaward considerations.

* * * Within 15 working days of the receipt of the referral or a longer period agreed to by the SBA and the contracting activity, the SBA local district office that services the 8(a) firm will advise the contracting officer as to the SBA's willingness to certify its competency to perform the contract using the 8(a) concern in question as its subcontractor. * * *

19.811–1 [Amended]

9. Section 19.811–1 is amended by removing paragraph (b)(5).

10. Section 19.811–3 is amended by revising paragraphs (a), (b), and (d)(1); by removing (d)(2); and by redesignating (d)(3) as (d)(2), and in newly-designated (d)(2) by revising ''Alternate III'' to read ''Alternate II''. The revised text reads as follows:

19.811–3 Contract clauses.

(a) The contracting officer shall insert the clause at 52.219–11, Special 8(a) Contract Conditions, in contracts between the SBA and the agency when the acquisition is accomplished using the procedures of 19.811–1(a) and (b).

(b) The contracting officer shall insert the clause at 52.219–12, Special 8(a) Subcontract Conditions, in contracts between the SBA and its 8(a) contractor when the acquisition is accomplished using the procedures of 19.811–1(a) and (b).

* * * * *

(d) * * *

(1) The clause at 52.219–18 with its Alternate I will be used when competition is to be limited to 8(a) concerns within one or more specific SBA districts pursuant to 19.804–2.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

11. Section 52.219–1 is amended by revising the provision date, and in paragraph (c) by adding, in alphabetical order, the definition for ''Joint venture'' to read as follows:

52.219–1 Small Business Program Representations.

* * * * *

SMALL BUSINESS PROGRAM REPRESENTATIONS (DEC 1996)

* * * * *

(c) *Definitions. Joint venture,* for purposes of a small disadvantaged business (SDB) set-aside or price evaluation preference (as prescribed at 13 CFR 124.321), is a concern that is owned and controlled by one or more socially and economically disadvantaged individuals entering into a joint venture agreement with one or more business concerns and is considered to be affiliated for size purposes with such other concern(s). The combined annual receipts or employees of the concerns entering into the joint venture must meet the applicable size standard corresponding to the SIC code designated for the contract. The majority of the venture's earnings must accrue directly to the socially and economically disadvantaged individuals in the SDB concern(s) in the joint venture. The percentage of the ownership involvement in a joint venture by disadvantaged individuals must be at least 51 percent.

* * * * *

(End of provision)

52.219–11 [Amended]

12. Section 52.219–11 is amended by removing Alternate I.

52.219–12 [Amended]

13. Section 52.219–12 is amended by removing Alternate I.

14. Section 52.219–17 is amended by revising the clause date and by adding paragraphs (a)(5) and (c) to read as follows:

52.219–17 Section 8(a) Award.

* * * * *

SECTION 8(a) AWARD (DEC 1996)

(a) * * *

(5) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the cognizant Contracting Officer under the ''Disputes'' clause of the subcontract.

* * * * *

(c) The offeror/subcontractor agrees that it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the cognizant Contracting Officer of the _____ [*insert name of contracting agency*].

(End of clause)

52.219–18 [Amended]

15. Section 52.219–18 is amended by removing Alternate II and by redesignating Alternate III as Alternate II.

[FR Doc. 96–32007 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Part 19

[FAC 90–43; FAR Case 96–328; Item VIII]

RIN 9000–AH40

Federal Acquisition Regulation; Extension of Small Business Competitiveness Demonstration Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement Section 108 of the Small Business Programs Improvement Act of 1996 (Public Law 104–208, Division D). Section 108 extends the Small Business Competitiveness Demonstration Program (15 U.S.C. 644 note) until September 30, 1997. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss at (202) 501–4764 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 96–328.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the FAR to extend the Small Business Competitiveness Demonstration Program through September 30, 1997. The program consists of two major components: a test of unrestricted competition in four designated industry groups, and a test of enhanced small business participation in 10 agency targeted industry categories. The rule implements section 108, Title I (Amendments to Small Business Administration Act), of Public Law 104–208. Section 108 was effective upon enactment (September 30, 1996).

B. Regulatory Flexibility Act

This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must cite 5 U.S.C. 601, *et seq.* (FAC 90–43, FAR case 96–328), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 19 is amended as set forth below:

PART 19—SMALL BUSINESS PROGRAMS

1. The authority citation for 48 CFR Part 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

19.1001 [Amended]

2. Section 19.1001 is amended in the second sentence by revising the date ''1996'' to read ''1997''.

19.1006 [Amended]

3. Section 19.1006(b)(1) is amended by revising the date ''1996'' to read ''1997''.

[FR Doc. 96–32008 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Part 31

[FAC 90–43; FAR Case 92–613; Item IX]

RIN 9000–AG85

Federal Acquisition Regulation; Morale, Health, Welfare Costs/ Contractor Overhead Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) cost principle for public relations and

advertising costs to eliminate confusion as to which cost principle governs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 92–613.

SUPPLEMENTARY INFORMATION:

A. Background

The General Accounting Office (GAO), in its report GAO/NSIAD–93–79, ''CONTRACT PRICING: Unallowable Costs Charged to Defense Contracts'', dated November 20, 1992, recommended that the cost principles at FAR 31.205–1, 31.205–13, and 31.205–14 be revised to eliminate confusion as to which cost principle was controlling. The December 1992 OMB SWAT summary report on civilian agency contracting practices also recommended these cost principles be made more explicit.

Revisions to FAR 31.205–13 and 31.205–14, based on recommendations of the GAO and OMB SWAT, and implementation of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355, were published as a final rule in the Federal Register (60 FR 42662) on August 16, 1995.

This final rule amends the third cost principle cited in the GAO and the OMB SWAT reports. The rule amends the cost principle at FAR 31.205–1, Public relations and advertising costs, by removing from paragraph (f)(5) the parenthetical reference to other cost principles to eliminate any confusion as to which cost principle governs. A proposed rule was published in the Federal Register on March 29, 1996 (61 FR 14216). Two sources submitted public comments. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the FAR cost principles.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: September 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–1(f)(5) is revised to read as follows:

31.205–1 Public relations and advertising costs.

* * * * *

(f) * * *

(5) Costs of promotional material, motion pictures, videotapes, brochures, handouts, magazines, and other media that are designed to call favorable attention to the contractor and its activities.

* * * * *

[FR Doc. 96–32009 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

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48 CFR Part 31

[FAC 90–43; FAR Case 95–003; Item X]

RIN 9000–AG73

Federal Acquisition Regulation; Impairment of Long-Lived Assets

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as a final rule with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to amend the Federal Acquisition Regulation (FAR) to clarify the cost allowability rules concerning the recognition of losses when carrying values of impaired assets are written down for financial reporting purposes. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 95–003.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule clarifies that impairment losses recognized for financial accounting purposes under the Financial Accounting Standards Board Statement of Financial Accounting Standards (SFAS), No. 121, Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed of, dated March 1995, are not allowable for Government contract costing.

The SFAS applies to long-lived assets (such as land, buildings, and equipment), certain identifiable intangibles, and related goodwill. If impaired assets are to be held for use, the SFAS requires a write-down to fair value when events or circumstances (*e.g.*, environmental damage, idle facilities arising from declining business, etc.) indicate that carrying values may not be fully recoverable. Once written down, the previous carrying amount of an impaired asset could not be restored if the impairment were subsequently removed.

In contrast to the SFAS provisions, Cost Accounting Standard (CAS) 9904.409, Depreciation of Tangible Capital Assets, provides quite different criteria and guidance to recognize gains and losses for Government contract purposes. The language at CAS 9904.409–40 (a)(4) and (b)(4), CAS 9904.409–50(j), and related Promulgation Comment 10, Gain or Loss, makes it clear that gains and loses are recognized only upon asset disposal; no other circumstances trigger such recognition. The language at CAS 9904.409–50(i) makes it clear that changes in depreciation may result from other permissible causes, *e.g.*, changes in estimated service life, consumption of services, and residual value.

This final rule amends FAR 31.205–11, Depreciation, and 31.205–16, Gains and Losses on Disposition or

Impairment of Depreciable Property or Other Capital Assets, to clarify that these subsections reflect the CAS provisions that an asset be disposed of in order to recognize a gain or loss. Consequently, for Government contract purposes, (1) an impairment loss is recognized only upon disposal of the impaired asset and is measured, like other losses, as the difference between the net amount realized and the impaired asset's undepreciated balance; (2) Government contractors recover the carrying values of impaired assets held for use by retaining pre-write-down depreciation or amortization schedules as though no impairment had occurred; and (3) changes in depreciation are allowable from other permissible causes.

An interim rule was published in the Federal Register on December 14, 1995 (60 FR 64254). Four sources submitted public comments. All comments were considered in developing this final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis and do not require application of the FAR cost principles.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: September 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Accordingly, the interim rule amending 48 CFR Part 31 and published at 60 FR 64254, December 14, 1995, is adopted as a final rule with the following changes:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–11(o) is revised to read as follows:

31.205–11 Depreciation.

* * * * *

(o) In the event of a write-down from carrying value to fair value as a result of impairments caused by events or changes in circumstances, allowable depreciation of the impaired assets shall be limited to the amounts that would have been allowed had the assets not been written down (see 31.205–16(g)). However, this does not preclude a change in depreciation resulting from other causes such as permissible changes in estimates of service life, consumption of services, or residual value.

3. Section 31.205–16(g) is revised to read as follows:

31.205–16 Gains and losses on disposition or impairment of depreciable property or other capital assets.

* * * * *

(g) With respect to long-lived tangible and identifiable intangible assets held for use, no loss shall be allowed for a write-down from carrying value to fair value as a result of impairments caused by events or changes in circumstances (*e.g.*, environmental damage, idle facilities arising from a declining business base, etc.). If depreciable property or other capital assets have been written down from carrying value to fair value due to impairments, gains or losses upon disposition shall be the amounts that would have been allowed had the assets not been written down.

[FR Doc. 96–32010 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

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48 CFR Part 31

[FAC 90–43, FAR Case 96–003, Item XI]

RIN 9000–AH35

Federal Acquisition Regulation; Local Government Lobbying Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule to amend the Federal Acquisition Regulation (FAR) to make allowable the costs of lobbying activities to influence local legislation in order to directly reduce contract costs or to avoid material impairment of the contractor's authority to perform the contract. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: Effective Date: December 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 18, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90–43, FAR case 96–003, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 96–003.

SUPPLEMENTARY INFORMATION:

A. Background

Sections 2101 and 2151 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (FASA) added to the lists of unallowable costs found at 10 U.S.C. 2324(e)(1) and 41 U.S.C. 256, the costs of lobbying the legislative body of a political subdivision of a state (i.e., local lobbying). As a result, under FAR Case 94–754 (60 FR 42659, August 16, 1995), FAR 31.205–22(a) (3) and (4) were revised to make unallowable the costs associated with any attempt to influence local legislation. The paragraph at FAR 31.205–22(b) contains a list of activities exempted from the provisions at 31.205–22(a). Included in the exempted activities are lobbying activities to influence state legislation in order to directly reduce contract costs, or to avoid material impairment of the contractor's authority to perform the contract. This interim rule amends FAR 31.205–22(b)(2) to treat lobbying activities to influence local legislation in a manner consistent with the treatment of lobbying activities to influence state legislation.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*,

because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis and do not require application of the FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR part also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C 601, *et seq.,* (FAR case 96–003), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to fully implement Sections 2101 and 2151 of the Federal Acquisition Streamlining Act of 1994 with regard to the allowability of lobbying costs to influence local legislation. However, pursuant to Pub. L. 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Part 31:

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–22(b)(2) is revised to read as follows:

31.205–22 Lobbying and political activity costs.

* * * * *

(b) * * *

(2) Any lobbying made unallowable by paragraph (a)(3) of this subsection to influence state or local legislation in order to directly reduce contract cost, or to avoid material impairment of the contractor's authority to perform the contract.

* * * * *

[FR Doc. 96–32011 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Parts 46 and 52

[FAC 90–43; FAR Case 92–035; Item XII]

RIN 9000–AG76

Federal Acquisition Regulation; Clause Flowdown

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to amend the Federal Acquisition Regulation (FAR) to reduce the number of contract clauses requiring flowdown to subcontractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 92–035.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils conducted an extensive review of all FAR clauses requiring flowdown to subcontractors in an effort to eliminate any unnecessary flowdown requirements. This final rule eliminates the requirement for flowdown of the clauses at FAR 52.215–26, 52.216–5, 52.216–6, 52.216–16, 52.216–17, 52.222–1, 52.236–21, 52.244–2, 52.246–23, 52.246–24, and 52.246–25.

A proposed rule was published in the Federal Register on December 27, 1995, at 60 FR 67024. Three sources submitted public comments. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because elimination of the mandatory flowdown requirements from the amended FAR clauses does not eliminate the ability of prime contractors and subcontractors to agree to similar clauses in appropriate circumstances.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose any new recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 46 and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 46 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 46 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 46—QUALITY ASSURANCE

46.806 [Removed]

2. Section 46.806 is removed.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215–26 [Amended]

3. Section 52.215–26 is amended by revising the clause date to read ''(FEB 1997)'', and by removing paragraph (d).

4. Section 52.216–5 is amended by revising the introductory paragraph, the clause date, and paragraph (i) to read as follows:

52.216–5 Price Redetermination—Prospective.

As prescribed in 16.205–4, insert the following clause:

PRICE REDETERMINATION—PROSPECTIVE (FEB 1997)

* * * * *

(i) *Subcontracts.* No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

5. Section 52.216–6 is amended by revising the clause date and paragraph (h) to read as follows:

52.216–6 Price Redetermination—Retroactive.

* * * * *

PRICE REDETERMINATION—RETROACTIVE (FEB 1997)

* * * * *

(h) *Subcontracts.* No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

6. Section 52.216–16 is amended by revising the introductory paragraph, the clause date, and paragraph (h) to read as follows:

52.216–16 Incentive Price Revision—Firm Target.

As prescribed in 16.405(a), insert the following clause:

INCENTIVE PRICE REVISION—FIRM TARGET (FEB 1997)

* * * * *

(h) *Subcontracts.* No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

* * * * *

7. Section 52.216–17 is amended by revising the introductory paragraph, the clause date, and paragraph (j) to read as follows:

52.216–17 Incentive Price Revision—Successive Targets.

As prescribed in 16.405(b), insert the following clause:

INCENTIVE PRICE REVISION—SUCCESSIVE TARGETS (FEB 1997)

* * * * *

(j) *Subcontracts.* No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

* * * * *

8. Section 52.222–1 is amended by revising the introductory paragraph and the clause date; by removing the paragraph designation ''(a)''; and by removing paragraph (b). The revised text reads as follows:

52.222–1 Notice to the Government of Labor Disputes.

As prescribed in 22.103–5(a), insert the following clause:

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

* * * * *

(End of clause)

52.236–21 [Amended]

9. Section 52.236–21 is amended by revising the clause date to read ''(FEB 1997)'', and by removing paragraph (h).

52.244–2 [Amended]

10. Section 52.244–2 is amended by revising the clause date to read ''(FEB 1997)'', by removing paragraph (i); and by redesignating paragraphs (j) and (k) as (i) and (j), respectively.

52.246–23 [Amended]

11. Section 52.246–23 is amended by revising the clause date to read ''(FEB 1997)'', and by removing paragraph (d).

52.246–24 [Amended]

12. Section 52.246–24 is amended by revising the clause date to read ''(FEB 1997)'', and by removing paragraphs (f) and (g).

52.246–25 [Amended]

13. Section 52.246–25 is amended by revising the clause date to read ''(FEB 1997)'', and by removing paragraph (d).

[FR Doc. 96–32012 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

48 CFR Part 53

[FAC 90–43; FAR Case 95–310; Item XIII]

RIN 9000–AH36

Federal Acquisition Regulation; Collection of FASA-Related Information Within the Federal Procurement Data System

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to change the Standard Form 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and Standard Form 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report ($25,000 or Less), to incorporate new information categories required by the Federal Acquisition Streamlining Act of 1994. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 95–310.

SUPPLEMENTARY INFORMATION:

A. Background

FASA added several new categories of information which agencies must be able to access from a computer file. The SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and the SF 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report ($25,000 or Less), are used to collect that information and transmit it to the appropriate agency information management system. The forms are being amended to reflect the new information requirements and make minor administrative corrections.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR part will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–43, FAR case 95–310), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 53

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 53 is amended as set forth below:

PART 53—FORMS

1. The authority citation for 48 CFR Part 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

53.204–2 [Amended]

2. Section 53.204–2 is amended in paragraphs (a) and (b) by revising ''(REV. 10/89)'' and ''(REV. 10/88)'' to read ''(REV. 5/96)''.

3. In 53.301–279, Standard Form 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, is revised to read as follows:

53.301–279 SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report

BILLING CODE 6820–EP–P

FEDERAL PROCUREMENT DATA SYSTEM (FPDS) INDIVIDUAL CONTRACT ACTION REPORT

INTERAGENCY REPORT CONTROL NUMBER 0206-GSA-QU

1. REPORTING AGENCY CODE (FIPS 95)(Pos. 1-4)	2. CONTRACT NUMBER (Left justified with no special characters) (Pos. 5-19)	3. MODIFICATION NUMBER (Left justified; cannot exceed 4 characters) (Pos. 20-23)	4. CONTRACTING OFFICE ORDER NUMBER (Left justified; cannot exceed 15 characters) (Pos. 24-38)

5. CONTRACTING OFFICE CODE (5 alpha-numeric character code) (Pos. 39-43)	6. ACTION DATE (2 digit calendar year and 2 digit month, e.g., 9612) (Pos. 44-47)	7. TYPE OF DATA ENTRY (Pos. 48)	8. REPORT PERIOD (2 digit fiscal year and 1 digit quarter, e.g., 961) (Pos. 49-51)
		A. Original B. Deleting C. Correcting	

9. KIND OF CONTRACT ACTION (Pos. 52)

A. Initial Letter Contract
B. Definitive Contract Superseding Letter Contract
C. New Definitive Contract
D. Purchases Using Simplified Acquisition Procedures
E. Order Under Single Award Indefinite Delivery Contract
F. Order Under BOA
G. Order/Modification Under Federal Schedule
H. Modification
J. Termination for Default
K. Termination for Convenience
L. Order Under Multiple Award Contract
Z. Initial Load of Federal Schedule Contract

10. DOLLARS OBLIGATED OR DEOBLIGATED THIS ACTION (Right justified; round to nearest 1000; use lead zeros) (Pos. 53-60)

11. TYPE OF OBLIGATION (Pos. 61)
A. Obligated
B. Deobligated

12. PRINCIPAL PRODUCT OR SERVICE (FPDS Product Service Code Manual) (Pos. 62-65)

13. PRINCIPAL STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE (OMB SIC Manual) (Pos. 66-69)	14. COMMERCIAL ITEM ACQUISITION (Pos. 70) Y - Yes N - No	15. CONTRACTOR NAME (Pos. 71-100)

16. CONTRACTOR IDENTIFICATION NUMBER (Pos. 101-109)	17a. PRINCIPAL PLACE OF PERFORMANCE (State and City Code FIPS 55) (Pos. 110-116) STATE / CITY	17b. FOREIGN COUNTRY (FIPS 10-3) (Pos. 117 & 118)	18. CONTRACT FOR FOREIGN GOVT. OR INTERNATIONAL ORGANIZATION (Pos. 119) Y - Yes N - No	19. TARIFF OR REGULATED (Pre-CICA) (Pos. 120) Y - Yes N - No

20. MULTI-YEAR CONTRACT (Pos. 121) Y - Yes N - No	21. RESERVED FOR FPDS (Pos. 122-123)	22. COUNTRY OF MANUFACTURE (FIPS 10-3) (Pos. 124-126)	23. SYNOPSIS OF PROCUREMENT PRIOR TO AWARD (Pos. 126) A. Synopsized prior to award B. Not synopsized due to urgency C. Not synopsized for other reason	24. TYPE OF CONTRACT OR MODIFICATION (Pos. 127) A. Fixed-Price Redetermination J. Fixed-Price K. Fixed-Price with Economic Price Adjustment L. Fixed-Price Incentive R. Cost-Plus-Award-Fee S. Cost - No Fee T. Cost-Sharing U. Cost-Plus-Fixed-Fee V. Cost-Plus-Incentive Y. Time and Materials Z. Labor Hour

25. CICA APPLICABILITY (Pos. 128)
A. CICA Applicable
B. Purchases Using Simplified Acquisition Procedures
C. Subject to Statute Other Than CICA
D. Pre-CICA

26. SOLICITATION PROCEDURES (Complete only if Item 25 = A) (Pos. 129)
A. Full and Open Competition - Sealed Bid
B. Full and Open Competition - Competitive Proposal
C. Full and Open Competition - Combination
D. Architect - Engineer
E. Basic Research
F. Multiple Award Schedule
G. Alternative Sources
H. Reserved
J. Reserved
K. Set-Aside
L. Other Than Full and Open Competition

27. AUTHORITY FOR OTHER THAN FULL AND OPEN COMPETITION (Complete only if Item 26 = L) (Pos. 130)
A. Unique Source
B. Follow-on Contract
C. Unsolicited Research Proposal
D. Patent/Data Rights
E. Utilities
F. Standardization
G. Only One Source - Other
H. Urgency
J. Mobilization, Essential R&D Capability, or Expert Services
K. Reserved
L. International Agreement
M. Authorized by Statute
N. Authorized for Resale
P. National Security
Q. Public Interest

28. NUMBER OF OFFERS RECEIVED (Complete only if Item 25 = A) (Pos. 131)
A. 1
B. 2-5
C. 6-10
D. 11-15
E. 16-20
F. 21-50
G. Over 50

29. EXTENT COMPETED (Pos. 132)
A. Competed Action
B. Not Available for Competition
C. Follow-on to Competed Action
D. Not Competed

30. TYPE OF CONTRACTOR (Pos. 133)
A. Small Disadvantaged Business
B. Other Small Business
C. Large Business
D. JWOD Nonprofit Agency
E. Nonprofit Educational Organization
F. Nonprofit Hospital
G. Other Nonprofit Organization
H. State/Local Govt - Educational
J. State/Local Govt - Hospital
K. Other State/Local Government
L. Foreign Contractor
M. Domestic Contractor Performing Outside U.S.
U. Historically Black College/University or Minority Institution (HBCU/MI)

31. WOMEN-OWNED BUSINESS (Pos. 134)
Y - Yes
N - No

32. PREFERENCE PROGRAM (Pos. 135)
A. Directed to JWOD Nonprofit Agency
B. 8(a) Contract Award
C. Reserved
D. Small Business Set-Aside
E. Reserved
F. Reserved
G. Buy Indian/Self-Determination
H. No Preference Program or Not Listed
J. Small Disadvantaged Business Set-Aside

33. SUBCONTRACTING PLAN (Small, Small Disadvantaged, and Women-Owned Small Business) (Pos. 136)
A. Required
B. Not Required

34. SUBJECT TO LABOR STATUTES (Pos. 137)
A. Walsh-Healey Act
B. Reserved
C. Service Contract Act
D. Davis-Bacon Act
E. Not Subject to Walsh-Healey, Service Contract, or Davis-Bacon

35. ESTIMATED CONTRACT COMPLETION DATE (2 digit calendar year and 2 digit month, e.g., 9512) (Pos. 138-141)

36. CONTRACTOR'S TIN (Pos. 142-150)

37. COMMON PARENT'S NAME (Pos. 151-180)

38. COMMON PARENT'S TIN (Pos. 181-189)

39 RESERVED FOR FPDS (Pos. 190-193)	40. RESERVED FOR FPDS (Pos. 194)	41. RESERVED FOR FPDS (Pos. 195-199)

SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (Applicable to AGR, DOD, DOE, DOI, DOT, EPA, GSA, HHS, NASA, and VA)

42. DEMONSTRATION TEST PROGRAM (Pos. 200) Y - Yes N - No	43. EMERGING SMALL BUSINESS (Pos. 201) Y - Yes N - No	44. EMERGING SMALL BUSINESS RESERVE AWARD (Pos. 202) Y - Yes N - No	45. SIZE OF SMALL BUSINESS (Pos. 203) NUMBER OF EMPLOYEES OR AVERAGE ANNUAL GROSS REVENUE A. 50 or Less B. 51 - 100 C. 101 - 250 D. 251 - 500 E. 501-750 F. 751 - 1,000 G. Over 1,000 M. 1,000,000 or Less N. 1,000,001 - 2,000,000 P. 2,000,001 - 3,500,000 R. 3,500,001 - 5,000,000 S. 5,000,001 - 10,000,000 T. 10,000,001 - 17,000,000 Z. Over 17,000,000

46. RESERVED FOR FPDS (Pos. 204-213)	47. OPTIONAL REPORTED DATA ELEMENTS (Pos. 214-)

48. FOR AGENCY INTERNAL USE

49. CONTRACTING OFFICER OR REPRESENTATIVE

a. TYPED NAME	b. SIGNATURE	c. TELEPHONE AREA CODE / NUMBER	d. DATE SUBMITTED (YYMMDD)

AUTHORIZED FOR LOCAL REPRODUCTION

STANDARD FORM 279 (REV. 5-96)
Prescribed by GSA-FAR (48 CFR) 53.204-2(a)

4. In 53.301–281, Standard Form 281, Federal Peocurement Data System (FPDS)—Summary Contract Action Report ($25,000 or Less), is revised to read as follows:

53.301–281 SF 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report ($25,000 or Less)

FEDERAL PROCUREMENT DATA SYSTEM (FPDS)
SUMMARY CONTRACT ACTION REPORT ($25,000 OR LESS)
(Dollars in thousands, rounded to the nearest thousand)

INTERAGENCY REPORT CONTROL NUMBER
0208-GSA-QU

CIVILIAN AGENCIES	**DEPARTMENT OF DEFENSE**
Net dollars and number of actions where anticipated value of instrument is $25,000 or less.	Net dollars and number of actions where amount obligated on action is $25,000 or less.

a. REPORT PERIOD		b. REPORT TYPE *(X one)*	c. REPORTING AGENCY CODE *(FIPS 95)*
FY	QTR	☐ ORIGINAL ☐ REVISION	

d. REPORTING AGENCY NAME	e. CONTRACTING OFFICE CODE	f. CONTRACTING OFFICE NAME

PART I - PRIME CONTRACT ACTIONS OF $25,000 OR LESS

	PROCUREMENT METHOD	Number of Actions (a)	NET DOLLAR AMOUNTS: Small Business Concerns (b)	Large Business Concerns (c)	Domestic Outside U.S./ Foreign (d)	Other Entities (e)	Total Dollars (f)
NEW AWARDS AND MODIFICATIONS	1. Tariff or Regulated Acquisitions						
	2. Contract for Foreign Government or International Organization						
	3. Purchases Using Simplified Acquisition Procedures						
	4. Orders - GSA Schedules Only						
	5. Orders - Other Federal Schedules						
	6. All Other Orders						
	7. Other Procurement Methods						
	8. TOTAL NEW AWARDS AND MODIFICATIONS						
COMPETITION	9. Competed						
	10.Not Competed						
	11.Not Available for Competition						
MODIFICATIONS	**12.TOTAL MODIFICATIONS** ***(Excluding Line 3)***						

PART II - SELECTED SOCIOECONOMIC STATISTICS
(Includes both new awards and modifications)

PREFERENCE PROGRAMS: CATEGORY	Number of Actions (a)	Total Net Dollars (b)	TYPE OF CONTRACTOR: CATEGORY	Number of Actions (a)	Total Net Dollars (b)
13. Small Business Set-Aside			16. Small Business		
			17. Small Disadvantaged Business		
14. Small Disadvantaged Business Set-Aside			18. Women-Owned Small Business		
15. 8(a) Contract Award			19. JWOD Nonprofit Agency		
			20. HBCU/MI		

g. PERSON SUBMITTING REPORT

NAME	SIGNATURE	TELEPHONE: AREA CODE	TELEPHONE: NUMBER	DATE SUBMITTED

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition not usable

STANDARD FORM 281 (REV. 5-96)
Prescribed by GSA-FAR (48 CFR) 53.204-2(b)

[FR Doc. 96–32013 Filed 12–19–96; 8:45 am]
BILLING CODE 6820–EP–P

48 CFR Parts 1, 4, 12, 19, 31, 46 and 52

[FAC 90–43; Item XIV]

Federal Acquisition Regulation; Technical Amendments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Technical amendments.

SUMMARY: This document is being issued in order to update the list of Office of Management and Budget approvals under the Paperwork Reduction Act which resulted from recent changes to the Federal Acquisition Regulation (FAR), and to correct typographical errors, FAR citations and clause dates.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, Technical Amendments.

List of Subjects in 48 CFR parts 1, 4, 12, 19, 31, 46 and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

48 CFR Parts 1, 4, 12, 19, 22, 31, 46, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 4, 12, 19, 22, 31, 46, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATION

1.106 [Corrected]

2. Section 1.106 is amended under the ''FAR segment'' and ''OMB control No.'' headings following the introductory text by removing ''22.15'' and ''9000–0127'', and ''All other requirements'' and ''9000–0063'', respectively, and revising the entry ''42.203'' to read ''43.205(f)''.

PART 4—ADMINISTRATIVE MATTERS

4.803 [Corrected]

3. Section 4.803(a)(11) is amended by revising the word ''representatives'' to read ''representations''.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.301, 12.302, and 12.303 [Corrected]

4. Section 12.301 is amended in paragraphs (b)(1) and (b)(3), section 12.302 is amended in the second sentence of paragraph (d), and section 12.303 is amended in paragraphs (c)(1) and (e)(1) by revising ''Block 26'' to read ''Block 27a''.

PART 19—SMALL BUSINESS PROGRAMS

19.502–1 [Corrected]

5. Section 19.502–1 is amended in the introductory text by removing ''Using the order of precedence in 19.504, the'' and inserting ''The'' in its place.

19.508 [Corrected]

6. Section 19.508 is amended in the first sentence of paragraphs (c) and (d) by removing ''(see 19.504(a)(2))'' and ''(see 19.504(a)(4))'', respectively.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–6 [Corrected]

7. Section 31.205–6 is amended in the second sentence of paragraph (g)(1) by revising the citation ''paragraph (j)(6) below'' to read ''paragraph (j)(7)''.

PART 46—QUALITY ASSURANCE

46.805 [Corrected]

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.208–9 [Corrected]

8.–9. Section 52.208–9 is amended in the fourth sentence of paragraph (c) of the clause by revising the word ''contract'' to read ''contact''.

52.211–4 [Corrected]

10. Section 52.211–4 is amended in the introductory text by revising ''11.203(d)'' to read ''11.204(d)''.

52.211–5 [Corrected]

11. Section 52.211–5 is amended in the introductory text by revising ''11.203(e)'' to read ''11.302(a)''.

52.211–6 [Corrected]

12. Section 52.211–6 is amended in the introductory text by revising ''11.203(f)'' to read ''11.302(b)''.

52.211–7 [Corrected]

13. Section 52.211–7 is amended in the introductory text by revising ''11.203(g)'' to read ''11.302(c)''.

52.211–13 [Corrected]

14. Section 52.211–13 is amended by revising the introductory text to read ''As prescribed in 11.504(c), insert the following clause:''.

52.228–14 [Corrected]

15. Section 52.228–14 is amended in item 5 of paragraphs (e) and (f) by revising ''1983 Revision'' to read ''1993 Revision'' and ''Publication No. 400'' to read ''Publication No. 500''.

[FR Doc. 96–32014 Filed 12–19–96; 8:45 am]
BILLING CODE 6820–EP–P

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 90–43 which amends the FAR. Further information regarding these rules may be obtained by referring to FAC 90–43 which precedes this notice. This document may be obtained from the Internet at http://www.gsa.gov/far/SECG.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, FAR Secretariat, (202) 501–4755.

Item I—FASA and the Walsh-Healey Public Contracts Act (FAR Case 96–601)

This interim rule amends the Federal Acquisition Regulation (FAR) to eliminate the requirement that covered contractors under the Walsh-Healey Public Contracts Act must be either the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract. Section 7201 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) amended the Walsh-Healey Public Contracts Act to repeal the ''manufacturer'' or ''regular dealer'' requirement.

Item II—Individual and Class Deviations (FAR Case 96–004)

This final rule amends the FAR to eliminate the requirements for all agencies to submit copies of approved individual deviations to the FAR Secretariat and for DOD and NASA to submit copies of approved class deviations to the FAR Secretariat.

Item III—Use of Data Universal Numbering System as Primary Contractor Identification (FAR Case 95–307)

This interim rule amends the FAR by adding a new solicitation provision at 52.204–6, and revising Standard Forms 294 and 295 to replace the Contractor Establishment Code with the Data Universal Numbering System number as the means of identifying contractors in the Federal Procurement Data System.

Item IV—Inapplicability of Cost Accounting Standards to Contracts and Subcontracts for Commercial Items (FAR Case 96–310)

This final rule amends FAR Part 12 to implement Section 4205 of the Clinger-Cohen Act of 1996 (Public Law 104–106) (formerly the Federal Acquisition Reform Act (FARA)). Section 4205 amends 41 U.S.C. 422(f) to provide that the statutory requirement for mandatory use of Cost Accounting Standards (CAS) need not apply to contracts or subcontracts for the acquisition of commercial items. While CAS generally will not apply to acquisitions of commercial items, CAS requirements may be invoked as a matter of policy by the CAS Board, pursuant to the authority provided in 41 U.S.C. 422.

Item V—Allowable Cost and Payment Clause (FAR Case 93–024)

This final rule amends the FAR to clarify that reimbursement of subcontract costs under cost-type contracts generally will not be made to a large business contractor until the contractor has made payment to the subcontractor.

Item VI—Mentor Protégé Program (FAR Case 93–308)

The interim rule published as Item X of FAC 90–37 is finalized with minor clarifying changes. The rule permits a mentor firm under the DOD Pilot Mentor-Protégé Program to be granted credit toward subcontracting goals for certain costs incurred in providing developmental assistance to its protégé firms, and to award subcontracts on a noncompetitive basis to its protégé firms.

Item VII—Minority Small Business and Capital Ownership (FAR Case 95–028)

This interim rule amends the FAR to reflect revisions to the Small Business Administration's regulations at 13 CFR Parts 121 and 124, which address the Minority Small Business and Capital Ownership Development Program. The rule clarifies eligibility and procedural requirements for procurements under the 8(a) Program.

Item VIII—Extension of Small Business Competitiveness Demonstration Program (FAR Case 96–328)

This final rule amends the FAR to implement Section 108, Title I (Amendments to Small Business Administration Act). Section 108 extends the Small Business Competitiveness Demonstration Program (15 U.S.C. 644 note) until September 30, 1997.

Item IX—Morale, Health, Welfare Costs/Contractor Overhead Certification (FAR Case 92–613)

This final rule amends the cost principle at FAR 31.205–1, Public Relations and Advertising Costs, by removing from paragraph (f)(5) the parenthetical reference to other cost principles to eliminate any confusion as to which cost principle governs.

Item X—Impairment of Long-Lived Assets (FAR Case 95–003)

This final rule amends the FAR to clarify the cost allowability rules concerning the recognition of losses when carrying values of impaired assets are written down for financial reporting purposes.

Item XI—Local Government Lobbying Costs (FAR Case 96–003)

This interim rule amends the FAR to make allowable the costs of lobbying activities to influence local legislation in order to directly reduce contract costs or to avoid material impairment of the contractor's authority to perform the contract.

Item XII—Clause Flowdown (FAR Case 92–035)

This final rule amends the FAR by eliminating requirements for prime contractors to flow down clause provisions to their subcontractors or suppliers from FAR clauses 52.215–26, 52.216–5, 52.216–6, 52.216–16, 52.216–17, 52.222–1, 52.236–21, 52.244–2(i), 52.246–23, 52.246–24, and 52.246–25.

Item XIII—Collection of FASA-Related Information Within the Federal Procurement Data System (FAR Case 95–310)

This final rule amends the FAR to change the Standard Form 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and Standard Form 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report ($25,000 or Less), to incorporate new information categories required by the Federal Acquisition Streamlining Act of 1994.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96–31999 Filed 12–19–96; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Friday
December 20, 1996

Part IV

Department of Commerce

Economic Development Administration

Economic Development Assistance Programs; Availability of Funds; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 950302065–6353–06]

RIN 0610–ZA03

Economic Development Assistance Programs—Availability of Funds

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) announces its policies and application procedures during fiscal year 1997 to support projects designed to alleviate conditions of substantial and persistent unemployment and underemployment in economically-distressed areas and regions of the Nation, to address economic dislocations resulting from sudden and severe job losses, and to administer the Agency's programs.

DATES: This announcement is effective for applications considered for fiscal year 1997. Unless otherwise noted below, applications are accepted on a continuous basis and will be processed as funds are available. Normally, two months are required for a final decision after the receipt of a completed application that meets all EDA requirements.

ADDRESSES: Interested parties should contact the EDA office in their area, or in Washington, D.C., as appropriate (see Section XII).

FOR FURTHER INFORMATION CONTACT: See information in Section XII for the EDA regional office and Economic Development Representative, or for programs handled out of Washington, D.C., as appropriate.

SUPPLEMENTARY INFORMATION:

I. General Policies

In light of its limited resources and the demonstrated widespread need for economic development, EDA encourages only project proposals having the greatest potential to benefit areas experiencing or threatened with substantial economic distress. EDA will focus its scarce financial resources on communities most in distress. Distress may exist in a variety of forms, including high levels of unemployment, low income levels, large concentrations of low income families, significant decline in per capita employment, substantial loss of population because of the lack of employment opportunities, large numbers (or high rates) of business failures, sudden major layoffs or plant closures, and/or reduced tax bases.

Potential applicants are responsible for demonstrating to EDA, through the provision of statistics and other appropriate information, the nature and level of the distress their project efforts are intended to alleviate. In the absence of evidence of high levels of distress, EDA funding is unlikely.

In FY 1997, EDA's strategic funding priorities are a continuation of the general goals in place over the past four fiscal years, refined to reflect the priorities of the U.S. Department of Commerce. Unless otherwise noted below, the funding priorities, as listed below, will be applied by the Selecting Official (depending upon the program, either the Regional Director or Assistant Secretary) after completion of a review based upon evaluation criteria described in EDA's regulations at 13 CFR Chapter III. During FY 1997, EDA is interested in receiving projects which support the priorities of the U.S. Department of Commerce, including;

- Export promotion;
- The commercialization and deployment of technology; particularly information technology and telecommunications, and efforts that support technology transfer, application and deployment for community economic development;
- Sustainable development which will provide long-term economic development benefits, including responses to economic dislocation caused by national environmental policies (hazardous waste clean-up, etc.); also considered a priority are projects involving reuse of ''brownfields,'' especially pilot projects selected under the Environmental Protection Agency's ''Brownfields Economic Redevelopment Initiative'' program; also considered priority are projects involving eco-industrial parks, which have been broadly defined by the President's Council on Sustainable Development, as a community of businesses that cooperate with each other and with the local community to efficiently share resources (information, materials, water, energy, infrastructure and natural habitat), leading to economic gains, gains in environmental quality, and equitable enhancement of human resources for the business and local community;
- Entrepreneurial development, especially local capacity building, and including small business incubators and community financial intermediaries (e.g., revolving loan funds);
- Economic adjustment, especially in response to base and Federal laboratory closures and downsizing, defense industry downsizing, and post-disaster, long-term economic recovery;
- Infrastructure and development facilities located in federally-authorized and designated rural and urban Enterprise Communities and Empowerment Zones and state enterprise zones;
- Projects that demonstrate innovative approaches to economic development; and/or
- Projects that support locally-created partnerships that focus on regional solutions for economic development will be given priority over proposals that are more limited in scope. For example, projects that evidence collaboration in fostering an increase in regional (multi-county and/or multi-state) productivity and growth will be considered to the extent that such projects demonstrate a substantial benefit to economically-distressed areas of the region.

II. Other Information and Requirements

- See EDA's regulations at 13 CFR Chapter III.
- Additional information and requirements are as follows:

No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DoC are made.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Applicants should be aware that a false statement on the application is grounds for denial of the application or termination of the grant award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

Notwithstanding any other provisions of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the

provisions of the PRA and has been approved by OMB under Control Number 0610–0094.

Applicants seeking an early start, i.e. to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. Such approval may be given with the understanding that an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs.

EDA also requires that compliance with environmental regulations, in accordance with the National Environmental Policy Act (NEPA), be completed before construction begins.

The total dollar amount of the indirect costs proposed in an application under any EDA program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

Unless otherwise noted below, eligibility, program objectives and descriptions, application procedures, selection procedures, evaluation criteria and other requirements for all programs are set forth in EDA's regulations at 13 CFR Chapter III.

III. Funding Availability

Under EDA's fiscal year 1997 appropriation, Public Law 104–208, September 30, 1996, EDA's program funds total $328,500,000. EDA has already received and begun processing requests for funding its programs during fiscal year 1996, and the first quarter of fiscal year 1997. New requests submitted that require approval during this fiscal year will face substantial competition. Potential applicants are encouraged to contact first the appropriate EDR for their area and then, if necessary, the appropriate Regional Office listed in Section XII of this Notice.

IV. Authority

The authority for programs listed in Parts V through X is the Public Works and Economic Development Act of 1965, (Pub. L. 89–136, 42 U.S.C. 3121–3246h), as amended (PWEDA). The authority for the program listed in Part XI is Title II, Chapter 3 of the Trade Act of 1974, as amended, (19 U.S.C. 2341–2355) (Trade Act).

V. Program: Public Works and Development Facilities Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development Grants and Loans for Public Works and Development Facilities. 11.304 Economic Development Public Works Impact Program)

Funding Availability

Funds in the amount of $165,200,000 have been appropriated for this program. The average funding level for a grant is $1,000,000.

VI. Program: Technical Assistance—Local Technical Assistance; National Technical Assistance; University Centers

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Funding Availability

Funds in the amount of $9,100,000 have been appropriated for this program. The average funding level for a grant is $176,000.

A separate FR Notice will set forth the specific funding priorities, application process, and time frames for National Technical Assistance projects.

VII. Program: Planning—Planning Assistance for Economic Development Districts, Indian Tribes, and Redevelopment Areas; Planning Assistance for States and Urban Areas

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations); 11.305 Economic Development—State and Urban Area Economic Development Planning)

Funding Availability

Funds in the amount of $24,000,000 have been appropriated for this program. The average funding levels for planning grants range from $43,000 to $107,000.

VIII. Program: Research and Evaluation

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Research and Evaluation Program)

Funding Availability

Funds in the amount of $500,000 have been appropriated for this program. The average funding level for a grant is $171,000.

A separate FR Notice will set forth the specific funding priorities, application process and time frames for research and evaluation projects.

IX. Program: Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.307 Special Economic Development and Adjustment Assistance Program—Long Term Economic Deterioration and Sudden and Severe Economic Dislocation)

Funding Availability

Funds in the amount of $31,200,000 have been appropriated for this program. The average funding level for a grant is $1,500,000.

X. Program: Defense Economic Conversion

(Catalog of Federal Domestic Assistance: 11.307 Special Economic Development and Adjustment Assistance Program—Long Term Economic Deterioration and Sudden and Severe Economic Dislocation; 11.300 Economic Development Grants and Loans for Public Works and Development Facilities; 11.304 Economic Development—Technical Assistance; 11.302 Economic Development—Support for Planning Organizations); 11.305 Economic Development—State and Urban Area Economic Development Planning); and 11.312 Economic Development—Research and Evaluation Program)

Funding Availability

Funds in the amount of $90,000,000 have been appropriated for this program. The average funding level for a grant is $1,500,000.

XI. Program: Trade Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.313 Economic Development—Trade Adjustment Assistance)

Funding Availability:

Funds in the amount of $8,500,000 have been appropriated for this program. The average funding level for a grant is $708,000.

XII. EDA Washington D.C., Regional Offices and Economic Development Representatives

The EDA Washington, D.C., regional and field offices, states covered and the economic development representatives (EDRs) are listed below.

Washington, D.C. Offices

For National Technical Assistance, Research and Evaluation contact: John McNamee, Technical Assistance and Research Division, Economic Development Administration, Room 7315, U.S. Department of Commerce, Washington, D.C. 20230; Telephone: (202) 482–4085; Internet Address: jmcnamee@doc.gov

For Trade Adjustment Assistance contact: Lewis R. Podolske, Director, Trade Adjustment Assistance Division, Economic Development

Administration, Room 7023, U.S. Department of Commerce, Washington, D.C. 20230; Telephone: (202) 482–3373; Internet Address: lpodolske@doc.gov

EDA Regional Offices

William J. Day, Jr., Regional Director, Atlanta Regional Office, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308; Telephone: (404) 730–3002; Fax: (404) 730–3025; Internet Address: wday@doc.gov

Economic development representatives	States covered
Burnette, F. Wayne, Aronov Building, Room 705, 474 South Court Street, Montgomery, AL 36104; Telephone: (334) 223–7008; Internet Address: wburnett@doc.gov.	Alabama, Mississippi.
Smith, Lola B., Federal Building, Room 423, 80 North Hughey Avenue, Orlando, FL 32801; Telephone: (407) 648–6573; Internet Address: lsmith8@doc.gov.	Florida.
Patterson, Gilbert, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, GA 30308; Telephone: (404) 730–3018; Internet Address: gpatters@doc.gov.	Georgia.
Hunter, Bobby D., 771 Corporate Drive, Suite 200, Lexington, KY 40503–5477; Telephone: (606) 224–7426; Internet Address: bhunter@doc.gov.	Kentucky.
Dixon, Patricia M., Strom Thurmond Federal Building, 1835 Assembly Street, Room 307, Columbia, SC 29201; Telephone: (803) 765–5676; Internet Address: pdixon@doc.gov.	North Carolina, South Carolina.
Parks, Mitchell S., 261 Cumberland Bend Drive, Nashville, TN 38228; Telephone: (615) 726–5911; Internet Address: mparks@doc.gov.	Tennessee.

Pedro R. Garza, Regional Director, Austin Regional Office, Thornberry Building, Suite 121, 903 San Jacinto Boulevard, Austin, Texas 78701; Telephone: (512) 916–5461; Fax: (512) 916–5613; Internet Address: pgarza@doc.gov

Regional office contacts	States covered
Frerking, Sharon T., Austin Regional Office, Thornberry Building, Suite 121, 903 San Jacinto Boulevard, Austin, Texas 78701; Telephone: (512) 916–5217; Internet Address: sfrerking@doc.gov.	Oklahoma, New Mexico, Texas (north and west).
Lee, Ava, Austin Regional, Thornberry Building, Suite 121, 903 San Jacinto Boulevard, Austin, TX 78701; Telephone: (512) 916–5824; Internet Address: alee@doc.gov.	Louisiana, Arkansas, Texas (south).

C. Robert Sawyer, Regional Director, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, IL 60606; Telephone: (312) 353–7706; Fax: (312) 353–8575; Internet Address: csawyer@doc.gov

Economic development representatives	States covered
Charles Elsner, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, IL 60606; Telephone: (312) 353–7706; Internet Address: celsner@doc.gov.	Illinois, Michigan (lower).
Arnold, John B. III, 104 Federal Building, 515 West First Street, Duluth, MN 55802; Telephone: (218) 720–5326; Internet Address: jarnold@doc.gov.	Minnesota.
Hickey, Robert F., Federal Building, Room 607, 200 North High Street, Columbus, Ohio 43214; Telephone: (614) 469–7314; Internet Address: rhickey@doc.gov.	Ohio, Indiana.
Peck, John E., Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, IL 60606; Telephone: (312) 353–7148; Internet Address: jpeck@doc.gov.	Michigan (excluding upper peninsula).
Price, Jack D., 1320 W. Clairemont Ave., Suite 114, Eau Claire, WI 54701; Telephone: (715) 834–4079; Internet Address: jprice@doc.gov.	Wisconsin, Michigan (upper peninsula).

John Woodward, Regional Director, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204; Telephone: (303) 844–4715; Fax: (303) 844–3968; Internet Address: jwoodwa3@doc.gov

Economic development representatives	States covered
Zender, John, 1244 Speer Boulevard, Room 632, Denver, CO 80204; Telephone: (303) 844–4902; Internet Address: jzender@doc.gov.	Colorado, Kansas.
Cecil, Robert, Federal Building, Room 593A, 210 Walnut Street, Des Moines, IA 50309; Telephone: (515) 284–4746; Internet Address: bcecil@doc.gov.	Iowa, Nebraska.
Hildebrandt, Paul, Federal Building, Room B–2, 608 East Cherry Street, Columbia, MO 65201; Telephone: (573) 442–8084; Internet Address: phildeb1@doc.gov.	Missouri.
Rogers, John C., Federal Building, Room 196, Drawer 10074, Helena, MT 59626; Telephone: (406) 441–1175; Internet Address: jrogers6@doc.gov.	Montana.
Turner, Robert, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, CO 80204; Telephone: (303) 844–4474; Internet Address: bturner2@doc.gov.	South Dakota, North Dakota.
Ockey, Jack, Federal Building, Room 2105, 125 South State Street, Salt Lake City, UT 84138; Telephone: (801) 524–5119; Internet Address: jockey@doc.gov.	Utah, Wyoming.

John E. Corrigan, Regional Director, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106; Telephone: (215) 597–4603; Fax: (215) 597–6669; Internet Address: jcorriga@doc.gov

Economic development representatives	States covered
Flynn, Patricia A., 2568–A Riva Road, Suite 200, Annapolis, MD 21401; Telephone: (410) 962–2513; Internet Address: pflynn@doc.gov.	Delaware, Maryland, District of Columbia.
Wilkinson, Cassandra, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106; Telephone: (215) 597–4360; Internet Address: cwilkins@doc.gov.	Rhode Island.
Grady, Stephen, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106; Telephone: (215) 597–0642; Internet Address: sgrady@doc.gov.	Connecticut.
Kuzma, John, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106; Telephone: (215) 597–8797; Internet Address: jkuzma@doc.gov.	Massachusetts.
Potter, Rita V., 143 North Main Street, Suite 209, Concord, NH 03301; Telephone: (603) 225–1624; Internet Address: rpotter@doc.gov.	New Hampshire, Vermont, Maine.
Rossignol, Clifford J., 44 South Clinton Avenue, Room 703, Trenton, NJ 08609; Telephone: (609) 989–2192; Internet Address: crossign@doc.gov.	New Jersey.
Marshall, Harold J. II, 620 Erie Boulevard West, Suite 104, Syracuse, NY 13204; Telephone: (315) 448–0938; Internet Address: hmarshal@doc.gov.	New York.
Pecone, Anthony M., 1933A New Berwick Highway, Bloomsburg, PA 17815; Telephone: (717) 389–7560; Internet Address: apecone@doc.gov.	Pennsylvania.
Cruz, Ernesto L., IBM Building, Room 620, 654 Munoz Rivera Avenue, Hato Rey, PR 00918; Telephone: (809) 766-5187; Internet Address: ecruz@doc.gov.	Puerto Rico, Virgin Islands.
Noyes, Neal E., 700 Centre Building, Room 230, 704 E. Franklin Street, Richmond, VA 23219; Telephone: (804) 771–2061; Internet Address: nnoyes@doc.gov.	Virginia.
Davis, R. Byron, Rose City Press Building, 550 Eagan Street, Room 305, Charleston, WV 25301; Telephone: (304) 347–5252; Internet Address: bdavis3@doc.gov.	West Virginia.

A. Leonard Smith, Regional Director, Seattle Regional Office, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle, Washington 98174; Telephone: (206) 220–7660; Fax: (206) 220–7659; Internet Address: l.smith7@doc.gov.

Economic development representatives	States covered
Richert, Bernhard E. Jr., 605 West 4th Avenue, Room G–80, Anchorage, AK 99501; Telephone: (907) 271–2272; Internet Address: brichert@doc.gov.	Alaska.
Sosson, Deena R., 1345 J Street, Suite B, Sacramento, CA 95814; Telephone: (916) 498–5285; Internet Address: dsosson@doc.gov.	California (central).
Church, Dianne V., Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174; Telephone: (206) 220–7690; Internet Address: dchurch@doc.gov.	California (Bay and coastal).
McChesney, Frank, P.O. Box 50264, Federal Building, Room 4106, Honolulu, HI 96850; Telephone: (808) 541–3391; Internet Address: fmcchesn@doc.gov.	Hawaii, Guam, American Samoa, Marshall Islands, Micronesia, Northern Marianas.
Ames, Aldred F., Borah Federal Building, Room 441, 304 North 8th Street, Boise, ID 83702; Telephone: (208) 334–1521; Internet Address: aames@doc.gov.	Idaho, Arizona, Nevada.
Berblinger, Anne S., One World Trade Center, 121 S.W. Salmon Street, Suite 244, Portland, OR 97204; Telephone: (503) 326–3078; Internet Address: aberblin@doc.gov.	Oregon, California (northern).
Svendsen, David E., Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174; Telephone: (206) 220–7703; Internet Address: dsvendse@doc.gov.	California (southern).
Kirry, Lloyd P., Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174; Telephone: (206) 220–7682; Internet Address: lkirry@doc.gov.	Washington.

Dated: December 12, 1996.

Phillip A. Singerman,

Assistant Secretary for Economic Development.

[FR Doc. 96–32266 Filed 12–19–96; 8:45 am]

BILLING CODE 3510–24–M

Federal Register

Friday
December 20, 1996

Part V

Department of Commerce

Economic Development Administration

Economic Development Assistance Program: Disaster Recovery Activities; Availability of Funds; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 950302065–6354–07]

RIN 0610–ZA03

Economic Development Assistance Program for Disaster Recovery Activities, Availability of Funds

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Supplementary notice.

SUMMARY: The Economic Development Administration (EDA) announces the policies and the application procedures for funds available to support disaster recovery projects designed to assist affected states and local communities recover from the consequences of wind damage and flooding in the states of North Carolina, South Carolina, Virginia, West Virginia, the Commonwealth of Puerto Rico as a result of Hurricanes Fran and Hortense and other natural disasters.

EDA offers a variety of program tools to assist affected communities. For the purposes of a targeted recovery program response for this disaster, the primary emphasis of EDA's program will be to assist disaster-impacted areas with the construction of new and expanded infrastructure and development facilities required for economic development to alleviate the economic distress of the areas.

DATES: This announcement is effective December 20, 1996. Applications are accepted on a continuous basis and funds shall remain available until expended.

ADDRESSES: To establish merits of projects proposals, interested parties should contact the Atlanta Regional Office, Philadelphia Regional Office or the appropriate Economic Development Representative for the area (see listing in ''Other Information'').

FOR FURTHER INFORMATION CONTACT: See listing in ''Other Information'' of this Notice.

SUPPLEMENTARY INFORMATION: Applicants should be aware that a false statement on the application is grounds for denial of the application or termination of the grant award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

The total dollar amount of the indirect costs proposed in an application under any EDA programs must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Applicants seeking an early start, i.e., to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. Such approval may be given with the understanding that an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover preaward costs.

If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DoC are made.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the provisions of the PRA and has been approved by OMB under Control Number 0610–0094.

Catalog of Federal Domestic Assistance (CFDA)

The Special Economic Development Adjustment Assistance Program—Long Term Economic Deterioration and Sudden and Severe Economic Dislocation is listed under CFDA 11.307 (13 CFR Part 308). Public Works and Development Facilities Assistance and Public Works Impact Program are listed under CFDA 11.300 and CFDA 11.304 (13 CFR 305). The Planning and Technical Assistance programs are listed under CFDA 11.302, 11.303, and 11.305 (13 CFR 307, Subpart A; and 13 CFR Part 307, Subparts E and F).

Funding Availability

Funds in the amount of $25 million are available for this disaster relief program and shall remain available until expended. These funds are provided from the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208). The funds are available for awarding disaster assistance grants pursuant to the Public Works and Economic Development Act of 1965, as amended. Funds will be apportioned as follows: North Carolina—$14.0 million; South Carolina—$1.0 million; Virginia—$4.5 million; West Virginia—$1.0 million; Commonwealth of Puerto Rico—$4.5 million.

Grant Rates

Grant rates, as established by the Public Works and Economic Development Act of 1965, as amended (PWEDA) and its implementing regulations at 13 CFR Chapter III, may vary, if permitted by PWEDA and its implementing regulations, and will depend on the type of applicant, relative needs and financial capacity of applicants. In most cases, a nonfederal local share of not less than 25 percent will be required. In rare and extenuating circumstances, EDA may waive the local share requirement where permitted by PWEDA and its implementing regulations at 13 CFR Chapter III.

Eligible Applicants

Eligible applicants include the states and the commonwealth or political subdivisions thereof, including municipalities and quasi-public corporations and authorities, Indian tribes, Community Development Corporations, and nonprofit corporations representing an EDA designated redevelopment area or part thereof, located in areas affected by Hurricanes Fran and Hortense in the states of North Carolina, South Carolina, Virginia, West Virginia and the Commonwealth of Puerto Rico.

Proposal Submission Procedures

Proposals for assistance under this disaster recovery program shall be submitted to EDA on a completed Form ED–900P, OMB Control No. 0610–0094. Applicants must clearly demonstrate

how the EDA assistance will help the area recover from the economic hardship and other problems caused by wind and/or flood damage, or other natural disasters, and that such assistance has been preceded by sound planning. Interested parties should contact the appropriate Economic Development Representative for the area, or the appropriate EDA Regional Office for a proposal package (see listing under ''Other Information'').

Application Procedures

A determination of whether to invite an application under this disaster recovery program for EDA assistance will be issued based upon the Agency's review of the applicant's proposal under the evaluation criteria herein and EDA's regulations at 13 CFR Chapter III.

Funding Instrument

Funds will be awarded in accordance with the requirements of Title I, Title III, and Title IX of the Public Works and Economic Development Act of 1965, as amended (Public Law 89–136; 42 U.S.C. 3121 et. seq.) (PWEDA) and EDA's regulations at 13 CFR Chapter III. The appropriate title for grant application and award will be determined by EDA based on the nature of the project and the eligibility of the area.

Project Selection Criteria

It is anticipated that the funds announced herein for disaster recovery assistance may not be sufficient to meet all of the economic recovery needs for which requests are received. EDA will use the following criteria to select the projects for grant award: (1) projects that are consistent with an area Economic Adjustment Strategy, the Overall Economic Development Program for the Area, or the State Emergency Recovery Plan; (2) the degree to which EDA funding is leveraged with appropriate state, local, private, and other Federal assistance efforts; (3) the extent to which projects are located in areas with high levels of economic distress; (4) the degree to which projects enhance/stimulate sustainable economic development; (5) the extent to which projects mitigate the impacts of future disasters; (6) the relative impact projects have for assisting in the post-disaster recovery of the area; and (7) the extent to which the project will directly or indirectly tend to improve opportunities in the area for the establishment or expansion of industrial or commercial facilities and/or primarily benefit members of low-income families.

To establish the merits of project proposals, interested parties should contact the EDA Economic Development Representative or EDA Regional Office for the area (see listing below) for a proposal form, (ED-900P). Requests for assistance shall be submitted directly to the EDA Economic Development Representative or EDA Regional Office that serves the area (see listing below).

EDA will evaluate proposals to determine whether they can meet the criteria established. Following the review of the proposals, EDA will invite those entities whose projects are selected for consideration to submit full applications, ED-900A, OMB Control No. 0610-0094. In addition to the real property title requirements at 13 CFR 314.7, applicants will be expected to submit satisfactory evidence of rights of entry assuring prompt access to project property at time of grant award in those cases where applicants do not hold title to all real property required for the projects at time of application.

Other Information

Except as modified herein, evaluation criteria, competitive selection procedures, application procedures, and other requirements for the applicable assistance program are described at 13 CFR Chapter III.

For further information contact the appropriate Economic Development Representative or EDA Regional Office listed below:

John E. Corrigan, Regional Director, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, Pennsylvania 19106; Telephone: (215) 597-4603; Internet Address: jcorriga@doc.gov

Economic development representatives	States covered
Neal E. Noyes, 700 Centre Building, Room 230, 704 East Franklin Street, Richmond, VA 23219; Telephone: (804) 771-2061; Internet Address: nnoyes@doc.gov.	Virginia.
R. Byron Davis, Rose City Press Building, 550 Eagan Street, Room 305, Charleston, WV 25301; Telephone: (304) 347-5252; Internet Address: bdavis3@doc.gov.	West Virginia.
Ernesto L. Cruz, Economic Development Representative, IBM Building, Room 620, 654 Munoz Rivera Avenue, Hato Rey, PR 00918; Telephone: (809) 766-5187; Internet Address: ecruz@doc.gov.	Puerto Rico.

William J. Day, Jr., Regional Director, 401 West Peachtree Street, NW., Suite 1820, Atlanta, GA 30308-3510; Telephone: (404) 730-3002; Internet Address: wday@doc.gov

Patricia M. Dixon—North Carolina, South Carolina, Strom Thurmond Federal Building, 1835 Assembly Street, Room 307, Columbia, SC 29201; Telephone: (803) 765-5676; Internet Address: pdixon@doc.gov

Dated: December 12, 1996.

Phillip A. Singerman,

Assistant Secretary for Economic Development.

[FR Doc. 96–32267 Filed 12–19–96; 8:45 am]

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Federal Register

Friday
December 20, 1996

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 13

Inflation Adjustment of Civil Monetary Penalties; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No. 28762; Amdt. No. 13–28]

RIN 2105–AC63

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. The rule adjusts for inflation the amount of each statutory civil penalty subject to the Federal Aviation Administration's jurisdiction in accordance with the requirements of the Act, as amended.

EFFECTIVE DATE: This final rule is effective January 21, 1997.

FOR FURTHER INFORMATION CONTACT: Joyce Redos, Attorney, Policy and Evaluations Branch, AGC–320, Office of Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, (202) 267–7158.

SUPPLEMENTARY INFORMATION:

Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 (''1990 Act''), Public Law (Pub. L.) 101–410, 194 Stat. 890, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (''Act''), Pub. L. 104–134, April 26, 1996, requires the adjustment of civil monetary penalties (CMP) for inflation. This adjustment is intended to ensure that CMPs maintain their deterrent value. The Act requires that not later than 180 days after its enactment, which is October 23, 1996, and at least once every 4 years thereafter, the head of each agency shall, by regulation published in the Federal Register, adjust each CMP within its jurisdiction by the inflation adjustment described in the 1990 Act. The inflation adjustment under the Act is to be determined by increasing the maximum CMP by the cost-of-living adjustment (COLA), rounded off as set forth in section 5(a) of the 1990 Act. The COLA is the percentage (if any) for each CMP by which the Consumer Price Index (''CPI'') [1] for the month of June of the calendar year preceding the adjustment (*i.e.,* June 1995 for this initial adjustment) exceeds the CPI for the month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. The first adjustment to a CMP may not exceed 10 percent of such penalty.

Any increased penalties apply only to violations that occur after the date on which the increase takes effect.

A typical example of an inflation adjustment of a CMP is as follows:

Section 5123 of Title 49, United States Code (the Federal Hazardous Materials Transportation Law), imposes a minimum $250 and a maximum $25,000 penalty for a knowing violation of Chapter 51 or a regulation prescribed or order issued thereunder. The penalty was set in 1990. The CPI for June 1990 was 389.1. The CPI for June 1995 is 456.7. The inflation factor, therefore, is 456.7/389.1, or 1.17. The minimum penalty amount would not be changed after increase and statutory rounding. However, the maximum penalty amount after increase and statutory rounding would be $30,000 (1.17×$25,000). The new maximum penalty amount after applying the 10% limit on an initial increase is $27,500.

A similar calculation was done with respect to each CMP subject to the jurisdiction of the Federal Aviation Administration (FAA). In compliance with the Act, the FAA is hereby amending its regulations by creating a new subpart H in 14 CFR part 13, which will be entitled Civil Monetary Penalty Inflation Adjustment.

Waiver of Notice of Proposed Rulemaking

The Administrative Procedure Act (APA), 5 U.S.C. 553, sets forth procedures for notice and public comment rulemaking. The APA also provides an exception from notice and document procedures when an agency finds good cause for dispensing with those procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. The FAA has determined that under 5 U.S.C. 553, good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking comports, and is consistent, with the statutory authority set forth in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, with no issues of policy discretion. Notice and an opportunity for public comment are not necessary prior to issuance of this final rule because it implements a definitive statutory formula mandated by the Act. Accordingly, opportunity for prior comment is unnecessary. The FAA, therefore, is issuing these regulations as a final rule that will apply to all future cases under this authority.

Economic Summary

This final rule is exempt from review under Executive Order 12866 because it is limited to the adoption of statutory language without interpretation. As indicated above, the provisions contained in this final rulemaking set forth the inflation adjustments in compliance with the Federal Civil Penalties Inflation Adjustment Act of 1990 and the Debt Collection Improvement Act of 1996 for specific applicable civil monetary penalties under the authority of the FAA.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to review rules that may have a ''significant economic impact on a substantial number of small entities.''

The aggregate economic impact of this rulemaking on small business entities should be minimal, affecting only those few entities who choose to engage in prohibited arrangements and schemes in violation of the statutes and regulations the FAA administers. Therefore, the FAA has concluded that this final rule will not have a significant economic impact, positive or negative, on a substantial number of small business entities, and that a regulatory flexibility analysis is not required for this rulemaking.

International Trade Impact Assessment

The Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. This rule will not have a competitive trade disadvantage on foreign or domestic operators inasmuch as the maximum civil penalties or ranges of minimum and maximum civil penalties adjusted under this regulation apply equally to foreign and domestic operators who violate the statutes or regulations within the FAA's jurisdiction.

Unfunded Mandate

Title II of the Unfunded Mandates Reform Act of 1995 (the Reform Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the

[1] CPI is defined as the CPI for all urban consumers published annually by the Department of Labor.

expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Reform Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Reform Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Reform Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This final rule does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Reform Act do not apply.

Federalism Implications

The regulations adopted herein do 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 this final rule does not have federalism implications warranting the preparation of a Federalism Assessment.

International Civil Aviation Organization (ICAO) 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 to the maximum extent practicable. The FAA finds no corresponding International Civil Aviation Organization regulations or Joint Aviation Regulations; therefore, no differences exist.

Paperwork Reduction Act

The rule does not contain any collection of information requirements, as defined by the Paperwork Reduction Act of 1995, as amended. Therefore, Office of Management and Budget review is not required.

Conclusion

The FAA has determined that this final rule is exempt from review under Executive Order 12866 because it is limited to the adoption of statutory language without interpretation. For the same reason, it is not a significant rule under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since any additional costs incurred under this regulation will apply only to those few entities who engage in conduct prohibited under the statutes and regulations that the FAA administers, the FAA certifies under the criteria of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities and that a regulatory flexibility analysis is unnecessary.

List of Subjects in 14 CFR Part 13

Administrative practice and procedure, Air transportation, Investigations, Law enforcement, Penalties.

The Amendments

Accordingly, the Federal Aviation Administration amends 14 CFR part 13 by adding subpart H to read as follows:

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

1. The authority citation for part 13 is revised to read as follows:

Authority: 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121–5124, 40113–40114, 44103–44106, 44702–44703, 44709–44710, 44713, 46101–46110, 46301–46316, 46501–46502, 46504–46507, 47106, 47111, 47122, 47306, 47531–47532.

2. Subpart H is added to read as follows:

Subpart H—Civil Monetary Penalty Inflation Adjustment

Sec.

13.301 Scope and purpose.
13.303 Definitions.
13.305 Cost of Living Adjustments of Civil Monetary Penalties.

Subpart H—Civil Monetary Penalty Inflation Adjustment

§ 13.301 Scope and purpose.

(a) This subpart provides a mechanism for the regular adjustment for inflation of civil monetary penalties in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 (note), as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, in order to maintain the deterrent effect of civil monetary penalties and to promote compliance with the law. This subpart also sets out the current adjusted maximum civil monetary penalties or range of minimum and maximum civil monetary penalties for each statutory civil penalty subject to the FAA's jurisdiction.

(b) Each adjustment to the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, made in accordance with this subpart applies prospectively from the date it becomes effective to actions initiated under this part, notwithstanding references to a specific maximum civil monetary penalty or range of minimum and maximum civil monetary penalties contained elsewhere in this part.

§ 13.303 Definitions.

(a) *Civil Monetary Penalty* means any penalty, fine, or other sanction that:

(1) Is for a specific monetary amount as provided by Federal law or has a maximum amount provided by Federal law;

(2) Is assessed or enforced by the FAA pursuant to Federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

(b) *Consumer Price Index* means the Consumer Price Index for all urban consumers published by the Department of Labor.

§ 13.305 Cost of Living Adjustments of Civil Monetary Penalties.

(a) Except for the limitation to the initial adjustment to statutory maximum civil monetary penalties or range of minimum and maximum civil monetary penalties set forth in paragraph (c) of this section, the inflation adjustment under this subpart is determined by increasing the maximum civil monetary penalty or range of minimum and maximum civil monetary penalty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under paragraph (a) of this section is rounded to the nearest:

(1) Multiple of $10 in the case of penalties less than or equal to $100;

(2) Multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) Multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) Multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) Multiple of $25,000 in the case of penalties greater than $200,000.

(b) For purposes of paragraph (a) of this section, the term ''cost-of-living adjustment'' means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

(c) Limitation on initial adjustment. The initial adjustment of maximum civil penalty or range of minimum and maximum civil monetary penalties made pursuant to this subpart does not exceed 10 percent of the statutory maximum civil penalty before an adjustment under this subpart is made. This limitation applies only to the initial adjustment, effective on January 21, 1997.

(d) *Inflation adjustment.* Minimum and maximum civil monetary penalties within the jurisdiction of the FAA are adjusted for inflation as follows:

MINIMUM AND MAXIMUM CIVIL PENALTIES ADJUSTED FOR INFLATION, EFFECTIVE JANUARY 21, 1997

United States Code citation	Civil monetary penalty description	Minimum penalty amount as of 10/23/96	New adjusted minimum penalty amount	Maximum penalty amount as of 10/26/96	New adjusted minimum penalty amount
49 U.S.C. 5123(a) (changed 1990).	Violations of hazardous materials transportation law or regulations.	$250 per violation per day.	$250 per violation per day.	$25,000 per violation per day.	$27,000 per violation per day.
49 U.S.C. 46301(a)(1) (1958).	Violations of FAA statute or regulations by a person.	N/A	N/A	$1,000 per violation per day.	$1,100 per violation per day.
49 U.S.C. 46301(a)(2) (changed 1987).	Violations of FAA statute or regulations by a person operating an aircraft for the transportation of passengers or property for compensation.	N/A	N/A	$10,000 per violation per day.	$11,000 per violation per day.
49 U.S.C. 46301(a)(3)(A) (1974).	Violations of FAA statute or regulations involving the transportation of hazardous materials by air.	N/A	N/A	$10,000 per violation per day.	$11,000 per violation per day.
49 U.S.C. 46301(a)(3)(B) (1988).	Violations of FAA statute or regulations involving the registration or recordation under chapter 441 of aircraft not used to provide air transportation.	N/A	N/A	$10,000 per violation per day.	$11,000 per violation per day.
49 U.S.C. 46301(b) (1987).	Tampering with a smoke alarm device.	N/A	N/A	$2,000 per violation	$2,200 per violation.
49 U.S.C. 46302 (1984).	Knowingly providing false information about alleged violations involving the special aircraft jurisdiction of the United States.	N/A	N/A	$10,000 per violation	$11,000 per violation.
49 U.S.C. 46303 (1984).	Carrying a concealed deadly or dangerous weapon.	N/A	N/A	$10,000 per violation	$11,000 per violation.

Issued in Washington, DC on December 13, 1996.

Linda Hall Daschle,

Acting Administrator.

[FR Doc. 96–32258 Filed 12–19–96; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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- Cost accounting standards; inapplicability to contracts and subcontracts for commercial items; published 12-20-96
- Data Universal Numbering System; use as primary contractor identification; published 12-20-96
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- National oil and hazardous substances contingency plan--
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Farm Service Agency

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AGRICULTURE DEPARTMENT

Rural Business and Cooperative Development Service

Single family housing; reengineering and reinvention of direct section 502 and 504 programs; comments due by 12-23-96; published 11-22-96

AGRICULTURE DEPARTMENT

Rural Housing Service

Single family housing; reengineering and reinvention of direct section 502 and 504 programs; comments due by 12-23-96; published 11-22-96

AGRICULTURE DEPARTMENT

Rural Utilities Service

Single family housing; reengineering and reinvention of direct section 502 and 504 programs; comments due by 12-23-96; published 11-22-96

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